

US DEPARTMENT OF AGRICULTURE (USDA)

USDA



CONTRACTING DESK BOOK v3.2

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

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 Division. The Procedures, Guidance, and Instructions (PGI), herein after referred to as the PGI, is organized in the same manner as the Federal Acquisition Regulation (FAR) and USDA's Agriculture Acquisition Regulation (AGAR). For example, Chapter 404 of this PGI corresponds to AGAR 404 and Part 4 of the FAR.

Attachments to the Contracting Desk Book are Mission Area specific procedures to implement the [FAR](#), [FAR Deviations](#), [AGAR](#), PGI and other [Departmental Regulations \(DRs\)](#). Special authorities and/or acquisition flexibilities are available [Sharepoint | Hot Topics](#). Questions regarding those should be referred to the Mission Area. The 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. ***The reader should always use the PGI in conjunction with the FAR and AGAR to ensure all guidance is considered for any part of the acquisition process.***

This PGI does not include information relevant to the policies, advisories, and regulations for leasing of real property which is managed by Departmental Administration's Office of Property and Fleet Management (OPFM). The Director of OPFM has delegated authority from the Chief Acquisition Officer through the Senior Procurement Executive and Head of the Contracting Activity to serve as the Appointing Official for Contracting Officers leasing real property. OPFM also manages USDA's adherence to the General Services Administration Acquisition Manual, General Services Administration Acquisition Regulation, Federal Management Regulation, Agriculture Property Management Regulation, Federal Acquisition Regulation, related Executive Orders, etc.

CONTENTS

Procedures, Guidance, and Information
Attachment A, Marketing and Regulatory Programs (MRP)
Attachment B, Research, Education and Economics (REE)
Attachment C, Food, Nutrition and Consumer Service (FNCS)
Attachment D, Natural Resources and Environment (NRE)
Attachment E, Farm Production and Conservation (FPAC)
Attachment F, Food Safety and Inspection Services (FSIS)
Attachment G, RESERVED
Attachment H, Departmental Administration (DA)
Attachment J, Rural Development (RD)

USDA CONTRACTING DESK BOOK v3.2

Version	Date	Changes	Rationale
1.01-2.10	10/30/2018-03/01/2021	Details of changes can be found at https://www.dm.usda.gov/procurement/policy/OldDeskbook.htm . This version of the Desk Book supersedes all previous versions. Prior versions are expired and no longer applicable.	
3.0	11/01/2021	Details of changes, including rationale, can be found at https://www.dm.usda.gov/procurement/policy/index.htm , titled "Summary of Changes".	
3.1	01/03/2022	Details of changes, including rationale, can be found at Expired Desk Book Versions , within Desk Book 3.1.	
3.2	04/04/2022	Minor changes/clarifications throughout the Desk Book. Significant changes include:	
		Commercial Items changed to Commercial Products and Commercial Services throughout.	FAR update
		Links for OCP updated to Sharepoint, where applicable.	OCP
		401.601-72, FAC-C Core Plus Specialization, updated threshold for digital services acquisitions.	FAR 13.500 update
		401.670, Roles & Responsibilities of Acquisition Team, added Procurement Forecast submittal.	Mission Area request
		402.101, Definitions, Digital Services definition added.	Mission Area request
		404.804-5, Procedures for Closing Out Contract Files, added closeout procedures for non-SAP awards.	OCP
		404.1005-1, Required Data Elements, line item type required in contract line item description.	Mission Area request
		407, Acquisition Planning, provided clarity and updated Non-IT Matrix.	Mission Area request
		410.001, Policy, updated Category Management language.	Cat Management POC
		413.303, Blanket Purchase Agreements (BPAs), clarified when D&F required.	Mission Area request
		416.70, Shared First-Category Management, updated Category Management language.	Cat Management POC
		418.203, Emergency Declaration or Major Disaster Declaration, added an automatic increase to thresholds upon presidential declaration.	OCP
		425.103, Buy American-Supplies, Exceptions, updated language.	OMB
		433.103, Protests to The Agency, agency protests shall be entered in IAS.	SPE request
		446.710, Warranties, Contract Clauses, use of a warranty clause is approved for USDA.	Mission Area request
		Appendix A, Templates, updated to match Sharepoint.	Outdated
		Appendix C, Delegation Matrix, updated to match Desk Book, and specifies approvals higher than MASCO shall be routed through the MASCO.	Mission Area request

Contents

Part 401 – Procedures, Guidance and Information (PGI)	16
401.001 Acronyms.	16
<i>Subpart 401.1--Purpose, Authority, Issuance</i>	16
401.102 Statement of Guiding Principles for the Procedures, Guidance and Information (PGI).	16
401.104 Applicability.	16
<i>Subpart 401.2--Administration</i>	16
401.201 Maintenance of the Procedures, Guidance, and Information and other Policy Directives.	16
<i>Subpart 401.6 Career Development, Contracting Authority, and Responsibilities</i>	17
401.601 General.	17
401.601-70 Delegations.	17
Mission Area Senior Contracting Official	17
Chief of the Contracting Office	17
401.601-71 Career Development.	17
GS-1102 Qualifications	17
Contracting Officer’s Representative (COR) Qualifications.....	18
Program Manager Qualifications.....	19
401.601-72 Federal Acquisition Certification.	19
Federal Acquisition Certification in Contracting (FAC-C).....	19
Federal Acquisition Certification in Contracting (FAC-C) Core-Plus Specialization	20
Federal Acquisition Certification for Contracting Officer’s Representatives (FAC-COR).....	20
Federal Acquisition Certification for Program and Project Managers (FAC-P/PM)	21
Federal Acquisition Certification for FAC-P/PM Core-Plus Specialization	22
401.601-73 Continuous Learning.	22
401.601-74 Responsibility for the Acquisition Workforce Career Management Program.	23
401.602 Contracting Officers.	24
401.602-1 Limitations on Authority.	24
401.602-2 Responsibilities.	25
Legal Advice	25
Designate Contracting Officer’s Representative	25
401.602-3 Ratification of Unauthorized Commitments.	27
401.603 Selection, Appointment, and Termination of Appointment for Contracting Officers.	32
401.603-2 Selection.	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.	35
401.671-1 Program Manager or Contracting Officer Representative.	35
401.671-2 Contract Specialist or Contracting Officer.	36
401.672 Selection, Appointment and Termination of Non-Warranted Ordering Officials.	36
PART 402--DEFINITIONS OF WORDS AND TERMS	37
402.101 Definitions.	37

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

PART 403--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST	38
<i>SUBPART 403.1--SAFEGUARDS</i>	38
403.101 Standards of Conduct.	38
403.103 Independent Pricing.	39
403.104 Procurement Integrity.	39
403.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.	39
403.104-5 Disqualification.	39
403.104-6 Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.	39
403.104-7 Violations or possible violations.	39
<i>SUBPART 403.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL</i>	39
403.203 Reporting Suspected Violations of the Gratuities Clause.	39
403.204 Treatment of Violations.	39
<i>SUBPART 403.3--REPORTS OF SUSPECTED ANTITRUST VIOLATIONS</i>	40
403.303 Reporting Suspected Antitrust Violations.	40
<i>SUBPART 403.4--CONTINGENT FEES</i>	40
403.405 Misrepresentations or Violations of the Covenant Against Contingent Fees.	40
<i>SUBPART 403.5--OTHER IMPROPER BUSINESS PRACTICES</i>	40
403.502 Subcontractor Kickbacks.	40
<i>SUBPART 403.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM</i>	40
403.603 Responsibilities of the Contracting Officer.	40
<i>SUBPART 403.8--LIMITATION ON THE PAYMENT OF FUNDS TO INFLUENCE FEDERAL TRANSACTIONS</i>	40
403.806 Processing Suspected Violations.	40
PART 404--ADMINISTRATIVE AND INFORMATION MATTERS	41
<i>SUBPART 404.2--CONTRACT DISTRIBUTION</i>	41
404.203 Taxpayer Identification Information.	41
<i>SUBPART 404.4--SAFEGAURDING CLASSIFIED INFORMATION WITHIN INDUSTRY</i>	41
404.403 Responsibilities of Contracting Officers.	41
<i>SUBPART 404.5--ELECTRONIC COMMERCE IN CONTRACTING</i>	42
<i>SUBPART 404.6--CONTRACT REPORTING</i>	43
404.602 General.	43
404.605 Procedures.	43
<i>SUBPART 404.8--GOVERNMENT CONTRACT FILES</i>	44
404.803 Contents of Contract Files.	44
404.804 Closeout of Contract Files	44
404.805 Storage, Handling, and Contract Files.	48
404.870 Document Numbering System.	50
<i>SUBPART 404.10--UNIFORM USE OF LINE ITEMS</i>	50
404.1003 Establishing Line Items.	50
404.1004 Establishing Subline Items.	50

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

404.1005 Data Elements for Line Items and Subline Items.	50
404.1005-1 Required data elements.	50
SUBPART 404.11—SYSTEM FOR AWARD MANAGEMENT	53
404.1103 Procedures.	53
SUBPART 404.13—PERSONAL IDENTITY VERIFICATION	53
404.1301 Policy.	53
404.1303 Contract Clause.	56
SUBPART 404.16—UNIQUE PROCUREMENT INSTRUMENT IDENTIFIERS	56
404.1603 Procedures.	56
SUBPART 404.21—PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	56
404.2102 Prohibition.	56
404.2103 Procedures	59
404.2104 Waivers	59
SUBPART 404.70—CONTRACTOR RECOGNITION	59
PART 405 PUBLICIZING CONTRACT ACTIONS	60
SUBPART 405.3 SYNOPSIS OF CONTRACT AWARDS	60
405.303 Announcement of Contract Awards.	60
405.404 Release of Long-Range Acquisition Estimates.	60
SUBPART 405.5--PAID ADVERTISEMENTS	61
405.502 Authority.	61
PART 406--COMPETITION REQUIREMENTS	61
SUBPART 406.1—FULL AND OPEN COMPETITION	61
406.101 Policy.	61
SUBPART 406.3—OTHER THAN FULL AND OPEN COMPETITION	62
406.302-70 Otherwise Authorized by Law.	62
406.303 Justifications.	62
Click for FAR 6.302 Justification for Other Than Full & Open Competition	62
406.304 Approval of the Justification.	62
SUBPART 406.5—ADVOCATES FOR COMPETITION	62
406.501 Requirement.	62
PART 407--ACQUISITION PLANNING	62
SUBPART 407.1--ACQUISITION PLANS	62
Definitions	62
How to Plan	64
Why do we plan?	64
Does everything have to be planned?	64
Who is responsible for planning?	64
How is planning documented?	64
Do I need a plan for every action on a Blanket Purchase Agreement or Indefinite Delivery Type contract?	64
My program requires a lot of contracts, do I need a plan for every contract?	65

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

How do I know what type of plan I need?-----	65
Non-Information Technology Requirements-----	65
What is required for a Non-Information Technology (Non-IT) requirement?-----	65
Information Technology Requirements-----	67
What is required for an Information Technology (IT) Requirement?-----	67
How is IT requirements planning going to change Acquisition Strategies?-----	67
Why do I have to get a CIO Acquisition Approval Request (AAR)?-----	67
How do I get an AAR?-----	67
What do I do with my approved AAR?-----	68
I am a Contracting Officer, what does the AAR mean to me?-----	68
Approvals-----	69
Who approves the plan?-----	70
How do departmental approvals occur?-----	70
Acquisition Program Management-----	70
What do acquisition program managers do?-----	70
Who is responsible for developing contract requirements?-----	70
Why is there a Mission Area Senior Program Manager?-----	71
How do Mission Area Senior Program Managers (MASPMs) support acquisition program managers?-----	71
<i>SUBPART 407.5--INHERENTLY GOVERNMENTAL FUNCTIONS</i> -----	71
What type of work is inherently governmental?-----	71
What do I have to do if I have a service requirement?-----	71
PART 408--REQUIRED SOURCES OF SUPPLIES AND SERVICES -----	71
408.002 Priorities for Use of Mandatory Sources.-----	71
408.003 Use of Other Mandatory Sources.-----	72
Small package delivery-----	72
Other USDA and government-wide interagency instruments-----	72
<i>SUBPART 408.4--FEDERAL SUPPLY SCHEDULES</i> -----	73
408.405-6 Limiting Sources.-----	73
<i>SUBPART 408.7--ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED</i> -----	73
408.701 Definitions.-----	73
408.703 Procurement List.-----	73
408.705 Procedures.-----	73
408.705-2 Direct order process.-----	74
408.705-3 Allocation process.-----	74
408.705-4 Compliance with orders.-----	74
408.706 Purchase exemptions.-----	74
408.707 Prices.-----	74
408.711 Quality complaints.-----	74
408.712 Specification changes.-----	74
408.714 Communications with the central nonprofit agencies and the Committee.-----	75
<i>SUBPART 408.8--ACQUISITION OF PRINTING AND RELATED SUPPLIES</i> -----	75
408.802 Policy.-----	75
<i>SUBPART 408.11--LEASING OF MOTOR VEHICLES</i> -----	75
408.1103 Contract Requirements.-----	75

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

PART 409--CONTRACTOR QUALIFICATIONS	75
<i>SUBPART 409.2--QUALIFICATIONS REQUIREMENTS</i>	75
409.202 Policy.	75
<i>SUBPART 409.4--DEBARMENT, SUSPENSION AND INELIGIBILITY</i>	78
409.403 Definitions.	78
409.404 Exclusions in the System for Award Management.	78
409.405 Effect of Listing.	78
409.406 Debarment.	78
409.406-3 Procedures.	78
409.407 Suspension.	79
409.407-3 Procedures.	79
409.470 Appeals.	79
<i>SUBPART 409.5--ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST</i>	80
409.503 Waiver.	80
409.504 Contracting Officer Responsibilities.	80
PART 410--MARKET RESEARCH	80
410.001 Policy.	80
410.002 Procedures.	81
PART 411--DESCRIBING AGENCY NEEDS	81
<i>SUBPART 411.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS</i>	81
411.101 Order of Precedence for Requirements Documents.	81
411.103 Market Acceptance.	81
411.104 Use of Brand Name or Equal Purchase Descriptions.	81
411.106 Purchase Descriptions for Service Contracts.	82
411.107 Solicitation Provision.	82
<i>SUBPART 411.6--PRIORITIES AND ALLOCATIONS</i>	82
411.600 Scope of Subpart.	82
PART 412--ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES	82
<i>SUBPART 412.2 - Special Requirements for the Acquisition of Commercial Products and Commercial Services</i>	82
PART 413--SIMPLIFIED ACQUISITION PROCEDURES	82
413.003 Policy.	82
<i>SUBPART 413.1--PROCEDURES</i>	82
413.106 Soliciting Competition, Evaluation of Quotations or Offers, Award and Documentation.	82
413.106-1 Soliciting Competition.	82
413.106-2 Evaluation of Quotations or Offers.	83
413.106-3 Award and Documentation.	83
<i>SUBPART 413.3--SIMPLIFIED ACQUISITION METHODS</i>	83
413.301 Governmentwide Commercial Purchase Card.	83
413.302 Purchase Orders.	83
413.302-5 Clauses.	83
413.303 Blanket Purchase Agreements (BPAs).	83

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

413.306 SF 44, Purchase Order-Invoice-Voucher. -----	83
413.307 Forms. -----	83
<i>SUBPART 413.5--SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES</i> -----	84
413.501 Special Documentation Requirements. -----	84
PART 414--SEALED BIDDING -- RESERVED -----	84
PART 415--CONTRACTING BY NEGOTIATION -----	84
<i>SUBPART 415.1--SOURCE SELECTION PROCESSES AND TECHNIQUES</i> -----	84
415.102 Oral Presentations. -----	84
<i>SUBPART 415.2--SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION</i> -----	84
415.207 Handling Proposals and Information. -----	84
<i>SUBPART 415.3--SOURCE SELECTION</i> -----	85
Source Selection Plan template-----	85
415.303 Responsibilities.-----	85
415.308 Source Selection Decision-----	85
<i>SUBPART 415.4--CONTRACT PRICING</i> -----	85
415.404 Proposal Analysis. -----	85
415.406-1 Prenegotiation Objectives. -----	86
Click for Prenegotiation Memorandum-----	86
<i>SUBPART 415.5--PREAWARD, AWARD, AND POSTAWARD NOTIFICATIONS, PROTESTS AND MISTAKES</i> -----	86
<i>SUBPART 415.6--UNSOLICITED PROPOSALS</i> -----	86
415.606 Agency Procedures.-----	86
PART 416--TYPES OF CONTRACTS -----	87
<i>SUBPART 416.1--SELECTING CONTRACT TYPES</i> -----	87
Determination and Findings -----	87
416.102 Policies. -----	88
<i>SUBPART 416.4--INCENTIVE CONTRACTS</i> -----	88
416.401 General. -----	88
<i>SUBPART 416.5--INDEFINITE-DELIVERY CONTRACTS</i> -----	88
416.505--Ordering. -----	88
Click for FAR 16.5 Justification for Exception for Fair Opportunity or Brand Name -----	88
<i>SUBPART 416.70--Shared First - Category Management</i> -----	88
PART 417--SPECIAL CONTRACTING METHODS -----	89
<i>SUBPART 417.2--OPTIONS</i> -----	89
417.202 Use of Options.-----	89
<i>SUBPART 417.5--INTERAGENCY ACQUISITIONS</i> -----	89
417.502 Procedures. -----	89
417.502-2 The Economy Act.-----	90
PART 418--EMERGENCY ACQUISITION -----	90

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

<i>SUBPART 418.2 Emergency Acquisition Flexibilities</i>	90
418.203 Emergency Declaration or Major Disaster Declaration.	90
PART 419--SMALL BUSINESS PROGRAMS	90
<i>SUBPART 419.2--POLICIES</i>	90
419.201 General Policy.	90
419.201-70 Office of Small and Disadvantaged Business Utilization (OSDBU).	91
419.201-71 Small Business Coordinators.	91
<i>SUBPART 419.4--COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION</i>	92
419.401 General.	92
<i>SUBPART 419.6--CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY</i>	92
419.602 Procedures.	92
419.602-1 Referral.	92
PART 420 – RESERVED	92
PART 421— RESERVED	92
PART 422--APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS	92
<i>SUBPART 422.1--BASIC LABOR POLICIES</i>	92
422.103 Overtime.	92
422.103-4 Approvals.	92
<i>SUBPART 422.8--EQUAL EMPLOYMENT OPPORTUNITY</i>	93
422.803 Responsibilities.	93
422.807 Exemptions.	93
<i>SUBPART 422.10--SERVICE CONTRACT LABOR STANDARDS</i>	93
422.1003 Applicability.	93
<i>SUBPART 422.13--EQUAL OPPORTUNITY FOR VETERANS</i>	93
422.1305 Waivers.	93
422.1308 Complaint Procedures.	93
<i>SUBPART 422.14--EMPLOYMENT OF WORKERS WITH DISABILITIES</i>	93
422.1403 Waivers.	93
422.1406 Complaint Procedures.	94
PART 423--ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE	94
<i>SUBPART 423.2--ENERGY AND WATER EFFICIENCY AND RENEWABLE ENERGY</i>	94
423.202 Policy.	94
<i>SUBPART 423.4--USE OF RECOVERED MATERIALS AND BIOBASED PRODUCTS</i>	94
423.403 Policy.	94
423.404 Agency Affirmative Procurement Programs.	94
423.405 Procedures.	95
<i>SUBPART 423.5--DRUG-FREE WORKPLACE</i>	96
423.506 Suspension of Payments, Termination of Contract, and Debarment and Suspension Actions.	96

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

<i>SUBPART 423.7--CONTRACTING FOR ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES</i>	96
423.703 Policy.	96
PART 424--PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION	96
<i>SUBPART 424.1--PROTECTION OF INDIVIDUAL PRIVACY</i>	96
424.103 Procedures.	96
<i>SUBPART 424.2--FREEDOM OF INFORMATION ACT</i>	96
424.203 Policy.	96
PART 425--FOREIGN ACQUISITION	97
<i>SUBPART 425.1--BUY AMERICAN--SUPPLIES</i>	97
425.103 Exceptions.	97
425.104 Nonavailable Articles.	97
425.105 Determining Reasonableness of Cost.	97
<i>SUBPART 425.2--BUY AMERICAN--CONSTRUCTION MATERIALS</i>	98
425.202 Exceptions.	98
PART 426--OTHER SOCIOECONOMIC PROGRAMS -- RESERVED	98
PART 427--PATENTS, DATA AND COPYRIGHTS -- RESERVED	98
PART 428--BONDS AND INSURANCE	98
<i>SUBPART 428.2--SURETIES AND OTHER SECURITY FOR BONDS</i>	98
428.202 Acceptability of Corporate Sureties.	98
<i>SUBPART 428.3--INSURANCE</i>	98
428.307 Insurance Under Cost-Reimbursement Contracts.	98
428.370 Government-Owned Vehicles Operated In Foreign Countries.	98
PART 429--TAXES	98
PART 430--COST ACCOUNTING STANDARDS ADMINISTRATION	99
<i>SUBPART 430.2--CAS PROGRAM REQUIREMENTS</i>	99
430.201 Contract Requirements.	99
430.201-5 Waivers.	99
430.202 Disclosure Requirements.	99
430.202-2 Impracticality of Submission.	99
430.202-8 Subcontractor Disclosure Statements.	99
PART 431--CONTRACT COST PRINCIPLES AND PROCEDURES	99
<i>SUBPART 431.1--APPLICABILITY</i>	99
431.101 Objectives.	99
PART 432--CONTRACT FINANCING	99
432.003 Simplified Acquisition Procedures Financing.	99
432.006 Reduction or Suspension of Contract Payments Upon Finding of Fraud.	99

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

432.006-3 Responsibilities.	100
432.006-4 Procedures.	100
SUBPART 432.1-- FINANCING FOR OTHER THAN A COMMERCIAL PURCHASE	100
432.102 Description of Contract Financing Methods.	100
432.103 Progress Payments Under Construction Contracts.	101
432.113 Customary Contract Financing.	101
432.114 Unusual Contract Financing.	101
SUBPART 432.2--COMMERCIAL PRODUCT AND COMMERCIAL SERVICE PURCHASE FINANCING	101
432.202 General.	101
432.202-1 Policy.	101
432.202-4 Security for Government Financing.	101
432.207 Administration and Payment of Commercial Financing Payments.	101
SUBPART 432.4--ADVANCE PAYMENTS FOR OTHER THAN COMMERCIAL ACQUISITIONS	102
432.407 Interest.	102
SUBPART 432.6--CONTRACT DEBTS	102
432.610 Compromising Debts.	102
SUBPART 432.7--CONTRACT FUNDING	102
SUBPART 432.8--ASSIGNMENT OF CLAIMS	103
432.805 Procedure.	103
SUBPART 432.10--PERFORMANCE-BASED PAYMENTS	103
432.1007 Administration and Payment of Performance-Based Payments.	103
SUBPART 432.11--ELECTRONIC FUNDS TRANSFER	103
432.1108 Payment by Governmentwide Commercial Purchase Card.	103
PART 433--PROTESTS, DISPUTES AND APPEALS	105
SUBPART 433.1--PROTESTS	105
433.103 Protests to The Agency.	105
SUBPART 433.2--DISPUTES AND APPEALS	106
433.209 Suspected Fraudulent Claims.	106
PART 434--MAJOR SYSTEM ACQUISITION	106
SUBPART 434.0--GENERAL	106
434.004 Acquisition Strategy.	106
SUBPART 434.2--EARNED VALUE MANAGEMENT SYSTEM	107
PART 436--CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS	107
SUBPART 436.2--SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION	107
436.201 Evaluation of Contractor Performance.	107
436.203 Government Estimate of Construction Costs.	107
436.204 Disclosure of the Magnitude of Construction Projects.	108
SUBPART 436.5--CONTRACT CLAUSES	108
436.575 Maximum Workweek-Construction Schedule.	108

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

<i>SUBPART 436.6--ARCHITECT- ENGINEER SERVICES</i> -----	108
436.601 Policy.-----	108
436.601-3 Applicable Contracting Procedures. -----	108
436.602 Selection of Firms for Architect-Engineer Contracts. -----	108
436.602-2 Evaluation Boards.-----	108
436.602-3 Evaluation Board Functions. -----	108
436.602-4 Selection Authority. -----	108
436.603 Collecting Data on and Appraising Firms' Qualifications.-----	109
436.604 Performance Evaluation. -----	109
436.605 Government Cost Estimate for Architect-Engineer Work. -----	109
436.609 Contract Clauses.-----	109
436.609-1 Design Within Funding Limitations.-----	109
PART 437--SERVICE CONTRACTING -----	109
<i>SUBPART 437.2--ADVISORY AND ASSISTANCE SERVICES</i> -----	109
437.200 Scope of Subpart.-----	109
437.204 Guidelines for Determining Availability of Personnel.-----	109
437.504 Contracting Official's Responsibilities.-----	109
PART 438—FEDERAL SUPPLY SCHEDULE CONTRACTING -- RESERVED -----	110
PART 439—ACQUISITION OF INFORMATION TECHNOLOGY -----	110
<i>SUBPART 439.1--GENERAL</i> -----	110
439.101 Policy.-----	110
439.105 Privacy.-----	112
<i>SUBPART 439.2--ELECTRONIC AND INFORMATION TECHNOLOGY</i> -----	112
439.201 Scope of Subpart.-----	112
439.203 Applicability.-----	112
PART 441--ACQUISITION OF UTILITY SERVICES -- RESERVED -----	113
PART 442--CONTRACT ADMINISTRATION AND AUDIT SERVICES -----	113
442.002 Interagency Agreements. -----	113
<i>SUBPART 442.7—INDIRECT COST RATES</i> -----	114
442.708 Quick-Closeout Procedure. -----	114
<i>SUBPART 442.15--CONTRACTOR PERFORMANCE INFORMATION</i> -----	114
442.1502 Policy.-----	114
<i>SUBPART 442.70—CONTRACTING OFFICER REPRESENTATIVE (COR)</i> -----	117
PART 443--CONTRACT MODIFICATIONS -----	117
<i>SUBPART 443.1--GENERAL</i> -----	117
443.102 Policy.-----	117
<i>SUBPART 443.2—CHANGE ORDERS</i> -----	117
443.201 General.-----	117

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

PART 445--GOVERNMENT PROPERTY	118
<i>SUBPART 445.1--GENERAL</i>	118
445.103 General.	118
PART 446 – QUALITY ASSURANCE	118
<i>SUBPART 446.7--WARRANTIES</i>	118
446.710 Contract Clauses.	118
PART 447—TRANSPORTATION -- RESERVED	118
PART 449--TERMINATION OF CONTRACTS	118
<i>SUBPART 449.1--GENERAL PRINCIPLES</i>	118
449.106 Fraud or Other Criminal Conduct.	118
449.111 Review of Proposed Settlements.	118
<i>SUBPART 449.4--TERMINATION FOR DEFAULT</i>	118
449.402 Termination of Fixed-Price Contracts for Default.	118
PART 450--EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT -- RESERVED	119
PART 451—USE OF GOVERNMENT SOURCES BY CONTRACTORS -- RESERVED	119
PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES -- RESERVED	119
PART 453--FORMS	119
453.000 Scope of part.	119
<i>SUBPART 453.1--GENERAL</i>	119
453.103 Exceptions.	119
453.108 Recommendations Concerning Forms.	119
<i>SUBPART 453.2--PRESCRIPTION OF FORMS</i>	119
453.270 Request for Contract Action (AD-700).	119
<i>SUBPART 453.3 FORMS USED IN ACQUISITIONS</i>	119
453.300 Listing of Standard, Optional, and Agency Forms.	120
PGI APPENDIX A – TEMPLATES	121
PGI APPENDIX B- Contract Types	123
PGI APPENDIX C – DELEGATION MATRIX	125
Attachment A, Marketing and Regulatory Programs (MRP)	131
Attachment B, Research, Education and Economics (REE)	132
Attachment C, Food, Nutrition and Consumer Services (FNCS)	133
Attachment D, Natural Resources and Environment (NRE)	134

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

Attachment E, Farm Production and Conservation (FPAC) ----- 135

Attachment F, Food Safety and Inspection Services (FSIS) ----- 136

Attachment G -- RESERVED ----- 139

Attachment H, Departmental Administration (DA)----- 140

Attachment J, Rural Development (RD)----- 142

Part 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

401.102 Statement of Guiding Principles for the Procedures, Guidance and Information (PGI).

In accordance with the Program Management Improvement Accountability Act (PMIAA) and the Office of Management and Budget (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 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.

Subpart 401.2--Administration

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

Policy changes to the PGI, DRs 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@usda.gov with "PGI Change Request" in the subject line. The e-mail shall contain the following information:
 - Summary of the issue / topic being addressed.

- Discussion/rationale for the CR.
- Cite specific reference (FAR, AGAR or PGI Chapter, paragraph, etc.).
- Attach supporting documentation, if necessary.
- Confirmation that the MASCO or Policy Chief supports the CR.

Subpart 401.6 Career Development, Contracting Authority, and Responsibilities

401.601 General.

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 Official (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) USDA Purchase Card Use. For guidance on its use see <https://ias.usda.gov/ccsc/>; 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 (APCs) are responsible for providing cardholders training prior to issuance of the purchase card. See https://www.dm.usda.gov/procurement/ccsc/purchase_card.htm for more information.

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 a MASCO. The HCA may designate a MASCO for each Mission Area, as necessary, when recommended by the Mission Area's Chief Operating Officer (COO). MASCOs only have authority of the designated Mission Area contracting unless other Mission Areas are identified in writing. The list of delegations is available in Appendix C and at [Sharepoint | OCP Templates](#), titled "Delegation Matrix".

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 a 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 OPM Qualification Standards for GS-1102s, the SPE may consider waiving one or more requirements from the OPM *Qualification Standards* for GS-1102s. 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.**

[Click for Warrant Waiver Request Template.](#)

[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.

USDA employees must complete the Contractor Performance Assessment Reporting System (CPARS) Overview, and FAC 089, Writing Quality Past Performance Evaluations. CPARS overview and FAC 089 are available in Federal Acquisition Institute Cornerstone OnDemand ([FAI CSOD](#)). To find either course, use the Learning Search tool once logged in.

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 their project(s) 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 certified. Project managers assigned to lead projects within programs identified as major acquisitions must, at a minimum, possess a mid-level FAC-P/PM certification.

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 [3130-011](#) dated February 4, 2016 for additional details.

[401.601-72 Federal Acquisition Certification.](#)

Mission Areas shall provide Acquisition Workforce (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 FAI CSOD. Certification and training information may be found at the Federal Acquisition Institute (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. The FAC-C Experience On the Job Training (OJT) Toolkit, [here](#), must be completed to document experience for FAC-C certification requests. The OJT Toolkit and a resume are needed to document the experience requirement for this certification. Employees should refer to the FAI CSOD employee task aid to complete the certification details to document meeting the education and experience requirements for a certification request. 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.

It is the employee's responsibility to provide a copy of their official diploma from a four-year accredited college or university 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 FAI 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 request for equivalency as evidence of completion to satisfy 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. A course equivalency request completed within five years of the course completion date will be reviewed for approval consideration. Available active DAU equivalent vendors and classes can be found in DAU's iCatalog under Equivalent Providers available at <http://icatalog.dau.edu>. 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. Requests to use experience in lieu of training (fulfillment) will not be considered.

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 Office of Federal Procurement Policy (OFPP) Memorandum dated May 18, 2018, located [here](#).

Beginning in Fiscal Year (FY) 2022, prior to assignment to digital services acquisitions over \$7.5 million (or \$15 million for acquisitions described in FAR Part 13.500(c)) contracting personnel must obtain their Federal Acquisition Certification in Contracting Core-Plus Specialization in Digital Services.

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. At USDA, employees designated/appointed to serve as CORs must first have a current FAC-COR certification. 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, the contract period of

performance, COR designation period, COR duties performed and the time period. Employees should refer to the FAI CSOD employee task aid to complete the certification details to document meeting the training and experience requirement for a FAC-COR certification request.

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 COR certification training must be with a formal learning program from FAI, DAU, a DAU equivalent training provider, or a college or university or commercial training provider that offers programs of instruction or assessment processes that are substantially similar to the learning outcomes addressed towards meeting FAI's current certification competency requirements.

USDA does not evaluate training course material for credit. Before pursuing a course, concerns of course acceptance should be directed to the employee's Mission Area Acquisition Career Manager Designees (ACMD) for applicability. 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 PGI. Any additional requirements for a Mission Area should be included in the PGI. Requests to use experience in lieu of training (fulfillment) will not be considered.

[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 training curriculum requirement. Requests for fulfillment will not be considered.

Application packages for certification shall include:

- a. The USDA Federal Acquisition Certification for Program and Project Manager Employee Self-Assessment, titled "FAC-PPM Self Assessment App" available at [Sharepoint | Templates](#) to document training or demonstrated

knowledge, skills, and abilities (i.e., certificates, transcripts, comparable education or certification programs, and/or essays); and

b. Any previously issued FAC-P/PM or DAWIA certifications (if applicable).

Employees should refer to the FAI CSOD employee task aid to complete the certification details to document meeting the training and experience requirement for a FAC-P/PM certification request.

USDA will recognize the DAWIA certification when an employee is applying for the equivalent FAC-P/PM certification. Individuals requesting this equivalency must provide documentation of the DAWIA certificate and the appropriate continuous learning history to ensure validity and currency of the certification.

[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 approved by OFPP and maintained by FAI. Employees are encouraged to bookmark the FAI website to stay abreast of changes.

In addition to USDA employees providing documentation to support the FAC-P/PM experience and training requirements with the submission of their application, employees seeking the FAC-P/PM IT specialization certification must provide documentation specific to the IT experience. There is a FAC-P/PM IT specialization self-assessment application, available at [Sharepoint | Templates](#), which must be completed to document the specialization requirements experience. The employee must provide the FAC-P/PM IT specialization self-assessment application to document meeting the experience requirement with the specialization certification request in FAI CSOD.

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 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.](#)

Professional improvement is continuous, and employees are expected to participate in a variety of acquisition-related activities designed to give a well-rounded perspective of the acquisition management function. Continuous learning points (CLPs) must meet the competencies of the respective certification program. CLPs will not be accepted for attending duplicative event (course, seminar, conference, etc.) within a four-year period. Acquisition related training required on an annual basis to support the employee's certification, such as

Procurement Ethics training, would be considered as acceptable for CLPs and is exempt from the duplicative event within four years policy. However, be advised that CLPs will not be granted for activities that would be considered normal contracting duties, tasks, and responsibilities expected of employees serving in positions as Contracting Officers, CORs and program/project managers. The FAI website contains information on point allocations for acceptable continuous learning (CL) events for each certification program listed within <https://www.fai.gov/training/continuous-learning-opportunities>.

If the training certificate does not indicate the number of CLPs or Continuing Education Units (CEUs) earned, the attendee is responsible to provide supporting documentation indicating the number of CLPs earned for the event to their Mission Area ACMD. Examples of acceptable documentation to support CL point requests include:

- HR document, e-mail, letter, or internal agency training certificate describing and confirming rotational, developmental, and/or mentoring assignments. Each document should show title, completion date, and signature of Supervisor or Mission Area ACMD;
- Course completion certificates;
- Transcripts;
- E-mail/letter from a professional organization verifying the requesting employee attended or presented at meetings/seminars/conferences;
- Copy of published article; and
- Event objective or contents, etc.

USDA requires any GS-1102 or GS-1105 who holds an FAI issued FAC-C and those who are SF-1402 warranted Contracting Officers to complete 80 CLPs every two years and adhere to their Mission Area ACMD's guidance on tracking CL. Although not certified, non-FAC-C warranted Contracting Officers shall ensure their CLPs meet the FAC-C contracting competencies. Employees shall provide evidence of having met the CL requirements for their warrant or certification(s) to their Mission Area ACMD per Mission Area guidance.

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 FAI CSOD;

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 Mission Area ACMDs are fully knowledgeable of the program requirements and comply with the provisions;
- Ensure supervisors or ACMDs schedule and evaluate training;
- Manage continuous learning completion;
- Review Contracting Officer requests;
- Approve Contracting Officer Certificates of Appointment, as appropriate;

Supervisors or Mission Area 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 Mission Area ACMDs in discussing, developing, and preparing training plans;
- Maintain an updated transcript in FAI CSOD 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
- Know when their two-year CL period ends, as well as understand that all continuous learning requirements must be completed and approved by the Mission Area ACMD prior to the end of the two-year CL period. Ensure all training is completed 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 obligation values or estimated values, whichever is greater, 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. Cardholders must confirm the receipt of goods and services and comply with PGI 432.11 requirements.

Contracting Officers are legally responsible for their signed procurement documents. Contracting Officers cannot sign "for" or over the name of another Contracting Officer. For actions using Robotic Process Automation (RPA), refer to mission area guidelines.

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 enough information to facilitate legal review to the Office of the General Counsel (OGC) via the MASCO, unless otherwise directed. 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 through the MASCO 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. Also, see PGI 404.803 for additional instructions regarding contract file documentation.

However, for documents submitted to the HCA/SPE, OGC review is required (with the exception of Abbreviated Acquisition Plans.) Recommendations (or decision for lack of OGC review) should be submitted with the package.

Designate Contracting Officer's Representative

All service and construction contracts shall have either:

- a COR, or
- if a COR is not required per the FAR [see 1.602-2(d)], there must be a designation for an invoice approver (in the Integrated Acquisition System (IAS)) unless the CO is the sole approver. The designee does not have to be COR certified to approve an invoice.

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 Designation Criteria Matrix helpful to determine if a COR is needed and at what level.

COR DESIGNATION CRITERIA MATRIX:

Risk Factor Sensitivity or Complexity of What is Being Procured	Little or no risk associated with project Oversight confined to basic inspection and acceptance (e.g., COTS or standard supplies)	Significant or high risk associated with project 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

Certification	Contract Risk
Level I	Low-risk contracts, e.g., supply contracts and orders
Level II	Perform general project management activities/ moderate to high complexity contracts for supply and service contracts
Level III	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

The Nomination of Contracting Officer's Representatives (CORs) required under this part shall use the Nomination of Contracting Officer's Representative (COR) template form located at the following link:

[Sharepoint | Templates](#) . The template may be used for other COR nominations at the discretion of the responsible MASCO. A “Nomination of Contracting Officer’s Representative” and “Designation of Contracting Officer’s Representative (COR)” shall both be used. The “Designation of Contracting Officer’s Representative (COR)” shall be sent to the contractor, per FAR 1.602-2(d)(7). Forms and instructions are located at [Sharepoint | Templates](#) .

CORs shall be nominated as early as possible in the procurement process, no later than two weeks after period of performance start. The CO will not accept nominations without the supervisor or Senior Executive Service’s (SES’s) signature; the contracting office does not approve the nomination. If a COR needs to be replaced, new nomination and designation forms must be completed and signed by the appropriate supervisor or SES. At a minimum, those CORs for major investments, as defined by OMB Circular A11, shall generally be designated as FAC Level III CORs.

Nominations to be signed by the supervisor of the nominated COR:

- Commercial off the Shelf (COTS) IT supply less than \$7.5M;
- Services & construction less than the simplified acquisition threshold (SAT).

Nominations to be signed by an SES within the nominated COR’s supervisory chain:

- COTS IT supply over \$7.5M;
- Non-COTS IT of any value;
- Services & construction over SAT.

Blanket Purchase Agreements (BPAs) or Indefinite Delivery Indefinite Quantity (IDIQ) awards, where one COR is assigned to multiple BPA call orders or Delivery/Task Orders, require only one nomination form at the award level. When a different COR is assigned to a BPA call order or Delivery/Task Order than the COR that is assigned to the award level, a “Nomination of Contracting Officer’s Representative” and “Designation of Contracting Officer’s Representative (COR)” shall be completed.

Failure of a COR to meet CL requirements will result in revocation of appointment/designation to all assigned contracts. Eligibility for reappointment/redesignation as a COR to the contract will not occur until CL requirements are met and a new FAC-COR application is approved.

401.602-3 Ratification of Unauthorized Commitments.

Unauthorized commitments occur when an employee makes an agreement on behalf of the Government that is not binding because they lack authority to enter into an agreement. For instance, when there is a lack of sufficient funding, use of funds is not approved, the warrant authority does not allow for the award made, period of performance has expired, etc.

Ratifications to approve unauthorized commitments should be conducted in accordance with FAR 1.602-3, approved at a level no lower than the MASCO unless otherwise authorized by the HCA or SPE. When it has become known that an unauthorized commitment has occurred, the Government is required to follow the processes in FAR 1.602-3 and below.

There are two procedures by which an unauthorized commitment may be ratified. The first procedure involves stand-alone unauthorized procurement actions committed where no contractual arrangement already exists.

The second procedure 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 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.

Reference FAR 1.602-3(c) for when ratification authority may be exercised.

Examples of unauthorized commitments include: (a) Government purchase cardholder makes a purchase over their single purchase limit. (b) Commitment for continuation of services or delivery of supplies under an expired contract, purchase order, or delivery order. (c) Commitment for performance of work or delivery of supplies prior to issuance of a contract, purchase order, or delivery order. (d) Commitment which exceeds the call order limit on a blanket purchase agreement. (e) Commitment under an award by a person who is not delegated authority (i.e., COR, program office). (f) Commitment which continues contract services over and above the original scope and dollar amount; or a commitment made by an otherwise authorized Contracting Officer. (g) 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

Per FAR 1.602-3(d), legal advice should be obtained in cases of non-ratifiable commitments. If it is determined that the non-ratifiable commitment should not be paid (i.e., the Government did not receive and accept services, vendor received payment, and funds need returned to USDA), the CO should consult with the Office of the Chief Financial Officer (OCFO), <https://www.ocfo.usda.gov/>.

PROCESS:

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.

- 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. Attachment 1 is located [here](#).
 2. Consult with the Contracting Officer (CO) if there are any questions concerning the information required to complete the request to ensure the accuracy of the information being submitted. 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.
 4. Send the completed "Request to Ratify an Unauthorized Commitment" to the CO.
 5. Ensure the vendor is registered in the System for Award Management (SAM).
 6. If the request is approved by the Ratifying Official, does not exceed the micro purchase threshold, and payment has not been made, then either; (a) pay using normal GPC procedures, (b) submit a "no-commit" requisition in IAS and specify that payment will be made by the GPC or; (c) submit a funded requisition in IAS.

7. If the request is approved by the Ratifying Official, does exceed the micro purchase threshold, and payment has not been made, then either; (a) submit a “no-commit” requisition in IAS and specify that payment will be made by the GPC by a warranted Contracting Officer or; (b) submit a funded requisition in IAS.
 8. If the request is approved by the Ratifying Official and payment has been made, no further action by the employee is required.
 9. If the request is not approved by the Ratifying Official, the employee making the unauthorized commitment may be held personally liable for payments of the supplies/services. Employee should consult with their supervisor and the CO to determine the next steps.
- b. Responsibility of the Employee’s Supervisor and Senior Executive Service (SES) member:
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 SES signs the ratification request.
 4. Disciplinary actions are at the discretion of the individuals’ supervisor and SES. The supervisor should consider factors such as the dollar value of the unauthorized commitment, whether the individual has repeatedly committed unauthorized actions, and the specifics of the action (i.e., lack of knowledge or training, pressure by someone else, etc.).
- 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 to immediately discontinue performance, notify the employee who made the unauthorized commitment and the employee’s supervisor that an unauthorized commitment has occurred. Any verbal notifications must be followed-up in writing (*email or letter*) and include at a minimum:
 - i. Summary of the verbal discussion instructing the vendor to immediately discontinue performance, including the date and time of the discussion.
 - 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. An invoice submitted prior to ratification is not considered proper because no contract was in place at the time of the unauthorized commitment.
 - a. If an invoice is received prior to ratification, the invoice shall be rejected. Inform the vendor that the invoice will be readdressed once the unauthorized commitment procedures are complete.
 - b. If an invoice is received prior to ratification, and was erroneously approved, contact the Mission Area finance office immediately.
2. Contact the MASCO to obtain an assigned control # and provide pertinent tracking information (see f2 below).
3. Provide the "UAC Request to Ratify an Unauthorized Commitment" (*Attachment 1*) to the employee making the unauthorized commitment. Assist the employee with addressing the data and information needed in the request for ratification, as appropriate. Attachment 1 is located [Sharepoint | Templates](#) .
4. Ensure the accuracy and completeness of the information received from the employee who made the unauthorized commitment and ensure the appropriate supervisor and SES have signed the ratification request.
5. Complete the "UAC Contracting Officer's Determination and Findings for Ratification" (*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 by contacting the Mission Area finance office for payment processes. Attachment 2 is located [Sharepoint | Templates](#) .
6. Submit the request for review and approval through the supervisory chain.
7. Immediately advise the employee who made the unauthorized commitment of the decision of the Ratifying Official to ratify or not to ratify.
8. Maintain a copy of all documentation in the contract file.
9. If ratification is appropriate, issue the appropriate contract document in IAS.
10. Include a statement in the *description fields* in IAS and in the Federal Procurement Data System (FPDS) record: "This action is a Ratification of an Unauthorized Commitment."

11. Vendor's invoice. *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.*
- i. If the unauthorized commitment is approved, and award is made through IAS, issue the contract and instruct the vendor to submit a proper invoice with the appropriate contract number and any other revised invoice information through the Invoice Processing Platform (IPP).
 - ii. If the unauthorized commitment is approved, and award is made with the GPC, a requisition will be received in IAS for award if the amount is over the micro purchase threshold. See paragraphs a6 and a7 above under employee's responsibilities.
 - iii. If the unauthorized commitment cannot be ratified but the CO determines payment is due, request a revised invoice.
 - iv. If the unauthorized commitment cannot be ratified and/or the CO determines payment is not due, coordinate with the vendor.

d. Responsibility of Contracting Supervisors:

1. In the event the employee who made an unauthorized commitment is a Contracting Officer, assign a different CO to process the unauthorized commitment.
2. 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.
3. 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 Official:

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.
3. Provide a copy of the approved/disapproved Request to Ratify to the appropriate Contracting Officer.

f. Responsibility of the MASCO:

1. Take positive actions such as training, robust pre-award review procedures, etc. to preclude the occurrence of unauthorized commitments.
2. MASCOs are required to maintain a log and files of unauthorized commitments and provide annual updates to OCP. *By October 30th of each year provide a listing of previous fiscal year unauthorized*

commitments to procurement.policy@usda.gov. At a minimum, the listing should include description, date, and amount.

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 appointment 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 shall 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. This review may be completed in conjunction with the review required in PGI 401.603-70 for existing warranted non-FAC-C certified contracting officers.

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 appointment requests must be completed on the [Warrant Appointment Request](#) template. See PGI 401.601-71 for more information concerning waivers.

401.603-3 Appointment.

Authority to enter 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 MASCOs, through the HCA delegation, 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. The HCA must approve and is the appointing official for MASCO Contracting Officer warrants.

Appointing officials shall review Warrant Appointment Requests, and issue and manage Contracting Officer warrants. The Certificate of Appointment 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.

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

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 in the following table.

This chart contains information on the minimum requirements for issuing Contracting Officer warrants. Appointing Officials may further limit authority as necessary.

Contracting Officer Warrant Authority for GS-1102/1105 Personnel and Mission Area Senior Contracting Official (MASCO):

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 equivalent course; or be FAC-C certified	MASCO	All contract types limited to the amount listed in FAR Part 2 for simplified acquisition threshold
Level B	I	MASCO	All contract types, including construction & A&E, limited to the threshold in FAR Subpart 13.5 for Commercial Products & Commercial Services
Level C	II	MASCO	\$50M
Level D	III	MASCO	Unlimited
MASCO	III	HCA	Unlimited

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 CFR 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.

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 FAI CSOD. Such files shall be available for oversight reviews by the USDA ACM. Each agency’s ACM or ACMD shall submit an annual report to the USDA ACM by the 30th of April each year. The report shall be submitted electronically 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 Program Manager (MASPM) 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 government’s 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.

Acquisition Role	Examples of Mission Area Staff/Series/Title
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 FAC-P/PM
CONTRACTING OFFICER’S REPRESENTATIVE (COR)	Any Mission Area personnel who have technical knowledge of the requirement and have been certified as a FAC-COR
CONTRACT SPECIALIST (CS)	Contract Coordinator, Procurement Technician, Purchasing Agent, Contract Specialist
CONTRACTING OFFICER (CO)	Warranted Purchasing Agent, Contract Specialist who holds a FAC-C

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) A Procurement Forecast notice per DR 5090-003 is submitted to the Mission Area Small Business Coordinator once any acquisition plan is finalized; (3) Requirements are clearly defined and specified; (4) Quality standards are prescribed and met; (5) Performance or delivery is timely; and (6) 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 in the “Acquisition Process Roles and Responsibilities” listed [Sharepoint | Templates](#) 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>

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 spend 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. Acquisition Approval Requests (AARs) are included for applicable IT purchases. Selection and Price reasonableness is documented. CORs are assigned to applicable contracts. Completes the performance evaluation in the Contractor Performance Assessment Reporting System (CPARS) 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 more than 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 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 a USDA Contracting Officer, 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.
- The HCA has the authority to require an eligible ordering official to complete additional specialized training, which is considered relevant to a 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 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 may terminate ordering officer authority at any time.

PART 402--DEFINITIONS OF WORDS AND TERMS

402.101 Definitions.

“Advisory and Assistance Services” means services which fall into the Product Service Codes (PSCs) listed at https://www.acg.osd.mil/dpap/pdi/p2p/improving_transparency_of_procurement_spend.html, and <https://psctool.us/references>.

“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 higher levels. The degree of COCO authority will vary, depending on organizational workload, breadth of responsibility, warrant authority, and individual experience.

- The COCO must be approved by the HCA and appointed in writing by the MASCO.
- The COCO is required to maintain Level III FAC-C certification.

“Digital Services” means the electronic delivery of information (including facts, data, opinions and content) across multiple platforms, devices, and delivery mechanisms like web or mobile. More information is available at the [Digital Services Playbook](#), and the TechFAR [Handbook](#).

“Head of Contracting Activity” (HCA), as referenced in the AGAR, is currently filled by one position within USDA.

“Information Technology (IT)” USDA uses the OMB definition as it is expressed in the [M-15-14](#). USDA has and will continue to use this definition as it moves forward with planning, implementation, development and execution.

“Level above the Contracting Officer” means a supervisory Contracting Officer unless otherwise stated in the PGI. 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”.

Mission Area Senior Contracting Official, as referenced in the AGAR, is hereby defined as the “MASCO”.

“Mission Area Senior Program Manager” (“MASPM”) means the designated senior Mission Area expert in program management. Supports the Mission Area Chief Operating Officer (COO) and Mission Area senior leadership in implementing program management within the Mission Area. MASPMs are initially focused primarily on acquisition program management, specifically on Major Acquisition Programs.

“Programs” are directed, funded acquisitions that provide new, improved, or continuing systems or services in response to an approved need. Programs are divided into levels established to facilitate decision-making, execution, and compliance with statutory and regulatory requirements and may be composed of multiple projects, services contracts, interagency agreements, and other types of acquisitions. With a systems or services capability focus, programs usually tie together an agency’s higher-level programming and budgeting process with the agency’s strategic plan. (FAI)

“Program Manager” means the acquisition workforce member with the responsibility and relevant discretionary authority who is uniquely empowered to make final scope-of-work, capital investment, and performance acceptability decisions on assigned acquisition programs. The program manager is also responsible for meeting program objectives or production requirements through the acquisition of any mix of in-house, contract, or reimbursable support resources. Program managers are responsible to stakeholders for management and oversight of subordinate projects within the scope of the overall program. The program manager is ultimately responsible for effectively managing all business and technical risks of the program to ensure effective systems and services are delivered to the end user on schedule, within budget, and at the required levels of performance. (FAI)

A “Project” is a planned acquisition undertaking with a definite beginning and clear termination point that produces a defined capability. A project is an individually planned, approved, and managed basic building block related to a program. A project is not constrained to any specific element of the budget structure; however, basic research, maintenance of equipment and facilities, and operations are not considered projects. (FAI)

“Project Manager” (“PM”) is the acquisition workforce member assigned responsibility for accomplishing a specifically designated work effort or group of closely related efforts established to achieve stated or designated objectives, defined tasks, or other units of related acquisition effort on a schedule, within cost constraints, and in support of the program mission or objective. The project manager is responsible for the planning, controlling, and reporting of the project and for the management of required functions, including acquisition planning, definitization of requirements, business case development, performance of the schedule, and formulation, justification, and execution of the budget. The project manager is responsible for effectively managing project risks to ensure effective systems and services are delivered through a total life-cycle approach to the end user on schedule, within budget and at the required levels of performance. A program manager may also serve as project manager for projects within the scope of the program. (FAI)

A “System” is defined as a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software, or any combination thereof, but exclude construction or other improvements to real property. See part 434 for information on Major Systems.

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.

403.103 Independent Pricing.

If a contracting officer rejects an offer in accordance with FAR 3.103-2(b), the contracting officer shall first notify the MASCO prior to reporting the suspected violation to the Attorney General in accordance with FAR 3.303. The contracting officer shall then provide a copy of the report filed with the Attorney General's Office to the MASCO.

403.104 Procurement Integrity.

403.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

The contracting officer shall determine persons authorized to review contractor bid or proposal information or source selection information in accordance with FAR 3.104-4 and other directives issued by the MASCO.

403.104-5 Disqualification.

(c)(2) The MASCO has been delegated approval authority under this section.

403.104-6 Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.

Any requests for advice regarding accepting compensation from a particular contractor should be referred to the Ethics Office following the procedures as described at FAR 3.104-6. The requesting individual will notify the MASCO prior to contacting the Ethics Office.

403.104-7 Violations or possible violations.

Following the guidelines as prescribed at FAR 3.104-7, the contracting officer should forward any violation or possible violation of the Procurement Integrity Act (41 U.S.C. 423) information to the MASCO. The MASCO will then seek direction from the HCA.

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, include a recommendation for action, and submit the report through the MASCO 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).

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 (OIG) 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 MASCO. The MASCO shall determine if a violation has occurred and report any violation to the Office of Inspector General. The MASCO shall take action in accordance with FAR 3.405(b).
- b. If the MASCO decides to refer the case to the Department of Justice, it should be referred through the OIG 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 OIG in accordance with procedures in Departmental Regulation [DR 1700-002](#).

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 FAR 3.602, 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 OIG in accordance with procedures in Departmental Regulation [1700-002](#).

PART 404--ADMINISTRATIVE AND INFORMATION MATTERS

SUBPART 404.2--CONTRACT DISTRIBUTION

404.203 Taxpayer Identification Information.

- a. Vendors doing business with USDA must have a taxpayer identification number (TIN).
- b. Vendors registered in the System for Award Management (SAM) have a TIN, unless exempt per FAR 4.1102(a).
- c. If awarding to a vendor that is not registered in SAM, work with the Office of the Chief Financial Officer (OCFO) to manually establish a vendor record.
- d. When awarding in IAS and the vendor is not in SAM, contact the IAS help desk.

SUBPART 404.4—SAFEGAUARDING CLASSIFIED 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 USDA Departmental Administration, Personnel and Document Security Division, regarding the procedures that must be followed.

- a. Safeguarding Classified National Security Information

FAR subpart 4.403 provides guidance to COs on safeguarding classified information that is released to contractors.

The requirements prescribed for a “classified contract” as defined in FAR 2.101 are applicable to all phases of pre-contract activity, including solicitations (bids, quotations, and proposals), pre-contract negotiations, or post-contract activity, if the contract requires access to classified information by the contractor.

Prior to any USDA agency entering into a classified contract, they must first coordinate with the Special Security Officer (SSO) to ensure they are meeting the requirements of Executive Order 12829, as amended, National Industrial Security Program, and the corresponding Department of Defense 5220.22-M, National Industrial Security Program Manual. Companies that USDA wishes to enter into a classified contract with must have a reputation for integrity and lawful conduct in its business dealings. The company must also have a Facility Clearance (FCL) that is in good standing with the Department of Defense. USDA will not serve as a sponsor for a contractor to receive an FCL from the Department of Defense. An active FCL in good standing must be verified before a contract can be entered into with USDA which requires access to classified national security information.

The DD Form 254 informs the contractor of the level of information they will be required to access, the level of security clearance the contractors will need, and how they will process, store, transmit, and destroy the classified information when the contract is complete. If the contractor then subcontracts the work, they are obligated, under the National Industrial Security Program (NISP), to pass those requirements on to the subcontract.

Contracts requiring work that is unclassified but sensitive should also be evaluated to ensure that contractors have undergone an appropriate level of background investigation to perform the required duties, and contractors must be made aware of any procedures or requirements regarding proper protection of unclassified but sensitive information.

The USDA's Office of Homeland Security (OHS), Personnel and Document Security Division (PDSD), Classified National Security Information Staff, Special Security Officer (SSO), is the point of contact for additional Industrial Security guidance and information on completing the DD Form 254. Please contact the SSO by telephone at (202) 720-8747, at (202) 720-7373, or by email at cnsis@usda.gov or at karen.maguire@usda.gov.

For a fillable DD Form 254 and more information on completion of the form, go to the PDSD forms page at <https://www.dm.usda.gov/ohsec/pdsd/forms.htm>.

COs must ensure that any classified acquisition is conducted as required by the NISP or agency procedures, as appropriate, and include clause 52.204-2, *Security Requirements* in the solicitation and contract, and, as appropriate, in solicitations and contracts when the contract may require access to classified information.

- b. COs shall inform contractors and subcontractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and components of the classified contract.

SUBPART 404.5—ELECTRONIC COMMERCE IN CONTRACTING

For contract actions that exceed the micro-purchase threshold (as defined at FAR Subpart 2.101 - Definitions), except those identified in the EXCLUSIONS below, Agencies must use one of the following automated procurement systems to process the action:

- The Integrated Acquisition System (IAS);
- Forest Service systems for incident management; or
- The Web Based Supply Chain Management (WBSCM) System for food commodity procurements processed by the Agriculture Marketing Service or Farm Service Agency.

Program personnel shall use the automated procurement system to create requisitions/requirements, where applicable, for supplies or services that require contracting authority of the Contracting Officer. Program personnel shall coordinate with their contracting office for guidance on whether a requirement should be directed to the contracting office for issuance. FAR Subpart 4.803 lists examples of records that are normally contained in a contract file.

Contracting Officers shall create and maintain an electronic contract file. At a minimum, the procurement record/file inside the automated system must include: (1) the purchase requisition, (2) the award document, and (3) evidence of contract closeout. As of 10/01/2021, documents for delivery/task orders created in IAS shall be saved within the delivery/task order file only. Documents for non-IAS orders shall be saved within the delivery/task order file and shall be included in the base award file upon contract closeout.

Each MASCO shall:

Develop and implement procedures, such as periodic reviews of specific contracts that were directly processed in the Financial Management Modernization Initiative (FMMI), to ensure all required contracts are in IAS or in the appropriate automated procurement system. Contracts awarded in IAS must also include the complete contract file (as described in FAR Subpart 4.803) stored in IAS. As a best practice, filing should take place at the time of award or sooner. Documents shall be uploaded to IAS no later than 30 days after award.

Ensure that all required contracts awarded by their agency have contractors registered in the System for Award Management (SAM).

EXCLUSIONS

Automated procurement systems are not required for the following:

- A. Acquisitions from Federal agencies, which are processed through Intragovernmental Payments and Collections (IPAC), unless marked in IAS for payment via purchase card.
- B. Acquisitions in support of all risk incidents (e.g., fire suppression, hurricanes, floods, or other natural disasters) if a suitable system is not available due to urgency or geographic location; and
- C. General Services Administration (GSA) Capital Leasing transactions.

SUBPART 404.6--CONTRACT REPORTING

404.602 General.

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

USDA Federal Procurement Data Quality Plan:

Review of USDA's data certification process is essential for effective management and to ensure that the data submitted into FPDS is accurate. OMB requires Agencies to take additional steps to verify and validate the accuracy of data entered into the FPDS. In accordance with policy issued by OMB, Chief Acquisition Officers (CAOs) and Senior Procurement Executives (SPEs) must establish requirements for ensuring that FPDS data reflects accurate and timely contract information. To that end, USDA updated its process for submission of its Annual Statement of Verification and Validation that must be submitted annually to OFPP.

The USDA [FPDS Data Quality Plan](#) template with four appendices is provided as guidance. OCP added appendix three titled, "Improving the use of Contractor Performance System" to support past performance assessments within the department. Agencies shall take action and follow the guidance as required by the plan to ensure that FPDS data reflects accurate and timely contract information.

404.605 Procedures.

In order to protect vendor partners in Afghanistan, USDA agencies are instructed to use a generic entity identifier in FPDS when reporting contracts and awards to vendors located within or having a place of performance in Afghanistan. Contracting Officers shall contact procurement.policy@usda.gov prior to awarding to a vendor located within or having a place of performance in Afghanistan.

SUBPART 404.8—GOVERNMENT CONTRACT FILES

404.803 Contents of Contract Files.

(a)(3) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account. Contracting Officers shall obtain budgetary approval prior to using expired funds and document approval in the contract file.

(a)(24) For additional instructions regarding legal review see PGI 401.602-2.

404.804 Closeout of Contract Files

404.804-1 Closeout by the Office Administering the Contract.

These closeout procedures apply to all contracts and orders, including orders that are placed using a Government purchase card. All contracts and orders, no matter how small, must be closed. The MASCO is responsible for ensuring Contracting Officers complete closeout responsibilities described below, consistent with seasonal and Mission Area operational priorities.

Templates are provided as examples that may be supplemented or tailored to meet agency needs, [Sharepoint | Templates](#). Closeout documents shall be retained in the contract file.

TIME STANDARDS

Contracting Officers should conduct contract closeout using the time standards below. “Closed” means all administrative actions, including final payment, have been completed and all disputes have been settled. Days referenced in this section relates to calendar days. **NOTE:** A contract shall not be closed if the contract is in litigation, under appeal or investigation, pending a termination action, or has an outstanding claim.

CLOSEOUT RESPONSIBILITIES

- a. **Contracting Officer (CO).** The CO is responsible for overseeing the contract closeout with assistance from the COR or technical representative. If another office administers the contract, that administrative office is responsible for closing out the contract in accordance with FAR 4.804-2(b). Except for those actions requiring a Contracting Officer’s warrant, the CO or MASCO may delegate any of the duties of contract closeout to other procurement personnel such as contract specialists, purchasing agents or procurement clerks. The CO shall follow FAR 4.804-5 procedures for closing out contract files.
 1. Following completion of the contract or order, the CO shall ensure closeout using the appropriate templates, [Sharepoint | Templates](#).
 2. The CO shall assemble all elements of the contract file and review its contents against the requirements contained in FAR 4.803, using Template A. If documents are unobtainable, the file should be annotated with reasons why documents are unavailable.
 3. The CO shall enter the contractor past performance evaluation into the Contractor Performance Assessment Reporting System (CPARS).

4. The CO shall ensure that all PIV cards issued to contractor staff are returned to the appropriate security staff prior to final payment and contract closeout. See PGI 404.1301.
 5. **Deobligation of Funds.** Deobligation is the cancellation of any remaining awarded funds from a contract or order. Deobligated funds regain availability following cancellation and may be re-obligated within the period of availability of the appropriation. The CO shall verify that any remaining funds on the contract are available to be deobligated as follows:
 - i. **Determination Not to Deobligate.** If a determination has been made **not** to deobligate the funds, the CO must notify the Office of the Chief Financial Officer (OCFO) within **5 days** after the determination is made not to deobligate with the reason why the deobligation will not occur. Note: the OCFO notification at Template D is only required for non-IAS transactions. (See Template D.)
 - ii. **Determination to Deobligate.** If a determination has been made to deobligate the funds, the CO shall promptly issue a deobligating modification.
 6. If a contractor is no longer active in the System for Award Management (SAM), contact the vendor and ask them to renew their SAM registration. If the contractor won't or can't reactivate their SAM account, contact the IAS help desk for assistance with creating a modification in IAS.
 7. Insert the clause at AGAR 452.204-70, Modification for Contract Closeout, in all solicitations and contracts that use Simplified Acquisition Procedures.
- b. **Contracting Officer's Representative (COR).** The COR shall:
1. Assist the CO to ensure the settlement of any outstanding payments and claims, change orders, or value engineering change proposals.
 2. Ensure all technical requirements of the contract have been met and that the contract has been satisfactorily completed.
 3. Ensure the CPARS evaluations for each contract period have been completed, when required. Reference PGI 442.15.
 4. Certify all deliverable items, including the final report, if applicable, were delivered and accepted, and that all services were performed and accepted.
 5. If Government property is involved, review and verify the contractor's inventory of residual Government property is accurate. Coordinate with the Government property manager and provide instructions to the CO for the disposition of all residual Government property.
 6. For cost-reimbursable contracts, review the completion voucher to ensure costs claimed are reasonable and consistent with the work performed.

- c. **Mission Area Senior Contracting Official (MASCO).** The MASCO shall coordinate the quarterly review of Unliquidated Obligations (ULOs). The list of ULOs is provided by the OCFO to the MASCO. This MASCO and CFO responsibility may be delegated to staff within the contracting or CFO offices. Reviews of ULOs is covered in DR 2230-001, <https://www.ocio.usda.gov/document/departmental-regulation-2230-001>.
- d. **Contractor.** The contractor is responsible for the following actions, as appropriate:
1. Prepare and submit a final invoice or completion voucher with request for final payment.
 2. When required by the payment clause, submit a Release of Claims (Template C), <https://www.dm.usda.gov/procurement/policy/templates.htm>.
 3. Settle all subcontract costs and any subcontract issues. Submit subcontracting compliance reports for all years to the Electronic Subcontract Reporting System at <http://www.esrs.gov>.
 4. Submit the final patent and royalty reports and a final property inventory, if applicable.
 5. For cost–reimbursement contracts, submit indirect cost rate proposals for all years in which a proposal was not previously submitted.
 6. Ensure SAM registration remains active until contract closeout is complete.

404.804-5 Procedures for Closing Out Contract Files.

The following procedures shall be used following contract completion, the end of contract period of performance or contract termination.

Simplified Acquisition Procedures (SAP): in accordance with FAR Part 13, and typically contracts or orders at or below the simplified acquisition threshold. These contracts or orders should be considered closed after the CO receives evidence of receipt and acceptance of supplies or services and following final payment. The CO should complete any necessary documentation generally within **30 days**. Contracting Officers have the option of using the Post Award, Closeout functionality in IAS to verify receipt, acceptance and final payment for all supplies and services.

For deobligations on contracts or orders when SAP is used:

1. A unilateral modification is allowable if the deobligation on a contract or order is \$1000 or less.
2. A unilateral modification is allowable if the amount of deobligation is over \$1000, and the bilateral modification is not signed by the contractor and returned within **60** days from the date of sending the modification to the contractor.
3. If there are no funds to deobligate, a modification isn't required to close the award.

The contracting officer shall insert the clause at AGAR 452.204-70, Modification for Contract Closeout, in all solicitations and contracts that use simplified acquisition procedures.

Firm-Fixed-Price Contracts, where Simplified Acquisition Procedures were not used, including IAS actions:

These contracts or orders should be considered closed after the CO receives evidence of receipt and acceptance

of supplies or services and following final payment. The CO should complete the necessary documentation in steps a-c generally within **6 months**.

All other contract actions, other than Cost-Reimbursement contracts (i.e., Simplified Acquisition Procedures not used, and/or not Firm-Fixed-Price): These contracts or orders should be considered closed after the CO receives evidence of receipt and acceptance of supplies or services and following final payment. The CO should complete the necessary documentation in steps a-c generally within **20 months**.

- a. **Contract Closeout Template A Completion Statement & Checklist.** Following final payment, the CO or closeout staff shall review the contract file and complete the Contract Completion Statement & Closeout Checklist, [Sharepoint | Templates](#).
- b. **Contract Closeout Template B COR Memo.** Following final payment, the COR or accepting personnel shall complete the certification stating that all deliverables/services have been received, [Sharepoint | Templates](#).
- c. **Contract Closeout Template C Contractor Release of Claims.** Following receipt of the COR certification, when appropriate, the CO or closeout staff shall send the Release of Claims to the contractor. The Release of Claims may be sent by either email or regular mail. Upon receipt of all outstanding documents, the CO shall then review and sign the bottom of Template C, located [here](#). The FAR states that the release of claims is required for the following kinds of contracts:
 1. Cost reimbursable or time-and-materials (other than commercial products or commercial services), (FAR 52.216-7 (h)).
 2. Fixed price construction and architect-engineer (FAR 52.232-5(h)(3), and 52.232-10(d)).
 3. Time-and-material and labor-hour (FAR 52.212-4, Alternate 1 (i)(7)).

For other than the types of contracts listed above, the CO has discretion and may request a Release of Claims if deemed in the Government's best interest and when it is required in the contract.

For deobligations on contracts or orders utilizing anything other than cost reimbursement (i.e., Simplified Acquisition Procedures not used, and/or not FFP):

1. A unilateral modification is allowable if the deobligation on a contract or order is \$1000 or less.
2. A unilateral modification is allowable if the amount of deobligation is over \$1000, and the bilateral modification and Release of Claims is not signed by the contractor and returned within 120 days from the date of sending the modification/Release of Claims to the contractor.
3. If there are no funds to deobligate, a modification isn't required to close the award; however, a Release of Claims may still be required.

The contracting officer shall insert the clause at AGAR 452.204-70, Modification for Contract Closeout, in all solicitations and contracts that use anything other than cost reimbursement.

Cost-Reimbursement Contracts: COs may utilize the quick closeout procedures for cost reimbursement contracts meeting the conditions of FAR 42.708(a). Otherwise, in addition to the above actions required for Firm Fixed Price Contracts where Simplified Acquisition Procedures were not used, the following actions are

required for Cost Reimbursement contracts, to include actions in IAS, generally within **36 months** of the CO receiving evidence of receipt and acceptance of supplies or services and following final payment:

- a. **Audit.** If applicable, following receipt of the contractor's response, the CO will request a final contract audit from the cognizant audit office.
- b. **Reports.** Any required reports will be forwarded to the responsible parties including the following, when applicable:
 1. Reports and documentation related to patents, royalties, warranties and inventions shall be forwarded to the COR and the Office of the General Counsel (OGC). (See FAR 12.404, 27.3, 27.4 and 46.7.)
 2. Reports, actions, documentation for Government furnished equipment (GFE) or Government furnished property (GFP) shall be forwarded to the COR and the Government property administrator.
- c. **Desk Audit.** Within **60 days** after receipt of contractor's response, as applicable, the CO or closeout staff shall complete a desk audit of the contract. COs are encouraged to work with the cognizant auditor to verify information. Information obtained shall be recorded in the contract file.

This local desk audit shall consist of a review of items such as, if applicable, in-house engineering estimates of the level of effort, audited cost information from contracts in process or recently negotiated contracts, adequately reviewed data on proposed subcontract items which constitute the major portion of the prime contractor's cost proposal, prices of standard commercial products and commercial services which constitute a major portion of the prime contractor's cost proposal; special forward pricing or overhead rates contained in advance agreements; current labor rates, overhead rates, loading factors, and per diem rates; recent audit reports or price negotiation memoranda.

- d. **Final Equitable Adjustment of Price.** Generally within **30 days** of completion of the desk audit or **90 days** after receipt of the final audit, the CO shall determine the final equitable price adjustment, as applicable.
- e. **Final Modification to Contractor.** Following review and after all clearances on the modification are completed, the CO shall send the final modification to the contractor.
- f. **Execution of final modification.** The contractor will return the signed modification within **30 days** after receipt. The CO shall file the fully executed modification and provide a copy to the contractor.
- g. **Request for Payment of Final Invoice.** The CO shall make final payment after receipt of the contractor's request.

404.805 Storage, Handling, and Contract Files.

Contracting Officers are required to use IAS to store the complete award/contract file which allows IAS to be the system of record for that file's FAR 4.805 retention requirements. When the complete award/contract file is stored in IAS, records already stored electronically are not a required element of the file (for instance, FPDS

records and invoices in IPP). In the event a request is received for contract files for review, audit, litigation, etc., it is the Contracting Officer's responsibility to gather and provide all pertinent IAS and non-IAS files in no more than ten business days (or sooner if required.)

RECORD RETENTION PROCEDURE

NOTE: IAS record retention is handled by the USDA Procurement Systems Division (PSD). No further action is required if the complete contract file is saved in IAS. For other than IAS records, Agencies should establish internal procedures.

- a. The CO or contracting staff shall consult with the appropriate agency document management personnel for filing and storage and shall also coordinate with the Federal Records Center (FRC) of the National Archives and Records Administration. See the FRC Toolkit accessible at <http://www.archives.gov/frc/toolkit.html> for more instructions.
 - a. The CO shall provide the closed contract files to the appropriate agency personnel to be appropriately boxed and stored at the appropriate agency facility.
 - b. FAR 4.805 *Storage, Handling, and Disposal of Contract Files*, lists the period of records retention for all contract documents and files.
 - c. Closed contract files that are two years or older may be shipped to the FRC.
 - d. Appropriate boxes for shipping may be available from the cognizant USDA agency records manager.
 - e. A completed form SF 135, "*Records Transmittal and Receipt*", must be sent to the records center for approval prior to shipping the closed contracts. A list of contracts to be sent shall also be included in accordance with FRC instructions (See <http://www.archives.gov/frc/toolkit.html>).
 - f. Separate contract files by year using the final payment date. Each year shall have a separate accession number, which is the number assigned by the FRC in order to locate it for later destruction or retrieval. Contract files should be boxed in numerical order. Task orders should follow the main contract.
 - g. The CO or staff will notify the records manager if there is a long warranty period involved in any contract going to FRC. Such contracts shall have a separate accession number so the destruction date will occur after the warranty period. This is done in the event there is a warranty action against the Contractor during the warranty period.
 - h. The CO or contracting staff will contact the agency records manager for arrangements to transport boxes to FRC.
- b. **Retrieval of Records.** If a record needs to be retrieved from the FRC, complete Form OF-11, "*Reference Request - Federal Records Center*", and forward to the cognizant agency records manager.

- c. **Notification of Final Destruction.** When records become eligible for destruction, the FRC will contact the records manager, who, in turn, will contact the agency to obtain permission to dispose of them.

404.870 Document Numbering System.

See PGI 404.16.

SUBPART 404.10—UNIFORM USE OF LINE ITEMS

404.1003 Establishing Line Items.

LINE ITEMS (LIN):

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

404.1004 Establishing Subline Items.

SUBLINE ITEMS (SLIN)

- 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 may 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

404.1005 Data Elements for Line Items and Subline Items.

404.1005-1 Required data elements.

Identify the contract type in the line item description when multiple line items are entered with different contract types in IAS.

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.

- 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”. Services with tangible deliveries, such as repairs, shall be structured like supply line items.
- 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 should 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. Another example would be a total price of \$350,000 divided by 12 months is \$29,166.67 (rounded up). The contractor will need to adjust the final invoice to account for the rounding: \$29,166.67 times 12 is \$350,000.04, so the twelfth invoice will need to be \$29,166.63. If the contractor invoices \$29,166.66 (rounded down), the final invoice would need to be \$29,166.74. Because this rounding method requires oversight, it’s recommended to negotiate an amount that is equally divisible by the number of payments.

OPTION LINE ITEMS STRUCTURE

- 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.

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

- 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	1st line item, Supplies				
0001AA	1st line item, 1st subline item	500	EA	\$100.00	\$50,000.00
0001AB	1st line item, 2nd subline item	100	EA	\$50.00	\$5,000.00
0002	2nd line item, Services				
0002AA	2nd line item, 1st subline item	12	MO	\$1100.00	\$13,200.00
000201	2nd line item, 1st informational subline item				
0003	3rd line item				
1001	Option Period 1, POP, 1st line item				
1002	Option Period 1, POP, 2nd line item				
2001	Option Period 2, POP, 1st line item				

INTEGRATED ACQUISITION SYSTEM (IAS) PROCEDURES

Indefinite Delivery-Indefinite Quantity (IDIQ) Contracts In IAS

- a. 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 Items, General must be checked.
- b. The Contracting Officer shall enter the maximum amount to be ordered, including all orders placed against the contract, per FAR 4.1005-2 (a)(2).
- c. When ordering supplies enter the Type of Supply applicable to the purchase – Intellectual, Personal or Real Property. Real Property is defined as "any interest in land, together with improvements, structures, and fixtures located thereon", per 41 CFR 102-71.20.

Qualifier:

- a. 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.
- b. 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.

SUBPART 404.11—SYSTEM FOR AWARD MANAGEMENT

404.1103 Procedures.

Per FAR 52.204-7(b)(1), “An Offeror is required to be registered in SAM when submitting an offer or quotation, shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.”

- a. USDA employees shall not enter information into the System for Award Management (SAM) database on behalf of prospective contractors. USDA employees working with prospective contractors that encounter difficulty in the creation or maintenance of their SAM entity record can obtain current GSA/SAM guidance at [SAM.gov](https://sam.gov) | [Entity Registrations](#) and should:
 - Limit direct assistance to downloading the registration template, SAM handbook and other information from the SAM website and providing copies of that material to requesters.
 - Direct the prospective offeror to the Federal Service Desk (FSD) for assistance.
 - Direct the prospective offeror to a Procurement Technical Assistance Center (PTAC) if one is available in the prospective offeror’s location.
- b. To verify the eligibility of a prospective offeror, review the prospective offeror’s entity record at SAM.gov and ensure the conditions specified in the FAR are satisfied.

SUBPART 404.13—PERSONAL IDENTITY VERIFICATION

404.1301 Policy.

The Homeland Security Presidential Directive-12 (HSPD-12), dated August 27, 2004, requires the development and agency implementation of a mandatory Government-wide standard for secure and reliable forms of identification for Federal employees and contractors, including contractor employees. As directed by HSPD-12, on February 25, 2005, the Department of Commerce issued FIPS PUB 201, which is a Federal standard for secure and reliable personal identity verification (PIV) for routine physical access to Federally controlled facilities or information systems. Office of Management and Budget (OMB) memorandum M-05-24 dated August 5, 2005, provides instructions for implementing HSPD-12 according to FIPS PUB 201, and M-08-01, dated October 23, 2007 reminds all parties that a background investigation is required. In accordance with requirements in HSPD-12, USDA:

- a. Uses a General Services Administration (GSA) shared service solution called USAccess.
- b. Issues a LincPass for access to federally controlled facilities and systems.
- c. Includes language in applicable solicitations and contracts that require contractors to have routine physical access to a Federally controlled facility and/or routine access to a Federal information system.
- d. Requires LincPass certificate updated at the 3-year mark and LincPass renewal (new card) at the 5-year mark.

For additional information related to USDA implementation of HSPD-12, visit <http://hspd12.usda.gov>.

Requirements

Contracting Officer Representatives or other designated program/project managers will serve as PIV Sponsors for contractor personnel. When issuing the designation memorandum to the COR (or other designated program/project manager) the Contracting Officer (CO) will ensure that the memorandum includes the PIV Sponsor duties.

USDA contract statements of work must indicate that all applicable contractor employees requiring routine physical access to Federally-controlled facilities and/or routine access to Federally-controlled information systems must go through the identity proofing and registration process, must have been successfully identity proofed, and have a successfully adjudicated National Agency Check with (Written) Inquiries (NACI) or Office of Personnel Management (OPM)/National Security (NS) community background investigation (BI) to serve on the contract.

Contractor ID credentials will be issued after successful identity proofing of the contractor employee applicant and upon a successfully adjudicated NACI or OPM/NS BI. All contracts must specify periods of performance. If an option year is exercised, the contractors must renew their credentials at the end of their period of performance. If no option year is exercised, the contractor must turn in their ID credential at the end of the performance period or when service on the contract ends.

Solicitations and contracts for supplies or services where the contractor's employees will NOT have routine unaccompanied physical access to a Federally controlled facility and/or routine unaccompanied access to a Federally-controlled information system may be excluded from coverage by this Subpart based on the LincPass Distribution Risk Assessment, which will be conducted by a USDA Sponsor as part of the PIV II registration, identity proofing, and credential issuance procedures. Examples of probable exclusions are couriers, express mail and package or other delivery persons.

Contracts that when originally awarded did not include the PIV requirements, but will be modified to include them, are covered by this Subpart. Sponsors from the requiring office (and the site security officer) shall determine the applicability of the requirements of HSPD-12, FIPS PUB 201-1, OMB Memorandum M-05-24, and this Subpart. Details on applicability of these requirements follows:

Questions Regarding Applicability of PIV Requirements to a Solicitation or Contract

If there is a question concerning applicability of the PIV requirements or other HSPD-12, FIPS PUB 201-1, or OMB Memorandum M-05-24 requirements, Sponsors may contact the Office of Homeland Security and Emergency Coordination, Physical Security Division (OHSEC, PSD) for guidance. Include the OHSEC, PSD guidance in the contract file.

If the requiring office determines that performing contractor employees will require a LincPass based on the requirements set forth by HSPD-12, FIPS PUB 201-1, OMB Memorandum M-05-24, and the information herein, the Sponsor shall notify the CO in writing. Upon notification of an HSPD-12 requirement for performing contractors, COs shall do the following:

1. Insert a clause that contains language similar to that in AGAR 452.204-71 in all covered solicitations and contracts that include FAR clause 52.204-9.
2. When issuing a designation memorandum to the COR (or other designated program/project manager), detail PIV Sponsor duties to be delegated.

3. Provide any contract information necessary for the PIV enrollment process (such as contract number, period of performance, and contractor name) to the Sponsor or designated coordinator.
4. Should the results of the PIV process require exclusion of a contractor's employee, the CO shall notify the contractor in writing of the exclusion without specific detail regarding the reasons for exclusion.
5. Follow procedures regarding the acquisition of personal identity verification products and services.
6. Maintain a log for tracking PIV distribution and return.
7. Ensure contractors return PIV cards to the security office as soon as any of the following occurs:
 - (a) When no longer needed for contract performance;
 - (b) Upon completion of a contractor employee's employment; or
 - (c) Upon contract completion or termination;
8. Verify all PIV cards are returned to the proper security office prior to final payment and contract closeout.

Procedures for the Employees of the Contractor

The procedures to be followed by contractors and contractor employees are specified in [DM 4620-002](#).

Protection of Information

Privacy of PIV information must be maintained in accordance with the Privacy Act of 1974.

Identification of Contractors During Meetings

It is recommended that Federal staff remain vigilant when openly communicating during meetings and understand that some topics aren't suitable for contractor staff.

Contracting Officers may incorporate the following language into statements of work/performance work statements, etc. Note that the list of actions by the contractor is not exhaustive and may be edited as needed:

- a. In all situations where contractor personnel status is not obvious, all contractor personnel are required to identify themselves to avoid creating an impression that such contractor personnel are Government officials. This can occur during meeting attendance, through written (letter or email) correspondence or verbal discussions (in person or telephonic), when making presentations, or in other situations where their contractor status is not obvious to third parties.

Contractor employee(s) shall:

1. Not by word or deed give the impression or appearance of being a Government employee;
2. Wear appropriate badges visible above the waist that identify them as contractor employees when in Government spaces, at a Government-sponsored event, or an event outside normal workspaces in support of the contract/order;
3. Clearly identify themselves as contractor employees in telephone conversations and in all formal and informal written and electronic correspondence. Identification shall include the name of the company for whom they work;
4. Identify themselves by name, their company name, if they are a subcontractor the name of the prime contractor their company is supporting, as well as the Government office they are supporting when participating in meetings, conferences, and other interactions in which all parties are not in daily contact with the individual contractor employee; and

5. Be able to provide, when asked, the full number of the contract/order under which they are performing, and the name of the Contracting Officer's Representative.
 - b. If wearing a badge is a risk to safety and/or security, then an alternative means of identification may be utilized if endorsed by the Contracting Officer's Representative and approved by the Contracting Officer.
 - c. The Contracting Officer will make final determination of compliance with regulations with regard to proper identification of contractor employees.

404.1303 Contract Clause.

FAR Subpart 4.13, Personal Identify Verification of Contractor Personnel, establishes the policy and use requirements for FAR clause 52.204-9. The contracting officer shall insert a clause that contains language similar to that in AGAR 452.204-71 in all covered solicitations and contracts which include FAR clause 52.204-9.

SUBPART 404.16—UNIQUE PROCUREMENT INSTRUMENT IDENTIFIERS

404.1603 Procedures.

All solicitations, contracts, agreements, orders, calls, and related procurement instruments shall be assigned the Procurement Instrument Identifier (PIID) numbering procedures as established in FAR 4.1603 by agency users (for example-Contract Specialists, Contracting Officers). Agency users shall create PIIDs with 13 alphanumeric positions composed of the Address Activity Code (AAC) (positions 1-6), last two digits of the fiscal year (positions 7 and 8), type of instrument (position 9), and distinct assigned number typically in numerical order (position 10-13).

For information on the correct AAC for your organizational unit, contact your [IAS Agency Lead](#). For information on type of instrument, refer to FAR 4.1603(a)(3) for the appropriate letter designation. Prior to using a letter designation indicated in FAR 4.1603(a)(3) as "Reserved for departmental or agency use," approval shall first be obtained by submitting a request to procurement.policy@usda.gov. The following reserved Departmental letters are approved:

- K – currently used by FS for at-incident resource orders and awards
- T – currently used by FS for preseason incident awards
- M – for Mission Area Use with prior permission and approval from SPE

Finally, PIIDs with amendments to solicitations or modifications to contracts, orders, and agreements shall have supplementary PIIDs adding positions 14-19 to the end of the original 13 position PIID, in accordance with FAR 4.1603(b).

For further guidance, see FAR 4.605.

SUBPART 404.21—PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

404.2102 Prohibition.

(b) Exceptions

The criteria below are for evaluating and validating Exceptions and applicability for Section 889 Part B. This same information is also available in a process chart graphic here for the [Services Diagram](#) and the [Equipment Diagram](#), as applicable.

1. Does Prohibition under Part B Apply? - Is the equipment or service identified by the offeror/contractor as covered telecommunications equipment or service being **used** by the prime offeror/contractor?
 - a. If No, STOP -- Prohibition under Part B does not apply.
 - b. If Yes, continue through the decision tree to determine if Prohibition under Part B applies.

2. Is the **equipment** identified by the offeror/contractor covered? - *If you are only reviewing a telecommunications service, skip section 2 and go to section 3 of the decision tree.*
 - a. Is the answer to any of the following "Yes"?
 - i. Per (f)(3)(A) of Section 889 - Is the telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation or a subsidiary or affiliate of either?
 - ii. Per (f)(3)(B) of Section 889 - Is the equipment video surveillance and telecommunication equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or a subsidiary or affiliate **AND** do any of the following purposes of the use of technology apply?
 1. Public Safety?
 2. Security of Government facilities?
 3. Physical security surveillance of critical infrastructure?
 4. Other National Security Purposes?
 - iii. Is the equipment a "covered telecommunications" as defined in (f)(3) of Section 889 or FAR 4.2101?
 1. If the answer to both 2(a)(i) and 2(a)(ii) of the decision tree is No, STOP --Prohibition under Part B does not apply.
 2. If the answer to either 2(a)(i) or 2(a)(ii) of the decision tree is Yes, continue through the decision tree to determine if Prohibition under Part B applies.
 - b. Exception - Can the equipment route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles? (Assess whether the equipment has the ability to do so, not how the offeror/contractor chooses to use it; this exception only applies to equipment that "cannot" route or redirect user data traffic or permit visibility into any user data, not equipment that "does not" based on its current configuration.)
 - i. If No, exception at Section 889 (a)(2)(B) [(or FAR 4.2102(b)(2))] applies and Prohibition under Part B does not apply. If the CO determines that the exception applies at Section 889 (a)(2)(B) [FAR 4.2102 (b)(2)], provide a written determination to explain the basis of exception applicability. This may be included with the procedures at PGI 413.106-3 or PGI 415.308. The written determination, signed by the CO, must include (a) background information of the equipment in question, (b) information/documentation from the offeror claiming for exception (i.e., information of claim, report pursuant to paragraph (d) of FAR clause 52.204-25, and/or disclosures pursuant to paragraph (e) of FAR provision 52.204-24), and (c) the basis of the CO's determination.
 - ii. If Yes, continue through the decision tree to determine if Prohibition under Part B applies.
 - c. Repeat Section 2 for each piece of equipment identified by the offeror/contractor.

3. Is the **service** identified by the offeror/contractor covered? - *If you are only reviewing telecommunications equipment, use section 2 of the decision tree and skip section 3.*

- a. Is the answer to any of the following “Yes”?
 - i. Per (f)(3)(C) of Section 889 - Is the service telecommunications or video surveillance services provided by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or a subsidiary or affiliate?
 - II. Per (f)(3)(C) of Section 889 - Is the service using telecommunications or video surveillance equipment produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or a subsidiary or affiliate?
 - III. Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or a subsidiary or affiliate?
 - IV. Is the service covered?
 1. If the answer to both 3(a)(i) and 3(a)(ii) of the decision tree is No, STOP -- Prohibition under Part B does not apply.
 2. If the answer to either 3(a)(i) or 3(a)(ii) of the decision tree is Yes, continue through the decision tree to determine if Prohibition under Part B applies.
 - V. Exception - Note that the exception at Section 889(a)(2)(A) only applies to services provided to the Government; this exception does not apply to an offeror’s or contractor’s use of a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements. Therefore, there is no exception to consider when evaluating an offer’s or contractor’s use of covered telecommunications services.
 - c. Repeat section 3 for each service identified by the offeror/contractor.
4. Is the telecommunications equipment or service identified by the offeror/contractor prohibited? (please review additional information provided by the offeror/contractor about the equipment/service(s))
- a. System
 - i. Is the covered equipment or service part of a system?
 1. If No, STOP -- Prohibition under Part B does not apply.
 2. If Yes, continue through the decision tree to determine if Prohibition under Part B applies.
 - ii. What is the system (define the system) that it is a part of?
 - b. Substantial/Essential, Critical - Is the answer to either of the following “Yes”?
 - i. Is the covered equipment or service a substantial or essential component of the defined system?
 - ii. Is the covered equipment or service Critical Technology of the defined system?
 1. If the answer to both 4(b)(i) and 4(b)(ii) of the decision tree is No, STOP -- Prohibition under Part B does not apply.
 2. If the answer to either 4(b)(i) or 4(b)(ii) of the decision tree is Yes, Prohibition under Part B applies.
5. If the CO determines that the performance or extension of the contract (or order) will NOT result in a violation of the prohibition, the CO must document the file accordingly.
6. If the CO determines that the performance or extension of the contract (or order) will result in a violation of the prohibition, the CO must not award the contract (or order), unless a waiver in accordance with PGI 404.2104 has been approved and document the file accordingly.

If there is doubt about how to evaluate a specific component after using this decision tree and reviewing the examples, contact John.Donovan@usda.gov – Director OCIO/DISC Enterprise Network Services. As an additional resource, information on how GSA manages Section 889 for their Acquisition Workforce is available at [https://www.acquisition.gov/FAR-Case-2019-009/889 Part B](https://www.acquisition.gov/FAR-Case-2019-009/889_Part_B).

404.2103 Procedures.

If the contracting officer has reason to question the representation by the offeror, the contracting officer should consult with their MASCO and legal counsel on how to proceed to ensure the procurement does not violate the prohibitions.

If an offeror or contractor represents that it will provide or does use covered telecommunications equipment or services per FAR 52.204-24 or identifies covered telecommunications equipment or services used during contract performance per FAR 52.204-25, the contracting officer must do the following:

1. Follow-up with the offeror/contractor to confirm that it accurately completed the representation(s);
2. Determine if there is an existing approved waiver, if assistance is needed, contact procurement.policy@usda.gov;
3. Verify that the offeror provided the information required by paragraph (e) of the representation provision at FAR 52.204-24, or that the contractor provided the information required by paragraph (d) of the reporting clause at FAR 52.204-25, and review the submitted details to verify responsiveness with the requirements of paragraph (e) of the representation provision at FAR 52.204-24 or paragraph (d) of the reporting clause at FAR 52.204-25;
4. After consulting with John.Donovan@usda.gov – Director OCIO/DISC Enterprise Network Services, legal counsel, and MASCO, Contracting Officers determine whether awarding to the apparent successful offeror, or continued performance or extension of the contract (or order), will result in a violation of the prohibition(s). Contracting officers must document the file with the rationale of their determination and any resulting actions that will be taken.

404.2104 Waivers.

Waiver requests must include the information required in FAR 4.2104(a)(1). MASCOs and MASPMs must work together in obtaining agreement with the waiver request from USDA's Office of the Chief Information Officer (OCIO) and USDA's Office of Homeland Security (OHS). Forward waiver requests with OCIO and OHS concurrence to procurement.policy@USDA.gov for HCA and departmental review prior to being sent to the Office of the Director of National Intelligence (ODNI). Be advised that the waiver approval process is very stringent, and approvals are rare.

SUBPART 404.70—CONTRACTOR RECOGNITION

USDA may reward Government personnel using a variety of methods, ranging from certificates of appreciation to time off and a monetary bonus. The Government does not have the same authority to recognize contractor employees. Contractors may have their own awards and bonus programs. Contracts may include incentives and awards for performance or work performed ahead of schedule. Recognition of a contractor employee may only take the form of honorary awards of little intrinsic value such as certificates. Use of appropriated funds outside

the limits of the contract is not appropriate. Any proposed presentation, award, or recognition of a contractor employee should be sent to the warranted contracting officer to pass on to the Contractor, if appropriate, since any recognition may be used against the Government in a dispute involving contract performance.

PART 405 PUBLICIZING CONTRACT ACTIONS

SUBPART 405.3 SYNOPSES OF CONTRACT AWARDS

405.303 Announcement of Contract Awards.

The “Announcement of Contract Award” [template](#) is required for awards over \$4.5 million (base and all options value), per FAR 5.303(a), unless an exception exists. The announcement is intended for members of Congress in the state or district the contractor is located in, and where the work is to be performed. The form shall be sent to the Office of Congressional Relations at OCR@usda.gov with a courtesy copy (CC) to jasmine.dickerson@usda.gov and the Mission Area OCR representative. A list of representatives may be found at [OCR staff](#).

The Announcement of Contract Award shall be sent to OCR staff at least three days prior to the date of award. OCR will reply within three days with any questions or concerns, or approval to notify the Mission Area’s congressional office. It is the Mission Area’s responsibility to contact the appropriate congressional office in sufficient time for announcement by 5 pm Washington, DC, time on the day of award. **OCR may notify the Office of the Secretary.** If notification is not received from OCR by the date of award, contact the Procurement Policy Division at procurement.policy@usda.gov. Place a completed copy of the Announcement of Contract Award in the contract file.

The Announcement of Contract Award does not need to be completed for a call or order if an Announcement of Contract Award was completed for the BPA or base contract. If an Announcement of Contract Award was not completed for the BPA or base contract, or if it is unknown whether it was completed, then one shall be completed and sent per the above instructions for each call or order that is \$4.5M or more.

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. The [Government Performance and Results Act \(GPRA\) of 1993](#) and the [GPRA Modernization Act \(GPRAMA\) of 2010](#), along with the Office of Management and Budget (OMB) [Circular No. A-11](#) define long-range as four years. It is recommended that Mission Areas draft the Mission Area long-range acquisition estimates for four years following the year in which the estimate is submitted.

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 of Communications/Information Products and Services (CIPS) over \$25,000 other than newspapers are contained in USDA Departmental Regulations 1497-001 (Click for [DR-1497-001](#)). Approval must be obtained prior to submission of a purchase request(s).

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

- Communications Research and Planning is the full range of communications and social marketing research services
- Integrated Marketing
- Outreach and Engagement
- Media Relations
- Communications Materials and Product Development
- Web Design, Development, and Management
- Social marketing
- Writing, publishing, or producing articles, news items, new stories, pamphlets, logos, print media, exhibits, scripts for radio or television, scripts for film presentations, radio broadcasts, television broadcasts, films, or filmed material

PART 406--COMPETITION REQUIREMENTS

SUBPART 406.1—FULL AND OPEN COMPETITION

406.101 Policy.

Contracting Officers should consider the following techniques to increase competition:

- a. Requirements Development - Ensure work statement is not unduly restrictive and specifications are not unnecessarily detailed and ensure commercial products and commercial services 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.
- b. 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.
- c. Category Management - Use an existing Departmental or Federal Strategic Sourcing Initiative (FSSI) when the requirement can be satisfied under the contract vehicle(s). USDA-wide contract sources can be found at <https://ias.usda.gov/usdacontracts/>. Additional resources are located at [Sharepoint | Policy and Regulations](#).
- d. 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

406.302-70 Otherwise Authorized by Law.

The SPE authorized a class justification and approval, SS-16-002 dated 09/30/2016, for APHIS' National Animal Health Laboratory Network (NALHN) for testing on approved samples.

406.303 Justifications.

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 requiring approval.

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:

- a. The dollar value of the prospective contract action increases beyond the authority of the previous approving official.
- b. A change in the competitive strategy further reduces competition.
- c. A change in requirements affects the basis for the justification.

For additional information on options, refer to FAR 17.202 and PGI 417.202.

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.

406.501 Requirement.

Each MASCO shall designate a competition advocate for the contracting activity. The MASCO shall forward a copy of the designation memorandum to the Competition Advocate for USDA.

PART 407--ACQUISITION PLANNING

SUBPART 407.1--ACQUISITION PLANS

Definitions	
Abbreviated Acquisition Plan (AAP)	A simplified Acquisition Plan format developed by USDA to meet acquisition planning in a streamlined, checklist-based manner. A separate AAP is required for each planned contract award AND for any options or modifications that are +/- 10% of the originally planned/approved AAP amount.
Acquisition Planning	The process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. May be met through a Combined Acquisition

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

Definitions	
	Strategy/Acquisition Plan (AS/AP), an Abbreviated Acquisition Plan, or a Formal Acquisition Plan.
Acquisition Project	A project that involves a single contract. The acquisition project starts when the program identifies a procurement need and starts the Acquisition Management Lifecycle.
Acquisition Strategy	Used by a major program or investment to describe the approach to acquiring (via contracting or grants/agreements) for the variety of requirements that will support the program. Once an acquisition strategy is developed for the program, typically Formal Acquisition Plans are not required for individual requirements during the period of the strategy; Abbreviated Acquisition Plans are acceptable. The Acquisition Strategy should be treated as a living document and updated as the needs change.
Assistant CIO	Chief Information Officer at the Mission Area level.
Associate CIO	Chief Information Officer at the USDA level.
Combined Acquisition Strategy/Acquisition Plan (AS/AP)	The acquisition planning document completed for a Major Program or IT Investment (defined below) that includes the acquisition strategy and AAPs for each contract need associated with the Major Program. A Major Program or IT Investment that includes distinct systems and purposes may elect to complete the multiple AS/AP documents for the same Major Program or IT Investment.
Formal Acquisition Plan	A detailed Acquisition Plan that meets FAR acquisition planning requirements in a detailed, narrative format. The Formal Acquisition Plan is generally used for very high dollar value (>\$50M), high complexity and/or high-risk acquisitions, as determined by the CO, that are not included in an AS/AP.
Major IT System Acquisition Program (also known as a Major IT Investment by OCIO)	An IT investment requiring special management attention because of its importance to the mission or function of the government; significant program or policy implications; high executive visibility; high development, operating, or maintenance costs; unusual funding mechanism; or (per USDA) an investment meeting one or more of the criteria in DR-3130-008 , 4.b.
Non-Major IT Investment	Any IT Investment in the USDA portfolio with a unique investment identifier that has not been identified as a Major IT Investment.
Non-IT Major Acquisition Project	A single non-IT contract valued over \$50M.
Major Program	A mission critical collection of programs and services, to include acquisitions, grants and full-time equivalents which are designated by the Agency Head (or as delegated) and are programs which: (1) are directed at and critical to fulfilling an agency mission need, (2) entail allocating relatively large resources for the agency, and (3) warrant special management attention, including specific agency-head decisions.
Requirements Plan	Plan to be used for an individual requirement. Uses a form/template available in IAS or on the USDA Sharepoint Template site. The Requirements Plan template is optional for FY22. Mission Areas may choose not to use the Requirements Plan template and use the AAP only.

How to Plan

Why do we plan?

To make sure that we get what we need, to make the process go smoother and to ensure we evaluate what we did in the past and are considering what the future may require. We take time to think about what we need to have and what is nice to have, what it should cost and what we can afford. We talk to vendors about what they offer, determine the expertise they need and how we will know they can do the work. To make sure we buy commercial products and commercial services if they are available; to support competition to the maximum extent practicable; and to select the appropriate contract type. The extent of market research required during planning will vary, depending on factors such as urgency, estimated dollar value, and complexity of the requirement. Taking the time to make a good plan will save you more time than it took to plan. For best practices on reducing Procurement Administrative Lead Time (PALT) [click here](#). A “Procurement Strategy Roadmap” with information on required sources can be found at [Sharepoint | Policy and Regulations](#).

Does everything have to be planned?

Planning is required for every acquisition. The level of planning and type of template is determined by many factors. See the Acquisition Planning Matrices in this Desk Book section (below) and FAR 7.1 to determine what type of acquisition planning is required.

Who is responsible for planning?

Planning is the responsibility of the “Planner” who is a member of the requiring office or who works with the requiring office to develop the plan. The Planner shall be the accountable, responsible representative of the requesting office throughout the acquisition planning process. If not already designated, the requesting office shall, at a minimum, assign a project manager, if supporting project, or program manager, if supporting a program without a subordinate project component, to serve as the Planner throughout the acquisition planning and pre-award phases of the acquisition process.

Planning should be a collaborative process between the requiring office, contracting office, technical subject matter experts (SMEs) and other stakeholders, as appropriate. Contracting officials are not “Planners” but they can be a valuable resource. If the requiring office needs assistance in planning, there are tools available, including at the Virtual Acquisition Office (VAO), which provides templates, guides, and examples: <https://www.gotovao.com/>. An enterprise license has been purchased for USDA use. For access contact the VAO Helpdesk and provide your USDA email address.

How is planning documented?

It depends on the requirement. When written acquisition planning is required, there are templates like the Combined AS/AP, the Formal Acquisition Plan, or the Abbreviated Acquisition Plan. When there is no specific template required, there must still be documentation included in the contract file that shows planning activities (e.g., Summary Worksheet, Justification and Approval, Market Research, etc.).

Do I need a plan for every action on a Blanket Purchase Agreement or Indefinite Delivery Type contract?

It depends. Acquisition plans are valid for the life of the contract, so acquisition plans are generally prepared prior to the base contract solicitation. If there is a significant change in what is being acquired versus what was included in the approved plan (such as a change in total value or quantity of +/- 10%), acquisition planning would be required (i.e., modification for work within scope more than 10% of original approved plan).

For calls and orders against GSA (Part 8), Part 13 Blanket Purchase Agreements (BPAs) or other Indefinite Delivery Vehicles (IDVs), an acquisition plan is required if the call or order is not included in the acquisition strategy/plan. For example, an acquisition plan would generally be required for a task order against a GSA BPA. An acquisition plan may not be required for a call against a Part 13 BPA if the acquisition plan for the BPA discusses the planned BPA call, and specific projects were planned at the time the BPA was established.

My program requires a lot of contracts, do I need a plan for every contract?

You may, but it would be best to use an AS/AP to define the overall acquisition strategy for your program and associating acquisition plans for specific contract needs with that strategy. An AS/AP is required for every non-IT Major Program and every IT Investment (Major and Non-Major IT Investment types, at the unique investment identifier, or UII, level), but can be used for any acquisition that requires strategic planning in addition to planning at the contract level.

Requiring offices (i.e., program offices) may elect to complete more than one acquisition strategy for a program or IT Investment if strategies for various components differ or are more easily understood as separate strategies (e.g., a single IT Investment that includes distinct systems with different acquisition approaches). Acquisition strategies must use the AS/AP template, or must incorporate the elements from the template into an alternate strategy format, such as in situations where the program has an existing strategic planning document. An AS/AP is updated every year to include new or changed requirements.

How do I know what type of plan I need?

The Acquisition Planning Matrices will help you determine what documentation and approvals will be required. Generally, the more complex, risky or expensive a requirement, the more documentation and a higher level of approval is required.

Non-Information Technology Requirements

What is required for a Non-Information Technology (Non-IT) requirement?

Use the Acquisition Planning Matrix for Non-IT Contracts for requirements which have no IT or less than \$25,000 of IT in a single award. If the requirement is a mix of Non-IT and IT, use guidance in both matrices to determine required reviews and approvals based on the Non-IT and IT dollar values.

Acquisition Planning Matrix for Non-IT Contracts

Total Contract Value and Acquisition Type	Contract Type & Competition	Type of Plan	Review / Clearance	Final Signatory Approver¹
Any Action ≤\$7.5M and not a major program	Any	FAR Required Documentation	Follow Mission Area Procedures	Contracting Officer
>\$7.5M to ≤\$50M and not a major program	FFP, Competitive or Set-Aside	Requirements Plan or Abbreviated Acquisition Plan (AAP)	Requiring Office’s SES for services	MASCO or Designee
>\$7.5M to ≤\$50M and not a major program	Not FFP	Formal Acquisition Plan	Requiring Office’s SES for services	MASCO or Designee
>\$50M, but not designated a major acquisition project by SPE	FFP, Competitive or Set-Aside	Requirements Plan or Abbreviated Acquisition Plan (AAP)	MASPM, MASCO, and Requiring Office’s SES for services	HCA
Major Program and All Associated Requirements known at time of strategy development³ or >\$50M and not FFP	Any	Formal Acquisition Plan <u>OR</u> Combined Acquisition Strategy/ Acquisition Plan (AS/AP)	Requiring Office’s SES for services, MASPM, MASCO, and Mission Area Undersecretary	USDA Deputy Secretary ²
Interagency Agreements (New or Modification) for assisted acquisitions	N/A	Copy of the planned agreement	MASPM and MASCO	HCA
Bridge contract of any time length “Bridge” defined here Sharepoint Policy Bridge	Any	Select appropriate plan in accordance with thresholds above	Requiring Office’s SES	HCA
As required by the HCA	N/A	As directed	As directed	As directed

¹ If approval outside the Mission Area is required, (e.g., approval needed by HCA or Deputy Secretary) the plan must be signed by the MASPM, Requiring Office’s SES, and MASCO and be submitted to the USDA Procurement Policy Division (PPD) at procurement.policy@usda.gov. Also follow any specific Mission Area clearance procedures.

² After conferring with the SPE/CAO, the Deputy Secretary may delegate approval authority to the CAO or other delegate(s). Mission Area will complete and brief the “Acquisition Planning Decision Memo” located at [Sharepoint | Templates](#). The Date of the Decision Memo shall be the date of the briefing to the Deputy Secretary and participants. The Deputy Secretary’s approval will be documented by an email from the SPE.

³ New requirements (not known at the time of planning) associated with a Major Program with an approved AS/AP may use the Abbreviated Acquisition Plan and approval levels if the planning for the new requirement is consistent with the approved AS/AP. If the planned approach for the new requirement is not consistent with

[Acquisition Planning Matrix for Non-IT Contracts](#)

the AS/AP or changes the value of the investment by +/- 10%, the AS/AP must be updated and re-approved with the new requirements incorporated.

Information Technology Requirements

What is IT?

USDA uses the definition as it is expressed in the OMB Memo [M-15-14](#).

What is required for an Information Technology (IT) Requirement?

Per the Federal Information Technology Acquisition Reform Act (FITARA), the USDA CIO or their designee is the approver of all acquisition strategies and plans for IT contracts. The Contracting Officer must award IT contracts consistent with the CIO approved strategies and plans. If a proposed contract award is inconsistent with the CIO approved AS/AP, the CIO must either re-approve the AS/AP or approve the contract itself. Additional information on IT contract approval requirements is included in the [IT Contract Planning and CIO Approval Standard Operating Procedure](#).

What does IT requirements planning look like during FY22?

The intent of the FY 2022 transition period is not to recreate previous versions of planning documents for reapproval. Therefore, in FY 2022 only, Mission Areas may use existing approved MASPM Checklists/Requirements Plans to document acquisition planning and approval that has already been completed. In these situations, a copy of the MASPM Checklist/Requirements Plan must be provided to the Contracting Officer. Acquisitions that do not have an already approved MASPM Checklist/Requirements Plan should use the Abbreviated Acquisition Plan in accordance with the Acquisition Planning Matrix for IT Contracts.

How is IT requirements planning going to change Acquisition Strategies?

By FY 2023, all IT Investments (at the UII level) must have an AS/AP in place per the Acquisition Planning Matrix for IT Contracts. In FY 2022, Mission Areas may continue to use existing approved Acquisition Management Plans (AMPs, a CIO Capital Planning template for acquisition planning that will be replaced by AS/APs) to document acquisition planning and approval for IT Investments if no changes or updates to the AMP are required. Each Mission Area must use the AS/AP for at least one IT investment in FY 2022. Completed, approved AS/APs shall be attached to appropriate requisitions or provided directly to the contracting office. An "Acquisition Planning Decision Memo", located at [Sharepoint | Template](#), shall be completed in FY22 when an AMP is used. The Date of the Decision Memo shall be the date of the briefing to the Deputy Secretary and participants. The Deputy Secretary's approval will be documented by an email from the SPE.

Why do I have to get a CIO Acquisition Approval Request (AAR)?

To meet USDA-specific appropriation law requirements, information technology actions that are estimated to meet or exceed \$25,000 require an additional approval, the AAR. The AAR is in addition to the standard requirements package completed by requiring/program offices.

How do I get an AAR?

IT contracts must have Chief Information Officer (CIO) approval of funding and technical requirements through the AAR process that is completed in AgMAX. Program offices should work with their agency CIO office for AAR guidance and approval.

What do I do with my approved AAR?

The requiring/program office should submit one or more approved AAR numbers associated with each contract action at the time of requisition. If AAR number(s) are not available at the time of requisition, they MUST be provided by the requiring/program office to the Contracting Officer prior to award.

I am a Contracting Officer, what does the AAR mean to me?

Every contract action with a planned IT obligation valued at \$25,000 or more in a Fiscal Year must be approved by the CIO via an AAR. A single AAR may include CIO approval for IT spend for a single contract, multiple contracts and/or multiple IT Investments. The Contracting Officer may not award an IT contract until one or more AAR numbers are provided to document CIO approval of the IT spend. Note that new AARs are required every Fiscal Year (or more frequently if additional IT spend approvals are needed), whereas acquisition planning is generally required prior to initial contract award only, unless there are substantive changes to the original approved acquisition planning. IAS will prevent IT contract award unless valid AAR number(s) are provided. **The AAR requirement does not prohibit the contracting office from accepting the requisition, issuing a solicitation, and collaborating with the requiring office in the development of the award.**

Acquisition Planning Matrix for IT CONTRACTS

See Instructions on FY 2022 Transition

In Addition to Acquisition Planning, IT Contracts Require an Acquisition Approval Request (AAR) from the USDA OCIO if the obligation is over \$25,000

Combined Acquisition Strategy / Acquisition Plan (AS/AP) Requirement (All IT Investments)

Total Contract Value and Acquisition Type	Type of Plan	Review / Clearance²	Final Signatory Approver²
Major IT Investment and All Associated Requirements known at time of strategy development ^{1,3}	AS/AP	Requiring Office's SES for services, MASPM, MASCO, HCA	CIO
Non-Major IT Investment and All Associated Requirements known at time of strategy development ^{1,3}	AS/AP	MASPM, MASCO	Assistant CIO

Updates to AS/AP Outside of Annual Review ³

Any requirement >SAT (\$250K) not included in the AS/AP but consistent with strategy and within approved cost ³	Abbreviated Acquisition Plan (AAP)	Contracting Officer	Assistant CIO or designee
Any requirement >SAT (\$250K) not included in the AS/AP and NOT consistent with strategy and/or NOT within approved cost ³	Revise/reapprove AS/AP prior to solicitation	Re-approve AS/AP per above	Re-approve AS/AP per above
Any requirement at or below the Simplified Acquisition Threshold not included in the AS/AP ³	Add to AS/AP during annual review	In accordance with AS/AP annual review	In accordance with AS/AP annual review

Other Situations:

As directed by the Head of the Contracting Activity (HCA) or HCA Designee (HCAD)	As directed by the HCA or HCAD	As directed by the HCA or HCAD	As directed by the HCA or HCAD
Interagency Agreements (New or Modification) for assisted acquisitions	Copy of the planned agreement	MASPM and MASCO	HCA in consultation with CIO
Bridge contract of <u>any time length</u> “Bridge” defined here	Select appropriate plan in accordance with thresholds above	Requiring Office’s SES	HCA
Any Contract Type or Value that includes <u>Financial</u> IT	See above	Add OCFO to review/clearance	See above

¹ IT Investment Types include Major and Non-Major. Standard IT Investments should follow the procedures for the appropriate Major or Non-Major Investment type based on the CIO definition of Major IT in [DR 3130-008](#). If you are unsure if your contract is part of a Major or Non-Major IT Investment, please contact your Mission Area CIO Capital Planning staff or email the [USDA Capital Planning mailbox](#) for assistance.

² If review and approval outside the Mission Area is required, (e.g., approval needed by HCA, OCFO or CIO) the plan must be signed by the Mission Area roles listed in the “Review/Concur” column and be submitted to the USDA Procurement Policy Division (PPD) at procurement.policy@usda.gov. No final solicitation shall be released prior to acquisition plan approval or waiver of acquisition planning requirements. Units must also follow any specific Mission Area clearance procedures. Note on Assistant CIO approvals: if the requirement is at the Department level (not in a Mission Area), the approver is the USDA Associate CIO.

³ New requirements (not known at the time of planning) associated with an approved AS/AP may use the Abbreviated Acquisition Plan and approval levels, if the planning for the new requirement is consistent with the approved AS/AP. If the planned approach for the new requirement is not consistent with the AS/AP or changes the value of the investment by +/- 10%, the AS/AP must be updated and re-approved with the new requirements incorporated.

Approvals

Who approves the plan?

The Acquisition Planning Matrix provides approval levels required. The program office is responsible for coordinating the necessary coordination, review, and approvals.

How do departmental approvals occur?

For acquisition plans requiring approval outside of the mission or staff area (e.g., HCA, SPE, etc.; or HCA, OCFO and OCIO for IT), prior to developing the plan and submitting requirements packages to the contracting office, the mission area must brief a high-level description of the need to the appropriate concurring and approving parties. This will allow for a collaborative approach in defining the plan and should shorten the overall review time required for approval. The MASCO, Contracting Officer (if assigned), or other designated contracting official will provide support and will normally participate during these briefings. At a minimum, the following items are required to be included in the briefing:

- The Government's need, what are we procuring and why
- Acquisition History, including technical and contractual history of the acquisition
- Market Research completed by the Program, if any
- An estimate of cost or the Independent Government Cost Estimate (IGCE)
- Potential risks associated with the acquisition or requirement-operational, political, financial, etc.
- Type and length of contract contemplated
- Type of small business set-aside, if applicable
- Level of competition expected
- Other topics deemed significant by the HCA, MASCO, Program Office, MASPM, or Contracting Officer

Acquisition Program Management

What do acquisition program managers do?

Program and project managers (P/PM) 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" (per OMB Memorandum titled "Revisions to the Federal Acquisition Certification for Program and Project managers (FAC-P/PM)", dated December 16, 2013, located here). All these activities are critical to ensuring that agency mission needs are filled and expected outcomes achieved.

Who is responsible for developing contract requirements?

The requirements owner is responsible for determining what is needed in collaboration with stakeholders. FAR 11, FAR 37.6, and FAR 46.4 provide minimum requirements and clauses for a performance work statement (PWS) and statement of work (SOW), as well as minimum standards to check that we are getting what we are paying for by using a Quality Assurance Surveillance Plan (QASP). USDA has examples of these documents and the acquisition planning templates at [Sharepoint | Templates](#).

Why is there a Mission Area Senior Program Manager?

To fulfill agency head responsibilities in the FAR and AGAR, the USDA Secretary has determined that each Mission Area have a Mission Area Senior Program Manager (MASPM) who is responsible for overseeing the planning of acquisitions in the Mission Area.

How do Mission Area Senior Program Managers (MASPMs) support acquisition program managers?

MASPMs will work with their MASCO to have governance in place to ensure requirements of this part and part 11 are followed and documented in the appropriate acquisition planning document.

SUBPART 407.5--INHERENTLY GOVERNMENTAL FUNCTIONS

What type of work is inherently governmental?

The FAR provides an extensive list of many inherently governmental functions which cannot be contracted. It also includes a list of closely associated functions, most of which would be deemed “advisory and assistance” contracts. For a list of product service codes typically considered advisory and assistance, see https://www.acq.osd.mil/dpap/pdi/p2p/improving_transparency_of_procurement_spend.html, and <https://psctool.us/references>. Also see PGI Part 437 for additional requirements for advisory and assistance services.

What do I have to do if I have a service requirement?

Requesting activities must provide a written determination required by FAR 7.503(e), that none of the functions to be performed are inherently governmental, when submitting requests for procurement of services. This can be done as part of the acquisition plan, when plans are applicable.

In the event of a disagreement as to whether the functions to be performed are inherently governmental, the MASCO may refer the matter to the HCA for resolution. When submitting disagreements to the HCA for resolution the MASCO shall provide a summary of the areas of disagreement, supported by the following:

- 1) the MASCO’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).

Disagreements shall be resolved prior to issuance of the solicitation. For additional information regarding inherently governmental functions click [here](#).

PART 408--REQUIRED SOURCES OF SUPPLIES AND SERVICES

408.002 Priorities for Use of Mandatory Sources.

An “Acquisition Strategy Roadmap” with information on required sources can be found at [Sharepoint | Policy and Regulations](#).

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 Fourth Generation (OS4) and it is a mandatory source for office supplies for the USDA. <https://www.gsa.gov/buying-selling/purchasing-programs/federal-strategic-sourcing-initiative/fssi-os4/office-supply-fourth-generation-os4-awarded-vendors>. 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.

Small package delivery

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, <https://hallways.cap.gsa.gov/login-information>, scroll down and select Transportation and Logistics Services. Scroll down and select Package Delivery and Packaging 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 accessories, 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).

The NGDS Shippers Guide can be found at [Sharepoint | Policy and Regulations](#). 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 shall submit a waiver to the Procurement Policy Division, Office of Contracting and Procurement (OCP) at Procurement.Policy@usda.gov for approval to obtain a delivery service provider other than 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).

Other USDA and government-wide interagency instruments

USDA website for multi-use contracts is <https://www.dm.usda.gov/procurement/toolkit/orderingtools.htm>. Category management instructions are located at [Sharepoint | Policy and Regulations](#). A Governmentwide searchable database of contracts and other procurement instruments intended for use by multiple agencies is available at <https://www.contractdirectory.gov/>.

Orders Against Other Agency Contracts

Other agency contracts, including Federal Supply Schedules, may have terms different from USDA included in the contract. Before placing covered orders against such contracts, the CO must review the terms, and if the contract does not include the necessary terms, either not use the contract or include USDA terms in the order placed against the contract.

SUBPART 408.4--FEDERAL SUPPLY SCHEDULES

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.

[Click for FAR 8.4 Limited Sources Justifications](#)

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

408.701 Definitions.

"Committee Member" is the Presidential appointee representing USDA as a member of the Committee for Purchase from People Who Are Blind or Severely Disabled.

"Organization head" is the Under Secretary or Assistant Secretary of a mission area or the head of a USDA staff office.

408.703 Procurement List.

USDA has mandatory items on the list. https://www.abilityone.gov/procurement_list/index.html.

408.705 Procedures.

- a. The organization head shall appoint one person as the AbilityOne Liaison to represent the organization and to coordinate the organization's actions with the Committee Member. The AbilityOne Liaison is currently within the OSDDBU staff, [OSDBU Contact Page](#).
- b. AbilityOne Liaisons may represent more than one organization. Liaisons need not be acquisition officials.
- c. The organization head shall issue and maintain a performance plan to promote and enhance the organization's acquisitions from AbilityOne participating nonprofit agencies.

- d. The performance plan shall: (1) announce the organization's support for the AbilityOne Act; (2) establish a promotion program for the products and services provided by the AbilityOne participating nonprofit agencies; (3) provide for the AbilityOne's role in acquisition planning; (4) establish measurable program goals for growth or other accomplishments in the organization's AbilityOne program actions; and (5) establish an awards program for successful participation in the AbilityOne program.

408.705-2 Direct order process.

The MASCO may apply to a central nonprofit agency for authorization to order specific supplies or services directly from an AbilityOne participating nonprofit agency.

A copy of the application should be provided to the AbilityOne Liaison who will inform the USDA Committee Member.

408.705-3 Allocation process.

a. The MASCO may apply to a central nonprofit agency for a production allocation of specific supplies or services to an AbilityOne participating nonprofit agency.

b. A copy of the application should be provided to the AbilityOne Liaison who will inform the USDA Committee Member.

408.705-4 Compliance with orders.

Prior to attempting to resolve a failure to perform by a participating nonprofit agency with the Committee, the MASCO should provide advance notice to the AbilityOne Liaison who will inform the USDA Committee Member.

408.706 Purchase exemptions.

Prior to applying to the Committee for a purchase exemption, the MASCO should provide advance notice to the AbilityOne Liaison who will inform the USDA Committee Member.

408.707 Prices.

Prior to applying for a price revision, the MASCO should provide advance notice to the AbilityOne Liaison who will inform the USDA Committee Member.

408.711 Quality complaints.

Prior to attempting to resolve a complaint regarding the quality of goods or services provided by participating nonprofit agency with the Committee, the MASCO should provide advance notice to the AbilityOne Liaison who will inform the USDA Committee Member.

408.712 Specification changes.

Prior to providing 90-days advance notification to the Committee on actions that affect supplies and services on the Procurement List, the MASCO should provide advance notice to the AbilityOne Liaison who will inform the USDA Committee Member.

408.714 Communications with the central nonprofit agencies and the Committee.

Any matter requiring referral to the Committee shall be provided to the AbilityOne Liaison who will coordinate the matter with the Committee Member.

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 by the Office of Contracting and Procurement (OCP) 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 as shown below to complete the listing matrix in adequate time for the OCP to update the matrix on the Acquisition Toolkit.

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

USDA Qualification Requirement by Name or Number	QR Submission Procedures for Testing (Location, Contact Person, Office or URL)	OMB Control # Paperwork Reduction	Version Date	Expiration Date	Determination of need for QR (Location, Contact Person, Office or URL)	Market Research Report Supporting QR (Location, Contact Person, Office or URL)	GPE Notice for QR (Contact Person, Office or URL)	Technical Contact for QR	Address for Submittal of Application for Listing on QR
<i>RCCD-OD-01-0003</i>			<i>7/18/2022</i>	<i>7/17/2023</i>			<i>Link to SAM Announcement</i>	<i>Name, #, email</i>	<i>Link to Products</i>

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 [Contract Opportunities](#) to seek additional sources.

SUBPART 409.4--DEBARMENT, SUSPENSION AND INELIGIBILITY

409.403 Definitions.

"Debarring official". Pursuant to the Secretary's delegations of authority in 7 CFR 2.24, the SPE is designated as the debarring official (Department Debarring Officer) with the following exceptions:

- a. for commodity contracts awarded on behalf of the Commodity Credit Corporation (CCC), the Executive Vice President of the CCC, or his designee is designated as the debarring official pursuant to 7 CFR part 1407.
- b. for contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c), the Department Debarring Officer has delegated debarring authority to the Agricultural Marketing Service (AMS).

409.404 Exclusions in the System for Award Management.

The Department Debarring Officer, also known as the "'S&D' Official", is the Director of OCP and is USDA's single point of contact with GSA for suspension and debarment (S&D) actions taken under this subpart. The debarring official for each Mission Area shall notify the Department Debarring Officer of each S&D 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. The Chief, Procurement Policy is USDA's procurement point of contact (POC) for agency coordination.

409.405 Effect of Listing.

The Head of the Contracting Activity has redelegated authority to request determinations under FAR 9.405 to the MASCO. Compelling reasons are considered to be present where failure to contract with the debarred or suspended contractor would seriously harm the agency's programs and prevent accomplishment of mission requirements.

409.406 Debarment.

409.406-3 Procedures.

- a. Investigation and referral. When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for debarment, the case shall be immediately referred through the MASCO to the Department Debarring Officer. The case must be accompanied by a complete statement of the facts (including a copy of any criminal indictments, if applicable) along with a recommendation for action. Where the statement of facts indicates the irregularities to be possible criminal offenses, or for any other reason further investigation is considered necessary, the matter shall be referred to the MASCO who should

consult with the Office of Inspector General (OIG) to determine if further investigation is required prior to referring to the debarring official.

b. Decision-making process. If, after reviewing the recommendations and consulting with the OIG and Office of the General Counsel (OGC), as appropriate, the debarring official determines debarment is justified, the debarring official shall initiate the proposed debarment in accordance with FAR 9.406-3(c) and notify the MASCO of the action taken.

c. Fact-finding proceeding. For actions listed under FAR 9.406-3(b)(2), the contractor shall be given the opportunity to appear at an informal hearing. The hearing should be held at a location and time that is convenient to the parties concerned, if at all possible. The contractor and any specifically named affiliates may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each party will have an opportunity to present all information considered pertinent to the proposed debarment. The contractor shall be provided a copy of a transcript of the proceedings under the conditions established in FAR 9.406-3(b)(2)(ii).

409.407 Suspension.

409.407-3 Procedures.

a. Investigation and referral. When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for suspension, the case shall be immediately referred through the MASCO to the Department Debarring Officer. The case must be accompanied by a complete statement of the facts along with a recommendation for action. Where the statement of facts indicates the irregularities to be possible criminal offenses, or for any other reason further investigation is considered necessary, the matter shall be referred to the MASCO who should consult with the OIG to determine if further investigation is required prior to referring it to the debarring official.

b. Decision-making process. If, after reviewing the recommendations and consulting with the OIG and OGC, as appropriate, the debarring official determines suspension justified, the debarring official shall initiate the proposed suspension in accordance with FAR 9.407-3(c) and notify the MASCO of the action taken.

c. Fact-finding proceedings. For actions listed under FAR 9.407-3(b)(2), the contractor shall be given the opportunity to appear at an informal hearing, similar in nature to the hearing for debarments as discussed in 409.406-3(c).

409.470 Appeals.

A debarred or suspended contractor may appeal the debarring official's decision by mailing or otherwise furnishing a written notice within 90 days from the date of the decision to the Civilian Board of Contract Appeals, Washington, D.C. 20250. A copy of the notice of appeal shall be furnished to the debarring officer from whose decision the appeal is taken. Appeals under Subpart 409.4 shall be governed by the rules and procedures of the U.S. Department of Agriculture Board of Contract Appeals set forth in 7 CFR, Part 24.

SUBPART 409.5--ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

409.503 Waiver.

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).

409.504 Contracting Officer Responsibilities.

Following is a list of items for the Contracting Officer to address in the final Organizational Conflict of Interest (OCI) determination for the contract file:

Describe the concerns in the letter within two underlying principals –

- a. Preventing the existence of conflicting roles that might bias a contractor's judgment; and
- b. Preventing unfair competitive advantage. In addition to the other situations described in this subpart, an unfair competitive advantage exists where a contractor competing for award of any Federal contract possesses-
 1. Proprietary information that was obtained from a Government official without proper authorization; or
 2. Source selection information (as defined in FAR 2.101) that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract.
- c. Use CO judgement.
- d. Make sure to tailor the letter to the specific circumstances.
- e. Don't ask very specific questions – present the concern and ask the vendor to address it and explain why either no OCI exists or how any OCI can be (or has been) neutralized or mitigated.

PART 410—MARKET RESEARCH

410.001 Policy.

Agencies are reminded of FAR 10.001(a)(2) and (3). While Category Management shall remain a consideration, the achievement of socioeconomic and other small business goals shall be prioritized over achievement of category management goals if the achievement of both goals (which would be optimal) is not possible.

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

- 1) Ensure the minimum use of hazardous or toxic materials;
- 2) Ensure the maximum use of biobased products and biofuels; and
- 3) 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.
- 4) Determine whether the acquisition should be set-aside to meet USDA's specific socioeconomic small business goals.

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 acceptance.

PART 411--DESCRIBING AGENCY NEEDS

SUBPART 411.1--SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

411.101 Order of Precedence for Requirements Documents.

USDA has examples of statements of work, statements of objectives and performance work statements available at [Sharepoint | Templates](#) . Mission Areas may also have recommended templates. It is encouraged to utilize these tools and tailor to the specific need. Some additional sites available are:

https://fast.faa.gov/PPG_SOW_Templates.cfm

<https://hallways.cap.gsa.gov/app/#/doclib>

The Head of the Contracting Activity (HCA) has redelegated the authority to the MASCO to submit the determination required by [OMB Circular A-119.pdf](#).

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.

411.104 Use of Brand Name or Equal Purchase Descriptions.

A "brand name or equal" purchase is not considered sole source, does not require justification, must include FAR 52.211-6, and the description shall include the following type of information:

- a. Identification of the item by generic description.
- b. Make, model number, catalog designation, or other description, and identification of a commercial catalog where it is listed.
- c. Name of manufacturer, producer, or distributor of the item and complete address.
- d. All salient characteristics of the "brand name or equal" product or products which have been determined by the program office to be essential to the Government's minimum requirements.

A "brand name" purchase, by comparison, is used when only items peculiar to one manufacturer will meet a need (particular make or model). Brand name purchases are considered sole source and do require use of a justification, depending on the amount of the purchase, and which FAR authority is applicable. A "Justification and Approval Decision Matrix" can be found [here](#).

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, a determination whether harm to the Government might occur should contractor personnel fail to identify themselves as non-Government officials.

411.107 Solicitation Provision.

Contracting officers shall immediately discontinue use of the following AGAR provision and clause in all contracts:

- 1) The provision at AGAR 452.211-70, *Brand Name or Equal*, and its prescription at AGAR 411.171.

Contracting officers shall continue to use, as appropriate, the FAR provision at 52.211-6, *Brand Name or Equal*, as prescribed in FAR 11.107(a).

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 PRODUCTS AND COMMERCIAL SERVICES

SUBPART 412.2 - Special Requirements for the Acquisition of Commercial Products and Commercial Services

Contracting Officers cannot use a time and material or labor hour contract if the contract has not been competed in accordance with FAR 12.207(b).

PART 413--SIMPLIFIED ACQUISITION PROCEDURES

413.003 Policy.

Existing purchase card limits are not automatically raised through a deviation. If there is a need to change a purchase card limitation, see your Agency Program Coordinator and Approving Official within your Agency.

SUBPART 413.1—PROCEDURES

413.106 Soliciting Competition, Evaluation of Quotations or Offers, Award and Documentation.

413.106-1 Soliciting Competition.

Contracting Officers are reminded that they should notify potential offerors of the basis of award. The basis of award should be **as simple as possible** and does not need to define the relative importance of factors nor

include subfactors. Use the “Single Source or Brand Name Justification Less Than SAT” to document justification and approval, as necessary.

[Click for FAR 13 Single Source or Brand Name Justification Less Than SAT](#)

413.106-2 Evaluation of Quotations or Offers.

Contracting Officers are reminded that formal plans, establishing a competitive range, conducting discussions and scoring offers should generally NOT be used.

413.106-3 Award and Documentation.

Use the SAP Summary Worksheet or a similar tool to document the decision.

[Click for SAP Summary Worksheet](#)

SUBPART 413.3--SIMPLIFIED ACQUISITION METHODS

413.301 Governmentwide Commercial Purchase Card.

The USDA Purchase Card Program Guide from the Charge Card Service Center establishes USDA policy and procedures on use of the Governmentwide commercial purchase card. For guidance on its use see <https://ias.usda.gov/ccsc/>. For information on the Governmentwide commercial purchase card in the Integrated Acquisition System (IAS), see <https://ias.usda.gov/iasnug/>.

Purchase card holders are reminded that prior to purchasing Unmanned Aerial Systems (UAS) they must first review and adhere to the requirements outlined in [Departmental Regulation 3465-002](#).

413.302 Purchase Orders.

413.302-5 Clauses.

The contracting officer shall insert the clause at AGAR 452.204-70, Modification for Contract Closeout, in all solicitations and contracts that use simplified acquisition procedures.

413.303 Blanket Purchase Agreements (BPAs).

BPAs may establish procedures for individual purchases not to exceed the simplified acquisition threshold for commercial products and commercial services (Subpart 13.5). The MASCO shall submit a determination and findings for approval by the HCA during acquisition planning for BPA calls that exceed the thresholds in FAR 13.5.

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 the Optional Form (OF) 347, Order for Supplies or Services, except that use of the OF 347 is authorized when utilizing the USDA Integrated Acquisition System (IAS).

SUBPART 413.5--SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

413.501 Special Documentation Requirements.

Use the “Single Source or Brand Name Justification Exceeding SAT” template to document justification and approval, as applicable.

[Click for FAR 13.5 Single Source or Brand Name Justification Exceeding SAT](#)

PART 414--SEALED BIDDING -- RESERVED

PART 415--CONTRACTING BY NEGOTIATION

SUBPART 415.1--SOURCE SELECTION PROCESSES AND TECHNIQUES

415.102 Oral Presentations.

Oral presentations can be an innovative way to receive information from the team who will actually execute the requirement.

<https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation-0/20994/docs/17960/Oral%20Presentations%20-%20PIL%20Technique%201%20-%202018June7%20Workbook-1535905636.pdf>

See more innovative ways at:

<https://www.dhs.gov/pil>

SUBPART 415.2--SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

415.207 Handling Proposals and Information.

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 15.5. (See also FAR 5.403)

The Contracting Officer shall obtain agreement via the source selection evaluation board agreement prior to the release of any proposal to a government or non-government evaluator.

[Click for Source Selection Evaluation Board Agreement](#)

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 (FOIA) (5 U.S.C. 552).

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 and FAR 15.207. Use the template for a proposal cover sheet, [Proposal Cover Sheet](#).

SUBPART 415.3—SOURCE SELECTION

A source selection plan (SSP) must be created and approved after the acquisition plan has been approved. The “Source Selection Plan” template may be tailored for use. Source selection plans must be approved in accordance with the following matrix. The SSP shall always be reviewed by someone other than the preparer. If more than one characteristic applies, the characteristic which requires the highest level of approval takes precedence. The Source Selection Authority (SSA), if other than the CO, must approve the SSP as well.

	<\$25M	\$25M<x≤\$50M	>\$50M
Single or Multiple Award (including construction)	if a Contract Specialist prepared the Contracting Officer; otherwise, level above Contracting Officer	Level above Contracting Officer if Contract Specialist prepared; otherwise, the MASCO	MASCO
SOO	if a Contract Specialist prepared the Contracting Officer; otherwise, level above Contracting Officer	MASCO	HCA
Other than commercial products or commercial services (excluding construction)	MASCO	MASCO	HCA
As determined by HCA/MASCO	As determined by HCA/MASCO	As determined by HCA/MASCO	As determined by HCA/MASCO

415.303 Responsibilities.

The MASCO has the authority to appoint an individual other than the CO as SSA or to require a higher level of approval of the SSP.

415.308 Source Selection Decision

Use the “Source Selection Decision Document” (SSDD) as a template for the decision, [Source Selection Decision Document](#).

SUBPART 415.4--CONTRACT PRICING

415.404 Proposal Analysis.

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.

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:

- 1) Architect-engineer contracts;
- 2) Construction contracts;
- 3) Contracts primarily requiring delivery of material supplied by subcontractors;
- 4) Termination settlements; and
- 5) Cost-plus-award-fee contracts.

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).

<https://www.dau.mil/tools/Lists/DAUTools/Attachments/122/WGL%20Extraction.pdf>

415.406-1 Prenegotiation Objectives.

Pre-negotiation objectives must be documented in a pre-negotiation memorandum prior to beginning negotiations or there must be documentation of the decision not to negotiate. Documentation approval at levels above the Contracting Officer may be required by the MASCO or the HCA.

[Click for Prenegotiation Memorandum](#)

SUBPART 415.5--PREAWARD, AWARD, AND POSTAWARD NOTIFICATIONS, PROTESTS AND MISTAKES

See debriefing guidance before developing the agenda.

[Debriefing Guidance](#)

SUBPART 415.6—UNSOLICITED PROPOSALS

415.606 Agency Procedures.

Reference FAR 15.605 for the content of unsolicited proposals. Each MASCO is responsible for establishing points of contact for the control of unsolicited proposals and providing the names of points of contact to procurement.policy@usda.gov.

An unsolicited proposal must be formally submitted to the Agency by way of the point of contact. When an unsolicited proposal is received by an individual, safeguard the proposal and promptly send it to the point of contact no later than within 1 day of receipt.

- When preliminary contact is made by a potential offeror of an unsolicited proposal, provide information noted in FAR 15.604(a) and information on agency objectives, existing research programs, and techniques to assist the offeror in developing its proposal.
- When designated by the agency point of contact, participate in a comprehensive evaluation of unsolicited proposals and provide the necessary evaluation documentation.

Point of Contact

- Coordinates the receipt and handling of unsolicited proposals.
- Provides guidance to potential offerors of unsolicited proposals as to the criteria for determining valid unsolicited proposals and guidance on the procedures for their submission and evaluation.

The unsolicited proposal should not be duplicated or distributed within the Agency unless directed by the agency point of contact. Unsolicited proposals must be safeguarded, particularly data identified by the offeror as being subject to duplication, use, or disclosure restrictions. A preliminary review of the proposal will be conducted to determine if it meets the requirements of the FAR and can be considered a valid unsolicited proposal. If the proposal meets these requirements, the point of contact will promptly acknowledge receipt and process the proposal for evaluation. If a proposal is rejected because it does not meet the necessary requirements, the point of contact will promptly inform the offeror, in writing, of the reasons for rejection and of the proposed disposition of the unsolicited proposal.

Comprehensive evaluations will be coordinated by the point of contact who will attach or imprint on each unsolicited proposal circulated for evaluation the required legend to safeguard the proposal, unless the offeror clearly states in writing that no restrictions are imposed on the disclosure or use of the data contained in the proposal. When performing a comprehensive evaluation of an unsolicited proposal, evaluators will consider the required factors in FAR 15.606-2, in addition to any others appropriate for the particular proposal. The evaluators will notify the Agency point of contact of their recommendation when the evaluation is complete.

A favorable comprehensive evaluation of an unsolicited proposal does not in itself justify awarding a contract without providing for full and open competition. The cognizant Agency Contracting Officer may commence negotiations on a sole source basis only when:

- an unsolicited proposal has received a favorable comprehensive evaluation;
- a justification and approval has been obtained for research proposals or other appropriate provisions of the FAR;
- the agency technical office sponsoring the contract furnishes the necessary funds; and
- the cognizant Contracting Officer has complied with the synopsis requirements of the FAR.

PART 416--TYPES OF CONTRACTS

SUBPART 416.1--SELECTING CONTRACT TYPES

For contracts other than fixed price, the rationale for selection in accordance with 16.103(d)(1) shall be approved by a level above the Contracting Officer if an acquisition plan is not required (see 407.104) unless a higher-level approval is required by the FAR. See [Appendix B](#) for a comparison of contract types.

See determination and findings templates for

- Time and Material or Labor Hour
- Letter Contracts
- Fixed Price Level of Effort

416.102 Policies.

The contracting officer shall insert the clause at AGAR 452.204-70, Modification for Contract Closeout, in all solicitations and contracts that use other than cost reimbursement contract types (i.e., Simplified Acquisition Procedures (SAP), non-SAP, and/or not Firm Fixed Price).

SUBPART 416.4--INCENTIVE CONTRACTS

416.401 General.

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 MASCO shall act as the FDO.

SUBPART 416.5—INDEFINITE-DELIVERY CONTRACTS

General

Contracting Officers should develop simplified methods to place, provide fair opportunity, award and pay for orders. The use of the government purchase card for award and payment is encouraged.

Task and Delivery Order Ombudsman

The Chief, Procurement Policy Division, Office of Contracting and Procurement, has been designated as the Departmental Task Order Ombudsman.

Each MASCO shall designate a task order ombudsman for the Mission Area. The MASCO shall forward a copy of the designation memorandum to the Departmental Task Order Ombudsman. Mission Area ombudsmen shall review and resolve complaints from contractors concerning task or delivery orders placed by the Mission Area contracting offices.

Any contractor who is not satisfied with the resolution of a complaint by a Mission Area ombudsman may request the Departmental Task Order Ombudsman to review the complaint.

416.505—Ordering.

The “Justification for Exception to Fair Opportunity or Brand Name Justification” shall be used as applicable in accordance with FAR 16.505.

[Click for FAR 16.5 Justification for Exception for Fair Opportunity or Brand Name](#)

SUBPART 416.70—Shared First – Category Management

Effort should be taken to support Category Management within each USDA Mission Area; however, the achievement of socioeconomic and other small business goals shall be prioritized over achievement of category management goals if the achievement of both goals (which would be optimal) is not possible. This includes diversifying the supplier base by awarding more individual competed awards to 8(a) and other small disadvantaged businesses, woman-owned, service-disabled veteran-owned, and small businesses working in HUBZones, if in the best interest of USDA. Acquisition workforce members should become familiar with the

USDA Category Management Plan, Supplemental Instruction. This includes particular attention to each of the following key performance indicators (KPIs):

- Spend Under Management (SUM): the percentage of obligations through contracts that are actively managed in compliance with the SUM contract tiered maturity model.
- Best in Class (BIC) Obligations: the percentage of obligations tracked via FPDS through BIC solutions.
- Cost Avoidance: demonstrates the extent to which the program is delivering increased value for the goods and services acquired by agencies, measured in dollars.
- Pilot Measure – Reduction in Duplicative Contracts: within Tier 0 and within single agency, if a vendor has multiple contracts within the same market scope (PSC, NAICS), then these are flagged as duplicative; the measure will be tracked separately for all vendors and Other than Small to ensure that there are no adverse impacts to small business vendors.
- Small Business Utilization: demonstrates the extent to which the program maintains or increases government use of small businesses (measured as a percentage) while implementing category management strategies.
- Category Management Training: tracks the number of individuals trained in the aspects and components of category management.

Annual targets are set strategically from OMB based on agency status of the KPIs of Category Management. All requirements shall be evaluated for suitability for fulfillment using the order of precedence set form in FAR 8.002 and 8.002, and the Category Management Program Procedures available in the supplemental instruction.

Once initial award is made for a multiple Mission Area or Department-wide vehicle, the MASCO shall submit the required contract notification template, to include ordering instructions within 30 days of availability of the contract award. Submit completed templates to procurement.policy@usda.gov.

PART 417--SPECIAL CONTRACTING METHODS

SUBPART 417.2--OPTIONS

417.202 Use of Options.

Contracting Officers shall not use unpriced options in contracts. All options must be priced at the time of the original contract award. Option periods, when used, must have justifications approved for their use prior to the release of the solicitation/award.

FAR clause 52.217-8, as prescribed in FAR 17.208(f), shall be included when option periods are included (i.e., base and 4 option periods). FAR clause 52.217-9, as prescribed in 17.208(g), shall be included when there is a possibility that the contract performance may need to be extended beyond the term of all option periods (i.e., base, 4 option periods, and a 6-month extension).

SUBPART 417.5—INTERAGENCY ACQUISITIONS

417.502 Procedures.

Also see 416.70 Shared First-Category Management.

417.502-2 The Economy Act.

If a Mission Area issues an agreement with another Mission Area or with another department to provide acquisition assistance, the requesting Mission Area must notify the HCA and provide a copy of the agreement prior to execution.

PART 418—EMERGENCY ACQUISITION

SUBPART 418.2 Emergency Acquisition Flexibilities

418.203 Emergency Declaration or Major Disaster Declaration.

The SPE will issue guidance on emergency acquisitions, when applicable, through memorandums. Guidance will indicate any increased thresholds, reporting requirements, etc.

Upon issuance of a Presidential Declaration for an emergency or major disaster, USDA will automatically increase thresholds for procurements in support of the declared emergency. Any purchases using the authority must have a clear and direct relationship to support the emergency, and the Contracting Officer shall document the connection to the emergency. Increased thresholds are described below and shall only be applicable during the time of the Presidential declaration to the end date declared by the Federal Emergency Management Agency (FEMA), <https://www.fema.gov/disaster/declarations>.

- a) The micro-purchase threshold (MPT) will be increased per FAR 2.101/FAR 13.201(g)(1).
- b) The simplified acquisition threshold (SAT) will be increased per FAR 2.101 for any contract to be awarded and performed, or purchase to be made, inside the United States.
- c) The threshold for the use of simplified procedures for certain commercial products and commercial services will be increased per FAR 13.500(c).

When the Presidential Declaration is under the Stafford Act, Contracting Officers shall give preference to local firms in the emergency area, per FAR 26.2. Contracting Officers should first consider small business local area set-asides when feasible. The SPE shall issue additional guidance when necessary.

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 (HUBZone), women-owned small business (WOSB), and service-disabled veteran-owned small business (SDVOSB) concerns. Departmental Regulations (DRs) pertaining to Small Business Programs are contained in DR 5090-001 and DR 5090-005, found [here](#).

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. Information regarding OSDBU can be found at <https://www.dm.usda.gov/smallbus/index.php>.

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 SDVOSB 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.

SUBPART 419.4—COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION

419.401 General.

USDA's OSDBU manages an ongoing Partnership Agreement with the US Small Business Administration (SBA). The Agreement delegates SBA's 8(a) Business Development contract execution authority to the USDA (including all warranted USDA Contracting Officers) and establishes the basic procedures to expedite award of contracts pursuant to the 8(a) Program. Section 8(a) of the Small Business Act (15 USC 644, as amended) and Title 13 Code of Federal Regulations, Part 124.501. Additional information regarding the 8(a) program can be found [at SBA](#).

Specific guidelines and responsibilities are maintained by OSDBU who may be contacted at <https://www.dm.usda.gov/smallbus/contacts.htm>.

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. See FAR 19.602-1(a)(2) for situations when referrals are exempt.

PART 420 – RESERVED

PART 421— RESERVED

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 MASCO to the HCA and SPE for resolution by the Deputy Assistant Secretary.

422.807 Exemptions.

The Contracting Officer shall submit requests for exemptions under FAR 22.807(a)(1), (a)(2), and (b)(5) through the MASCO to the HCA and SPE for determination by the Deputy Assistant Secretary.

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 contract file the Service Contract Labor Standards Exemption Documentation template, signed by the vendor certifying exemption conditions are met.

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

SUBPART 422.13—EQUAL OPPORTUNITY FOR VETERANS

422.1305 Waivers.

The Contracting Officer shall submit requests for exemptions under FAR 22.1305(a) and (b) through the MASCO to the HCA and SPE for determination by the Director, Office of Federal Contract Compliance Programs, Department of Labor.

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.

The Contracting Officer shall submit requests for waivers through the MASCO to the HCA and SPE for determination by the Director of the Office of Federal Contract Compliance Programs of the U.S. Department of Labor (Director of OFCCP).

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 Office of Federal Contract Compliance Programs (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 at <https://www.energy.gov/eere/femp/federal-energy-management-program>.

SUBPART 423.4--USE OF RECOVERED MATERIALS AND BIOBASED PRODUCTS

423.403 Policy.

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

423.404 Agency Affirmative Procurement Programs.

The USDA affirmative procurement program (APP) components include:

- a. Recovered materials preference program. In accordance with the requirements of Section 402(c) of Executive Order 13101, Greening the Government Through Recycling, Waste Prevention, and Federal Acquisition, USDA agencies will include, in all applicable solicitations and contracts, a preference for products and services which meet or exceed the EPA purchasing guidelines as contained in the EPA product Recovered Materials Advisory Notices (RMANS). Agencies may choose an evaluation factor preference, or other method of indicating preference in accord with their agency needs. Agencies will, as appropriate, eliminate virgin material requirements in contract specifications and replace them with a statement of preference for recycled materials.
- b. Promotion program. USDA agencies will actively promote a preference for recovered materials, environmentally preferable products, and biobased products in contacts with vendors, in written materials, and other appropriate opportunities.
- c. Reasonable estimation of recovered materials used in the performance of contracts for EPA-designated items. USDA agencies annually will provide in writing to the SPE, in response to a call for data for the Resource Conservation and Recovery report, reasonable estimates, certification, and verification of recovered material used in the performance of contracts.

- d. Annual review and monitoring of effectiveness of the program. USDA agencies will provide an annual assessment of the effectiveness of their affirmative procurement program actions in increasing the purchase and use of EPA designated products.
- e. Purchase of EPA designated products. USDA agencies will require that 100% of purchases of EPA-designated products contain recovered material, unless the item cannot be acquired-
- (1) Competitively within a reasonable timeframe;
 - (2) Meeting appropriate performance standards; or
 - (3) At a reasonable price.
- f. The 100% purchase requirement of paragraph (e) of this section applies to all USDA agency purchases, including those at or below the micro-purchase threshold.

423.405 Procedures.

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

<https://www.biopreferred.gov/BioPreferred/faces/pages/AboutBioPreferred.xhtml>.

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

The following provides a list of roles and responsibilities in support of USDA's BioPreferred Program – Designated Biobased Items for Contract Requirements:

- a. Program Officials
Responsible for identifying the contract needs of their respective programs and, where possible, shall consider including biobased products to replace non-biobased products for a specific contract requirement. When developing the statement of work, performance-based work statement, statement of objective, product item descriptions for a contract requirement that contains Biobased products, program personnel should conduct market research to determine availability and cost of the identified biobased products. After the requirements package has been completed, it shall be forwarded to the contracting office serving the program official's organization.
- b. Contracting Officials
 1. When Biobased products are included in a requirement, Contracting Officials shall incorporate applicable Biobased requirements in the solicitation/contract. Reference the "Biobased (BioPreferred) Quick Reference Guide for Contracting Officers" at [Sharepoint | Templates](#).
 2. Ensure proper codes are selected in the Integrated Acquisition System (IAS) and Federal Procurement Data System (FPDS).

3. Ensure contractor complies with Biobased requirements in the System for Award Management (SAM). Reference FAR 52.223-2, Affirmative Procurement of BioBased Products under Service and Construction Contracts.
- c. MASCO: Champion Biobased and BioPreferred policies and ensure federal and departmental compliance.

SUBPART 423.5--DRUG-FREE WORKPLACE

423.506 Suspension of Payments, Termination of Contract, and Debarment and Suspension Actions. The Contracting Officer may recommend waiver of the determination to suspend payments, to terminate a contract, or to debar or to suspend a contractor. The recommendation shall be submitted through the MASCO to the HCA and 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.

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. 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 (FOIA) 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 through the MASCO to the HCA for submission to [SAM.gov](https://sam.gov).

Per OMB Memo M-21-26, "[Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws](#)", dated June 11, 2021, and OMB Memo titled "[Improving the Transparency of Made in America Waivers](#)", dated October 26, 2021, OMB created a Made in America Office (MIAO). Prior to issuing a waiver pursuant to FAR 25.103(b), ensure the following:

- a. Conduct appropriate market research and outreach, document findings and conclusions;
- b. Obtain USDA approval for acquisitions expected to be greater than \$25,000 by submitting a waiver request through the MASCO to the HCA;
- c. After obtaining USDA HCA approval, submit the waiver request via [SAM.gov](https://sam.gov).

A proposed nonavailability waiver must be submitted for MIAO review even if competition yields no offers of domestic end products. Waivers may be posted prior to issuing a solicitation or after issuing a solicitation, as long as the waiver is posted prior to award. The award may not be issued until confirmation is received that HCA approves, and then that MIAO has completed its review of the proposed waiver. MIAO has waived the requirement for a review, if an exception applies.

Appropriate exceptions are for:

- a. the acquisition is conducted under reduced competition due to urgency (see FAR 6.302-2 and 13.106-1(b)) or the agency is otherwise required by law to act more quickly than the review procedures allow (urgent requirement exception);
- b. the required products have been determined to be nonavailable on a class basis and are listed in FAR 25.104, Nonavailable articles.

425.104 Nonavailable Articles.

Information required by FAR 25.104(b) shall be submitted through the MASCO to the HCA for submission to the MIAO.

425.105 Determining Reasonableness of Cost.

Requests for determination shall be submitted by the MASCO to the HCA and SPE, in writing, and shall provide a detailed justification supporting why evaluation factors higher than those listed in FAR 25.105 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 MASCO to the HCA and SPE for approval or disapproval.

PART 426—OTHER SOCIOECONOMIC PROGRAMS -- RESERVED

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/surety-bonds/list-certified-companies.html>

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

SUBPART 429.3—STATE AND LOCAL TAXES

429.302 Application of State and Local Taxes to the Government.

In the event that a vendor requires proof of USDA's tax-exempt status, the "Blanket Tax Exempt Certificate" may be provided.

[Click for a Blanket Tax Exempt Certificate](#)

PART 430---COST ACCOUNTING STANDARDS ADMINISTRATION

SUBPART 430.2--CAS PROGRAM REQUIREMENTS

430.201 Contract Requirements.

430.201-5 Waivers.

Contracting Officers shall prepare waiver requests in accordance with FAR 30.201-5 and submit them through the MASCO to the HCA and SPE.

430.202 Disclosure Requirements.

430.202-2 Impracticality of Submission.

The request for a determination that it is impractical to secure the contractor's disclosure statement is to be prepared in accordance with 48 CFR Chapter 99, Subsection 9903.202-2, and is to contain the proposed report for the Cost Accounting Standards Board (CASB). The request shall be prepared by the Contracting Officer and submitted through the MASCO to the HCA and SPE for concurrence and submittal to the Secretary.

430.202-8 Subcontractor Disclosure Statements.

Requests for a determination that it is impractical to secure a subcontractor's disclosure statement 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 through the MASCO to the HCA and SPE.

PART 432--CONTRACT FINANCING

432.003 Simplified Acquisition Procedures Financing.

The MASCO may approve contract financing on a contract to be entered under the simplified acquisition procedures. Class approvals may not be made. 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 OIG in accordance with their instructions. A copy of the referral shall be submitted through the HCA to the 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 Agency's Remedy Coordination Official (RCO), who is the Assistant Secretary for Administration.
- 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-- FINANCING FOR OTHER THAN A COMMERCIAL PURCHASE

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 PRODUCT AND COMMERCIAL SERVICE 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 OTHER THAN COMMERCIAL ACQUISITIONS

432.407 Interest.

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

SUBPART 432.6—CONTRACT DEBTS

432.610 Compromising Debts.

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

432.703 Contract Funding Requirements.

Incrementally Funded Fixed-Price Contracts:

"Severable services" means services that are continuing and ongoing in nature—such as help-desk support, maintenance, or janitorial services—for which benefit is received each time the service is rendered.

"Non-severable services" means work that results in a final product or end-item and for which benefit is received only when the entire project is complete, such as systems design, building conversion, or environmental study.

Fixed-price contracts shall be fully funded except as permitted below:

- a. A fixed-price contract may be incrementally funded only if the contract (excluding any options) or any exercised option:
 1. Is for severable services;
 2. Does not exceed one year in length; and
 3. Is incrementally funded using funds available (unexpired) as of the date the funds are obligated; or
- b. The contract uses funds available from multiple (two or more) fiscal years and Congress has otherwise authorized incremental funding.

An incrementally funded fixed-price contract shall be fully funded as soon as funds are available.

Upon receipt of the contractor's notice under paragraph (c) of AGAR clause 452.232-70, "Limitation of Government's Obligation", the Contracting Officer shall promptly provide written notice to the contractor that the Government is—

- a. Allotting additional funds for continued performance and increasing the Government's limitation of obligation in a specified amount;
- b. Terminating the contract; or
- c. Considering whether to allot additional funds; and
 1. The contractor is entitled by the contract terms to stop work when the Government's limitation of obligation is reached; and
 2. Any costs expended beyond the Government's limitation of obligation are at the contractor's risk.

- d. Upon learning that the contract will receive no further funds, the Contracting Officer shall promptly give the contractor written notice of the Government's decision and terminate for the convenience of the Government.

The Contracting Officer shall ensure that, in accordance with paragraph (b) of AGAR clause 452.232-70, "Limitation of Government's Obligation", sufficient funds are allotted to the contract to cover the total amount payable to the contractor in the event of termination for the convenience of the Government.

SUBPART 432.8--ASSIGNMENT OF CLAIMS

432.805 Procedure.

The information described in FAR 32.805 shall be filed with the Contracting Officer. The Office of the Chief Financial Officer (OCFO) has published procedures on assignment of claims in the OCFO bulletin 20-01 dated 02/28/2020, "Procedures for Processing Assignment of Claims" ([click for link to document](#)).

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 must comply with the DATA Act when using the purchase card as a method of payment. The USDA CFO has directed agencies to comply with the procedures outlined in "Completing DATA Act Award ID on FMMI Direct-Entry Obligations and Expenditures", <https://www.nfc.usda.gov/FSS/Publications/FMS/Bulletins/ocfo-docs/ocfo17-02.pdf> to meet the Act requirements.

Purchase card payments are considered direct entry obligations since they are not obligated via IAS. Until an automated process is implemented, purchase cardholders must report the Procurement Instrument Identifier (PIID) for all payments made with the purchase card that exceed the micro-purchase threshold. Reporting will occur by populating the PIIDs into US Bank's System, AXOL, and FPDS.

Contract payments made outside of IPP when the GPC is used as the payment method is DATA Act reportable without regard to thresholds. For example, if the contract is for \$200,000, and a GPC is used to pay a \$5,000 invoice for the contract, the payment is DATA Act reportable and must reference the PIID.

Convenience Checks and Treasury Checks

Mission Areas and cardholders may not use convenience checks for purchases or payments unless an applicable Treasury check waiver is obtained and the Mission Areas determines that there is no other way, under the circumstances of the required transaction, to accomplish the transaction.

Treasury check waivers can be obtained for the following:

- 31 CFR Part 208.3 Payment by Electronic Funds Transfer (EFT). Sets the requirement that all federal agencies payments are to be made by EFT.
- 31 CFR Part 208.4 Waivers. Defines waivers to 31 CFR Part 208.3 These waivers are very narrowly defined, and most payments do not qualify for a waiver.

Please see the reference above for the full text of the waivers. The following is a synopsis:

Waiver Number	Usage
1	For benefits payments to an individual and does not apply to convenience checks
2	For foreign infrastructure issues and does not apply to convenience checks
3	For a presidentially declared disaster area and does not apply without the declaration
4	For military operation or war, normally does not apply to convenience checks
5	For national security issues, normally does not apply to convenience checks
6	For a one-time payment to a vendor (a second payment by check is not authorized)
7	For unusual, unforeseen, nonrecurring circumstances and compelling urgency and serious injury to the government or sole source vendor and serious injury to the government

Full requirements and definition can be found at:

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title31-vol2/pdf/CFR-2011-title31-vol2-sec208-4.pdf>

The Treasury waiver authority does **NOT** authorize the use of convenience checks for the following:

- Payments when the vendor accepts the VISA Purchase Card for the supplies/services being acquired;
- Contract payments;
- Purchases above the micro-purchase limit as defined in the Federal Acquisition Regulations 2.1;
- Indemnity payments;
- Imprest fund replenishment;
- Vehicle maintenance and repairs;
- Utility payments;
- Telecommunications services, supplies, or equipment in excess of \$10;
- Official Travel; and,
- Local travel (except when reimbursement cannot be made through travel systems, time and attendance systems, or FMMI).

Reminder Regarding the Use of Purchase Cards to Acquire Personal Property Costing \$5,000 or More and Mission Areas-Determined Sensitive Property

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)). The BOC is the identifier that triggers the personal property purchase to be fed over to the Corporate Property Automated Information System-Personal Property (CPAIS-PP) for the Mission Areas to establish property

records in CPAIS-PP. Some Mission Areas prohibit the use of the purchase card to acquire accountable property. Consult your Mission Areas regulations or your Agency Property Management Officer (APMO) for further information. Sensitive property, as defined by your Mission Areas, similarly needs to be addressed.

In order to improve accountability and tracking of assets, as well as support the accuracy of USDA financial statements, procurement personnel are reminded that accurate and timely information regarding the purchase of accountable property with the purchase card needs to be entered into EAS.

Procurement personnel are to ensure that the appropriate BOC is entered into EAS when reconciling a transaction involving the acquisition of accountable property. A BOC Quick Guide for accountable property is available from the USDA Office of the Chief Financial Officer's web site at:

https://www.nfc.usda.gov/FSS/Publications/FMS/SAP_Resources/MasterData/BOC_Personal_Property_Quick_Guide.pdf.

BOCs are normally determined by the cost of each item, not the total amount of an order, unless your budget personnel establish a different criterion for the purchase. Procurement personnel shall also provide any additional purchase information, beyond what is contained in EAS, as needed by property management personnel, to ensure accurate data entry of accountable property into CPAIS-PP. Accountable personal property is defined in the Agriculture Property Management Regulations, Subchapter N, Section 110-50.001-1 as: "all capital leases (this would exclude operating leases for personal property) and all owned personal property having an acquisition cost of \$5,000 or more, and any item valued at less than \$5,000, but determined by an Agency Property Management Officer (APMO) to be sensitive."

Real property is defined in the Agriculture Property Management Regulations, Subchapter N, Section 110-50.001-16 as: "any interest of the United States Government in land, buildings, or structures, including any permanently attached fixtures, appurtenances, and improvements of any kind located thereon. Under no circumstances is real property to be acquired using the purchase card."

Failure to comply with these requirements may result in revocation of purchase card and convenience check privileges, and other administrative actions, as appropriate.

PART 433--PROTESTS, DISPUTES AND APPEALS

SUBPART 433.1--PROTESTS

433.103 Protests to The Agency.

Agency protests shall be entered into the Integrated Acquisition System (IAS) in order to provide USDA-tracking and reporting capability. Non-agency protests are optional, but recommended, to be entered into IAS. Instructions on entering protests can be found in the IAS User Guide, located [here](#).

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.

When a protest is received and there is a request for an independent review, then the HCA will conduct such review. Requests for independent review shall be made in writing to procurement.policy@usda.gov. The responsible MASCO shall provide all necessary documentation to the HCA for review and determination immediately. Independent reviews are available as an appeal of a Contracting Officer decision on a protest. If the HCA had previous personal involvement in the procurement requiring independent review, the SPE or the CAO shall conduct the independent review.

If the Mission Area in receipt of a protest determines it is in the best interest of the government to make award, then the MASCO must first provide a written Justification and Determination in accordance with the FAR Subpart 33.103 to the HCA for approval.

If in receipt of a protest within 10 days after contract award or within 5 days after debriefing date offered to the protest, any resolution must be justified in writing and provided through the MASCO to the HCA for determination and/or approval.

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

434.004 Acquisition Strategy.

- a. The program manager will develop, in coordination with the MASCO 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 MASCO 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 MASCO 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 <https://www.ocio.usda.gov/document/usda-information-technology-capital-planning-and-investment-control-guide>.

SUBPART 434.2—EARNED VALUE MANAGEMENT SYSTEM

Requirement for Use of an Earned Value Management System (EVMS)

Required use of an Earned Value Management System (EVMS) for USDA IT investments enables investment/program managers and senior management to better track the progress of IT investments and enhances USDA's ability to make informed decisions concerning these investments. Earned Value Management (EVM) is a project management technique for measuring project performance and progress in an objective manner. The USDA OCIO has set forth policy, budget justification, and reporting requirements in [DR 3130-006, Information Technology Earned Value Management](#), that apply to all USDA acquisitions that are subject to the use of EVM for major IT capital investments.

434.201 Policy.

Current and relevant Federal policy for the required use of EVM is available in the FAR, [Subpart - 34.2, Earned Value Management System](#) and the OMB Circular A-11, Part 7 and the supplement to Part 7, Capital Programming Guide, v3.0, Supplement to [Circular A-11, Planning, Budgeting, and Acquisition of Capital Assets](#), July 2013. The USDA CIO oversees the agency's IT investments and determines which projects are deemed "major acquisitions" for IT development consistent with FAR Subpart 34.2, Earned Value Management System and OMB-Circular A-11. The Agency MASPM will assist project managers, Contracting Officers, and Contracting Officer representatives with Earned Value Management questions, including whether an EVMS is required for a particular acquisition.

434.203 Solicitation Provisions and Contract Clause.

The determination of whether a solicitation/contract should include a requirement for a contractor to have an EVMS must be coordinated between the IT investment/program manager and the Contracting Officer. Whenever an acquisition includes an EVMS requirement, the acquisition plan must be documented accordingly. For an acquisition that includes a requirement for EVM, the Contracting Officer shall use FAR clauses prescribed in FAR 34.203, Solicitation provisions and contract clause, to place the EVM requirement in solicitations and contracts.

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 \$750,000.00. 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.

Contracting Officers shall immediately discontinue use of the following AGAR clause in all contracts:

1. The clause at AGAR 452.236-75, *Maximum Workweek – Construction Schedule*, and its prescription at AGAR 436.575.
2. Contracting Officers shall continue to use, as appropriate, the FAR clause at 52.236-15, *Schedules for Construction Contracts*, as prescribed in FAR 36.515.

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 in accordance with FAR 23.404(b), and 23.405(b)(2), and any approvals or disapprovals, are 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 MASCO 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 MASCO. The MASCO 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 is \$35,000.00 or more. For these contracts, performance evaluation reports shall be prepared for each order at least annually, and 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

437.200 Scope of Subpart.

A listing of product service codes which are identified as advisory and assistance is available at https://www.acq.osd.mil/dpap/pdi/p2p/improving_transparency_of_procurement_spend.html, and <https://psctool.us/references>.

437.204 Guidelines for Determining Availability of Personnel.

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

437.504 Contracting Official's Responsibilities.

If contract performance requires identification of the contractor's key personnel, Contracting Officials may insert the following language into the Performance Work Statement:

(a) The Contractor shall assign to this contract the following key personnel:

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the

information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

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:
 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 (CIO) 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>.
 5. USDA Program offices shall ensure they provide applicable information, in accordance with OCIO policies, and include the appropriate OCIO and Cybersecurity Supply Chain Risk Management (SCRM) language (found [here](#)) in requirements documents (Performance Work Statement (PWS), Statement of Work (SOW), or Statement of Objectives (SOO)) and incorporate them in the resultant contract action.
- b. Acquisition of on-line courseware libraries and learning management system services requires specific approval of the Assistant Secretary for Administration and CIO.
- c. The Prohibition on Use of the Purchase Card To Acquire Telecommunications is partially removed. USDA purchase cardholders and warranted Contracting Officers up to the lesser of their single purchase limit, or the Acquisition Approval Request (AAR) limit, for IT and telecommunications may acquire or pay for telecommunications services, supplies, or equipment. The purchase card should be used in accordance with all USDA departmental regulations and other Federal regulations regarding the acquisition of telecommunications consistent with the AAR limit for agency/staff offices. Refer to the following link for more information pertaining to USDA Telecommunications Management Policy: <http://www.ocio.usda.gov/policy-directives-records-forms/directives-categories#3000>.

Any purchase of telecommunications must be properly documented according to the USDA budget object classification code (BOC) to ensure proper property, inventory, and financial tracking of purchased items. The BOC Guide may be referenced from the USDA National Finance Center Website:

https://www.nfc.usda.gov/FSS/Publications/FMS/SAP_Resources/MasterData/BOC_Codes.pdf.

“**Telecommunications**,” includes the transmission, emission, or reception of signals, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means. The term includes the telecommunications facilities and equipment necessary to provide telecommunications services. Telecommunications is a component of the Information Resource Management (IRM) delivery system.

“**Telecommunication services**” includes any access services which provide, for a recurring fee, electronic connectivity to the public switched network and those support services which provide for the acquisition, operation, and management of attached systems. Access services include voice and data communications, video conferencing, cellular and paging services, and those services necessary for efficient operation and management of a telecommunications system. Agency private networks which use or aggregate access to a publicly switched network are likewise included.

USDA Mission Areas may use the purchase card to acquire or to pay for telecommunications services, supplies, or equipment. **Except for these prohibitions:**

The purchase card **MAY NOT** be used for the purchase of telecommunications when the following conditions exist:

- a. All directly billed and recurring telecommunication services obligated and committed through a USDA network and/or feeder system designed to manage and track telecommunication expenditures. Examples of these systems include, but are not limited to MetTel, IPAC (Networx or General Services Administration), Treasury Offset Program (TOPS), etc. The government purchase card, however, may be used as the payment tool when appropriate de-obligation of funds commitment has been recorded.
- b. Purchase of telecommunications supplies or services above the single purchase limit or above the warrant level of the purchase cardholder.
- c. Purchase of telecommunications supplies or services above the AAR limit (currently \$25,000) without the approval of the Office of the Chief Information Officer.
- d. USDA Standard Data Visualization Tool – Tableau guidance
- e. The attached memo establishes Tableau as the USDA standard data visualization tool and provides the rationale. It also designates mission area and office dashboard champions as the primary point of contact for reviewing preliminary business cases justifying the use of alternate data visualization tools. Subsequent approvals by the mission area Assistant CIO and USDA OCIO are also required.

Memo is available at <https://www.dm.usda.gov/procurement/policy/docs/Tableau-DataVisualizationStandardGuidance82919.pdf>.

439.105 Privacy.

USDA employees, as well as contractors and grantees acting on behalf of USDA, are reminded that prior to purchasing Unmanned Aerial Systems (UAS) they must first review, and adhere to, the requirements outlined in [Departmental Regulation 3465-002](#).

SUBPART 439.2--ELECTRONIC AND INFORMATION TECHNOLOGY

439.201 Scope of Subpart.

The FAR provides the regulatory instructions necessary to implement Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 (d)), as amended by the Workforce Investment Act of 1998 (P.L. 105-220, August 7, 1998) in solicitations, contracts, and the supporting acquisition files. The FAR focuses attention on the necessity of trained requirements personnel to prepare statements of work that express the procurement requirement including the need for 508 compliant Electronic and Information Technology (EIT). The requirements personnel are responsible for the market research during which the agency determines both whether commercial EIT will be available in time to meet our need and whether providing conforming EIT would be an undue burden. The market survey results are conveyed within the statement of work.

439.203 Applicability.

The Departmental Section 508 Program Office is the authority on the implementation of Section 508 and ensures systematic accountability for the accomplishment of the Section 508 requirements within USDA. USDA employees are required to review DR 4030-001 "Section 508 Program" and the associated Section 508 Reference Manual available at <https://www.ocio.usda.gov/policy-directives-records-forms/section-508>. To provide consistent guidance for USDA employees, working tools to be provided to the requirements officials are accessible at [Sharepoint | Templates](#). The working tools are not considered codified materials. These are guidance documents designed to ease the management of EIT acquisitions.

Acquiring Information Technology - Recommended Language to Comply with Internet Protocol version 6 (IPv6)

Per FAR 11.002(g), 'unless the agency Chief Information Officer waives the requirement, when acquiring information technology using Internet Protocol [IP], the requirements documents must include reference to the appropriate technical capabilities defined in the USGv6 Profile (NIST Special Publication 500-267, available at <http://www.nist.gov/itl/antd/upload/usgv6-v1.pdf>)'. Department policy is also aligned with the Office of Management and Budget (OMB) memoranda Transition Planning for Internet Protocol Version 6 published August 2, 2005 found at <https://georgewbush-whitehouse.archives.gov/omb/memoranda/fy2005/m05-22.pdf>, and Transition to IPv6 published September 28, 2010, found at https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/egov_docs/transition-to-ipv6.pdf, detailing the Federal government's commitment to operational use IPv6.

USDA is reaffirming alignment and commitment to policies set forth by OMB and supported by the USDA Chief Information Officer (CIO), and is providing recommended compliance language to the requirements office to assist the CIO in meeting this requirement. Therefore, it is recommended that the requirements office insert the following compliance language, or its equivalent, tailored appropriately, in the requirements documents (Statements of Work/Performance Work Statements) for all new information technology acquisitions that use IP technology unless the CIO waives the requirement. Any exceptions must be approved by the CIO in writing in

advance of the acquisition and accompany the requirements documents. The requirements office must ensure that the compliance language below is incorporated in the requirements documents for all new IT acquisitions using IP technology to be IPv6 compliant.

Compliance with Internet Protocol version 6 (IPv6) in Acquiring Information Technology

- a. Any system, hardware, software, firmware or networked component (voice, video or data) developed, procured or acquired in support or performance of this contract shall be capable of transmitting, receiving, processing, forwarding and storing digital information across system boundaries utilizing system packets that are formatted in accordance with commercial standards of Internet Protocol (IP) version 6 (IPv6) as set forth in the USGv6 Profile (NIST Special Publication 500-267) and corresponding declarations of conformance defined in the USGv6 Test Program. In addition, this system shall maintain interoperability with IPv4 systems and provide at least the same level of performance and reliability capabilities of IPv4 products:
- b. Specifically, any new IP product or system developed, acquired, or produced must:
 1. Interoperate with both IPv6 and IPv4 systems and products, and
 2. Have available contractor/vendor IPv6 technical support for development and implementation and fielded product management.
- c. As IPv6 evolves, the Contractor commits to upgrading or providing an appropriate migration path for each item developed, delivered or utilized at no additional cost to the Government.
- d. The Contractor shall provide technical support for both IPv4 and IPv6.
- e. Any system or software must be able to operate on networks supporting IPv4, IPv6 or one that supports both.
- f. Any product whose non-compliance is discovered and made known to the Contractor within one year after acceptance shall be upgraded, modified or replaced to bring it into compliance at no additional cost to the Government.

The USDA's Cloud Broker Office (CBO) has developed a centralized portal environment that guides Agencies through the process of establishing and consuming approved and authorized USDA Cloud Solutions. This portal can be found at <https://cloud.ocio.usda.gov/>.

PART 441--ACQUISITION OF UTILITY SERVICES -- RESERVED

PART 442--CONTRACT ADMINISTRATION AND AUDIT SERVICES

442.002 Interagency Agreements.

All contract audit services required by Contracting Officers, except those which can be accomplished in-house, shall be coordinated through the Office of Inspector General (OIG). The OIG will coordinate with the Defense Contract Audit Agency (DCAA), when needed.

SUBPART 442.7—INDIRECT COST RATES

442.708 Quick-Closeout Procedure.

Refer to 404.804, FAR, 42.708, and the Contract Closeout templates located at [Sharepoint | Templates](#).

SUBPART 442.15--CONTRACTOR PERFORMANCE INFORMATION

442.1502 Policy.

Use of CPARS as the Government wide evaluation reporting tool for all past performance reporting is required in accordance with FAR Subpart 42.15 and is mandatory for USDA.

The Office of Federal Procurement Policy (OFPP) issued a memorandum, titled *Making Better use of Contractor Performance Information*, dated July 10, 2014, located [here](#), and *Improving the Use of Contractor Performance Information*, dated July 29, 2009, located [here](#), that require USDA and other agencies to submit their internal procedures for collecting and reporting past performance information. The following procedures shall be used when submitting contractor information into CPARS:

- (1) All acquisition personnel shall establish an account in CPARS **within 30 days** following the receipt of a USDA Contracting Officer's Warrant, or following designation as Contracting Officer, or COR.
- (2) Individuals shall complete the required CPARS system training as soon as the next existing online class is available after establishing a CPARS account but not later than **60 days** after designation as applicable personnel. The CPARS training is available on the CPARS website, under the *Learning Center* menu, and it is offered by function and role. See 401.601-71 for additional information pertaining to required CPARS training.

The following responsibilities shall be managed as follows:

1) MASCO Responsibilities

The MASCO will designate individual(s) to serve as the CPARS Focal Point (and Alternate Focal Point, if required) for his/her contracting activity. Once individuals receive access into the CPARS, the MASCO will notify the Procurement Policy Division by email at procurement.policy@usda.gov to update the CPARS Focal Point list on the USDA Procurement homepage at:

- I. Each MASCO shall ensure his/her contracting personnel complete applicable training within required timelines.
- II. MASCOs may issue additional internal agency procedure on CPARS guidance to program officials and acquisition workforce members as long as it does not conflict with department or federal CPARS policy guidance.

2) CPARS Agency Contracting Activity Focal Point Responsibilities

Within the CPARS portal, a Focal Point is responsible for registering Assessing Official and Assessing Official Representative (AOR) users in the system, adding Contract Offices for their organization, registering applicable contract actions and creating Access Matrices for their organization. The following are responsibilities of the Focal Point(s) within CPARS. The Focal Point(s) shall:

- I. Request access/register as Focal Point within **30 days** of appointment at the following website: <https://cpars.gov/access.htm>.
- II. Assign Alternate Activity Focal Point(s) as necessary.
- III. Provide system access to Agency users.

- IV. Refer issues to the USDA Office of Contracting and Procurement, Procurement Policy Division (PPD) as necessary by emailing procurement.policy@usda.gov.
- V. Register applicable contract actions identified by CO's as well as those listed on CPARS Auto Registration Report.
- VI. Create/update CPARS Contract Action Access Matrices for each applicable contract action upon receipt of CPARS registration request from the CO.

3) Assessing Official (AO) responsibilities

The AO, typically the Contracting Officer, is responsible for evaluating contractor performance and for validating the proposed ratings and remarks entered by the AOR, if assigned. Within the CPARS portal, the AO has "signature" authority and is allowed to forward assessments to the Contractor Representative for review and comment. The following are responsibilities of the AO within CPARS. The AO shall:

- I. Ensure each applicable contract action is registered **within 30 days** after contract award.
- II. Ensure Contract Access Matrix is created via the Agency Focal Point **within 14 days** after registration of the contract, task order or delivery order in CPARS. Required Matrix information shall include at a minimum:
 - a. Contract number;
 - b. Contractor Representative(s) name(s), email(s), phone(s);
 - c. RO name, email, phone;
 - d. AOR (i.e. CS, COR/COTR), if assigned, name(s), email(s), phone(s);
 - e. AO (i.e. CO) name, email, phone;
 - f. Period of performance; and
 - g. Contract action award amount.

NOTE: It is the AO's responsibility to request the Access Matrix be updated by the Agency Focal Point should any contact information (i.e., AO, AOR, RO, and Contract Representative) change during the period of performance.

- I. Ensure meaningful communication and feedback on performance is exchanged between the AO, AOR and Contractor Representative throughout contract performance; obtain documentation for contract file and for use in CPARS evaluations.
- II. Ensure an evaluation is initiated in CPARS within **14 days** of Contract completion (or of annual interim anniversary). If the contract action was properly registered (and an Access Matrix created) upon award, CPARS will automatically notify the AO and AOR via email when an evaluation is due.
- III. Submit the evaluation in CPARS to the Contractor's point of contact for review/comment within **30 days** of Contract completion (or annual interim anniversary).

NOTE: The Contractor shall have 60 days to review and submit comments on any evaluation; however, the evaluation will upload to the View Performance Records module in CPARS) within 14 days following the AO's signature on the initial evaluation.

- IV. Elevate the Contractor Representative do no concur response and comments to the Reviewing Official and respond to comments within **30 days** of receipt. Ensure contract file includes documentation of the final rating determination,
- V. Finalize all evaluations in CPARS **not later than 120 days** after Contract completion (or annual interim anniversary) date.
- VI. Review Compliance Assessment Reports, initiate required actions for his/her contract actions, and provide status updates to Agency Focal Point(s) (see Paragraph 6).

4) Assessing Official Representative (typically Contract Specialist or COR) responsibilities:

Within the CPARS portal, the AOR initiates and updates performance assessments, but **does not** have the authority to send the assessment to the Contractor Representative or to finalize an assessment. The following are responsibilities of the AOR within CPARS. The AOR shall:

- I. Provide narrative for the ratings and comment sections of the evaluation.
- II. Submit ratings and comments into CPARS for applicable contract actions **within 14 days** from the date of the email message request generated by the CPARS.
- III. Address Contractor rebuttal comments, if received, as requested by CO.

5) Reviewing Official (RO) responsibilities:

When there is a disagreement between the AO and Contractor Representative, the RO (typically one level above AO) is the official responsible for ensuring the evaluation is a fair and accurate evaluation of the Contractor's performance. The following are responsibilities of the RO within CPARS. The RO shall:

- i. Review both parties' supporting documentation in the event of a disagreement between the AO and the Contractor Representative in the ratings assigned.
- ii. Return the evaluation to the AO within the CPARS system if additional detail and/or clarification is required.
- iii. Make a final rating determination and enter comments in "Reviewing Official Comments" field in CPARS.
- iv. Validate and close all evaluations elevated for RO determination **not later than 120 days** after Contract completion (or annual interim anniversary) date.

The final evaluation process encompasses the following steps:

1) Evaluation Initiation, Rating Assessment & Review Process:

- i. The AO shall submit a request for the Agency Focal Point(s) to create an Access Matrix for registered contract actions within **14 days** of registration.
- ii. The AO shall ensure the Agency Focal Point(s) registers all applicable contract actions into CPARS within **30 days** of award.
- iii. The AOR (or AO if no AOR is assigned) shall initiate a "Final" evaluation in CPARS **within 14 days** of contract completion upon receipt of system-generated email notification indicating evaluation is due.
- iv. The AO shall review evaluation ratings and comments and discuss with the AOR, if needed, for clarification or in the event of discrepancies.
- v. The AO shall forward the evaluation to the Contractor in the CPARS portal **not later than 30 days** after contract completion date.
- vi. The system will notify the Contractor via email to review the evaluation information. As a best practice, it shall be the policy of USDA that the AO shall also follow up with an email message or phone call to confirm that the Contractor received the evaluation information.

2) Contractor's Review & Rebuttal Submission Process:

- i. The Contractor has **60 days** to submit comments, rebutting statements, or additional information to the AO. If no comments are received by 61 days after the date CPARS provided notification to the Contractor that the evaluation was available for review, the evaluation will be locked by the system and no longer available for comment to the Contractor.
- ii. If the Contractor provides a rebutting statement prior to Day 61, the AO will discuss the Contractor's comments with the AOR (if applicable) within **14 days** after receipt from the Contractor. The AO shall notify the AOR of any changes made or information added to the evaluation. Disagreements in the

evaluation between the parties shall be resolved by the AOR at a level above the AO in accordance with FAR 42.1503(d).

The AO shall finalize the evaluation into CPARS within **30 days** of receipt of the Contractor's statements, or not later than 120 days from contract completion (or annual anniversary date for interim evaluations).

SUBPART 442.70—CONTRACTING OFFICER REPRESENTATIVE (COR)

CORs are the “eyes and ears” of the contracting officer and should assist with technical monitoring, contract administration, and provide contractor surveillance to ensure performance requirements are met. COs are responsible for ensuring that contract services conform to requirements based on recommendations from the COR and should reject nonconforming services. They may require the contractor to re-perform nonconforming services, with no increase on fixed-price contracts or fee on cost-reimbursable contracts. When re-performance cannot correct issues, COs may reduce the contract price or fee based on the reduced value of services not properly performed, per FAR 52.246-4 or 52.246-5.

PART 443--CONTRACT MODIFICATIONS

SUBPART 443.1--GENERAL

443.102 Policy.

- a. 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.
- b. If a time extension was granted on a contract, negotiate a price reduction or another form of consideration.
- c. When negotiating the reduction, calculate additional Contracting Officer (CO) and COR costs; include travel expenses to administer the contract and any direct costs incurred to the government due to the time extension.
- d. Contracting Officers have authority to grant time extensions but may not delegate this authority to others.
- e. The COR reviews the written requests from the contractor; ensures requests specify the length of time, and the stated circumstances warrant an extension.
- f. 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 to the CO any written notification from the contractor, which indicates the contractor considered an oral order to be a change. The CO will determine if the change was an unauthorized commitment. If resulting in an unauthorized

commitment, the CO will follow the procedures for Ratification of Unauthorized Commitments in section 401.602-3.

PART 445--GOVERNMENT PROPERTY

SUBPART 445.1—GENERAL

445.103 General.

See Section 404.804 for Contract Closeout Procedures.

PART 446 – QUALITY ASSURANCE

SUBPART 446.7—WARRANTIES

446.710 Contract Clauses.

The use of a warranty clause is approved for USDA.

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 determination of the facts shall be submitted by the MASCO to the Office of Inspector General (OIG). Copies of documents or other information connected with the suspected fraud or criminal conduct shall be provided with the determination. Concurrently, a copy of the determination shall also be submitted to the HCA.
- b. Depending on the findings of the OIG, the HCA may initiate suspension or debarment action as prescribed in FAR 9.4 and PGI 409.4.

449.111 Review of Proposed Settlements.

Proposed settlement agreements shall be reviewed and approved by the MASCO.

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 -- RESERVED

PART 453--FORMS

453.000 Scope of part.

This part: (a) Prescribes USDA (AD) forms for use in acquisition, and (b) Contains requirements and information generally applicable to AD forms.

SUBPART 453.1--GENERAL

453.103 Exceptions.

a. The contracting officer shall submit a request for exceptions to forms prescribed in FAR Part 53 through their HCA to the SPE for referral to the GSA.

b. Requests for exceptions to AD forms prescribed in Part 453 shall be handled as individual or class deviations, as appropriate (see Subpart 401.4).

453.108 Recommendations Concerning Forms.

MASCOs shall submit recommendations for new forms or to revise, eliminate, or consolidate forms prescribed by FAR 53 and Part 453 through the Procurement Policy Division to the SPE.

SUBPART 453.2—PRESCRIPTION OF FORMS

453.270 Request for Contract Action (AD-700).

Form AD-700, "Procurement Request", may be used as a contract requisition document by contracting activities in USDA.

Form AD-1205, "USDA Small Business Program – Procurement Request Review", is used in accordance with DR 5090-001, found [here](#).

SUBPART 453.3 FORMS USED IN ACQUISITIONS

453.300 Listing of Standard, Optional, and Agency Forms.

Forms are not illustrated in the Federal Register or Code of Federal Regulations (CFR). Individual copies may be obtained from your USDA contracting activity.

USDA OCP templates found at <https://www.dm.usda.gov/procurement/policy/templates.htm> and [Sharepoint | Templates](#) may be modified for individual Mission Area use. Fields and content required per the FAR, AGAR, or USDA Contracting Desk Book shall remain unchanged.

Forms issued by other offices, including GSA, USDA OCIO, etc., may not be modified. USDA “AD” forms may be found [here](#). Contact the OCP Procurement Policy Division at procurement.policy@usda.gov for recommendations or requests for revisions.

PGI APPENDIX A – TEMPLATES

The following list of templates are located at [Sharepoint | Templates](#), unless otherwise noted, and are used for standardization in USDA acquisitions.

Template Name	Desk Book Reference	Format
Acquisition Plan Abbreviated Acq Plan	PGI 407	Word
Acquisition Plan Acquisition Strategy – Acquisition Plan	PGI 407	Word
Acquisition Plan Formal Acquisition Plan	PGI 407	Word
Acquisition Plan Requirements Plan	PGI 407	Word
Acquisition Planning Decision Memo	PGI 407	Word
Acquisition Process Roles and Responsibilities	PGI 401.670	PDF
Announcement of Contract Award	PGI 405.303	PDF
Award Fee Determination and Findings, PPD Templates	PGI 416, Appendix B	Word
Biobased (BioPreferred) Quick Reference Guide for Contracting Officers	PGI 423.405	PDF
Blanket Tax Exempt Certificate	429.302	PDF
Contract Closeout Template A, Completion Statement and Closeout Checklist	PGI 404.804	PDF
Contract Closeout Template B, COR Closeout Certification	PGI 404.804	PDF
Contract Closeout Template B, COR Closeout Memo	PGI 404.804	PDF
Contract Closeout Template C, Contractor Release of Claims	PGI 404.804	PDF
Contract Closeout Template D, Deobligation Memo to OCFO	PGI 404.804	PDF
Contract Closeout Template List	PGI 404.804, 442.7	PDF
Debriefing Guidance	PGI 415.5	Word
Decision Memo for Acq Plan	PGI 407.104	Word
Delegation Matrix	PGI 401.601-70, Appendix C	PDF
Designation of Contracting Officer’s Representative	PGI 401.602-2	Word
Designation of Contracting Officer’s Representative Instructions	PGI 401.602-2	PDF
Determination and Findings and Authority to Use Letter Contracts, PPD Templates	PGI 401.601	Word
Determination and Findings for T&M and LH Contracts, PPD Templates	PGI 401.601, 416.1 Appendix B	Word
Determination to Use FFP LOE Contract for Solicitation, PPD Templates	PGI 407.104, 416.1 Appendix B	Word
FAC-C Experience (OJT Toolkit)	PGI 401.601-72	Excel
FAC-PPM, Employee Self-Assessment Application (Entry)	PGI 401.601-72	PDF
FAC-PPM, Employee Self-Assessment Application (Mid)	PGI 401.601-72	PDF
FAC-PPM, Employee Self-Assessment Application (Senior)	PGI 401.601-72	PDF
FAC-PPM-IT, Employee Self-Assessment Application	PGI 401.601-72	PDF
FAR 13, Single Source or Brand Name Justification Less Than SAT	PGI 413.106	Word
FAR 13.5, Single Source or Brand Name Justification Exceeding SAT	PGI 413.501	Word

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

Template Name	Desk Book Reference	Format
FAR 16.505, Justification for Exception for Fair Opportunity or Brand Name	PGI 401-601.70, 416.5	Word
FAR 6.302, Justification for Other Than Full and Open Competition	PGI 406.3	Word
FAR 8.4, Limited Sources Justification Exceeding SAT	PGI 408.405-6	Word
FAR 8.4, Limited Sources Justification Less Than SAT	PGI 408.405-6	Word
FPDS Data Quality Plan	PGI 404.602	Word
J&A Template Decision Matrix		Word
Nomination of Contracting Officer's Representative (COR)	PGI 401.602-2	PDF
Prenegotiation Memorandum, PPD Templates	PGI 415.406-1	Word
Proposal Cover Sheet	PGI 415.2	Word
Requirements Plan (Non-IT Supplies, Services and Construction) <i>{Optional in IAS}</i>	PGI 407	Word
Sample Independent Government Cost Estimate (IGCE)		Excel
Sample Performance Work Statement		Word
Sample Proposal Evaluation Criteria		Word
Sample Quality Assurance Surveillance Plan		Word
Sample Statement of Objectives		Word
Sample Statement of Work		Word
SAP Summary Worksheet	PGI 413.106-3	Word
Service Contract Labor Standards Exemption Documentation	PGI 422.10	Word
Source Selection Decision Document, PPD Templates	PGI 415.3	Word
Source Selection Evaluation Board Agreement	PGI 415.207	Word
Source Selection Plan Template, PPD Templates	PGI 415.3	Word
UAC Contracting Officer's Determination & Findings for Ratification, Attachment 2	PGI 401.602-3	PDF
UAC Request to Ratify an Unauthorized Commitment, Attachment 1	PGI 401.602-3	PDF
USDA Blank Powerpoint Template		PPT
Warrant Appointment Request	PGI 401.603	PDF
Warrant Waiver Request	PGI 401.601	PDF

PGI APPENDIX B- Contract Types

DAU, 2/1/2020 at <https://www.dau.edu/tools/t/Comparison-of-Major-Contract-Types-Chart>

	Firm-Fixed-Price (FFP)	Fixed-Price Economic Price Adjustment (FPEPA)	Fixed-Price Incentive Firm Target (FPIT)	Fixed-Price Award-Fee (FPAF)	Fixed-Price Prospective Price Redetermination (FP³R)	Cost-Plus-Incentive-Fee (CPIF)	Cost-Plus-Award-Fee (CPAF)	Cost-Plus-Fixed-Fee (CPFF)	Cost or Cost-Sharing (C or CS)	Time & Materials (T&M)
Principal Risk to be Mitigated	None. Thus, the contractor assumes all cost risk.	Unstable market prices for labor or material over the life of the contract.	Moderately uncertain contract labor or material requirements.	Risk that the user will not be fully satisfied because of judgmental acceptance criteria.	Costs of performance after the first year because they cannot be estimated with confidence.	Highly uncertain and speculative labor hours, labor mix, and/or material requirements (and other things) necessary to perform the contract. The Government assumes the risks inherent in the contract, benefiting if the actual cost is lower than the expected cost, or losing if the work cannot be completed within the expected cost of performance.				
Use When . . .	The requirement is well-defined. <ul style="list-style-type: none"> Contractors are experienced in meeting it. Market conditions are stable. Financial risks are otherwise insignificant. 	The market prices at risk are severable and significant. The risk stems from industry-wide contingencies beyond the contractor's control. The dollars at risk outweigh the administrative burdens of an FPEPA.	A ceiling price can be established that covers the most probable risks inherent in the nature of the work. The proposed profit sharing formula would motivate the contractor to control costs and to meet other objectives.	Judgmental standards can be fairly applied by the fee determining official. The potential fee is large enough to both: <ul style="list-style-type: none"> Provide a meaningful incentive.¹ Justify related administrative burdens. 	The Government needs a firm commitment from the contractor to deliver the supplies or services during subsequent years. The dollars at risk outweigh the administrative burdens of an FPRP.	An objective relationship can be established between the fee and such measures of performance as actual costs, delivery dates, performance benchmarks, and the like.	Objective incentive targets are not feasible for critical aspects of performance. Judgmental standards can be fairly applied. Potential fee would provide a meaningful incentive.	Relating fee to performance (e.g., to actual costs) would be unworkable or of marginal utility.	The contractor expects substantial compensating benefits for absorbing part of the costs and/or foregoing fee or the vendor is a non-profit entity.	No other type of contract is suitable (e.g., because costs are too low to justify an audit of the contractor's indirect expenses).
Elements	A firm-fixed-price for each line item or one or more groupings of line items.	<ul style="list-style-type: none"> A fixed-price, ceiling on upward adjustment, and a formula for adjusting the price up or down based on: <ul style="list-style-type: none"> Established prices. Actual labor or material costs. Labor or material indices. 	<ul style="list-style-type: none"> Ceiling price Target cost Target profit Delivery, quality, or other performance targets (optional) Profit sharing formula 120 % ceiling and 50/50 share are points of departure 	<ul style="list-style-type: none"> Fixed-price. Award amount Award fee evaluation criteria and procedures for measuring performance against the criteria 	<ul style="list-style-type: none"> Fixed-price for the first period. Proposed subsequent periods (at least 12 months apart). Timetable for pricing the next period(s). 	<ul style="list-style-type: none"> Target cost A minimum, maximum, and target fee A formula for adjusting fee based on actual costs and/or performance Performance targets (optional) 	<ul style="list-style-type: none"> Estimated cost Base amount, if applicable, and an award amount Award fee evaluation criteria and procedures for measuring performance against the criteria 	<ul style="list-style-type: none"> Estimated cost Fixed fee 	<ul style="list-style-type: none"> Total estimated cost No fee If CS, an agreement on the Government's share of the cost. 	<ul style="list-style-type: none"> Ceiling price A per-hour labor rate that also covers overhead and profit Provisions for reimbursing direct material costs
Contractor is Obligated to:	Provide an acceptable deliverable at the time, place and price specified in the contract.	Provide an acceptable deliverable at the time and place specified in the contract at the adjusted price.	Provide an acceptable deliverable at the time and place specified in the contract at or below the ceiling price.	Perform at the time, place, and the price fixed in the contract.	Provide acceptable deliverables at the time and place specified in the contract at the price established for each period.	Make a good faith effort to meet the Government's needs within the estimated cost in the Contract, Part I the Schedule, Section B Supplies or services and prices/costs.			Make a good faith effort to meet the Government's needs within the ceiling price.	

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.2

	Firm-Fixed-Price (FFP)	Fixed-Price Economic Price Adjustment (FPEPA)	Fixed-Price Incentive Firm Target (FPIT)	Fixed-Price Award-Fee (FPAF)	Fixed-Price Prospective Price Redetermination (FP²R)	Cost-Plus-Incentive-Fee (CPIF)	Cost-Plus-Award-Fee (CPAF)	Cost-Plus-Fixed-Fee (CPFF)	Cost or Cost-Sharing (C or CS)	Time & Materials (T&M)
Contractor Incentive (other than maximizing goodwill) ¹	Generally realizes an additional dollar of profit for every dollar that costs are reduced.	Generally realizes an additional dollar of profit for every dollar that costs are reduced.	Realizes profit on cost by completing work below the ceiling price. May earn higher profit by incurring costs below the target cost or by meeting objective performance targets.	Generally realizes an additional dollar of profit for every dollar that costs are reduced; earns an additional fee for satisfying the performance standards.	For the period of performance, realizes an additional dollar of profit for every dollar that costs are reduced.	Realizes a higher fee by completing the work at a lower cost and/or by meeting other objective performance targets.	Realizes a higher fee by meeting judgmental performance standards.	Realizes a higher rate of return (i.e., fee divided by total cost) as total cost decreases.	If CS, shares in the cost of providing a deliverable of mutual benefit.	
Typical Application	Commercial supplies and services.	Long-term contracts for commercial supplies during a period of high inflation.	Production of a major system based on a prototype.	Performance-based contracts.	Long-term production of spare parts for a major system.	Research and development of the prototype for a major system.	Large scale research study.	Research study.	Joint research with educational institutions.	Emergency repairs to heating plants and aircraft engines.
Principal Limitations in FAR/DFARS Parts 16, 32, 35, and 52 ²	Generally NOT appropriate for R&D.	Must be justified.	Must be justified. Must be negotiated. Contractor must have an adequate accounting system. Cost data must support targets.	Must be negotiated.	MUST be negotiated. Contractor must have an adequate accounting system that supports the pricing periods. Prompt redeterminations.	The contractor must have an adequate accounting system. The Government must exercise surveillance during performance to ensure use of efficient methods and cost controls. Must be negotiated. Must be justified. Statutory and regulatory limits on the fees that may be negotiated. Must include the applicable Limitation of Cost clause at FAR 52.232-20 through 23.			D&F required (w/ HCA if over 3 years). Government MUST exercise appropriate surveillance to ensure efficient performance. Document any ceiling increases.	
Variants	Firm-Fixed-Price Level-of-Effort.		Successive Targets (FPIS), with ceiling and floor on firm target profit.		Retroactive Redetermination			Completion or Term.		Labor Hour (LH)

PGI APPENDIX C – DELEGATION MATRIX

All references included in the matrix refer to the Federal Acquisition Regulation (FAR). The USDA Acquisition Regulation (AGAR) and the USDA Contracting Desk Book (PGI) are organized in the same manner as the FAR and should be viewed for USDA specific guidance related to the referenced section. When the approver is higher than MASCO (HCA, SPE, etc.), approvals should be routed through the MASCO. The Delegation Matrix may also be found [here](#).

FAR Reference	Scenario/Situation	Approver
1.403(a)	Authorize AGAR deviations.	HCA
1.602-3	Ratification authority (with reporting to HCA).	MASCO
1.603	Warrant selection, appointment, and termination; signatory for all Warrant Appointment Requests. Note: MASCO warrant requires HCA approval.	MASCO
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.	MASCO
3.104-7(a)(1)	CO receives information of a violation or possible violation must determine if the violation has any impact on the pending award or selection of contractor. If no impact, determination provided to HCA for signature. This authority is not delegable below SES.	HCA
3.602	Authorize exceptions to award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This authority is not delegable.	HCA
3.704(c)	Consider further actions in case of final conviction of violation relating to a contract.	MASCO
3.1104(b)	May impose conditions that provide mitigation of a personal conflict of interest or grant a waiver. This authority is not delegable.	HCA
4.604(a)	Coordinate with SPE to ensure accuracy of Federal Procurement Data System (FPDS) reporting.	HCA
4.605(c)(2)(iii)	Use of generic entity identifier when public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services.	CO
4.2104(a)(3)(ii)(A)	Determination for prohibition on Contracting with Certain Telecommunications and Video Surveillance Services or Equipment due to an emergency condition.	CO
5.102(a)(5)(iii)	Exception to posting on GPE.	SPE
5.502(a)	Authorize publication of paid advertisements in newspapers (44U.S.C. 3702).	MASCO
6.202(a)	Exclusion of a source from a contract action.	SPE
6.304(a)(3)	Approve justification for other than full and open competition for a proposed contract over \$13.5 million, but not exceeding \$75 million. This authority is not delegable below SES.	HCA
6.501	Designate Competition Advocate.	MASCO
7.103	Agency Head designee responsibilities for planning.	MASPM
7.107-2(a)	Consolidation is necessary and justified.	SPE/OSDBU
7.107-3(a)	Bundling is necessary and justified.	Deputy Sec
7.107-4(b)(5)	Substantial bundling is necessary and justified.	Deputy Sec
7.108	Telecommuting by contractor employees prohibited.	CO
7.503(e)	Determination that none of the functions to be performed are inherently governmental.	CO
8.404(h)(3)(ii)(A)	Use of a Time and Material or Labor-Hour order for commercial services if total performance period is less than three years.	CO
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.	MASCO
8.405-1(d)(3)(ii)	Fewer than 3 quotes received from schedule contractors that can fulfill the requirement for supplies and services without a scope of work, and include efforts made to obtain quotes.	CO
8.405-2(c)(3)(iii)(B)	Fewer than 3 quotes received from schedule contractors that can fulfill the requirement for services with a statement of work, and include efforts made to obtain quotes.	CO
8.405-6(b)(3)(ii)(C)	Access through e-Buy is not in the Government's interest.	SPE

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

FAR Reference	Scenario/Situation	Approver
8.405-6 (d)(3)(i)	Approve limiting sources for a proposed order or BPA with an estimated value exceeding \$15 million, but not exceeding \$75 million. This authority is not delegable below SES.	HCA
8.602(a)(2)	Comparison of Federal Prison Industries price, quality and time of delivery to supplies available from the private sector.	CO
9.105-2(a)	Determination of non-responsibility.	CO
9.202(b)	When it's unreasonable to specify the standards for qualification that must be met. 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.	Requiring Under Secretary
9.405-1(a)(2)	Request approval to continue contract or subcontract with a contractor debarred, suspended or proposed for debarment.	MASCO
9.405-2(a)	Request approval to continue subcontract with a subcontractor debarred, suspended or proposed for debarment.	MASCO
9.503	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 designee). This authority is not delegable below HCA.	HCA
9.506(d)(3)	Approve or direct action resolving a conflict of interest or potential conflict before award.	MASCO
10.002(e)	Ensure appropriate market research documentation.	MASCO
11.101(b)	Submit the determination required by OMB circular A-119 that a voluntary consensus standard is inconsistent with law or otherwise impracticable.	MASCO
11.103(a)	Determine offerors demonstrate the market acceptability of the items to be offered.	MASCO
12.101	Ensure compliance with commercial products and commercial services policy.	MASCO
12.302(c)	Approve waivers to tailor provisions and clauses.	MASCO
13.303-5(b)	Use of a BPA call greater than the commercial products and commercial services simplified acquisition threshold.	HCA
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.	MASCO
14.202-4(c)	State the reasons why acceptable products cannot be acquired without the submission of bid samples.	CO
14.202-5(b)	State the reasons why product acceptability cannot be determined without the submission of descriptive literature.	CO
14.404-1(c), (e)(1)	Cancellation of invitations after opening and rejection of all bids.	Level above CO
14.407-3(a)(b)(d)	Permit bidder to correct a mistake (as AH designee). This authority is not delegable.	HCA
15.204	Exempt contracts from the uniform contract format.	HCA
15.303(a)	Appoint source selection authorities other than the CO.	MASCO
15.305(a)(4)	Establish procedures regarding the release of cost information to members of the technical evaluation team.	MASCO
15.403-1(c)(4)	Waive the requirement for submission of cost or pricing data in exceptional cases. This authority is not delegable.	HCA
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	MASCO
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. This authority is not delegable.	HCA
15.404-1(h)(2)(ii)	The contracting approach selected is in the best interest of the Government and the basis for the determination.	CO
15.407-1(d), 42.1503(h)	Defective certified cost or pricing data submitted and relied upon, and any corrective action taken.	CO
15.606(b)	Establish a point of contact for unsolicited proposals	MASCO
16.203-3	Use of a fixed-price contract with economic price adjustment.	CO
16.203-4(d)(2)	Approve use of EPA clause.	HCA
16.206-3(d)	Approve use of fixed-ceiling-price contracts with retroactive price redetermination. This authority is not delegable below HCA.	HCA
16.401(d)	Approve use of incentive and award-fee contracts.	MASCO
16.401(e)(2)	Designate the Fee Determining Official (if other than CO) to make the final award fee determination.	HCA
16.504(c)(1)(ii)(D)(1)	Task or delivery order against an Indefinite Quantity contract exceeding \$100M, including all options.	Head of Agency
16.505(b)(2)(ii) (C)(3)(i)	Approve exception to fair opportunity for a proposed order exceeding \$15 million, but not exceeding \$75 million. This authority is not delegable below SES.	HCA

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

FAR Reference	Scenario/Situation	Approver
16.505(b)(8)	Designate a task order ombudsman.	MASCO
16.601(d)(1)	Approve use of time and materials contract or order. Approved by HCA when base and option periods exceeds 3 years.	CO/HCA
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.	MASCO
16.603-2(c)	Extend the period for defining a letter contract required by FAR 16.603-2(c).	HCA
16.603-3	Approve use of a letter contract.	MASCO
17.202(a)	Use of options.	CO
17.204(e)	Approve contracts which exceed the five-year limitation.	MASCO
17.206(b)	Not evaluating offers for option quantities.	Level above CO
17.207(f)	Exercise of options.	CO
17.502-2(c)	Economy Act order to obtain supplies or services by interagency acquisition. Notify HCA prior to execution.	CO
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. This authority is not delegable.	HCA
18.2	Use acquisition flexibilities.	HCA
19.201(b)	Implementing the small business programs.	MASCO
19.201(d)	Designate a Small Business Coordinator.	MASCO
19.306,307,308(h)(1)(ii) & (h)(3)	Award after receipt of protest of offeror's status but before SBA decision.	CO
19.306,307,308(i)(3)(i) & (i)(5)(i)	Protest sustained but termination is not in the best interest of the Government.	CO
19.502-3(a)(4), 19.502-4(a)(4)	Authorize a partial set-aside if only two responsible offerors are expected.	MASCO
19.502-8(a)	Rejecting the Small Business Administration's recommendation.	MASCO
19.502-8(f)	Justification to continue action on an acquisition pending SBA's decision, including a notice to the SBA.	CO
19.506(b)	Rationale for not accepting the recommendation made by OSDDBU.	MASCO
19.602-3(a)(3)&(4)	Appeal issuance of a Certificate of Competency (COC) to SBA.	HCA
19.705-2(c)	Rationale for not including a subcontracting plan.	Level above CO
19.810(b)(2)	Justification to continue action on an acquisition after receipt of SBA's appeal, or intent to appeal, but before agency head determination.	CO
19.816(b)	Issuing a new 8(a) contract to an 8(a) contractor that is suspended from the 8(a) program. Requires SBA approval.	SPE
19.1305(d)(2), 19.1405(d), 19.1505(g)(3)	Award after receipt of notice of SBA's intent to appeal the CO's decision to reject the SBA's recommendation.	MASCO
22.101-1(e)	Designate programs or requirements when contractors must notify the Government of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.	MASCO
22.302	Review determination of liquidated damages.	MASCO
22.404-6(b)(6)	Request an extension from Department of Labor Administrator.	MASCO
22.406-8(d)(1)	Report violations of labor standards.	HCA
22.604-2(b)(1)	Prepare exemption request for ASA signature.	MASCO
22.8	Perform tasks in this subpart as defined by the AGAR.	MASCO
22.805(a)(8)	Justification for award when a pre-award evaluation by the Office of Federal Contract Compliance Programs (OFCCP) cannot be completed by the required date.	MASCO
22.807(a)(1)	Exemption to EO 11246. MASCO submits to the HCA.	MASCO
22.1003-4(c)(3)(ii)	Specify offeror's applicable exemption to the Service Contract Labor Standards statute.	CO

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

FAR Reference	Scenario/Situation	Approver
22.13	Perform tasks in this subpart as defined by the AGAR. Submit waivers to the SPE for referral to the ASA.	MASCO
22.14	Perform tasks in this subpart as defined by the AGAR. Submit waivers to the SPE for referral to the ASA.	MASCO
22.1802(d)	Waive E-Verify requirement. This authority is not delegable.	HCA
23.405(b)(2)	When an exemption is used for an EPA-designated item or the procurement of a product containing recovered material does not meet or exceed the EPA recovered material content guidelines.	CO
23.601(d)	Establish instructions to identify a protection officer.	HCA
25.103(b)(2)(i)	Exceptions to the Buy American statute, supplies.	HCA
25.105	Use of higher evaluation factors.	Head of Agency
25.202(a)(2)	Exceptions to the Buy American statute, construction.	HCA
25.202(b), 25.603(b), 25.604(c)	Use of certain foreign construction materials may be used without regard to the Buy American statute or Section 1605 of the Recovery Act, with a list of the excepted materials.	CO
25.602(b)	This authority is not delegable.	Secretary
25.1001(a)(2)(iii)	Use of 52.212-5, Alt I or 52.215-2, Alt III in negotiated contracts with foreign contractors, with concurrence of Head of Agency and Comptroller General when applicable per FAR.	MASCO to SPE
26.203(b)	Exception to transitioning awards for response, relief and reconstruction to local firms.	Head of Agency
26.204(a)	Expenditure of Federal funds under an emergency response contract not awarded to a local firm.	CO
27.306(a) and (b)	Allow the Government to require the licensing to third parties of inventions owned by the contractor.	HCA
27.404-5(a)(2)(ii)(B)	Approve final determination regarding unauthorized, omitted, or incorrect markings.	MASCO
28.102-2(b)(2)(i)	Payment bond in the amount required by the FAR is impractical.	CO
28.105	Approve using other types of bonds in connection with acquiring particular supplies or services.	MASCO
28.106-2(a)	Approve substitution of bonds.	MASCO
28.106-6(c)	Furnish certified copy of bonds.	MASCO
28.204	Establish procedures to ensure protection and conveyance of deposited securities.	MASCO
30.201-5	Request a waiver of the CAS requirement. This authority is not delegable.	HCA to SPE
31.101	Give advance approval of an individual deviation concerning cost principles. HCA submits to the SPE.	SPE
31.205-46(a)(3)(ii)	Actual costs in excess of the maximum per diem rates are allowable, provided that they do not exceed amounts authorized for Federal civilian employees.	MASCO
32.003	Approve contract financing for SAP contract.	MASCO
32.007(a)(3)	Prescribe a shorter period for financing payments.	MASCO
32.006-4(g)	Decision to reduce or suspend payments based on the agency's remedy coordination official's recommendation.	HCA
32.102(e)(2)	Authorize progress payments based on a percentage or stage of progress, given that: progress payments based on costs cannot be employed practically and adequate safeguards are provided for the administration of progress payments based on a percentage or stage of completion.	HCA
32.113	Customary contracting financing is needed.	CO
32.114	Approve unusual contract financing.	HCA
32.202-1(d)	Authorization for unusual contract financing.	MASCO
32.402(c)(1)(iii), 32.410	Authorization for advance payments.	HCA
32.406	Coordinate on letters of credit.	HCA
32.407(d)	Authorize advance payments without interest.	HCA
32.501-2(a)(3)	Approve unusual progress payments.	MASCO
32.803(d)	Inclusion of a no-setoff commitment and posted in the Federal Register.	MASCO
32.904(b)(1)(ii)(B)(4)	Justification to extend the constructive acceptance period beyond 7 days for other than commercial contracts.	CO

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

FAR Reference	Scenario/Situation	Approver
32.904(c)(2)	Justification to extend the constructive acceptance or approval period beyond 7 days for architect-engineer contracts.	CO
32.904(d)(1)(i)(B)	Justification to extend the due date beyond 14 days to adequately inspect construction contract work.	CO
32.904(d)(2)(iv)	Justification to extend the constructive acceptance or approval period beyond 7 days for construction contracts.	CO
33.102(d)	Stay performance of a contract when protest is likely.	CO
33.103(d)(4), (f), 33.104(c)(2)	Perform independent review of protest, resolve protest, approve award after receipt of protest, and authorize reimbursement of costs. This authority is not delegable.	HCA
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. This authority is not delegable.	HCA
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.	MASCO
34.003(a)	Tasks regarding Major Systems as defined by AGAR.	MASCO
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.	MASCO
36.209	Approve contract to firm who designed the project (as AH authorized representative).	HCA
36.213-2(a)	Waive presolicitation notices on any construction requirement when the proposed contract is expected to exceed the simplified acquisition threshold.	HCA
36.301(b)(3)(vi)	Establish criteria for two phase build design decision.	MASCO
36.303-1(a)(4)	Approve determination for the number of offerors that will be selected to submit phase-two proposals when it is greater than five.	MASCO
36.602-1(b)	Approve use of design competition (as AH designee).	MASCO
36.602-2(a)	Establish procedures for evaluation boards.	MASCO
36.602-3(d)	Approve selection report.	MASCO
36.602-4(a)	Serve as Source Selection Authority (as AH designated selection authority).	MASCO
36.602-5	Establish procedures for evaluation boards.	MASCO
36.603(a)	Establish procedures to maintain data on architect-engineer firms.	MASCO
36.609-1(a)	If a firm's design fails to meet the contractual limitation on construction cost, provide reasons that the firm should not redesign the project	CO
36.609-1(c)(1)	Determine in writing that cost limitations are secondary to performance considerations and additional project funding is expected (Delegable only to official authorized to commit funds).	HCA
36.609-1(c)(2), (3)	Determine in writing that the design is for a standard structure and is not intended for a specific location or there is little or no design effort involved.	CO
37.203(d)(1), 37.204(d), 37.205	Authority to use contractors to perform proposal evaluations when Government personnel are unavailable. (Required prior to issuing a solicitation.)	HCA
41.201(d)(3)	Enter into contracts or interagency agreements for the purchase or transfer of electricity.	MASCO
41.202(c)(2)	Acquiring utility services without a written contract.	MASCO
41.204(c)(1)(ii)	Determine that the use of an area-wide utility contract is not advantageous to the Government.	MASCO
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.	MASCO
42.1503(h)(1)	Receipt of defective cost or pricing data.	CO
44.305-3(a)	Withdrawing approval of a contractor's purchasing system.	CO
45.102(e)	Approve government property installed permanently in contractor facility.	MASCO
45.103(a)(5)	Approval for charging rent on the basis of use.	MASCO
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.	HCA
46.407(c)(1)	Acceptance or conditional acceptance of nonconforming supplies or services.	CO

FAR Reference	Scenario/Situation	Approver
47.304-3(b)(2)	Justification for the solicitation of offers on other than an f.o.b. origin for shipments from CONUS to overseas destinations.	CO
47.305-5(a)(2)	Justification for issuing a solicitation when the destination is unknown.	CO
48.104-3(a)	Determination that the cost of calculating and tracking collateral savings will exceed the benefits to be derived.	MASCO
49.106(a)	Determination of fraud or criminal conduct provided to the Office of Inspector General (OIG) with a copy to the HCA.	MASCO
49.109-7(d)	Settlement agreement with the amount due, supported by detailed schedules, analyses, and each major item of disallowance explained.	CO
49.206-3, 49.303-2	Justification to extend the 120-day requirement for the contractor to submit the inventory disposal schedule.	CO
49.401(e)	Reinstatement of a terminated contract is required, and reinstatement is advantageous to the Government.	CO
49.501	Approve special purpose termination clauses.	HCA
51.102(a)	Authorization for a contractor to use Government supply sources.	CO

Attachment A, Marketing and Regulatory Programs (MRP)

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, Research, Education and Economics (REE)
Acquisition Programs and Oversight Branch (APOB), [Pages - Home - Axon \(usda.gov\)](#)

Attachment C, Food, Nutrition and Consumer Services (FNCS)

Acquisition Operating Procedures

Number	Title/Description
1	Establishment of AOPs for the Food, Nutrition and Consumer Services, Contracts Management Division
2	Procurement Action Lead Time (PALT)
3	Certification and Appointment of Contracting Officer Representatives
4	File Indexes and Electronic Contract Files
5	Pre-solicitation and Pre-award Reviews
6	Acquisition Planning and Market Research
7	Procurement Quality Review (PQR) Program
8	Congressional Notifications
9	Justifications and Approvals - Other than Full and Open Competition
10	Unauthorized Commitments
11	Unsolicited Proposals

Attachment D, Natural Resources and Environment (NRE)

Procedures Guidance and Information (PGI), <https://fsweb.wo.fs.fed.us/pps/apps/pgi/#/=current>

Number	Title/Description
Part 4D01	Federal Acquisition Regulation (FAR) System
Part 4D02	Definition of Words and Terms
Part 4D03	Improper Business Practices and Personal Conflicts of Interest
Part 4D04	Administrative Matters
Part 4D05	Publicizing Contract Actions
Part 4D06	Competition Requirements
Part 4D07	Acquisition Planning
Part 4D08	Required Sources of Supplies and Services
Part 4D09	Contractor Qualifications
Part 4D13	Simplified Acquisition Procedures
Part 4D16	Types of Contracts
Part 4D17	Special Contracting Methods
Part 4D19	Small Business Programs
Part 4D22	Application of Labor Laws to Government Acquisitions
Part 4D24	Protection of Privacy and Freedom of Information
Part 4D27	Patents, Data and Copyrights
Part 4D28	Bonds and Insurance
Part 4D32	Contract Financing
Part 4D33	Protests, Disputes and Appeals
Part 4D36	Construction and Architect-Engineer Contracts
Part 4D37	Service Contracting
Part 4D42	Contract Administration and Audit Services
Part 4D46	Quality Assurance
Part 4D48	Value Engineering

Guides

AQM Contracting Customer Guide

Attachment E, Farm Production and Conservation (FPAC)

https://usdagcc.sharepoint.com/sites/nrcs_mgmtacquisitionsdiv/procurement/regulation/SitePages/Home.aspx

Attachment F, Food Safety and Inspection Services (FSIS)

Agency Clauses and Provisions

Reference	Provision/Clause Title	Clause Date	Archive
52.223-1; 23.406(a)	<p>BIOBASED PRODUCT CERTIFICATION</p> <p>Prescription: Use in solicitations that require delivery or specify the use of Green Purchasing requirements in those categories of USDA-designated bio-based items.</p>	May 14	
52.223-2; 23.406(b),	<p>AFFIRMATIVE PROCUREMENT OF BIO-BASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS</p> <p>Prescription: Use in all janitorial/custodial and operations and maintenance/maintenance and repair contracts.</p>	Sep 13	Jul 12
9.5	<p>ORGANIZATIONAL CONFLICT OF INTEREST AND LIMITATION ON FUTURE CONTRACTING</p> <p>Prescription: Applies to all acquisitions, including task order acquisitions of any size where the requirement may give rise to organizational conflict of interests.</p>	Sep 08	
1.6	<p>CONTRACTING OFFICER</p> <p>Prescription: Use in all solicitations/contracts when it is deemed necessary to identify the authority of the Contracting Officer.</p>	Jan 12	
1.602-2	<p>CONTRACTING OFFICER REPRESENTATIVE</p> <p>Prescription: Use in all solicitations/contracts when a COR will be appointed.</p>	Jan 12	
48 CFR & PGI 437.504	<p>KEY PERSONNEL</p> <p>Prescription: Applies to solicitations/contracts when key personnel are required by the contract.</p>	Aug 08	
37	<p>UNAUTHORIZED PERFORMANCE OF SERVICES</p> <p>Prescription: Use in solicitations/contract for services.</p>	May 11	
Public Law 96-511	<p>OMB CLEARANCE</p> <p>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.</p>	Feb 07	
Public Law 101-391	<p>HOTEL AND MOTEL FIRE SAFETY ACT OF 1990</p> <p>Prescription: Use in solicitations/contracts where lodging facilities are associated with the contract effort.</p>	Feb 07	
9.505-4	<p>RELEASE OF SENSITIVE INFORMATION</p> <p>Prescription: Use in service contracts to document consent to release information needed by service provider to perform specified services.</p>	Jun 13	
15.204-1(b)	<p>REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR OR RESPONDENTS</p> <p>Prescription: Use in all solicitations/contracts</p>	Feb 07	
16.505	TASK ORDER PROCEDURES	Feb 07	

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

Reference	Provision/Clause Title	Clause Date	Archive
	Prescription: Applies to all solicitations/contracts that will result in the award of an IDIQ contract.		
	LEGAL HOLIDAYS Prescription: Use in contracts for performance on-site at a USDA facility.	Sep 21	Dec 08
39.2	SECTION 508 COMPLIANCE ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY Prescription: Use in solicitations/contracts that have 508 requirements.	Mar 15	Mar 10
39.2	POST-AWARD ADMINISTRATION AND MONITORING OF SECTION 508 COMPLIANCE ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY Prescription: Use in solicitations/contracts that have 508 requirements.	May 15	
	ACCESS TO SENSITIVE INFORMATION Prescription: Applies to acquisition in which a contractor has to perform specified services that may need access to sensitive information.	Feb 07	
	PERIOD OF PERFORMANCE Prescription: Use in solicitations/contracts that include option years.	Feb 07	
	EVALUATION OF SUBCONTRACTING PLAN Prescription: Use in solicitations when the award will be subject to approval of a small business subcontracting plan.	Feb 07	
	INCORPORATION OF PROPOSAL Prescription: Use in solicitations when it is anticipated that part of the proposal may be incorporated into the contract.	Feb 07	
	CONFLICT OF INTEREST Prescription: Use in solicitations /contracts when conflict of interest may be a concern.	Feb 07	
19.8	DIRECT 8(a) CONTRACTING (PROCUREMENT ADVISORY NO. 71 C, REVISION November 30, 2012)	Sep 13	May 98
	DELIVERABLES/MILESTONES Prescription: Insert the clause in solicitations and contracts that require milestones.	Jan 12	
	INFORMATION TECHNOLOGY SYSTEMS SECURITY 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	
	INFORMATION TECHNOLOGY SYSTEMS SECURITY CONTRACT REQUIREMENTS	Jan 12	

USDA PROCEDURES, GUIDANCE AND INFORMATION (PGI) v3.1

Reference	Provision/Clause Title	Clause Date	Archive
	Prescription: Insert the clause in solicitations /contracts for more complex IT contracts in which the contractor may have direct contact with FSIS IT systems.		
39.105	ADDITIONAL PRIVACY ACT REQUIREMENTS Prescription: Insert the clause in solicitations/contracts when the Privacy Act applies.	Jan 12	
PGI 439	COMPLIANCE WITH INTERNET PROTOCOL VERSION 6 (IPv6) IN ACQUIRING INFORMATION TECHNOLOGY Prescription: Insert in solicitations/contracts for IT that have IPv6 requirements.	Nov 16	Dec 16
	COMMONLY ACCEPTED SECURITY CONFIGURATIONS FOR WINDOWS OPERATING SYSTEMS Prescription: Use in all solicitations/contracts for IT requirements.	Dec 20	Dec 16
	ELECTRONIC INVOICING AND PAYMENT REQUIREMENTS- INVOICE PROCESSING PLATFORM (IPP) Prescription: Use in all solicitations/contracts.	Apr 13	
	Rules of Behavior Prescription: Use this document in all solicitations/contracts for IT requirements.		
	Scientific Integrity Prescription: Use this clause in solicitations/contracts for services when contractors will be on-site and/or have access to Government Services	Apr 17	
	Role-Based Security Training Requirements Prescription: Use this clause in solicitations/contracts for services when contractors will be on-site and/or have access to Government systems.	Feb 20	

Attachment G -- RESERVED

Attachment H, Departmental Administration (DA)

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
4	Ratification of an Unauthorized Commitment
6	Unsolicited Proposals
7	Contract File Indexes and Electronic Contract Files
8	Preaward and Postaward File Review
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 Administrative 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
	FAR Standard Forms (SF) & Optional Forms (OF)
	Government Forms (GSA, SF, OF)

Samples

Market Research Report (Analysis)

Quality Assurance Surveillance Plan

Templates

BPA Annual Review Checklist

Certification of Destruction of Electronic Documents

Coding of Software Requirements

D&F Exercise of an Option

Determination for Inclusion of Options

Evaluation Factors Standardized Definitions

Evaluation Notice Clarification Request

Evaluation Notice Clarification Request Log

Evaluation Process (Customer Orientation Outline)

Evaluation Team Engagement Email Notification

Market Research/Commercial Item Determination Record
Non-Disclosure Agreement
Performance Work Statement
POD Post Evaluation Survey
Quality Assurance Surveillance Plan
Simplified Acquisition Summary
Solicitation Elements
Statement of Objective
Statement of Work
Travel Language
USDA-wide Contract & Agreement
Value Based Price Competition
Verification of Primary COR Experience

Attachment J, Rural Development (RD)

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

Number	Title/Description
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