

**AFARS – PART 5101**  
**Federal Acquisition Regulation System**  
*(Revised 01 October 2024)*

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### **Subpart 5101.1 – Purpose, Authority, Issuance**

#### **5101.101 Purpose.**

The Army Federal Acquisition Regulation Supplement (AFARS) implements and supplements the Federal Acquisition Regulation (FAR), the Defense FAR Supplement (DFARS) and the DFARS Procedures, Guidance and Information (PGI) to establish uniform policies for Army acquisition. It does not restrict the exercise of good business judgment or stifle innovation.

### **5101.105-3 Copies.**

The AFARS is available electronically on Procurement.Army.mil (<https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM>) at <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-PP/SitePages/AFARS.aspx>. The Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)), Procurement Policy Directorate, SAAL-PP will issue notices of AFARS revisions to all senior contracting officials (SCOs).

### **5101.108 FAR conventions.**

(b) *Delegation of authority.* Each authority is delegable within the contracting chain of authority unless otherwise indicated by law, statute, or regulation. All delegations must reference the applicable AFARS citation. Delegations that do not include expiration dates remain effective until a higher authority supersedes or cancels them.

### **5101.108(b) (S-90) Introduction of delegations matrix at Appendix GG and instructions for use.**

Delegations of certain procurement authorities are identified throughout the AFARS with a pointer to a matrix, labeled Appendix GG. [Appendix GG](#) outlines all delegations of authority within the FAR, DFARS and AFARS, and specifies whether the authority prohibits or allows for further delegation. The Army level of authority identified in the matrix is the lowest level of delegation.

### **5101.170 Peer reviews.**

Army forms, waiver requests, templates, best practices and lessons learned are available at [AFARS PGI 5101.170-1](#).

#### **(a) DoD peer reviews.**

(1) The SCO will concur, in writing, on all solicitation and contract packages submitted for each phase of any DoD peer review and provide a copy to the HCA. [See AFARS PGI 5101.170-2](#).

(2) Contracting activities shall provide a rolling annual forecast of acquisitions that will be subject to DoD peer reviews to the address at 5101.290(b)(2)(ii)(E) at the end of each quarter. [See AFARS PGI 5101.170-3](#).

#### **(b) Component peer reviews.**

(i) *Army peer reviews.* See AFARS 5101.170(c) Table 5101-1 for Army level peer reviews, thresholds and approval authority. The SCO will establish a threshold for when a CRB is required for contract modifications that increase total evaluated price or otherwise increase scope. A CRB is not required for modifications that exercise an option or add incremental funding. The SRB and CRB will be comprised of senior level experts from teams not directly involved with the procurement being reviewed. These multi-functional teams will include, at a

minimum, representatives from the contracting activity, small business office, office of counsel, requirements community, and the advocate for competition, as applicable. The same representatives should participate in both the SRB and the CRB to ensure consistency.

(ii) *Objective of Army peer reviews.* The SRB/CRB will review and assess the presolicitation, solicitation and contract award documents for consistency, sufficiency, compliance and application of sound business practices. The SRB/CRB will verify that the procurement represents an overall good value to the Government and appropriate obligation of taxpayer funds.

(iii) *Resolution of comments.* The SCO will establish procedures for resolving all SRB and CRB comments.

(iv) *Peer review statistics.* Contracting activities will collect peer review statistics, to include annual data on the number of SRB/CRB reviews conducted or waived, identification of any systemic issues or trends, best practices, lessons learned, overall effectiveness of the process, and other data as determined necessary.

(c) *Peer Review Thresholds.*

Table 5101-1 designates the Army peer reviews, thresholds and approval authorities.

TABLE 5101-1, Peer Reviews, Thresholds and Approval Authorities			
Level	Threshold	Parameters	Approval Authority
DPCAP	\$1 Billion or More	Pre-award Non-Competitive	Director, Price, Cost and Finance, DPCAP  (Note 1)
DPCAP	Actions designated by USD(A&S) as requiring peer review, regardless of value	Pre-award Non-Competitive	Director, Price, Cost and Finance, DPCAP  (Note 1)
DPCAP	\$1 Billion or More MDAPs for which USD(A&S) is the MDA	Pre-award, Competitive	Director, Contract Policy, DPCAP  (Note 1)
DPCAP	Actions designated by USD(A&S) as requiring	All Pre-award,	Director, Contract



	peer review, regardless of value	Competitive	Policy, DPCAP (Note 1)
Army	\$1 Billion or More	Pre-award, Competitive	HCA Non-delegable, Except DASA(P) for Special Interest Acquisitions
Army	\$250 Million or More but Less than \$1 Billion	Pre-award, Competitive and Non- Competitive	HCA, with authority to delegate No Lower than the SCO
Army	\$50 Million or More but Less than \$250 Million	Pre-award, Competitive and Non- Competitive	SCO, with authority to delegate to No Lower than the CoCO
Army	Below \$50 Million	Pre-award, Competitive and Non- Competitive	SCO or Designee (Note 2)
Army	\$1 Billion or More	Independent Management Review Contracts for Services	DASA (P) or SSM; without authority to further delegate.
Army	\$100 Million or More but Less than \$1 Billion	Independent Management Review Contracts for Services	HCA, with authority to delegate to No Lower than the SCO
Army	Procurements identified as Special Interest by the DASA(P).	All Peer Reviews, Special Interest	DASA(P), without power to further delegate. (Note 3)

Notes:

1. See DFARS 201.170.
2. The contracting activity's business clearance process (see AFARS 5115.406) normally satisfies the oversight function of peer reviews for acquisitions below \$50 million. If the SCO determines, in accordance with a risk-based analysis, that a separate peer review is necessary for an acquisition valued below \$50 million, the SCO or designee shall conduct the peer review consistent with the procedures set forth for Army peer reviews in this section.
3. Other Army peer reviews identified in AFARS 5101.170(b) are not required when the ODASA(P) conducts a special interest peer review for a procurement.

(v) *Independent Management Reviews (IMRs) (Postaward peer reviews) of contracts for services.* Independent Management Reviews shall be conducted if the base period is greater than one year, the IMR takes place prior to the end of the second year of the base period of performance. If the base period of performance is one year or less, the IMR occurs prior to the exercise of the second option period.

(a) The ODASA(P) will conduct an Independent Management Review (IMR) for contracts for services valued at \$1 billion or more. The reviews will be conducted in accordance with [AFARS PGI 5101.170-4\(a\)](#).

(b) The HCA will conduct an IMR for contracts for services valued at \$100 million or more but less than \$1 billion. See [Appendix GG](#) for further delegation. For HCA reviews, the HCA will provide the Senior Services Manager a summary report. The summary report will address the independent management review required elements in DoDI 5000.74 Defense Acquisition of Services and shall be filed within PCF in accordance with [AFARS PGI 5101.170-4\(b\)](#); no later than 45 days after completion of the review.

## **Subpart 5101.2 – Administration**

### **5101.290 Routing documents and mailing addresses.**

(a)(1) Contracting activities will obtain either head of the contracting activity (HCA) or, if delegated, SCO concurrence on all procurement document packages submitted for Headquarters, Department of the Army (HQDA) review, coordination, and/or approval. The SCO may not delegate this authority. Procurement document packages will include all reviews and

coordination completed prior to submission to HQDA, including legal reviews. Unless otherwise specified in this regulation, individual and class deviations to this AFARS provision are prohibited. Send document packages via the Army's Enterprise Task Management Software Solution (ETMS2) to the ODASA(P) directorate groups associated with the email addresses listed in 5101.290(b)(2)(ii)(B) (except as provided elsewhere in this regulation).

(2) The Contracting officer shall include the contract type determination required by FAR 16.103(d)(1) and 5116.103(d)(1) in HQDA-level approval packages that reference contract type, including the approvals required by FAR 6.304 and FAR 16.504(c)(1)(D)(1). If a written acquisition plan is required for the associated contract action, include the acquisition plan in the submission package and provide the acquisition plan citation in the applicable paragraph of the document submitted for review. If a written acquisition plan is not required, include the contract type determination from the contract file in the submission package.

(b) Frequently used addresses:

(1) For the Deputy Assistant Secretary of the Army (Procurement), use the following:

Deputy Assistant Secretary of the Army (Procurement)  
Attn: SAAL-ZP  
103 Army Pentagon  
Room 2D528  
Washington, DC 20310-0103.

(2)(i) For the Office of the Deputy Assistant Secretary of the Army (Procurement), use the following:

Office of the Deputy Assistant Secretary of the Army (Procurement)  
[usarmy.pentagon.hqda-asa-alt.list.zp-current-operations@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.zp-current-operations@army.mil)  
Zachary Taylor Building – 5th Floor  
2530 Crystal Drive  
Arlington, VA 22202.

The email addresses for the directorates appear in paragraph (2)(ii). Submit document packages requiring HQDA review, coordination, and/or approval via ETMS2.

(ii) Specify the directorate and email address within paragraph (2)(i) as follows:

(A) SAAL-ZP-PP Procurement Policy, [usarmy.pentagon.hqda-asa-alt.list.saal-zp-pp@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-zp-pp@army.mil).

(B) SAAL-ZP-PS Procurement Support, [usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil).

(C) SAAL-ZP-PE Procurement Systems, [usarmy.pentagon.hqda-asa-alt.list.saal-zp-pe@armymil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-zp-pe@armymil).

(D) SAAL-ZP-SSM Senior Services Manager, [usarmy.pentagon.hqda-asa-alt.list.saal-zp-ssm@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-zp-ssm@army.mil).

(E) SAAL-ZP-FSD Field Support, [usarmy.pentagon.hqda-asa-alt.list.saal-zp-fsd@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-zp-fsd@army.mil).

(3) For the Office of the Assistant Secretary of the Army (Financial Management and Comptroller), use the following:

Office of the Assistant Secretary of the Army (Financial Management and Comptroller)  
109 Army Pentagon  
Washington, DC 20310-0109.

(4) For the Office, Chief of Legislative Liaison, use the following:

The Office, Chief of Legislative Liaison (OCLL)  
Attn: SALL-SPA  
1600 Army Pentagon  
Washington, DC 20310-1600.

(5) For the Chief, Procurement Fraud Branch, U.S. Army Legal Services Agency, use the following:

Chief, Procurement Fraud Branch  
Contract and Fiscal Law Division  
U.S. Army Legal Services Agency  
9275 Gunston Road, BLDG 1450  
Ft Belvoir, VA 22060-5546.

(6) For the Office of the Command Counsel, Headquarters, U.S. Army Materiel Command, use the following:

Office of the Command Counsel  
Headquarters U.S. Army Materiel Command  
Attn: AMCCC  
4400 Martin Road  
Redstone Arsenal, AL 35898-5340.

(7) For the U.S. Army Contracting Command, use the following:

U.S. Army Contracting Command  
ATTN: AMSCC  
3334A Wells Road  
Redstone Arsenal, AL 35898-5000.

(8) For the Directorate of Contracting, U.S. Army Corps of Engineers, use the following:

U.S. Army Corps of Engineers  
Directorate of Contracting  
CECT-ZA  
441 G Street, N.W.  
Washington, DC 20314-1000.

(9) For the Chief, Army Power Procurement Office, U.S. Army Center for Public Works, use the following:

Chief, Army Power Procurement Office  
U.S. Army Center for Public Works (CECPW-C)  
7701 Telegraph Road  
Alexandria, VA 22315-3862.

### **Subpart 5101.3 – Agency Acquisition Regulations**

#### **5101.301 Policy.**

(a) The Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) acts for the Assistant Secretary of the Army (Acquisition, Logistics and Technology) in developing, coordinating, issuing and maintaining the AFARS.

(b) SCOs will coordinate with the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) Procurement Policy Directorate, SAAL-PP, to publish proposed internal acquisition regulations or instructions, policy letters, clause books, policies, procedures, clauses, or forms in the *Federal Register* for public comment when required. (See FAR 1.301(b) and DFARS 201.301(b).) Contracting activities will format coordination packages in accordance with FAR 1.304, DFARS 201.304, and AFARS 5101.304 and route them in accordance with AFARS 5101.290. SAAL-PP will assist the contracting activity with preparing the proposed notice, forward it to the *Federal Register*, and receive public comments. At the close of the public comment period, SAAL-PP will send all public comments to the contracting activity for analysis. When the contracting activity completes its analysis, it will –

(1) Send an updated request for deviation in accordance with AFARS 5101.402; or

(2) Send an updated request for approval, which does not involve a deviation, in accordance with AFARS 5101.304(1)(i); and

(3) Include the results of the publication and analysis under the heading “IV Collaterals.”

**5101.303 Publication and codification.**

(a)(i) The Code of Federal Regulations codifies the AFARS under chapter 51, in Title 48.

(ii) To the extent possible, number all AFARS text, whether implemental or supplemental, as if it were implemental. Use supplemental numbering only when the text cannot be integrated intelligibly with its FAR or DFARS counterpart.

(A) The AFARS implemental numbering sequence is the same as the FAR except—

(1) Insert the number “51” before the primary citation;

(2) Insert “0” if the primary citation is to a single digit part number; and

(3) When the text exceeds one paragraph, number subdivisions by skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence.

(B) The AFARS supplemental numbering sequence is the same as the FAR except —

(1) Insert the number “51” before the primary citation;

(2) Insert “0” if the primary citation is to a single digit part number;

(3) Add “90” to parts, subparts, sections, or subsections;

(4) Add “S-90” to subdivisions; and

(5) When the text exceeds one paragraph, number subdivisions without skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence.

(D) Examples of AFARS implemental and supplemental numbering are in Tables 5101-2 and 5101-3 respectively:

TABLE 5101-2, AFARS IMPLEMENTAL NUMBERING		
	FAR	AFARS
1 paragraph implementing FAR 19.501	19.501	5119.501
3 paragraphs implementing FAR 19.501	19.501	5119.501 (1) (2) (3)
1 paragraph implementing FAR 19.501(a)	19.501(a)	5119.501(a)
3 paragraphs implementing FAR 19.501(a)	19.501(a)	5119.501 (a)(i) (ii) (iii)
3 paragraphs implementing FAR 19.501(a)(1)	19.501(a)(1)	5119.501 (a) (1)(A) (B) (C)
Further subdivisions follow the prescribed sequence	19.501(a)(1)(i)(A)(I)(i)	5119.501(1)(i)(A)(I)(i)

TABLE 5101-3, AFARS IMPLEMENTAL AND SUPPLEMENTAL NUMBERING		
FAR	Is Implemented As*	Is Supplemented As
19	5119	5119.90
19.5	5119.5	5119.590
19.501	5119.501	5119.501-90
19.501-1	5119.501-1	5119.501-1-90
19.501-1(a)	5119.501-1(a)	5119.501-1(a)(S-90)
19.501-1(a)(1)	5119.501-1(a)(1)	5119.501-1(a)(1)(S-90)

\*Assumes one AFARS paragraph implementing one FAR or DFARS paragraph.

(iii) Contracting activities will contact SAAL-PP to obtain numbers for acquisition instruction or guidebook text and clauses.

(A) Chapter 51 reserves subsection numbers 90-99 for AFARS supplementary material with no FAR or DFARS counterpart.

(1) Headquarters, Department of the Army (HQDA) reserves numbers 100-199 for the Army Commands, the Army Service Component Commands, and the Direct Reporting Units with a head of the contracting activity for unique implementing material with no counterpart in higher-level regulations.

(2) HQDA reserves numbers 200 and above for Army Materiel Command and major subordinate command unique implementing material with no counterpart in higher-level regulations.

(B) Chapter 51 reserves numbers 9000 and above for supplementary clauses approved for use Army-wide, in specific commands, subordinate commands or contracting offices. (See AFARS 5152.101.)



## **5101.304 Agency control and compliance procedures.**

### **5101.304-90 Army control and compliance.**

(a) *Definitions.* As used in this section—

(1) “Acquisition instruction” means the set of governing local processes and procedures developed and maintained by the head of each contracting activity.

(2) “Policy” means direction to contracting organizations implementing statute, executive order, regulation, or other governing directives.

(3) “Procedure” means an outline of how to perform a process – who performs what action, what sequence they perform the steps in the task, and the criteria (i.e., standard) they must meet to accomplish the goal/end-state.

(4) “Process” means a high-level view or map of the tasks required by the policy described in sufficient detail to direct the user to a desired outcome.

(b) All Army procurement policy is centralized under the ODASA(P), and ODASA(P) is the only Army organization authorized to issue procurement policy.

(c) HQDA and Army contracting activities will not supplement the FAR, DFARS, or AFARS or issue internal acquisition regulations or instructions except as provided in this section. HCAs, on a non-delegable basis, are responsible for procurement processes and procedures, to include processes and procedures intended for issuance below the HCA level, within their contracting activity. These shall be codified in an acquisition instruction. HCAs shall obtain DASA(P) approval for their baseline acquisition instruction. HCAs are to maintain, review, and update their acquisition instruction as necessary.

(1) Acquisition instructions require recurring certification by the Procurement Policy Directorate. The Procurement Policy Directorate shall evaluate the integrity of the acquisition instruction to ensure compliance with established procurement policies, procedures, and regulations. All substantive issues shall be resolved prior to recertification of the acquisition instruction.

(2) The first recertification evaluation shall be conducted in fiscal year 2022 between the months of January and March and every three years thereafter. HCAs shall submit their acquisition instruction for review to the DASA(P) in accordance with AFARS 5101.290(b)(2)(ii)(A).

(3) Acquisition instructions will be submitted electronically for evaluation as follows:

ACC AI	1 January 2022 and every three years thereafter
MEDCOM AI	1 February 2022 and every three years thereafter
NGB AI	1 February 2022 and every three years thereafter
USACE AI	1 March 2022 and every three years thereafter

RCCTO AI

1 March 2022 and every three years thereafter

SBIR COE AI

1 March 2022 and every three years thereafter

(d) HCAs must obtain prior DASA(P) approval for actions that require Under Secretary of Defense (Acquisition and Sustainment) approval. (See DFARS 201.304(1)(i) and AFARS [Appendix FF](#), Department of the Army Plan for Control of Nonstandard Clauses, for approval of nonstandard clauses or provisions.)

(e) HCAs shall submit requests for new Army policy to the ODASA(P) in accordance with 5101.290(b)(2)(ii)(A). The DASA(P) will coordinate with the HCAs to validate the need for new policy and determine how the policy will be issued to the contracting enterprise.

### **Subpart 5101.4 – Deviations From the FAR**

#### **5101.402 Policy.**

(2) The Contracting officer will prepare all deviation requests in accordance with DFARS 201.402(2) and follow the procedures at 5101.301(b) to publish the deviation in the Federal Register.

#### **5101.403 Individual deviations.**

(1) SCOs, after obtaining a legal review, approve individual deviations from the FAR, DFARS, DFARS PGI, and AFARS other than those specified in DFARS 201.402(1) and DFARS 201.403(2).

#### **5101.403-90 Deviation copy and control number.**

The contracting activity will –

(a) Send one copy of each deviation to the address at AFARS 5101.290(b)(2)(ii)(A) at the time the approval authority grants the deviation; and

(b) Assign a control number to each deviation.

#### **5101.404 Class deviations.**

(b)(ii) The senior procurement executive approves class deviations from the FAR, DFARS, DFARS PGI, and AFARS. This authority does not extend to deviations specified in DFARS 201.402(1) and DFARS 201.403(2). See [Appendix GG](#) for further delegation.

## **Subpart 5101.5 – Agency and Public Participation**

### **5101.501-2 Opportunity for public comments.**

(b) Army contracting personnel may submit agency, organizational, or individual comments on FAR and DFARS cases published in the Federal Register (see FAR 1.501-2(b)) in one of two ways:

(i) Official Army comments. Army contracting personnel may submit comments through their chain of command to the Army Policy Member to the Defense Acquisition Regulations (DAR) Council in the Office of the Deputy Assistant Secretary of the Army (Procurement) Procurement Policy Directorate, SAAL-PP. The DAR Council member will determine if the comments are consistent with the Deputy Assistant Secretary of the Army (Procurement)'s official Army position and if they are, forward them to the Director of the DAR Council for adjudication with public comments. If the comments are inconsistent with the Deputy Assistant Secretary of the Army (Procurement)'s official Army position, the DAR Council member will contact the commenter to address his or her comment within the Army.

(ii) Comments as a private citizen. Army contracting personnel may submit comments as a private citizen by following the instructions in the Federal Register notice. Private citizens must clearly state that their comments represent a personal opinion rather than an official position. They may refer to the extent of their relevant experience within the body of the comments. Private citizens will not submit comments using Army letterhead or reference the Army in a signature block; however, they may use Army email and fax, in accordance with Section 2-301(a)(2) of the Department of Defense Joint Ethics Regulation, DoD 5500.7-R.

## **Subpart 5101.6 – Career Development, Contracting Authority and Responsibilities**

### **5101.601 General.**

(1) Army contracting activities are listed in DFARS PGI 202.101.

### **5101.601-90 Department of the Army contracting authorities and responsibilities.**

(a) General. Heads of the Contracting Activity (HCAs) have the authority to procure supplies and services to support all customer requirements, unless such procurements fall within the scope of unique contracting authorities assigned to another HCA as described in paragraph (b) below. This framework supports Category Management (CM) reforms, and promotes habitual customer relationships that leverage subject matter expertise to achieve greater contracting outcomes. The list of unique contracting authorities set forth in paragraph (b) is not all-inclusive and will continue to update as CM initiatives evolve. See [AFARS PGI 5101.601-90-1](#) for Guidance for Alignment of Contracting Activities to Categories. Additionally, the authorities described in paragraph (b), sub-paragraphs (2-4), do not apply to contingency requirements-outside the continental United States and overseas.

(1) Delegation of any Army HCA contracting authority is limited to officials within the Department of Army at the levels prescribed in [Appendix GG](#).

(2) If a requiring activity presents a requirement in one of the designated commodity areas, to a contracting office not listed in paragraph (b) of this section, that contracting office shall refer the requiring activity to the designated HCA and coordinate with the designated HCA to determine which organization will provide support. If an HCA other than the designated HCA retains that requirement and executes a contract action for the designated commodity:

(A) The supporting HCA shall coordinate with the designated HCA as early as practicable in the procurement planning process, to leverage the subject matter expertise of the designated HCA and ensure the solicitations and contracts are properly structured.

(B) The supporting HCA should ensure the requisite contracting and technical/program personnel are properly trained in the contract award and administration of the designated commodity.

(C) The supporting HCA and designated HCA shall maintain a record of the coordination for contract award. The ODASA(P) will review the records during the Procurement Management Reviews.

(b) Assignment of Unique Contracting Authorities to Army HCAs. The assigned responsibilities are as follows:

(1) The Deputy Assistant Secretary of the Army (Procurement) has the following overarching authorities and responsibilities:

(A) Serves as the Enterprise HCA for the Department of the Army.

(B) Serves as the principal advisor to the Army Senior Procurement Executive (SPE).

(C) Subject to the authority, direction, and control of the SPE, directs other Army HCAs in connection with any procurement or procurement-related matter.

(D) Reviews all Senior Contracting Official (SCO) selections prior to SCO appointment by an Army contracting activity's HCA. Follow guidance at [AFARS PGI 5101.601-90\(b\)\(1\)\(D\)-1](#).

(E) Acts in the absence of another Army contracting activity's specifically-designated HCA.

(F) Chairs the Army Contracting Enterprise Executive Committee.

(G) Appoints Program or Project-specific SCOs on a temporary basis within the responsible Army contracting activity. The Program or Project-specific SCO focuses solely on the management of that program's contract action(s).

(2) The HCA for the U.S Army Contracting Command is responsible for awarding and administering the following contract actions:

(A) Ammunition.

(B) Aviation and Missiles. [Army Contracting Command-Redstone Arsenal is the exclusive contracting center for Army Fixed Wing and non-tethered lighter than air platform aircraft and supporting services; and non-standard rotary wing aircraft].

(C) Combat and Tactical Vehicles.

(D) Construction related materials and services [Mission and Installation Contracting Command (MICC) is the secondary contracting center; the U.S. Army Corps of Engineers (USACE) is the primary contracting activity].

(E) Environmental services.

(F) Facility related materials and services [MICC is the primary contracting center; USACE is the secondary contracting activity].

(G) Information Technology, to include: software (including software development), hardware, consulting, security, outsourcing, and telecommunications. [Contracts or agreements primarily for software development efforts will not be executed by the MICC, however USACE, NGB, and MEDCOM may continue to execute contracts for software development, subject to the guidance issued by the Contracting Center of Excellence for Digital Capabilities at ACC-APG.]

(H) Transportation and Logistics Services, to include: logistics support services, transportation of things, motor vehicles (non-combat), and transportation equipment. [Note: Does not apply to U.S. Transportation Command-unique requirements related to the procurement of transportation services].

(3) The HCA for USACE is responsible for awarding and administering the following contract actions:

(A) Architect-Engineer services. (See also 5136.601-90 for other Army contracting offices with architect-engineer contracting authority).

(B) Civil works.

(C) Construction related materials and services [USACE is the primary contracting activity; MICC is the secondary contracting center].

(D) Environmental services.

(E) Facility related materials and services [USACE is the secondary contracting activity; MICC is the primary contracting center].

(F) Facilities purchase and lease.

(4) The HCA for the U.S Army Medical Command is responsible for awarding and administering the following contract actions:

(A) Medical equipment accessories and supplies.

(B) Healthcare services.

(5) The HCA for the National Guard Bureau (NGB) is responsible for awarding and administering the contract actions, grants, and agreements for supplies and services to support the Army and Air National Guard in 50 states, District of Columbia, and 3 U.S. Territories.

(6) The HCA for the Rapid Capabilities and Critical Technologies Office (RCCTO) is responsible for awarding and administering the following contract actions, grants, and agreements:

(A) Rapid Prototyping and initial equipping of strategically important capabilities to meet commanders' warfighting needs, consistent with the Army's modernization priorities.

(B) Technologies that address urgent and emerging threats on an accelerated timeline while supporting acquisition reform efforts.

(7) The HCA for the Small Business Innovative Research (SBIR) is responsible for awarding and administering Phase I and Phase II SBIR contract actions, grants, and agreements.

(c) Information on contracting responsibility with regards to traceability of funds is provided at [AFARS PGI 5101.601-90\(c\)-1.](#)

#### **5101.602-1 Authority.**

#### **5101.602-1-90 Departmental review and approval.**

(a) At any time during the procurement process, the Deputy Assistant Secretary of the Army for Procurement (DASA(P)) may designate a proposed contractual action as Special Interest, and direct the responsible SCO or source selection authority to submit the proposed contractual

action to the Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) for review, notation, and/or approval.

(1) The SCO or source selection authority will provide any information, documents, and briefings requested, and will not take, or permit anyone else to take, final action on the proposed contractual action during the period of the DASA(P) review. The SCO shall coordinate all proposed major decision points (e.g. Source Selection Authority appointments), with the DASA(P).

(2) The DASA(P) will customize the departmental review requirements on a case-by-case basis..

(3) In accordance with FAR 3.104-4(a), the ASA(ALT) has authorized personnel within the Office of the DASA(P), the Office of the Army General Counsel, and other personnel designated by the DASA(P) to receive full access to contractor bid or proposal information and source selection information in connection with such review. The Contracting officer, under SCO direction, shall ensure the Virtual Contracting Enterprise Paperless Contract File contains all documents related to the proposed contractual action. (See AFARS 5104.802 Contract files).

(b) The DASA(P), as Enterprise HCA, or other Army HCAs may appoint Program or Project-specific SCOs in conjunction with this subpart. (See AFARS 5101.693-90)

#### **5101.602-2 Responsibilities.**

(a) Refer to AFARS 5132.7 for instructions with regard to ensuring funds are available.

#### **5101.602-2-90 Legal coordination.**

Contracting officers will obtain a legal review and consider counsel's advice as follows:

(a) Include legal counsel as a member of the acquisition team (see FAR 1.102-3) throughout the acquisition process;

(b) Obtain a legal review for proposed contracting actions in accordance with locally established procedures and as otherwise required by law, regulation, or policy. It is not practicable to specify, in the AFARS, an inclusive list of actions requiring legal review at each contracting activity. Instead, counsel will routinely review a full range of acquisition-related actions that have potential legal significance. SCOs will work with local chief counsels, or equivalent official, to develop specific legal review protocols that are consistent with this provision.

(c) Obtain legal reviews on proposed actions to determine if the action is legally sufficient based on statute, regulation, and policy, and request details and a recommended course of action to resolve any insufficiency. Contracting officers will address and resolve counsel's

objections at the lowest possible level. Contracting officers and counsel will elevate unresolved objections within the acquisition and legal channels, as appropriate, and in exceptional cases, to the head of the contracting activity (HCA).

(d) The Contracting officer, under SCO direction, retains sole authority to determine matters that relate to the exercise of business judgment.

**5101.602-2-91 Contracting officer's representative appointments.**

(a) Contracting officers will appoint a properly trained Contracting officer's representative (COR) upon contract award, consistent with DFARS 201.602-2. SCOs may specify additional training at their discretion within their contracting activity. Contracting officers shall execute the COR appointment in the DoD Procurement Integrated Enterprise Environment (PIEE) Joint Appointment Module (JAM) no later than one business day after receipt of the contract in the Electronic Data Access (EDA) system has been confirmed.

(b) Contracting officers will allow 45 calendar days after receipt of the procurement request (PR) package for the requiring activity (RA) to satisfy all COR requirements. If, after the 45 days, a COR has not been properly trained and nominated in PIEE JAM, Contracting officers will cease further action on the PR package and return it to the supported RA.

(c) Contracting officers will validate COR and ordering officer records every 12 months in accordance with DFARS PGI 201.602-2(d)(vii) to ensure contractor compliance with the terms of the contract. Contracting officers will document the review in the contract file.

**5101.602-2-92 Ordering officer appointments.**

(a) *Policy.* The official (see AFARS 5101.603-1) appointing an ordering officer will state in the appointment letter that the ordering officer's authority may not be delegated further (see 5153.303-2 for a sample appointment letter).

(b) *Appointment and termination authority.* An appointing official may appoint an ordering officer, pursuant to AFARS 5101.603-3-90(a) through (f), when the official determines that the appointment is essential for the operation of the contracting mission. The purposes for which an appointing official may appoint an ordering officer and references to limitations of their authority are –

(1) To make purchases using imprest funds (FAR 13.305);

(2) To make purchases using Standard Form 44 (FAR 13.306, DFARS 213.306);

(3) To place orders against indefinite delivery contracts awarded by Contracting officers of the Military Departments for the preparation for shipment, Government storage, and intra-city



or intra-area movement of personal property, provided contract terms permit (see FAR subpart 47.2);

(4) To place Service Orders for Personal Property (DD Form 1164) against Commercial Warehousing and Related Services for Household Goods contracts for military and civilian personnel subject to the criteria and procedures prescribed in Chapter 2, DoD 4500.34-R, provided that no service order will be in excess of \$10,000; and

(5) To place orders against indefinite delivery contracts, in addition to those in (4), that Contracting officers award, as long as the contract terms permit and provided all orders placed are within monetary limitations specified in the contract.

*(c) Responsibilities of appointing authority.*

(1) *Training and orientation.* The appointing authority will orient and instruct ordering officers either personally or in writing about –

(i) The proper procedure(s) the appointing authority will authorize the ordering officer to use;

(ii) The standards of conduct for Army personnel prescribed in the Joint Ethics Regulation (DoD 5500.7-R) and the procurement integrity provisions at FAR 3.104; and

(iii) The preparation and submission of information for contract action reporting purposes.

(2) *Surveillance.* The appointing authority will provide technical supervision of ordering officers. At least once each year, the appointing authority will examine ordering officer purchase documents and records. Any individual designated to perform this review must be well qualified in the contracting procedures that ordering officers use.

(i) Write inspection or review findings and include specific comments as to whether the ordering officer is –

(A) Operating within the scope and limitations of authority delegated and FAR subpart 3.1;

(B) Maintaining the standards of conduct prescribed in DoD 5500.7-R;

(C) Engaging in improper practices, including but not limited to splitting purchase transactions to avoid monetary limitations or delegating authority to others; and

(D) Submitting correct and timely information for reporting purposes.

(ii) Retain copies of inspection and review findings for one year in the ordering officer's files and the inspector's or reviewer's files.

(iii) If an appointing authority finds that an ordering officer is not properly performing assigned duties or promptly correcting the deficiencies noted in inspections or reviews, the appointing authority will terminate the ordering officer's appointment.

(3) *Termination.*

(i) An ordering officer's appointment will remain in effect until the ordering officer leaves his position via reassignment or termination or the appointing authority revokes the appointment. Appointing officials will not revoke an appointment retroactively.

(ii) Appointing officials will terminate appointments in writing except terminations that result when a contract expires.

(d) *Procedures.* Appointing officials will –

(1) Appoint ordering officers by a letter of appointment substantially in the format at AFARS 5153.303-2, but tailored to fit the circumstances of the appointment;

(2) Maintain the file of appointments and justification for the appointments;

(3) Require individuals appointed as ordering officers to acknowledge receipt of their letters of appointment and termination in writing;

(4) Distribute appointment letters to ordering officers, imprest fund cashiers, disbursing officers and other interested personnel as necessary;

(5) List the names of ordering officers appointed to place orders against the contracts in the contract, or furnish copies of ordering officer appointment letters to contractors, imprest fund cashiers, disbursing officers and other interested personnel; and

(6) Furnish copies of termination letters to imprest fund cashiers, disbursing officers and other interested personnel.

**5101.602-3 Ratification of unauthorized commitments.**

(b) *Policy.*

(3) HCAs may ratify unauthorized commitments and may delegate this authority as specified in [Appendix GG](#).

### **5101.602-3-90 Ratification procedures.**

(a) HCAs may ratify an unauthorized commitment. See [Appendix GG](#) for further delegation.

(b) The individual making the unauthorized commitment must send the following documentation, at a minimum, to the cognizant ratifying authority:

(1) A signed statement describing the circumstances, the reason normal contracting procedures were not followed, what bona fide Government requirement necessitated the unauthorized commitment, the benefit received and its value, and any other pertinent facts.

(2) All other relevant documents, including orders, invoices or other evidence of the transaction.

(c) If the commander concurs that the unauthorized commitment should be ratified, the documentation must be sent to the chief of the contracting office with an endorsement that –

(1) Verifies the accuracy and completeness of the documentation;

(2) Describes the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken; and

(3) Provides a complete purchase description and funding for the ratifying contract.

(d) The chief of the contracting office will assign the action to an individual Contracting officer who will be responsible for –

(1) Reviewing the case and determining the adequacy of all facts, records, and documents and obtaining any additional material required; and

(2) Preparing a summary of facts to include a recommendation as to whether the individual responsible for approving the ratification (see AFARS 5101.602-3(b)) should ratify the transaction and reasons for the recommendation. In a recommendation not to ratify, include an explanation as to whether the contracting activity should process the transaction under FAR part 50 and DFARS part 250, Extraordinary Contractual Actions and the Safety Act or by means of the claims or disputes process set forth in FAR subpart 33.2.

(e) Upon receipt and review of the complete file, the individual responsible for approving the ratification may approve the ratification if he or she considers it to be in the best interest of the Government, or may direct other disposition.

(f) HCAs must monitor compliance with this subsection, AFARS 5101.602-3-90, and take all necessary corrective action.

### **5101.603 Selection, appointment, and termination of appointment for Contracting officers.**

#### **5101.603-1 General.**

The Secretary of the Army or one of the following individuals may select, appoint, and terminate Contracting officers:

- (1) The ASA(ALT).
- (2) The DASA(P).
- (3) The HCA. See [Appendix GG](#) for further delegation.

#### **5101.603-2 Selection.**

The HCA will establish criteria and procedures to ensure that prospective Contracting officers with authority to award or administer contracts for amounts above the simplified acquisition threshold, have the knowledge and experience to effectively and efficiently support their customers and successfully fulfill their fiduciary responsibilities as required by DFARS 201.603-2 and 10 U.S.C. 1724. The HCA shall follow the policy set forth in the Army Warranting Guide. The policy is available on the [Army Warranting Program](#) tile on <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM> (PAM).

#### **5101.603-3 Appointment.**

(a) Appointing officials will utilize the Virtual Contracting Enterprise (VCE) Warrant Tool to appoint, suspend, terminate and otherwise document and maintain a complete file for each Contracting officer. The file will include documentation of qualifications and the continuation of professional proficiency. The appointing official will update the files in the VCE Warrant Tool upon any change in the Contracting officer's authority, and will review the files no less than biennially to ensure compliance with statutes and regulations.

#### **5101.603-3-90 Other individuals authorized to procure supplies and services on behalf of the Army.**

In addition to the ordering officers identified in AFARS 5101.602-2-92, a Contracting officer or one of the appointing officials identified in AFARS 5101.603-1 may designate individuals to procure supplies or services on behalf of the Army as specified in paragraphs (a) through (f) in this subsection. Individuals in paragraphs (a) through (c) will prepare and submit information for reporting purposes to the supporting contracting office as specified by that office policy. Individuals in (d) will report to the contracting office supporting the mobilization base.

(a) Contracting officers may authorize individuals to place calls under blanket purchase agreements. (See FAR subpart 13.3, DFARS subpart 213.3, and subpart AFARS 5113.3.)

(b) Appointing officials may authorize Army aviators and masters of Army-owned or operated vessels to use Standard Form 44 (see FAR 13.306 or provisions of Army Regulation 710-2 and Department of the Army Pamphlet 710-2-2) for emergency purchases of supplies (e.g., fuels, oils, parts) and services (e.g., mechanical services, hangar services, landing and docking fees and employment of civilian guards or watchmen to safeguard Government property) under any of the following conditions:

(1) Authorized flights or voyages during which mechanical or meteorological conditions prevent obtaining required supplies and services from Government facilities.

(2) Conditions under which continuation of flight, voyage or mission would constitute a hazard to safety or endanger public property.

(3) Conditions under which procurement of supplies and services from Government facilities would interfere with approved flight plans or voyages.

(c) Appointing officials may issue the Governmentwide commercial purchase card to individuals to use in accordance with FAR 13.301.

(d) Appointing officials may authorize individuals in Reserve Components to procure supplies or services on behalf of the Army in the event of mobilization using Standard Form 44 and U.S. Army Forces Command Mobilization and Deployment System, Volume III. Reserve Component unit commanders may purchase over-the-counter type items not exceeding the micro-purchase threshold per transaction. The commander will use Standard Form 44 when a Federal Mobilization Order, requiring unit movement to a mobilization station or site, or where procurement support is not readily available from a supporting installation. This temporary authority will expire upon resumption of procurement support by the contracting office at the mobilization station or supporting installation.

(e) Appointing officials may issue U.S. Government Travel Charge Cards to individuals for use on official travel.

(f) Appointing officials may authorize individuals identified in Army Regulation 725-50 to order supplies from General Services Administration Stores Depots using the Governmentwide commercial purchase card procedures.

#### **5101.603-3-91 Restrictions.**

(a) Personnel in the 1101 job classification series will not be appointed or serve as Contracting officers. This requirement is not subject to an individual or class waiver.

(b) Commanders and others having administrative supervision over Contracting officers must bear in mind that actions exceeding the authority of a Contracting officer are not binding on the

Government. Therefore, they will not direct, or otherwise exert influence, upon Contracting officers to take such actions.

#### **5101.690 Procurement management review assistance.**

(a) Office of the Deputy Assistant Secretary of the Army (Procurement), Procurement Insight/Oversight Directorate, manages the Procurement Management Review (PMR) Program to perform oversight of Army contracting activities in accordance with [Appendix CC](#).

(b) Once every 36 months, all HCAs will conduct PMRs for each of their contracting offices to ensure compliance with, at a minimum, laws, policies, regulations, directives, FAR, DFARS, AFARS and AFARS [Appendix CC](#). HCAs will furnish copies of review reports to the HQDA PMR Team Leader at [usarmy.ncr.hqda-asa-alt.mesg.pi-pmr-team@army.mil](mailto:usarmy.ncr.hqda-asa-alt.mesg.pi-pmr-team@army.mil) within 60 days of completing a review.

#### **5101.691 Management controls.**

See [AFARS PGI 5101.691-1](#) for guidance on the Army Enterprise Audit Tracker.

Management controls within each contracting organization are an element of day-to-day operations. Managers at all levels should refer to [Appendix BB](#), Management Control Evaluation Checklist, to evaluate their organization's compliance with key management controls and to identify and correct weaknesses. The list of questions in [Appendix BB](#) is not all-inclusive nor are managers required to respond to all of them. Managers should tailor the list to include areas specific to each contracting office, and should include the Areas of Special Interest, which the DASA(P) issues each fiscal year.

#### **5101.692 Head of the contracting activity.**

(a) HCAs will ensure that only Contracting officers selected and appointed in accordance with 5101.603 enter into contracts on behalf of the Army.

(b) HCAs will appoint a SCO. When selecting the SCO, the HCA must comply with the requirements of Department of Defense Instruction (DoDI) 5000.66 governing the selection of senior contracting officials. Prior to appointing the SCO, the HCA shall coordinate the proposed SCO selection directly with the Enterprise HCA.

(1) The HCA must assign to the SCO, or give him/her direct access to, the personnel and other essential resources necessary to perform all the functions that the HCA delegates to him/her.

(2) The HCA may appoint Program or Project-specific SCOs on a temporary basis within the responsible Army contracting activity. The Program or Project-specific SCO focuses solely on the management of that program's contract action(s). (See AFARS 5101.693-90)

(3) The HCA must notify in writing the addressee in AFARS 5101.290(b)(2)(i) when there is a newly appointed SCO.

**5101.693 Senior contracting official.**

(1) A SCO, defined as a critical acquisition position in 10 U.S.C. 1735 and a key leadership position in the DoDI 5000.66, must meet the additional position requirements listed in DoDI 5000.66, Table 3.

(2) SCOs will exercise procurement authority in accordance with the FAR and its supplements and perform delegated HCA contracting authorities. Procurement authority is delegated by the HCA and is not position dependent.

(3) The SCO, by virtue of the organizational position occupied, may execute command functions for the contracting activity, but these functions are separate and distinct from procurement authority.

(4) SCOs will –

(i) Report directly to the HCA on all matters regarding procurement.

(ii) Be evaluated by the HCA for performance appraisals, as required by the DoDI 5000.66.

(iii) Minimize the potential for undue influence and protects contracting professionals from internal or external pressure to perform improper actions.

**5101.694-90 Program or Project-specific Senior contracting official.**

(1) A Program or Project-specific SCO focuses solely on the management of that program's or project's contract action(s). The appointment may be tailored to align with the risk or complexity, and dollar value of the pertinent program or project. The Program or Project-specific SCO will exercise procurement authority in accordance with the FAR and its supplements and perform delegated HCA contracting authorities. Procurement authority is delegated by the HCA and is not position dependent.

(2) Program or Project-specific SCOs may be appointed on a temporary basis, typically for the duration of that contract action(s), within an Army contracting activity. The individual must meet the position requirements listed in DoDI 5000.66.

(3) Program or Project-specific SCOs will –

(i) Report directly to the HCA on all matters regarding the pertinent contract action(s).

(ii) Have direct access to the personnel and other essential resources necessary to perform all assigned functions.

## **Subpart 5101.7 – Determinations and Findings**

### **5101.707 Signatory authority.**

The head of the contracting activity or the SCO and the Contracting officer will sign each Secretarial determination request.

## **Subpart 5101.90 – Nonappropriated Funds**

### **5101.9001 Policy.**

DoD policy for contract actions using nonappropriated funds is in DoD Directive 4105.67. See Army Regulation (AR) 215-1 and AR 215-4 for implementing policies and procedures for Army nonappropriated fund acquisitions.

### **5101.9002 Contracting authority.**

SCOs may designate appropriated fund Contracting officers as nonappropriated fund Contracting officers. (See AR 215-4.)

## **Subpart 5101.91 – Authority to Award and Administer Grants, Cooperative Agreements, Technology Investment Agreements, and Other Transactions**

### **5101.9101 Authority and responsibilities.**

(a) Procedures governing grants, cooperative agreements, and technology investment agreements are set forth in the DoD Grant and Agreement Regulations (DoDGAR), currently codified at Chapter I, Subchapter C of Title 32, Code of Federal Regulations (CFR) and Chapter XI of Title 2, CFR (see Department of Defense Directive Number 3210.06). In the absence of an Army supplement to the DoDGAR this AFARS subpart provides a record of the Army's implementation of 32 CFR 21.425 – 21.435.

(b) Procedures governing Other Transaction Authority are set forth at 10 U.S.C. section 2371b and in the Other Transactions Guide for Prototype Projects, issued January 2017 by the Director for Defense Pricing, Contracting and Acquisition Policy (DPCAP). In the absence of an Army supplement this subpart provides a record of the Army's implementation of 10 U.S.C section 2371b and the DPCAP guide.

(b)(1) HCAs with grant and cooperative agreement responsibilities are authorized to make and administer grant and cooperative agreement awards in accordance with specific delegations of authority from the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) and as otherwise authorized in 32 CFR 21.420(c).

(2) HCAs with other transaction responsibilities are authorized to make and administer other transaction agreement awards in accordance with specific delegations of authority from the ASA(ALT) and as otherwise authorized in 10 U.S.C. section 2371b.



(c) HCAs also are authorized to appoint grants officers and agreements officers and to broadly manage their contracting activity's functions related to assistance instruments.

(d) HCAs are responsible for grant and cooperative agreement awards made by their contracting activity and shall supervise and establish and maintain internal policies and procedures for that activity's awards.

(e) HCAs shall utilize the Virtual Contracting Enterprise (VCE) Warrant Tool to appoint, suspend, terminate and otherwise document and maintain a complete file for each grants and agreements officer. The file will include documentation of qualifications and the continuation of professional proficiency. The appointing official will update the files in the VCE Warrant Tool upon any change in the grants and agreements officer's authority, and will review the files no less than biennially to ensure compliance with statutes and regulations.

The HCA shall follow the policy set forth in the Contracting Officer Warranting Program Guide. The policy is available in the Warranting tile on <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM> (PAM) at <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-TMC/SitePages/Warrant.aspx>.

# AFARS – PART 5102

## Definitions of Words and Terms

*(Revised 01 October 2024)*

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### Subpart 5102.1 – Definitions

#### 5102.101 Definitions.

“Army Acquisition Executive (AAE)” means the Assistant Secretary of the Army (Acquisition, Logistics and Technology), as designated by the Secretary of the Army.

“Chief of the contracting office” means the person having direct responsibility for the operation of a contracting office as defined in FAR 2.1. This person also has procurement authorities assigned by the Federal Acquisition Regulation and its supplements and performs contracting authorities as delegated by the head of the contracting activity or senior contracting official.

“Head of the agency” means the Assistant Secretary of the Army (Acquisition, Logistics and Technology) when executing authorities of the head of the agency for contracting procurement matters pursuant to laws and regulations, as designated by the Secretary of the Army.

“Head of the contracting activity” means the Deputy Assistant Secretary of the Army (Procurement) for a contracting activity that does not have a head of the contracting activity specifically designated. This authority shall not be further delegated. See delegations in Appendix GG.

“Senior contracting official (SCO)” means the senior official for or within a contracting activity responsible for the performance of contracting authorities delegated by the head of the contracting activity. (See 5101.693)

“Senior Procurement Executive (SPE)” means the Assistant Secretary of the Army (Acquisition, Logistics and Technology), as designated by the Secretary of the Army.

## **AFARS – PART 5103**

### **Improper Business Practices and Personal Conflicts of Interest**

*(Revised 01 October 2024)*

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## **Subpart 5103.1 – Safeguards**

### **5103.104 Procurement integrity.**

The Army General Counsel is the Designated Agency Ethics Official (DAEO). The General Counsel has designated deputy DAEOs (DDAEOs) and has delegated to them the authority to act on his behalf concerning procurement integrity matters. The General Counsel has authorized DDAEOs to further delegate that authority to subordinate ethics counselors under their area of responsibility.

#### **5103.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) or Contracting officer may disclose contractor bid or proposal information or source selection information to facilitate timely access to information by higher Headquarters personnel and external stakeholders who require such access in the performance of their official duties. See [Appendix GG](#).

Personnel serving in the following positions are authorized access to contractor bid or proposal information and source selection information to the extent necessary to perform their official duties:

- (i) Personnel assigned to the Office of the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT)), Office of the Assistant Secretary of the Army for Financial Management & Comptroller (ASA(FMC)) and the Office of the Army General Counsel, who are performing Headquarters, Department of the Army level reviews or oversight.
- (ii) Personnel participating in the evaluation of an offeror's or bidder's proposal or in the review and defense of protests.
- (iii) Personnel in the responsible contracting office, along with supporting legal and small business office personnel.
- (iv) Personnel in the requiring activity having principal technical cognizance over the requirement, to include those with technical oversight responsibilities.
- (v) Personnel assigned to the Defense Contract Audit Agency and contract administration offices of the DoD, who are supporting the procurement.
- (vi) Personnel assigned to the DoD Office of Cost Assessment and Program Evaluation (CAPE) performing reviews or oversight.

(vii) Other personnel whom the Deputy Assistant Secretary of the Army (Procurement), the head of the contracting activity (HCA), Senior Contracting Official (SCO), Contracting officer, or the source selection authority designates on an individual basis.

(b) Follow the procedures at [AFARS PGI 5103.104-4-1](#) Access to Contract Procurement Data and Documentation to provide access.

#### **5103.104-5 Disqualification.**

(c)(2) The head of contracting activity shall make the determination as described in FAR 3.104-5(c)(2). See [Appendix GG](#) for further delegation.

#### **5103.104-6 Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.**

(c) The appropriate agency ethics official to provide an ethics advisory opinion is any properly appointed ethics official or ethics counselor within the servicing legal office for the last unit or organization to which the former official was assigned.

#### **5103.104-7 Violations or possible violations.**

(a) If a Contracting officer receives information of a violation or possible violation of the Restrictions on Obtaining and Disclosing Certain Information statute and –

(1) Concludes that there is no impact on the procurement, the Contracting officer must forward the information to the chief of the contracting office who will follow the procedures set forth in FAR 3.104-7(a)(1); or

(2) Concludes that the violation or possible violation impacts the procurement, the Contracting officer must promptly forward the information through the chief of the contracting office to the HCA.

(b) Upon receipt of information, the HCA, on a non-delegable basis, must take appropriate action after consulting with the Contracting officer and legal counsel.

(f) The HCA must:

(i) Notify the ASA(ALT) (see AFARS 5101.290(b)(2)(ii)(B)) when the HCA has determined that urgent and compelling circumstances justify an award, or award is otherwise in the interests of the Government; and

(ii) Obtain written verification that the ASA(ALT) has received the notification before authorizing award of the contract or execution of the contract modification.

### **5103.171 Senior DoD officials seeking employment with defense contractors.**

#### **5103.171-3 Policy.**

(a) The appropriate agency ethics official to provide a written opinion regarding the applicability of post-employment restrictions to a covered DoD official is any properly appointed ethics official or ethics counselor within the servicing legal office for the last unit or organization to which the covered DoD official was assigned.

### **Subpart 5103.2 – Contractor Gratuities to Government Personnel**

#### **5103.201 Applicability.**

This subpart establishes Army procedures for addressing suspected violations of the Gratuities clause. These procedures are not intended to be an exclusive remedy that would preclude or limit otherwise appropriate criminal, civil, or administrative action.

#### **5103.203 Reporting suspected violations of the Gratuities clause.**

(a)(i) Violations of the Gratuities clause include, but are not limited to, entertainment or gift(s) offered or given by a contractor or a contractor's agent or representative to any officer, official, or employee of the Government to obtain an Army contract or favorable treatment in the awarding, amending, or making of determinations concerning the performance of an Army contract.

(ii) Provide reports of suspected violations of the Gratuities clause to the following Army officials (see FAR 3.203 and 52.203-3):

(A) The chief of the contracting office responsible for the contract with the potential infraction, unless the chief of the contracting office is suspected to be a party to the proffered gratuity, in which case refer to paragraph (B) of this section.

(B) The senior contracting official (SCO) having responsibility for the contract with the potential infraction.

(b) As soon as practicable, the chief of the contracting office, or SCO if necessary under paragraph (a)(ii)(B) of this section, shall:

(i) Report the suspected violation to the Army Criminal Investigation Division (CID) for appropriate action.

(ii) In coordination with the local procurement fraud advisor (PFA), report the suspected violation to the HCA, with a complete copy to the Chief of the Army Procurement Fraud Branch (see AFARS 5101.290(b)(5)). Include the following information:

(A) The name and address of the contractor, a statement as to the form of the organization, including names and addresses of principals;

(B) Complete contract data, including number, date, estimated day of completion of performance, general description of supplies or services procured, dollar amount, status of performance and payment, urgency of requirements and availability of the supplies or services from other sources;

(C) A summary of the reported information concerning the suspected violation, with names and addresses, dates and references to documentary evidence available.

(iii) Contracting personnel will cooperate fully with Army CID personnel, the organization's PFA and the Chief of the Army Procurement Fraud Branch and preserve any documentary evidence and exhibits.

(iv) If Army CID declines to initiate a criminal investigation, the HCA will coordinate with the organization's PFA and the Chief of the Army Procurement Fraud Branch to decide whether the circumstances warrant the initiation of an administrative investigation of the suspected violation under Army Regulation 15-6. If the HCA decides not to initiate an investigation, the HCA will prepare a memorandum to document the basis for the decision.

(v) If a CID or administrative investigation is conducted, at its conclusion the HCA will coordinate with the organization's PFA and the Chief of the Army Procurement Fraud Branch to determine whether further action is necessary.

(A) If the HCA decides that no further action is necessary, the HCA will prepare a memorandum to document the basis for the decision.

(B) If the HCA decides that further action is necessary, the HCA shall refer the matter, along with all supporting documentation, to the Army suspension and debarment official (SDO) through the Chief of the Army Procurement Fraud Branch. The Army SDO, or other senior official designated by The Judge Advocate General, shall proceed in accordance with FAR 3.204 and AFARS 5103.204.

#### **5103.204 Treatment of violations.**

(a) Pre-hearing procedures.

(i) The Army SDO, or other senior official designated by The Judge Advocate General, is the hearing officer for hearings under FAR 3.204 and is responsible for determining whether a violation of the Gratuities clause occurred. The Chief of the Army Procurement Fraud Branch will generally provide administrative support to the Army SDO to include providing counsel to act as the Government's representative in any proceeding pursuant to this subpart. See [Appendix GG](#).

(ii) The hearing officer is responsible for notifying the contractor of any suspected violation of the Gratuities clause. The notice to the contractor is sent by registered or certified mail, or another, similar commercial means that provides a signed delivery receipt. The notice will accomplish the following:

(A) Describe the suspected violation(s) in sufficient detail to reasonably apprise the contractor of the alleged violation(s).

(B) State the potential penalties for a violation of the Gratuities clause.

(C) Include a copy of the supporting record, with a general description of any redacted material, such as social security numbers, dates of birth, and financial account numbers, and the reasons for withholding.

(D) Inform the contractor that it may refute the allegations set forth in the notice. The contractor may refute the allegations and provide in person, through a representative at its own expense, or in writing any information the contractor wishes to have considered. The contractor may submit documentary evidence and arguments. If the contractor requests a hearing, at that hearing the contractor may confront any person the Government representative presents as a witness and may present witnesses at the contractor's own expense. Inform the contractor that any hearings will be conducted in accordance with paragraph (b) of this section.

(E) State that the contractor has 30 working days from receipt of the notice to submit written matters concerning the allegations and to request a hearing. Any timely submissions by the contractor will become part of the evidentiary record.

(F) Advise the contractor that if a hearing is requested, a list of any witnesses the contractor wishes to present and a concise statement of each witness's relevance to the hearing will be delivered to the Chief of the Army Procurement Fraud Branch no later than five working days in advance of the hearing date.

*(b) Hearing and post-hearing procedures.*

(i) The hearing officer will schedule the hearing as soon as practicable after receipt of the contractor's request. The hearing officer may inform the contractor of the hearing date by email



if the contractor so requests and provides an email address for that purpose when requesting a hearing.

(ii) Hearings shall be conducted at the hearing officer's office.

(iii) Hearings shall be consistent with FAR 3.204(b), and they shall be non-adversarial in nature.

(iv) The hearing officer and the Government representative may ask questions of the contractor or its representatives making the presentation.

(v) The contractor or its representatives and the Government representatives shall have an opportunity to present information, including witness testimony, relevant to the facts at issue. The hearing officer may permit witnesses to appear by videoconference or other electronic means rather than in person. Witnesses will be sworn in and reminded of the official nature of the proceedings and that they are subject to criminal prosecution for any false testimony. Witnesses are subject to cross-examination. The hearing officer may ask questions of any witness.

(vi) Documents and testimony not ordinarily admissible under legal rules of evidence may be received at the discretion of the hearing officer and will be given appropriate weight. The hearing officer may exclude from the evidentiary record irrelevant or unduly repetitive information presented by the contractor or the Government representative.

(vii) A verbatim transcript of the hearing will be made and will become part of the evidentiary record. Additional documentary materials or comments the hearing officer permits the contractor or the Government representative to submit to the hearing officer at or following the hearing become part of the evidentiary record. The party submitting such additional materials or comments to the hearing officer shall simultaneously provide the same materials to the other party, and the other party shall have five working days from receipt to submit comments to the hearing officer on the post-hearing submission.

(viii)(A) The hearing officer shall make all findings of fact and conclusions of law relevant to whether a violation of the Gratuities clause occurred, including the dollar value of any gratuity. The hearing officer also makes all findings of fact, conclusions of law, and recommendations relevant to whether the contractor's right to proceed under the contract should be terminated, and, if so, whether an assessment of exemplary damages is appropriate and in what amount. These findings will be based on a preponderance of the evidence contained in the evidentiary record. The decision of the hearing officer as to whether a violation of the Gratuities clause has occurred will be the Department of the Army's final decision.

(B) If the contractor does not request a hearing in a timely manner or abandons its request, the hearing officer will make the findings of fact, conclusions of law, and recommendations on the basis of the written record.

(C) The hearing officer may permit the contractor and the Government representative to submit proposed findings of fact, conclusions of law, and recommendations by the date specified by the hearing officer. The hearing officer also may require the contractor and the Government representative to submit stipulated findings of fact and conclusions of law.

(ix) The hearing officer shall issue a written decision as soon as practicable after the conclusion of the hearing or the hearing officer's receipt of all documentary submissions. If the hearing officer concludes that a violation of the Gratuities clause occurred, the decision shall include:

(A) The findings of fact and conclusions of law that the hearing officer relied upon and

(B) The findings of fact, conclusions of law, and recommendations relevant to whether the contractor's right to proceed under the contract should be terminated, and, if so, whether an assessment of exemplary damages is appropriate and in what amount.

(x) If the hearing officer determines that a violation of the Gratuities clause occurred, the hearing officer will submit the written decision and evidentiary record to the responsible HCA.

(c)(i) As soon as practicable upon receipt of the written decision and evidentiary record the Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall determine whether to terminate the contractor's right to proceed under the contract, and, if so, whether to assess exemplary damages and in what amount. The decision will be the final decision of the Department of the Army with respect to those determinations. See [Appendix GG](#) for further delegation.

(ii) Officials of the responsible contracting activity will promptly provide written notice of the decision, together with the written decision of the hearing officer, to the contractor by registered or certified mail, or another, similar commercial means that provides a signed delivery receipt.

#### **Subpart 5103.6 – Contracts with Government Employees or Organizations Owned or Controlled by Them**

##### **5103.602 Exceptions.**

Only HCAs may authorize exceptions to the policy in FAR 3.601.

## **Subpart 5103.7 – Voiding and Rescinding Contracts**

### **5103.703 Authority.**

The authority to act for the agency head under this subpart is limited to a level no lower than an official who is appointed by and with the advice of the Senate, without power of redelegation. For the Department of the Army, the Assistant Secretary of the Army (Acquisition, Logistics and Technology), without power of further delegation, performs the functions under this subpart.

### **5103.704 Policy.**

(c) The head of contracting activity, on a non-delegable basis, shall perform the penalty-related duties as described in FAR 3.704(c)(1) and (2).

## **Subpart 5103.9 – Whistleblower Protections for Contractor Employees**

### **5103.905 Procedures for investigating complaints.**

(2) The Office of the Deputy Assistant Secretary of the Army (Procurement) will forward the DoD Inspector General's initial notification and subsequent written report of findings to the cognizant head of the contracting activity.

### **5103.906 Remedies.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) performs the functions specified in DFARS 203.906. See [Appendix GG](#) for further delegations.

## **Subpart 5103.10 – Contractor Code of Business Ethics and Conduct**

### **5103.1004 Contract clauses.**

(a) Insert the clause at FAR 52.203-13, Contractor Code of Business Ethics and Conduct, in full text.

# **AFARS – PART 5104**

## **Administrative Matters**

*(Revised 10 March 2025)*

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## **Subpart 5104.1 – Contract Execution**

### **5104.103 Contract clause.**

Contracting officers will insert FAR clause 52.204-1, Approval of Contract, in solicitations and contracts when an agency official other than the Contracting officer is the approval authority.

## **Subpart 5104.2 – Contract Distribution**

### **5104.201 Procedures.**

In addition to DFARS 204.201 requirements for bilateral contracts, Contracting officers shall distribute a copy or reproduction of the contract form showing the contractor's signature. The copy or reproduction shall be in the "portable document format" (.pdf) for distribution via electronic mail (email) or other electronic means.

### **5104.202 Agency distribution requirements.**

Distribute a copy of contracts for utility services and communications to:

General Services Administration/Public Buildings Service  
Office of Procurement, Public Utilities Service Division (PPU)  
Room 7322, GSA Building  
18th & F Streets NW  
Washington DC 20405.

## **Subpart 5104.4 – Safeguarding Classified Information Within Industry**

### **5104.402 General.**

(d)(1) The National Industrial Security Program (NISP) Contract Classification System (NCCS) module Version 2.0 re-deployed effective 1 May 2022. Contracting officers shall follow the procedures at FAR 4.402(d)(1) to transmit DD Form 254s to the Defense Counterintelligence Security Agency (DCSA). In the absence of access to the NISP NCCS, Contracting officers shall follow the procedures at [AFARS PGI 5104.403\(2\)-1](#) to transmit DD Form 254s to DCSA until further notice.

### **5104.403 Responsibilities of contracting officers.**

(1) In accordance with DFARS PGI 204.403(1), the Contracting officer will include a DoD Form DD 254, DoD Contract Security Classification Specification in solicitations as appropriate and obtain the security manager's signature (see Army Regulation 380-49, 4-4a, Department of the Army Industrial Security Program) as the certifying official on the form.

## **Subpart 5104.5 – Electronic Commerce in Contracting**

### **5104.502 Policy.**

(b)(4) Electronic commerce in contracting is satisfied if the reverse auction application posts the synopsis (or combined synopsis-solicitation) to SAM.gov.

### **5104.502-90 Army supplemental policy.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) on a non-delegable basis, shall ensure that systems, technologies, procedures, and processes used by the agency to conduct electronic commerce follow the guidelines set forth in FAR 4.502 (b) and (c).

## **Subpart 5104.6 – Contract Reporting**

### **5104.604 Responsibilities.**

(a) The Senior Procurement Executive in coordination with the head of the contracting activity is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS. See [Appendix GG](#) for further delegation.

## **Subpart 5104.8 – Government Contract Files**

### **5104.802 Contract files.**

(f) Contracting officers shall utilize the Virtual Contracting Enterprise (VCE) tools throughout the acquisition process to maximize visibility and management of contract specific information and documents. VCE shall not be used for classified documents or contracts.

(i) The Paperless Contract File (PCF) module shall be used to store, access, and route documents necessary to manage the acquisition process for review and approval. Contracting officers shall ensure that the PCF contains all appropriate contract documents. If the contract document is maintained within the Procurement Integrated Enterprise Environment (PIEE, <https://wawf.eb.mil/>) or the Federal Procurement Data System-Next Generation (FPDS-NG)), then that system is the official system of record; Contracting officers should not duplicate the document and file it in the PCF.

Follow procedures at [AFARS PGI 5104.802\(f\)\(i\)-1.](#)

Follow procedures at [AFARS PGI 5104.802\(f\)\(i\)-2.](#)

(1) The Army Cabinet Index folder structure shall be used when filing documents in PCF to ensure standardization throughout Army contract files. See AFARS PGI 5104.802(f)(i)(1) for instructions to access the cabinet index structure.

(2) When the Contracting officer receives knowledge of a preaward or postaward protest submitted to any venue, the Contracting officer shall notify the DASA(P) in accordance with AFARS 5101.290(a)(1).

(3) Milestone Tracking shall be used to forecast and document dates for initiation and completion of key documents and milestones. The VCE tool identifies the mandatory data fields based on specific criteria for the acquisition.

See [AFARS PGI 5104.802\(f\)\(i\)\(3\)-1](#).

See [AFARS PGI 5104.802\(f\)\(i\)\(3\)-2](#).

(4) Mission Partner/Requirement Owner Functionality shall be used by requirements owners to create cabinets and submit documents to contracting organizations. Contracting officers shall assist requirements owners as necessary to ensure utilization of the tool.

(ii) VCE Warrants Module shall be used to issue and track Contracting officer and grant officer warrants; see 5101.603-3.

(iii) VCE shall be used for the Announcement of Awards and Small Business Coordination Record (DD Form 2579); see 5105.303 and 5119.201(d)(10)(B)(i) respectively.

#### **5104.803 Contents of contract files.**

(a)(24) Legal reviews in accordance with 5101.602-2-90(c) shall be done in writing and documented in the contract file.

#### **5104.804 Closeout of contract files.**

(2) The head of contracting activity shall perform the duties as described in DFARS 204.804(2). See [Appendix GG](#) for further delegation.

#### **5104.804-5 Procedures for closing out contract files.**

(a)(12) When the contractor submits an adequate final indirect cost rate proposal in accordance with FAR 42.705-1(b)(1)(iii), the Contracting officer must obtain a Defense Contract Audit Agency audit report or document the file with a memorandum that deems the proposal to be low-risk and not subject to further audit before closing out the contract file.

## **Subpart 5104.9 – Taxpayer Identification Number Information**

### **5104.903 Reporting contract information to the IRS.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall report the information set forth in FAR 4.903 to the IRS. See [Appendix GG](#) for further delegation.

## **Subpart 5104.71 - Uniform Contract Line Item Numbering System**

### **5104.7103-90 Contract line items for internal use software (IUS).**

(a) *Definition.* As used in this section, the following terms have the same meaning as given in the [Implementation Guide for Internal Use Software](#) located on <https://Procurement.Army.Mil> (PAM) at <https://armyeitaas.sharepoint-mil.us/:u:/r/sites/ASA-ALT-PAM/Documents/Policy%20Alert%2019-79%20Instructions%20for%20Accounting%20for%20IUS%20in%20Contract%20Documents.msg?csf=1&web=1&e=hnNJmM>.

- (1) internal use software
- (2) valuation
- (3) capitalized
- (4) expensed

(b) *Procedures.* When procuring internal use software, Army contracting activities shall—

(1) Confirm that the requiring activity has established separately identifiable line items for all capitalized and expensed requirements in the purchase request;

(2) Ensure the line item structure aligns with the lines of accounting related to the capitalized and expensed classifications assigned by the requiring activity; and

(3) Include appropriate invoicing instructions and acceptance criteria in the solicitation and contract or order.

## **Subpart 5104.73—Safeguarding Covered Defense Information and Cyber Incident Reporting**

### **5104.7304 Solicitation provisions and contract clauses.**

See [AFARS PGI 5104.7304-1](#) for implementation guidance of Enhanced Security Protections for Contractor Information Systems.



# AFARS – PART 5105

## Publicizing Contract Actions

*(Revised 01 October 2024)*

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### Subpart 5105.1 – Dissemination of Information

#### 5105.101 Methods of disseminating information.

(a)(1) Prior to synopsisizing in the GPE, Contracting officers shall obtain concurrence on the notice for all Program Executive Office (PEO) managed programs requiring a written acquisition plan in accordance with DFARS 207.103.

(i) When the estimated dollar value of the acquisition is at least \$50 million but less than \$250 million, obtain the concurrence of the cognizant Program Manager.

(ii) When the estimated dollar value of the acquisition is \$250 million or greater, obtain the concurrence of the cognizant PEO.

#### 5105.102 Availability of solicitations.

(a)(5)(iii) The senior procurement executive shall make the determination that access through government point of entry (GPE) is not in the Government’s interest. See Appendix GG for further delegation.

## **Subpart 5105.3 – Synopses of Contract Awards**

### **5105.303 Announcement of contract awards.**

#### *(a) Public announcement.*

(i) In addition to the contractual actions identified in DFARS 205.303, report all contractual actions of significance or interest to the United States Congress, the Army, and the local community.

(ii)(1) The Contracting officer shall submit an announcement of contract award to the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) no later than noon (12:00 p.m., Washington, DC, time) three business days (including the date of submission) prior to the date of the proposed award. For example: when an award is anticipated on Thursday, the ODASA(P) must receive the announcement no later than noon, Washington DC time, on the preceding Tuesday. Contracting officers will submit the request along with required supporting information via the Virtual Contracting Enterprise (VCE) portal at <https://vce.army.mil>. A Contracting officer will not award a contract that meets the reporting threshold at DFARS 205.303(a)(i) without formal ODASA(P) approval. If the Contracting officer has not received approval of the request by 2:30 p.m., Washington, DC time, on the day before the desired date of contract award, the Contracting officer will contact the ODASA(P) at [usarmy.pentagon.hqda-asa-alt.list.congressional-notification@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.congressional-notification@army.mil) to inquire into the status of the approval.

(2) Contracting officers shall confirm the award schedule with ODASA(P) by noon of the proposed award date using the email address in paragraph (a)(ii)(1). If the schedule is anticipated to slip, a new award date must be established.

(3) When a contract action is to be awarded under the authority of FAR 6.302-2 and the senior contracting official (SCO) determines that it may be impracticable to comply with the requirements of DFARS 205.303(a)(ii)(A) and (B), the SCO, without power to delegate further, shall:

(i) Immediately notify the DASA(P) by email, with a copy furnished to the head of the contracting activity, that explains the circumstances and requests authority to make the award in advance of compliance with DFARS 205.303(a)(ii)(A) and (B); and

(ii) Authorize the Contracting officer to award the contract only upon written approval by the DASA(P) or, in the DASA(P)'s absence, the senior official within the ODASA(P).

(4) The Contracting officer will submit the standard announcement under paragraph (a)(ii)(1) of this section to the ODASA(P) no later than one business day after the award. In addition to the information specified in the automated tool, the Contracting officer

will add a one-line comment in the “Description” field that describes the nature of the urgency that precluded advance notification to the Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)).

(5) In accordance with 10 U.S.C. 2316, do not release the identity or location of the awardee to any individual, including a Member of Congress, until OASD(PA) makes the public announcement.

(6) Paragraph (a)(ii)(3) of this section is the only authorized Army-level exception to DFARS 205.303(a)(ii)(A) and (B). No contracting activity-level deviation from this provision may be authorized.

(iii) The ODASA(P) informs the Office of the Chief Legislative Liaison who in turn informs the members of Congress in whose state or district the contractor is located and performing the contractual requirements, and the Office of the Chief of Public Affairs who in turn notifies OASD(PA).

## **Subpart 5105.4 – Release of Information**

### **5105.402 General public.**

The Contracting officer must obtain concurrence from Office of the Chief Legislative Liaison, Department of the Army, prior to releasing information regarding a congressional inquiry response to the general public, including information proposed to be released to the news media.

### **5105.403 Requests from members of congress.**

(a) Contracting officers shall not provide information regarding a congressional inquiry to any public or private, individual or organization, prior to responding to the appropriate Member of Congress (see AFARS 5105.402).

(b) When responsiveness would result in disclosure of a classified matter, business confidential information, or information prejudicial to a competitive acquisition, the Contracting officer shall refer the proposed reply, with full documentation, through the senior contracting official to the ODASA(P) as provided in AFARS 5101.290. ODASA(P) will seek agency head approval as defined in AFARS 5102.101. The Contracting officer shall inform the Office of the Chief Legislative Liaison of the action and submit an interim response to the appropriate Member of Congress, indicating the action being taken.

### **5105.404 Release of long-range acquisition estimates.**

#### **5105.404-1 Release procedures.**

(a) *Application.* The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may release long-range acquisition estimates. See Appendix GG for further delegation.

### **Subpart 5105.5 – Paid Advertisements**

#### **5105.502 Authority.**

(a) The head of the contracting activity shall approve the publication of paid advertisements in newspapers. See Appendix GG for further delegation.

# **AFARS – PART 5106**

## **Competition Requirements**

*(Revised 01 October 2024)*

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## **Subpart 5106.2 – Full and Open Competition After Exclusion of Sources**

### **5106.202 Establishing or maintaining alternative sources.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may make the determination as stated in FAR 6.202(a). See [Appendix GG](#) for further delegation, based on the dollar value of the contract action.

## **Subpart 5106.3 – Other Than Full and Open Competition**

### **5106.302 Circumstances permitting other than full and open competition.**

#### **5106.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.**

(a)(2)(i)(1) The head of the contracting activity shall make the determination at DFARS 206.302-1(a)(2)(i)(1). See [Appendix GG](#) for further delegation.

(d) The head of the contracting activity may waive the requirements as stated in DFARS and DFARS PGI 206.302-1(d). See [Appendix GG](#) for further delegation.

#### **5106.302-2 Unusual and compelling urgency.**

(d)(1)(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination that exceptional circumstances apply as described in FAR 6.302-2(d)(1)(ii). See [Appendix GG](#) for further delegation.

(2)(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination for any subsequent modification as set forth in FAR 6.302-2(d)(2)(ii). See [Appendix GG](#) for further delegation.

#### **5106.302-3 Industrial mobilization; engineering, developmental, or research capability; or expert services.**

(c) *Limitations.* When citing the authority at 10 U.S.C. 3204(a)(3) as implemented in FAR 6.302-3(a)(2)(ii), the Contracting officer must ensure the certifications required by FAR 6.303-1(c) and FAR 6.303-2(c) contain a statement that the technical and requirements personnel reviewed the proposed effort to ensure that it falls within the charter or special capabilities of the proposed institution. In addition, the statement will explain how the proposed effort establishes or maintains (as appropriate) an essential engineering, research, or development capability to be provided by an educational or other non-profit institution or a federally funded research and development center (FFRDC). When proposing to contract directly with an FFRDC not sponsored by the contracting activity, the Contracting officer must ensure that the procurement request includes a written confirmation from the sponsoring agency that the proposed effort falls within the mission and general scope of effort or special competency of the FFRDC.

#### **5106.302-4 International agreement.**

(c) *Limitations.* When citing the authority at 10 U.S.C. 3204(a)(4) as implemented in FAR 6.302-4 and DFARS 206.302-4(c), the Contracting officer must ensure the document referred to in DFARS 206.302-4(c) is titled "International Agreement Competitive Restrictions" (IACR). The IACR describes the terms of an international agreement or treaty, or the written directions of a foreign government reimbursing the cost of the procurement, that have the effect of requiring other than competitive procedures for the procurement. The IACR may be used even when the terms of the agreement or treaty, or the written directions, do not specifically name a required source, provided the agreement or treaty, or the written directions, contain sufficient information to explain why the use of other than competitive procedures is required. The HCA may delegate authority to prepare an IACR to a level no lower than the chief of the contracting office. The Contracting officer must include in the contract file the IACR and a copy of the associated Letter of Offer and Acceptance, or other international agreement, treaty, or written directions of the reimbursing foreign government.

#### **5106.302-5 Authorized or required by statute.**

(b) Application. Agencies may use this authority to—

(4) See AFARS 5106.303-1(b) for requirements for justification and approval of sole source 8(a) awards exceeding \$100 million.

#### **5106.302-7 Public Interest.**

(b) Application. This authority may be used when —

(1) See Section B of [DPCAP Class Deviation 2024-O0005 Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#) for instructions on use of other than competitive procedures under FAR 6.302-7 for “covered contracts” defined as those awarded to

(A) build or replenish the stocks of critical munitions and other defense articles of DoD;

(B) provide materiel and related services to foreign allies and partners that have provided support to Ukraine, Taiwan, or Israel; or

(C) provide materiel and related services to Ukraine, Taiwan, or Israel.

(2) Authority to make the head of the agency determination specified at FAR 6.302-7(a)(2) is delegated to the head of the contracting activity who meets the eligibility criteria stated in the class deviation, regardless of the dollar value of the procurement action. See [Appendix GG](#) for further delegations.

(3) In lieu of the requirement at FAR 6.302-7(c)(2), not later than 7 days before awarding a covered contract using the authority in paragraph (b)(1), the Army must submit written notification of use of this authority to the congressional defense committees. Contracting officers shall submit congressional notification for HQDA review, coordination, and/or approval via the Enterprise Task Management Software Solution (ETMS2) to the ODASA(P) directorate listed at AFARS 5101.290(b)(1)(ii)(B).

(See AFARS 5153.206-92 and AFARS 5153.303-11 for determination and findings for other than full and open competition for covered contracts applicable under this subpart. See AFARS 5153.303-12 for sample congressional notification.)

### **5106.303 Justifications.**

#### **5106.303-1 Requirements.**

(a) Contracting officers shall not release any solicitation for other than full and open competition prior to approval of the justification, except when citing the authority at 10 U.S.C. 3204(a)(2) as implemented at FAR 6.302-2.

(b) Contracting officers shall not release any solicitation for a sole-source contract prior to approval of the justification, except when citing the 8(a) authority (15 U.S.C. 637(a)) for an amount exceeding \$100 million unless—

(2) The head of the procuring activity has approved the justification. See [Appendix GG](#) for further delegation.(c) Only United States Government employees formally representing the appropriate functional activity may sign technical and requirements certifications under this provision.

(d) A justification approved on a class basis authorizes the award of two or more contract actions using other than full and open competition. Provided that it complies with the requirements below, the justification may encompass identified contract actions for the same or integrally related supplies or services or other contract actions that require essentially identical justification. A justification made on a class basis—

(i) Is not limited to a single contractor;

(ii) May cover contracts for non-permanent requirements to be awarded in successive fiscal years, provided that the requirements and quantities are included in the Future Years Defense Program (FYDP), and their costs have been specifically identified;

(iii) Must address every contract included in the scope of the class justification in each paragraph, in detail (e.g., specific quantity and dollar amounts for each contract; detailed documentation of the circumstances supporting the use of other than full and open competitive procedures for each contracting action); and



(iv) Must include only those supply or service components that are, and will clearly remain, sole or limited source for the period covered by the justification.

(e) If a Contracting officer awards a contract exceeding the dollar threshold identified at FAR 6.304(a)(4) prior to approval of the required justification using the authority cited in FAR 6.302-2, the contracting activity must submit the justification for approval to the address in AFARS 5101.290(b)(2)(ii)(B) no later than seven calendar days after contract award.

#### **5106.303-1-90 Requirements for amended justifications.**

(a) The Contracting officer shall amend a justification and obtain the required approvals when any of the following occur prior to award of the 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.

(b) The senior procurement executive (SPE) approves all amendments to justifications previously approved at the SPE level, except when the basis for the amended justification supports a lower approval level per FAR 6.304.

(c) Prepare all amended justifications as required in AFARS 5106.303-2-90(c)(3).

#### **5106.303-2 Content.**

(d)(5) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall specify other matters as described in FAR 6.303-2(d)(5). See [Appendix GG](#) for further delegation.

#### **5106.303-2-90 Format and submission of the justification review and justification and approval documents.**

(a) *General.* The justification and approval (J&A) format at AFARS 5153.303-5 is mandatory for all justifications in support of other than full and open competition. Contracting officers will tailor the J&A's format to accommodate other type justifications in accordance with the FAR approval thresholds and required content.

(b) Reserved.

(c) *Instructions.*

(1) *Justification review document (JRD)*. The JRD serves as the cover page(s) to the J&A document and may be tailored to reflect the approval thresholds and relevant functions for the instant contract action.

(2) *Justification and approval document*.

(i) Begin page numbering on the first page of the JRD, and number each subsequent page of the document sequentially.

(ii) Enter the control number in the upper right corner of each page, including the JRD and approval pages.

(iii) If a paragraph prescribed in the format does not apply to the contract action, indicate “Not applicable” and explain why.

(iv) Certifying officials must approve any material changes to the original J&A contents.

(v) Paragraph 7, “Actions to Increase Competition,” must be specific and comprehensive.

(vi) Only United States Government employees formally representing the appropriate functional activity may validate and certify the JRD and J&A (see AFARS 5153.303-4 and AFARS 5153.303-5). Other government officials shall not perform this certification.

(3) *Amended justifications*.

(i) When AFARS 5106.303-1-90 requires an amended justification, the Contracting officer must prepare a document entitled “Amendment to Justification for Other Than Full and Open Competition,” using the same paragraph designations used in the original justification. Attach a copy of the original JRD and J&A documents. In addition—

(A) Number amendments sequentially;

(B) Include J&A paragraphs 1, 2 and 3 in full, revised if required;

(C) Include new certifications by the Contracting officer (paragraphs 13 and 14). Include new technical and requirements certifications (paragraphs 11 and 12) only when changes in those areas of responsibility prompted the amendment;

(D) Use paragraph 10 to explain the reason for the amendment and to give any additional information that would help the reader understand the changes; and

(E) Address all remaining paragraphs of the J&A by stating “No change” following the paragraph number or by inserting an entirely revised paragraph. When there are minor changes, mark through deleted items and underline additions to the original paragraph to indicate changes to the original document. For major revisions, including the addition of paragraphs that previously did not apply, instead of marking through and underlining, use paragraph 10 to identify the paragraph number and summarize the changes. Include this information following the entry required by (D).

(ii) Determine the approval level for an amended J&A by using the cumulative dollar value of the amended justification, e.g., original J&A value plus the amount of the change.

(d) *Submission.*

(1) For contracting actions exceeding the dollar threshold identified at FAR 6.304(a)(4), the contracting activity must submit the justification in sufficient time for approval, approximately 40 working days, to the address at AFARS 5101.290(b)(2)(ii)(B). Electronic transmission is preferred. For electronic submission, indicate the lead point of contact and the alternate (name, phone number, and email address).

(2) Include with the justification the transmittal memorandum signed by the appropriate official, the current acquisition plan, and any other key documents related to the instant action. The approval authority or his/her office may request a copy of the acquisition strategy, usually for large services or major weapons system contracts; business case analysis for performance-based logistics and select Acquisition Category programs; or requirements validation separately.

(e) *Revisions.* The ODASA(P) action officer will return J&As submitted for SPE approval when directed revisions cannot be accomplished within five business days. The contracting activity may re-submit the J&A after making the requested revisions. Once received, the ODASA(P) action officer will start anew processing the action for approval.

**5106.304 Approval of the justification.**

(a)(3) The head of the contracting activity shall approve justifications as described at FAR 6.304(a)(3). See [Appendix GG](#) for further delegation.

(i) See AFARS 5106.303-1-90 for approval of amended justifications.

(ii) Requirements shall not be split to avoid submission of a justification to a higher-level approval authority.

(c) Approval procedures and thresholds for justifications based on a class of contracts are the same as for individual justifications; see FAR 6.304.

## **Subpart 5106.5 – Advocates for Competition**

### **5106.501 Requirement.**

(1) The Deputy Assistant Secretary of the Army for Procurement serves as the Army Advocate for Competition (AAFC). Heads of contracting activities (HCAs), delegable only to their senior contracting official, may appoint a command advocate for competition (CAFC) and alternates within their contracting activities. HCAs shall appoint at least one CAFC for each contracting activity. In addition, the HCA shall appoint a local advocate for competition wherever there is a small business specialist appointed for that organization. See [Appendix GG](#).

(2) Designation of advocates for competition at contracting offices subordinate to contracting activities depends on the nature of the contracting mission of the office, the volume of significant contracting actions, the complexity of acquisition planning, and other responsibilities of such local advocates. Advocates for competition may be appointed on a part-time basis or as an additional duty when there is no conflict of interest.

### **5106.502 Duties and responsibilities.**

(a) Local advocates for competition are an extension of the CAFC office and assist the CAFC in the accomplishment of their responsibilities.

(b)(2) Command advocates for competition must report the following information to the AAFC (see address at AFARS 5101.290(b)(2)(ii)(C)) no later than November 15 of each year, or as the AAFC specifies—

(A) The level of competition achieved against their goal for the fiscal year and, if applicable, reasons for not attaining the goal.

(B) Significant actions taken to increase competition or overcome barriers to competition, number of new sources identified as a result of market research, notable savings or performance or quality enhancements resulting from competition, and employees recognized for initiatives to enhance competition.

(C) Mitigating factors affecting goal achievement.

(D) A plan for competition in the coming fiscal year.

(E) Any other activities and accomplishments.

(F) Their competition goal for the coming fiscal year.

(3) Before seeking approval, CAFCs will coordinate their activity's annual competition goals with the local small business specialist to balance socio-economic and competition goals with organizational interests.

**5106.502-90 Supplementary information.**

Command advocates for competition should provide supplementary information on items considered significant to the AAFC at any time during the fiscal year.

# **AFARS – PART 5107**

## **Acquisition Planning**

*(Revised 01 October 2024)*

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For guidance on shaping innovative acquisition planning see [AFARS PGI 5107-1](#).

### **Subpart 5107.1 – Acquisition Plans**

#### **5107.103 Agency-head responsibilities.**

(d)(i) Except as provided in (d)(i)(B), prepare written acquisition plans, for up to a five-year period, in accordance with dollar thresholds identified at the DFARS 207.103(d)(i).

(B) Procurements for foreign military sales (see DFARS 225.73), other than procurements funded with U.S. appropriated funds, are exempt from the requirements at DFARS 207.103(d)(i) to prepare a written acquisition plan, when—

(1) An International Agreement Competitive Restrictions (ICAR) has been approved IAW 5106.302-4(c); or

(2) The procurement is for an item of standard Army material (i.e., supplies that, as confirmed by the requiring activity, have been type classified “standard” under Army Regulation 700-142, Type Classification, Material Release, Fielding, and Transfer) for which other acquisition planning documentation exists and can be documented in the contract file.

(ii) When there is not a requirement for a written acquisition plan, or the approval authority has waived the requirements of formality and detail in exceptional cases, use an alternate format or contract documentation such as memoranda for record, price negotiation memoranda, simplified acquisition management plan, and acquisition strategies (for service requirements) to record acquisition pre-award decisions and risk assessment information. Contracting officers shall maintain such decision support information in the contract file and to the extent practicable avoid duplication of information between the services acquisition strategy (see 5137.590-6) and the acquisition plan (e.g., by referencing content).

(m) Only the acquisition plan approval authority may waive requirements of detail and formality.

#### **5107.103-90 Acquisition plan approvals.**

(a) For acquisition plan approval, the dollar thresholds identified at DFARS 207.103(d)(i) apply to the following:

(1) For programs assigned to program executive officers (PEOs) or program managers reporting directly to the Army Acquisition Executive (DRPM), the designated milestone decision authority (MDA), on a nondelegable basis, is the acquisition plan approval authority. In the case of PEO-DRPM-managed efforts for which no MDA has been designated, the PEO/DRPM, on a nondelegable basis, is the acquisition plan approval authority.

(2) For all non-PEO/direct-reporting program manager acquisitions, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) is the acquisition plan approval authority. See [Appendix GG](#) for further delegation.

(b) Approval of acquisition plans for procurements below the thresholds identified at DFARS 207.103(d)(i) shall be in accordance with contracting activity procedures.

(c) For Army Acquisition Executive-designated special interest acquisitions, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) or the Deputy Assistant Secretary of the Army (Procurement) must approve the acquisition plans. Process acquisition plans for special interest acquisitions in the same manner as other acquisition plans and include all the concurrences listed in paragraph (c).

(d) The requests for approval of acquisition plans in accordance with the thresholds identified at DFARS 207.103(d)(i) must include the concurrence of the –

- (1) Contracting officer;
- (2) Local advocate for competition;
- (3) Local office of small business programs or small business specialist;
- (4) Legal office; and
- (5) Appropriate elements from the supporting contracting activity chain of command.

#### **5107.104 General procedures.**

(a)(i) Each head of the contracting activity (HCA) must establish procedures for forecasting all significant, as defined by a specified monetary threshold, or sensitive contracting requirements anticipated for the upcoming fiscal year.

(ii) These procedures will include procurement milestones and other management parameters for all proposed contract actions that the acquisition planning system will cover, including those proposed requirements for which DFARS 207.103(d)(ii) does not require written acquisition plans.

(iii) These procedures should allow sufficient time for development of an acquisition plan; preparation of solicitations, including any necessary coordination with requiring and technical elements; receipt and evaluation of bids or proposals; audits; negotiation; boards or business clearance reviews; source selection and preparation of contractual documents in an orderly and timely manner.



(iv) HCAs should establish due dates for submission of procurement requests requiring action by the end of the fiscal year to the contracting office. Exceptions to established due dates must be minimized and require authorization at a level not lower than the chief of the contracting office.

(v) In acquisitions where sole source approvals are necessary, acquisition planning must provide appropriate opportunities for the following:

(A) Involving Defense Contract Management Agency and Defense Contract Audit Agency early in the acquisition process.

(B) Obtaining appropriate contractor input for use in the development of the acquisition strategy.

(C) Establishing a Government and contractor team, including individuals with execution responsibility as well as reviewers, committed on a real-time basis to streamline the acquisition process and maintain open communications.

(D) Teaming of Government and contractor personnel in development of the proposal and model contract, leading to agreement on contractor effort and costs associated with the task(s).

(E) Teaming of the Government and contractor personnel during post-award contract performance to improve communications and develop efficient contract administration.

#### **5107.105 Contents of written acquisition plans.**

(b)(1) For the acquisition of end items of supply pursuant to an Army program of record, describe the results of the milestone decision authority's make-or-buy determination (see paragraph 3-7 of Army Regulation 700-90, Army Industrial Base Process).

(20)(C)(8)(iv) The head of contracting activity is responsible to perform the duties at DFARS 207.105. See [Appendix GG](#) for further delegation.

#### **5107.107 Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling.**

##### **5107.107-2 Consolidation.**

(b) The Senior Procurement Executive has delegated authority to make the consolidation determination prescribed at FAR 7.107-2 as follows:

(i) Where the total value of the consolidated requirements is \$500 million or more, the Deputy Assistant Secretary of the Army (Procurement) will make the determination. See Appendix GG.(ii) Where the total value of the consolidated requirements exceeds \$2 million but less than \$500 million, the HCA will make the determination. See [Appendix GG](#) for further delegation.

#### **5107.107-5 Notifications.**

The Contracting officer is responsible for publishing the notices required by FAR 7.107-5(c) and (d).

### **Subpart 5107.2 – Planning for the Purchase of Supplies in Economic Quantities**

#### **5107.204 Responsibilities of contracting officers.**

(a) Send offerors' responses to the solicitation provision in FAR 52.207-4 to the requiring activity.

### **Subpart 5107.3 – Contractor Versus Government Performance**

#### **5107.302 Policy.**

To achieve fair and even-handed competition between in-house entities and industry, the senior contracting official will ensure that Contracting officers provide industry with pertinent, accurate, and available data necessary to engender as full and complete an understanding as possible of the operation(s) covered by the A-76 competition. Historical data provided must be relevant and well organized (see Department of Army Pamphlet 5-20). To maximize use of Army resources, Contracting officers must make every effort to utilize A-76 contracting best practices and good ideas that have worked for others and avoid repetition of unsuccessful strategies and procedures.

### **Subpart 5107.4 – Equipment Lease or Purchase**

#### **5107.470 Statutory requirements.**

(b) The head of the contracting activity shall make the determination as described in DFARS 207.470(b). See [Appendix GG](#) for further delegation.

### **Subpart 5107.5 – Inherently Governmental Functions**

#### **5107.503 Policy.**

(e)(i) Contracting officers must ensure that requiring officials provide a written determination as required by FAR 7.503(e) and DFARS 207.503(e) prior to issuance of a solicitation for award of a service contract, including those contract types described in FAR 16.5, a services task order awarded under FAR 16.5, or modification of an awarded service contract's or task order's statement of work. Contracting officers shall document the official contract file with the determination.

(ii) The Request for Services Contract Approval (RSCA) form (see Army Regulation (AR) 70-13), or the acquisition plan, acquisition strategy, or memorandum for file satisfies the requirement in 5107.503(e)(i).

(iii) RSCA policy for requiring activities is available at AR 70-13, sections 2-2 and 2-9, and at the [Office of the Assistant Secretary of the Army \(Manpower and Reserve Affairs\) \(ASA M&RA\) website](#) under ASA M&RA Resources, Total Force Management/Manpower Mix and Request for Service Contract Approval Form.

## **Subpart 5107.90 – Independent Government Estimates**

### **5107.9000 Scope.**

This subpart prescribes policy for the preparation of independent government estimates.

### **5107.9001 Definitions.**

“Independent government estimate (IGE),” as used in this subpart, means the Government's estimate of the projected price or cost that a contractor would incur in the successful performance of a contract.

### **5107.9002 Policy.**

(a) Contracting officers shall require the preparation of an IGE in every procurement action in excess of the simplified acquisition threshold (SAT). The Contracting officer, at his or her discretion, may require an IGE for actions less than the SAT.

(b) The Contracting officer shall ensure, prior to accepting an IGE, that—

- (1) The IGE contains enough detail to verify the validity of the offerors' proposals;
- (2) The IGE provides sufficient narrative and analytical detail, to include reference material, to support its preparation;

(3) The IGE contains a certification that the Government independently developed the IGE prior to seeking formal proposals from contractors, or for construction, within a timeframe consistent with FAR 36.203; and for architect-engineer, consistent with FAR 36.605; and:

(i) Be signed and dated, by hand or by Common-Access-Card (CAC), by the preparer, and includes the preparer's organization, position, title, and telephone number;

(ii) Be signed and dated, by hand or by CAC, by the preparer's immediate supervisor, and includes the reviewer's organization, position, title, rank or grade, and telephone number.

### **Subpart 5107.91 – Integrating Antiterrorism and Operations Security**

#### **5107.9100 Scope.**

This subpart prescribes policy for integrating antiterrorism (AT) and operations security (OPSEC) considerations into Army contracts.

#### **5107.9101 Policy.**

Implementation of AT and OPSEC considerations in the requirements package is the responsibility of the requiring activity and a signed AT/OPSEC cover sheet is required to be included in all requirements packages except for supply contracts under the simplified acquisition level threshold, field ordering officer actions and Government purchase card purchases. The [cover sheet](https://armyeitaas.sharepoint-mil.us/sites/HQDA-PMG-ATEP/AT%20in%20Contracting/Forms/AllItems.aspx), at a minimum, must include all the information and reviews listed in the Army standard cover sheet at Appendix A of the AT/OPSEC Desk Reference, available at <https://armyeitaas.sharepoint-mil.us/sites/HQDA-PMG-ATEP/AT%20in%20Contracting/Forms/AllItems.aspx> *(Note: Access must be granted by the Antiterrorism Division of the Officer of the Provost Marshal General, HQDA, upon request.)* This requirement also applies to orders under indefinite delivery contracts, unless each task or delivery order under the contract is for substantially the same product or service, in which case the cover sheet at the contract level is sufficient.

## **AFARS – PART 5108**

### **Required Sources of Supplies and Services**

*(Revised 01 October 2024)*

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## **Subpart 5108.4 – Federal Supply Schedules**

### **5108.404 Use of federal supply schedules.**

(h)(3)(ii)(C) The head of the contracting activity without the power to further delegate is the approval authority for actions stated in FAR 8.404(h)(3)(ii)(C).

### **5108.405 Ordering procedures for federal supply schedules.**

#### **5108.405-3 Blanket purchase agreements (BPAs).**

(a)(3)(ii). The Assistant Secretary of the Army (Acquisition, Logistics and Technology) makes the determination described in FAR 8.405-3(3)(ii). See [Appendix GG](#) for further delegation.

#### **5108.405-6 Limiting sources.**

(b)(3)(ii)(C) The senior procurement executive makes the determination described in FAR 8.405-6(b)(3)(ii)(C). See [Appendix GG](#) for further delegation.

(d)(3) The head of the contracting activity is the approval authority for actions stated in FAR 8.405-6(d)(3). See [Appendix GG](#) for further delegation.

## **Subpart 5108.8 – Acquisition of Printing and Related Supplies**

### **5108.802 Policy.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall designate a central printing authority as set forth in FAR 8.802(b).

(1) Printing Equipment, specifically, Unclassified and Secret-level printing devices purchased or leased with federal funds appropriated to the Army, shall be procured through DLA Document Services using its Equipment Management Solutions Portal (<https://www.public.dacs.dla.mil/ems/ext/>) as described in AFARS 5139.101-90(a)(3)(v)(D), [Army CIO memorandum Army Procurement or Lease of Printing Devices and Services, dated 17 November 2023](#), and [DODI 5330.03 Single Manager of DoD Document Services](#).

### **Subpart 5108.11 – Leasing of Motor Vehicles**

#### **5108.1102 Presolicitation requirements.**

(c) The head of the contracting office is the approval authority for actions stated in FAR 8.1102(c). See [Appendix GG](#) for further delegation.

### **Subpart 5108.12 – Consultation Submission Requirements for the Department of Education Rehabilitation Services Administration**

#### **5108.12-90 Randolph-Sheppard Requirements for the Solicitation of Cafeteria Contracts.**

This subpart implements the Randolph-Sheppard Act consultation submission requirements. Follow procedures at [AFARS PGI 5108.12-90-1](#).

### **Subpart 5108.70 – Coordinated Acquisition**

#### **5108.7002 Assignment authority.**

(a)(1) Contracting activities shall procure commodities assigned to the Army under DFARS 208.7000 according to the assignment of responsibilities issued by the Commanding General, U.S. Army Materiel Command. DFARS PGI 208.7006 lists the commodity assignments.

#### **5108.7002-90 Non-standard ammunition.**

Contracting officers shall forward all U.S. Army non-standard ammunition procurements to Joint Program Executive Office, Armaments & Ammunition for execution.

### **Subpart 5108.74 – Enterprise Software Agreements**

#### **5108.7401-90 Software product manager.**

The Army's software product manager is the Computer Hardware, Enterprise Software and Solutions (CHESS) Office. Information on CHESS is available via the Internet at <https://chess.army.mil>.

#### **5108.7403 Acquisition procedures.**

(5)(iii) Before procuring commercial software outside of the CHESS contracts, the Contracting officer must ensure that the requiring activity obtains a waiver (see 5139.101-90(a)).

### **Subpart 5108.90 – Civil Confinement of Military Absentees and Deserters**

#### **5108.9000 Scope of subpart.**

This subpart prescribes policy for the acquisition of civil detention facility services, when installation commanders or provost marshals deem the use of such facilities appropriate.

#### **5108.9001 Use of civil detention facilities.**

See Army Regulations 190-9 and 190-47.

### **Subpart 5108.91 – Video Productions**

#### **5108.9100 Scope of subpart.**

This subpart prescribes policy for the acquisition of video productions.

#### **5108.9101 Contracting for video productions.**

(a) The Production Acquisition Division (PAD) J/G42 at United States Army Military District of Washington (USAMDW), formerly AMVID PAD, is the only multimedia and visual information acquisition activity authorized to contract for total video productions. (See DoDI 5040.02, Army Regulation 25-1, and Department of the Army Pamphlet 25-91).

(b) Direct requests for contracted video productions shall be submitted to the USAMDW, PAD via email to: [usarmy.mcnair.mdw.mbx.jtfncr-production-acquisition-div—pad@army.mil](mailto:usarmy.mcnair.mdw.mbx.jtfncr-production-acquisition-div—pad@army.mil).

(c) The Contracting officer must forward procurement requests for contracting video productions to the USAMDW, Production Acquisition Division at the address in paragraph (b) in this section.

(d) For advisory and assistance services for audiovisual productions, please contact USAMDW via the above email.

### **Subpart 5108.92 – Army Continuing Education System Contracts**

#### **5108.9200 Scope of subpart.**

This subpart prescribes policy for the acquisition of Army Continuing Education System (ACES) programs and services.

#### **5108.9201 References.**



Army Regulation (AR) 621-5 establishes the ACES and prescribes policies and responsibilities for its administration.

(a) AR 350-20 provides for mission-required language training procured through ACES.

(b) AR 380-67 outlines security requirements for ACES personnel.

#### **5108.9202 Educational services contracts.**

(a) The Contracting officer may execute educational services contracts to support ACES for Active Component, Reserve Component and Army National Guard soldiers and to provide Headstart language and host nation acculturation programs for Active Component adult family members.

(b) In the continental United States, the tuition assistance procedures described in AR 621-5 are the appropriate method to obtain postsecondary and off-duty high school instruction.

(c) Use contracts for the following:

(1) Conducting Army education center instruction for programs listed in AR 621-5 and AR 350-20.

(2) Testing individuals or groups of individuals who desire to participate in ACES.

(3) Army learning center services such as the use of professional, paraprofessional or technical personnel to operate computer laboratories, information centers, language laboratories, military publications reference libraries and provide adjunct instruction for ACES participants.

(4) Education transition management services for Active Component only.

(5) Education program development, such as curriculum development, software and courseware development.

(6) Training for professional development of ACES full-time, permanent, professional staff.

#### **5108.9203 Procedures.**

See Army Regulations cited at 5108.9202(c)(1).

### **Subpart 5108.93 – Training With Commercial Firms**

#### **5108.9300 Scope of subpart.**

This subpart prescribes policy for obtaining commercial training for Army Medical Department and other Army personnel.

**5108.9301 General.**

(a) Contracting officers shall refer questions about obtaining commercial training for Army Medical Department personnel to:

Commander, AMEDDC&S  
Department of Health Education and Training  
Attn: MCCS-HE  
2377 Greeley Road, Suite B  
Fort Sam Houston, TX 78234-5075

or by telephone to (210) 295-9528, or fax to (210) 221-2832.

(b) Contracting officers shall refer questions about obtaining commercial training for other Army personnel to the:

Office of The Deputy Chief Of Staff, G1  
Director of Military Personnel Management  
Attn: DAPE-MP  
300 Army Pentagon  
Washington DC 20310-0300

or by telephone to DSN 225-5881 or (703) 695-5881.

**Subpart 5108.94 – Foreign Language Support**

**5108.9400 Scope of subpart.**

This subpart prescribes policy for foreign language support contracts.

**5108.9401 Definitions.**

“Foreign language support,” as used in this subpart, means services which require the ability to listen, read, speak and/or write in a foreign language, and translate the foreign language into spoken or written English. It excludes those services that specifically support the conduct of foreign language instruction, services provided under personal services contracts, or contracted services that use Special Operations Major Force Program-11 funds.

**5108.9402 Policy.**

(a) Except as provided in (b), Contracting officers shall use contracts administered by the U.S. Army Intelligence and Security Command (INSCOM) to procure foreign language support.

(b)(1) If the Contracting officer contemplates using a non-INSCOM-administered contract to procure foreign language support, the Contracting officer shall send an exception request to the following address no later than 90 days prior to the proposed contract award:

USARMY Pentagon HQDA DCS G-2 List Foreign Language Office  
[usarmy.pentagon.hqda-dcs-g-2.list.foreign-language-office@mail.mil](mailto:usarmy.pentagon.hqda-dcs-g-2.list.foreign-language-office@mail.mil).

(2) At a minimum, the request for exception shall include –

(i) The scope of the contract to include the mission, the number of linguists required, and the job description of the linguists;

(ii) A justification statement;

(iii) The type of funds to be used to pay for the contract;

(iv) Copies of the proposed contract and statement of work;

(v) Any special Government-provided benefits; and

(vi) The point-of-contact information for the proposed contract.

(3) HQDA Office of the Deputy Chief of Staff for Intelligence (G-2) will review the exception request and notify the requestor whether the proposed award can proceed.

(c) Army organizations with existing contracts for foreign language support outside the INSCOM-administered contracts shall contact the G-2 at the address provided in paragraph (b)(1) of this section to determine if movement of the requirements to the INSCOM-administered contracts is appropriate.

# **AFARS – PART 5109**

## **Contractor Qualifications**

*(Revised 01 October 2024)*

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## **Subpart 5109.1 – Responsible Prospective Contractors**

### **5109.103 Policy.**

(b) Army Contracting officials shall use the Determination of Responsibility Assistant (DORA) Contractor Responsibility bot to assist them to determine prospective contractor responsibility or non-responsibility. Instructions on how to use the bot can be found on the Acquisition Innovation through Technology page located at: <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-PE/SitePages/BOT.aspx> and at [AFARS PGI 5109.103\(b\)-1](#).

### **5109.104 Standards.**

#### **5109.104-5 Representation and certifications regarding responsibility matters.**

(a)(2) See AFARS 5109.406-3 and AFARS 5109.407-3 for Army notification procedures.

(b)(2) See AFARS 5109.406-3 and AFARS 5109.407-3 for Army notification procedures.

### **5109.105 Procedures.**

#### **5109.105-2 Determinations and documentation.**

(a) *Determinations.* The Contracting officer shall submit a copy of the determination of non-responsibility to the cognizant suspension and debarment official listed at AFARS 5109.403.

### **5109.108 Prohibition on contracting with inverted domestic corporations.**

#### **5109.108-4 Waiver.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may approve the waiver set forth in FAR 9.108-4. See [Appendix GG](#) for further delegation.

## **Subpart 5109.2 – Qualifications Requirements**

### **5109.202 Policy.**

(a)(1) The authority of DFARS PGI 209.202(a)(1) is not delegable below the level of the chief of the contracting office.

(b) The head of the contracting activity may waive the requirements as described in FAR 9.202(b). See [Appendix GG](#) for further delegation.

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has authorization to grant the approval described in FAR 9.202(e). See [Appendix GG](#) for further delegation.

#### **5109.206 Acquisitions subject to qualification requirements.**

##### **5109.206-1 General.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the determination at FAR 9.206-1(b). See [Appendix GG](#) for further delegation.

#### **5109.270 Aviation and ship critical safety items.**

##### **5109.270-3 Policy.**

(a) The head of the contracting activity shall perform the duties stated in DFARS 209.270-3. See [Appendix GG](#) for further delegation.

### **Subpart 5109.4 – Debarment, Suspension, and Ineligibility**

##### **5109.402 Policy.**

(d) The Chief, Procurement Fraud Branch, U.S. Army Contract and Fiscal Law Division, U.S. Army Legal Services Agency, Office the Judge Advocate General processes and recommends debarment or suspension action to the suspension and debarment official (SDO).

##### **5109.403 Definitions.**

“The Army suspension and debarment official,” as used in this subpart, means –

Director, Soldier & Family Legal Services, or other official designated by The Judge Advocate General of the Army, pursuant to Army Regulation 27-1, to request imposition of suspension and/or debarment. Use the following address:

Army Suspension and Debarment Official  
ATTN: Procurement Fraud Division  
Office of The Judge Advocate General

9275 Gunston Road, Building 1450, Suite 2100  
Fort Belvoir, VA 22060-5546

Send electronic submissions to [usarmy.pentagon.hqda-otjag.list.pfd@mail.mil](mailto:usarmy.pentagon.hqda-otjag.list.pfd@mail.mil)

#### **5109.404 System for award management exclusions.**

(c)(5) The heads of the contracting activities (HCAs) must establish required procedures within their contracting activities.

#### **5109.405 Effect of listing.**

(a) The Army SDO makes the “compelling reason” determination discussed at FAR 9.405(a), 9.405-1(b), 9.405-2, 9.406-1(c), and 9.407-1(d). Contracting officers shall submit requests for an Army SDO determination to their senior contracting official (SCO) for review and endorsement. If the SCO concurs, submit the request to the Army SDO, through the Chief, Procurement Fraud Branch (see AFARS 5101.290(b)(5)). The Army SDO shall provide GSA with written notice of each approved determination.

(d)(1) Contracting officers shall review the System for Award Management Exclusions prior to the solicitation of offers (except when performing this review for those solicitations posted to the Governmentwide point of entry where it will not be practicable), immediately prior to award of a new contract, prior to placement of a new purchase or task or delivery order, and prior to consent to subcontract. Army Contracting officers shall also review the System for Award Management Exclusions prior to exercise of an option or award of any modification that adds new work or extends the duration of the contract or the period of performance. Contracting officers shall maintain a copy of the results of the reviews in the contract file.

(3) See paragraph (a) in this section for procedures on obtaining the agency head determination.

#### **5109.405-1 Continuation of current contracts.**

(a) Orders placed under a requirements contract may create a situation in which a contract continues notwithstanding the debarment, suspension, or proposed debarment of a contractor. Army Contracting officers shall make decisions regarding whether to terminate a contract and the type of contract termination action, if any, only after review by command contracting and technical personnel, and by legal counsel to ensure the propriety of the proposed action in compliance with federal law and regulation.

(b) See AFARS 5109.405(a) for procedures on obtaining the agency head determination.

#### **5109.405-2 Restrictions on subcontracting.**

(a) See AFARS 5109.405(a) for procedures on obtaining the agency head determination.

#### **5109.406 Debarment.**

##### **5109.406-1 General.**

(c) See AFARS 5109.405(a) for procedures on obtaining the agency head determination.

##### **5109.406-3 Procedures.**

(a) *Investigation and referral.* When there is a reasonable suspicion of procurement fraud or irregularity or the contracting activity refers the matter for investigation, the Contracting officer shall contact the local procurement fraud advisor (PFA), who will send a Procurement Flash Report in accordance with paragraph 8-5 of Army Regulation 27-40. The Contracting officer must provide information to the PFA for the Procurement Flash Report as required.

(i) The Contracting officer must submit all necessary information through the HCA to the PFA for review. Prompt reporting is essential in all cases that could lead to the suspension or debarment of a contractor or to judicial or administrative action against military personnel or civilian employees of the Army.

(ii) The report must include contractor credit and financial information, such as Dun and Bradstreet or Experian reports. When the Procurement Flash Report recommends suspension or debarment because of contractor fraud or criminal conduct involving a current contract, withhold all funds, which become due the contractor on that contract, unless the HCA or the suspension and debarment official directs otherwise. When fraud is the basis for a contractor's request for advance, partial, or progress payments, Contracting officers shall follow the procedures at FAR 32.006-4.

(iii) Distribute reports to the suspension and debarment official through the Procurement Fraud Branch (PFB) as follows: Forward the original and one copy through contracting channels to the PFB, and send the second copy directly to the PFB.

#### **5109.407 Suspension.**

##### **5109.407-1 General.**

(d) See AFARS 5109.405(a) for procedures on obtaining the agency head determination.

##### **5109.407-3 Procedures.**

(a) *Investigation and referral.* Prepare and process reports in accordance with AFARS 5109.406-3.



## **Subpart 5109.5 – Organizational and Consultant Conflicts of Interests**

### **5109.503 Waiver.**

The head of the contracting activity, without power to further delegate, may waive any general rule or procedure required in FAR subpart 9.5.

### **5109.504 Contracting officers responsibilities.**

(c) The head of the contracting activity is the approval authority as stated in FAR 9.504(c). See [Appendix GG](#) for further delegation.

### **5109.506 Procedures.**

(d)(3) The head of the contracting activity gives the approval or other direction as described in FAR 9.506(d)(3). See [Appendix GG](#) for further delegation.

# AFARS – PART 5110

## Market Research

*(Revised 01 October 2024)*

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### **5110.002 Procedures.**

(b) All members of the acquisition team will participate in market research and apply their functional tools and expertise. Program managers or representatives of the requiring activity will typically lead the market research effort. A statement that the solicitation will be synopsisized and that all proposals received will be evaluated is not a substitute for performing adequate market research and in itself does not support and justify procurement under other than full and open conditions. Specific requirements pertaining to market research in support of other than full and open competition are included in AFARS 5153.303-5, paragraph 8.

Contracting officers are reminded to consider the use of pre-existing contracts to fulfill requirements for supplies or services, before awarding new contracts. Contracting officers should ensure the results of the market research justify the basis for the decision to initiate a new standalone contract when a preexisting contract is available, and that the decision is documented in the written acquisition plan in accordance with FAR 7.10; DFARS 207.1; and AFARS 5107.1 and the acquisition strategy for services in accordance with AFARS 5137.590-6.

Market research and planning guidance is available at [AFARS PGI 5110.002\(b\)-2](#).

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall document the results of market research in a manner appropriate to the size and complexity of the acquisition as stated at FAR 10.002(e). See [Appendix GG](#) for further delegation.

(i) In addition to using the DoD Market Research Report Guide for Improving the Tradecraft in Services Acquisition (March 2017), for service acquisitions, the format and processes should also be adapted for use in documenting market research for supplies. The Services Acquisition Market Research Report Template should be developed using the DAU tool at <https://www.dau.edu/tools/t/Services-Acquisition-Market-Research-Report> when acquiring supplies.

# AFARS – PART 5111

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*(Revised 17 March 2025)*

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### Subpart 5111.1 – Selecting and Developing Requirements Documents

#### 5111.103 Market acceptance.

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to require offerors to demonstrate that items offered meet the standards as set forth in FAR 11.103(a). See [Appendix GG](#) for further delegation.

## **5111.106 Cloud Requirements.**

### **5111.106 (S-90)**

The Army Enterprise Cloud Management Agency (ECMA) is the central point for all efforts and processes related to cloud adoption across the Army. The ECMA established a standardized cloud architecture intended for use by all Army mission areas. Through ECMA, the Army must collect, consolidate, and report commercial cloud spending. To achieve this objective, ECMA implemented the Technology Business Management (TBM) taxonomy with associated General Services Administration Product Service Codes (PSCs) and Contract Line-Item Numbers (CLINs) to provide more accurate and comprehensive reporting of cloud investments. See Appendix HH – Cloud Computing for the TBM taxonomy.

### **5111.106 (S-91)**

ECMA provides enterprise-level contracts for commercial Cloud Service Providers (CSP) offerings, common services, and application migration support. Where feasible and cost effective, the ECMA will leverage DoD Enterprise contracts such as the Joint Warfighting Cloud Capability (JWCC) contract; while establishing Army Enterprise Cloud Contracts based on mission requirements.

(a) Army requiring activities will continue to use the Cloud Account Management Optimization (CAMO) production contract for Impact Level (IL) 5 and below cloud requirements.

(b) Army requiring activities will leverage the DoD JWCC contract for all new non-intelligence Secret (IL 6) cloud requirements; however, the Army will continue to centrally manage the procurement of cloud resources through ECMA to comply with reporting and tracking requirements. Army requiring activities will contact ECMA at [armycloud@army.mil](mailto:armycloud@army.mil) with their cloud service offering (CSO).

(c) Army requiring activities with existing CSO procurements that fund CSO usage with other means (e.g., Other Direct Costs on existing contracts), will coordinate with ECMA to develop transition plans to the Army approved CSO contract vehicles.

(d) The Army will continue to centrally manage the procurement of all existing and new Intelligence Community (IC) Component and Top-Secret cloud requirements through the Army Military Intelligence Cloud Computing Service Provider (AC2SP), using the Commercial Cloud Services (C2S) and Commercial Cloud Enterprise (C2E) contracts through the IC CloudWorks Program Management Office. Army requiring activities with Intelligence CSO requirements will contact the HQDA-DCS-G2 for AC2SP.

## **5111.106 (S-92)**

(a) All cloud requirements owners shall use the CLIN descriptions aligned to the prescribed PSCs, located in AFARS Appendix HH, for all new cloud-related requirements for entry into contract management and portfolio management systems. The requiring organization shall identify the cloud activity, the assigned TBM tower, and PSC to enable clear mapping of the requirement to an appropriate CLIN(s). The prescribed PSCs are further aligned to the designated TBM investment areas for government-wide reporting requirements. Cloud requirements owners shall include applicable Performance Work Statement language, identified at [HQDA, Office of the Chief Information Officer - Army Technology Solutions PWS Language - 20250122.pdf - All Documents](#).

### **Subpart 5111.2 – Using and Maintaining Requirements Documents**

#### **5111.274 Item identification and valuation requirements.**

##### **5111.274-2 Policy for item unique identification.**

(b)(1) The head of the contracting activity, on a non-delegable basis, has the authority to determine use of the items as described in DFARS 211.274-2.

(b)(2)(i)(B) The head of the contracting activity shall execute the determination and findings. See [Appendix GG](#) for further delegation.

##### **5111.274-2 (S-90)**

The Contracting officer shall include separately identifiable contract line items as described at DFARS 204.7103 for items, including items of contractor acquired property, that require item unique identification as identified in DFARS 211.274-2.

##### **5111.274-2 (S-91)**

See AFARS 5142.1503(b)(2)(vi) for requirements to document contractor compliance with item unique identification in the Contractor Performance Assessment Reports System.

##### **5111.274-6 Contract clauses.**

(a)(1) Use the clause at 252.211-7003, Item Identification and Valuation, in all solicitations and contracts for supplies.

(2) The Contracting officer must obtain from the requiring activity a list of items with a unit value less than \$5,000 that require unique identification. The Contracting officer must enter those items into paragraph (c)(1)(ii) of the clause.

(3) As required in DFARS 252.211-7003(c)(1)(iii), include an attachment in the contract which lists embedded DoD serially managed subassemblies, components and parts that are uniquely identified.

### **Subpart 5111.5 – Liquidated Damages**

#### **5111.501 Policy.**

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may reduce or waive the amount of liquidated damages under a contract, as described at FAR 11.501(d). See [Appendix GG](#) for further delegation.

### **Subpart 5111.6 – Priorities and Allocations**

#### **5111.602 General.**

#### **5111.602-90 Responsibilities.**

The Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)), Deputy Assistant Secretary of the Army (Sustainment) (DASA-S), Industrial Base Directorate is responsible for administering the Defense Priorities and Allocations System for the Department of the Army.

#### **5111.603 Procedures.**

(e) See DoD 4400.1-M, Department of Defense Priorities and Allocations Manual. Direct questions about areas not covered in DoD 4400.1-M to:

DASA-S, SAAL-IB; Email [usarmy.pentagon.hqda-asa-alt.list.DPA-Title-I@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.DPA-Title-I@army.mil)  
Office of the Deputy Assistant Secretary of the Army (Sustainment), Industrial Base Directorate  
2530 Crystal Drive, 11<sup>th</sup> Floor  
Arlington, VA 22202

### **Subpart 5111.7—Variation in Quantity**

#### **5111.703 Contract Clauses**

(c)(i) Insert the provision at AFARS 5152.211-9000, Evaluation of Subline Items, in solicitations when a fixed-price construction contract is contemplated and the clause at AFARS 5152.211-9001 is included in the solicitation.

(ii) In addition to the clause at FAR 52.211-18, insert the clause at AFARS 5152.211-9001, Variations in Estimated Quantities—Subline Items, in solicitations and contracts when—

(A) A fixed-price construction contract is contemplated that authorizes a variation in the estimated quantity of unit-priced items; and

(B) Those unit priced items will be subdivided into subline items and separately priced for payment purposes.

# AFARS – PART 5112

## Acquisition of Commercial Items

*(Revised 01 October 2024)*

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### Subpart 5112.1 – Acquisition of Commercial Items – General

#### 5112.102 Applicability.

(a)(i)(B)(3) Section 1244 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 as amended by section 1242 of the NDAA for FY 2024 allows for temporary authorizations. In accordance with section (C)(4) of [DPCAP Class Deviation 2024-00005 Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#) Contracting officers carrying out a procurement of a product or service for a covered contract may treat the product or service as a commercial product or a commercial service, similar to allowances for commercial solutions openings, for the purpose of carrying out the procurement. See AFARS 5153.206-93 for instructions for reporting covered contracts applicable under this subpart to congressional defense committees.

(a)(ii)(B) The head of the contracting activity shall perform the duties under DFARS 212.102(a)(ii)(B). See [Appendix GG](#) for further delegation.

(f) The head of the contracting activity has the authority to make the determination as described in FAR 12.102(f). See [Appendix GG](#) for further delegation.

### Subpart 5112.2 – Special Requirements for the Acquisition of Commercial Items

#### 5112.207 Contract type.



(b)(iii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the determination as described in DFARS 212.207(b)(iii). See [Appendix GG](#) for further delegation.

**5112.272 Preference for certain commercial products and services.**

(b)(2)(i) The head of the contracting activity has the authority to make the determination as described in DFARS 212.272(b)(2)(i). See [Appendix GG](#) for further delegation.

**Subpart 5112.3 – Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

**5112.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(b)(4)(i) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall perform the function as described in FAR 12.301(b)(4)(i). See [Appendix GG](#).

**5112.302 Tailoring of provisions and clauses for the acquisition of commercial items.**

(c) The head of the contracting activity is the approval authority. See [Appendix GG](#) for further delegation.

# AFARS – PART 5113

## Simplified Acquisition Procedures

*(Revised 01 October 2024)*

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### **Subpart 5113.2 – Actions At or Below the Micro-Purchase Threshold**

#### **5113.201 General.**

*(a) Delegation of micro-purchase authority.*

(i) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has management responsibility of the purchase card program. See Appendix GG for further delegation. The senior contracting official designates the Level 3 agency/organization program coordinator (A/OPC) (see Appendix EE).

(ii) Installation commanders or activity directors shall appoint the purchase card billing official as the certifying officer for purposes of certifying payments to the paying office (disbursing officer) for purchase card issuer invoices. Certifying officers are financially liable for erroneous payments resulting from the performance of their duties in accordance with Title 31, United States Code, section 3328.

(iii) CCOs shall do the following:

(A) Develop internal operating procedures and incorporate appropriate controls in the command or installation Internal Control Program; however, the Level 3 A/OPC will develop written Government purchase card (GPC) program internal control requirements, reporting mechanisms and surveillance plans for all activities under their purview. Procedures and controls shall place minimum burdens on cardholders while still maintaining the integrity of the program.

(B) Designate the Level 4 A/OPC.

(C) Issue delegations of authority to cardholders. The CCO may further delegate this authority in writing to the A/OPC.

(D) Approve training course content and instructor qualifications.

(E) Ensure prescribed training of cardholders and approving officials.

(F) Ensure appropriate functional participation in the development and administration of the program (e.g., finance and accounting, director of logistics, director of public works, legal counsel, etc.).

(G) Perform oversight reviews on approving officials to ensure cardholder adherence to policy and procedures.

(1) Conduct reviews not less frequently than annually.

(2) Review accounts with significant dollar or transaction volume on a more frequent basis.

(H) Ensure the safeguarding of convenience checks to ensure good stewardship and discourage and detect fraudulent actions with the checking accounts. Ensure the proper auditing of checking accounts on an annual basis. A duly appointed, disinterested third party will conduct audits. The management control checklist of the GPC must include the annual audit requirement.

(iv) A/OPCs shall –

- (A) Serve as the purchase card focal point at each activity;
- (B) Establish, and maintain current cardholder and billing official accounts;
- (C) Coordinate with resource managers, spending limits and finance and accounting data used in establishing cardholder and billing official accounts;
- (D) Not establish accounts or allow the certification of invoices by billing officials until the CCO or A/OPC issues required letters of delegations and appointment letters to cardholders and billing officials/certifying officials; and
- (E) Perform oversight and surveillance of all accounts under the purview of that A/OPC.

(v) Billing officials shall –

- (A) Ensure that the transactions are legal, proper, necessary and correct in accordance with Government rules and regulations;
- (B) Ensure that adequate documentation is available for individual transactions;
- (C) Ensure the facts presented in documents for payment are complete and accurate;
- (D) Take appropriate action to prevent two or more payments for the same transaction;
- (E) Ensure proper implementation of dispute procedures when questions arise on transactions;
- (F) Provide copy of certifying officer appointment letter with signature card to the A/OPC; and
- (G) Certify and forward the official invoice to the paying office within five days of receipt. Consider electronic invoice received on the first day following the end of the billing cycle.

(vi) Cardholders shall do the following:

- (A) Reconcile purchases actually made within three working days of receipt of their monthly statement of account. Consider electronic statement of account received on the first day following the end of the billing cycle.

(B) Maintain a log of purchases. The log shall be the cardholder log within the bank's electronic access system.

*(c) Training requirements.*

(i) The CCO or A/OPC shall not delegate authority to cardholders and billing/certifying officials until these individuals receive training and orientation covering the use of the card. The Defense Acquisition University purchase card course is mandatory for all cardholders and billing officials. Locally developed training is permissible, but it must specifically cover federal, defense, and departmental regulations, policies and procedures pertaining to micro-purchases and simplified acquisition procedures, as applicable. Orientation shall address GSA, card-issuing bank and installation-unique policies.

(ii) Cardholders and billing/certifying officials shall receive procurement ethics training. Training shall advise cardholders and billing/certifying officials of financial liability under the program for certifying and accountable officials.

(iii) The CCO may require additional training depending on the thresholds and circumstances established for the card's use.

(g) The head of the contracting activity shall make the determination as described in FAR 13.201(g). See Appendix GG for further delegation.

**5113.202-90 Purchase guidelines.**

(a) CCOs or A/OPCs should delegate micro-purchase authority to the lowest possible level. A/OPCs shall issue purchase cards only to individuals who have received the orientation/training on the purchase card program as required in these procedures.

(b) CCOs and A/OPCs shall not issue cards to contractors. If contractors working on cost type contracts request cards, the contractor will forward their request to the Contracting officer for the cost-reimbursable contract. If that office preliminarily determines that they are eligible, the contractor will then file a request for eligibility determination with the GSA SmartPay Contracting officer.

(c) CCOs or A/OPCs may authorize cardholders to utilize the GPC as a payment instrument for orders made against Federal Supply Schedule contracts, calls written against a blanket purchase agreement or orders placed against indefinite delivery/indefinite quantity contracts that contain a provision authorizing payment by purchase card.

(d) The purchase card may also provide a streamlined way of paying for contracts other than those listed in paragraph (c). Prior to using the card this way, the contracting office shall determine that use of the card for payment is in the best interest of the Government. The

determination shall address any increase in price and/or administrative costs to use the card versus the costs of processing the payment without the card.

(e) The purchase card may also be used to pay for Government-owned materiel or Government-performed services received from other Government sources (i.e., Document Automated Printing Service (DAPS), GSA, Defense Logistics Agency).

#### **5113.270-90 Use of the Government commercial purchase card.**

Appendix EE contains the Army's GPC operating procedures. Use of the purchase card must meet the following conditions in addition to conditions imposed by the GSA's SmartPay Master Contract:

(a) Each transaction should involve a single delivery and payment. Receipt of the item should be within the billing cycle or by the time of receipt of the monthly report to simplify monthly reconciliation.

(b) Cardholders shall not break down (split) requirements into several purchases merely to avoid any requirement that applies to purchases exceeding the micro-purchase threshold.

(c) Cardholders shall advise merchants or vendors at the time of the transaction that items purchased with the card are "for Official United States Government use." Most states will exempt purchases made by the Government from state and local taxes.

(d) Cardholders shall initially attempt to settle disputes with the merchant. If the merchant refuses to work with the cardholder, or if 45 days have passed without resolution since receipt of the statement containing the questionable transaction, the cardholders shall formally dispute the transaction with the card-issuing bank.

(e) When using the purchase card to pay for services and/or supplies received from other Government sources (e.g. DLA, GSA) stores or depots, procurement thresholds do not apply.

(f) Army organizations have the authority to use the GPC up to micro-purchase thresholds at DoD nonappropriated fund instrumentalities (NAFIs), including Army and Air Force Exchange Service facilities, provided the resale activities are within scope of the particular NAFI's charter. Overseas organizations may make purchases up to \$50,000 from exchanges only (vice NAFIs) and may use the purchase card as a method of payment.

(g) Use the purchase card as a method of payment for all commercial training \$25,000 and below for the following:

(1) Standard Form 182, Authorization, Agreement and Certification of Training, in accordance with United States Code 41 for civilians.

(2) Department of the Army Form 2171, Request for Tuition Assistance Army Continuing Education System, provides financial assistance for voluntary off-duty education Programs in support of soldiers' professional and personal self development. The Department of the Army Form 2171 is the obligation document for education programs and services authorized under 10 U.S.C. 2007 and Army Regulation 621-5 Army Continuing Education System. The Tuition Assistance Program authorizes advance payments in accordance with Army Regulation 621-5. Training and education office personnel must approve all course enrollments prior to start of class.

(3) Use of the GPC is the preferred method of payment for soldiers' tuition when the Centralized Tuition Assistance Management in GoArmyEd processes the request, funding, approval and enrollment verification of the specific course. Single purchase limits will be set commensurate to the level of the consolidated GPC invoice submitted by each university or college.

(h) The following dollar limits apply:

(1) For stand alone purchases, the single purchase limit is the micro-purchase threshold except for the following:

(i) \$2,000 for purchases covered by the Wage Rate Requirements (Construction) statute.

(ii) \$2,500 for purchases covered by the Service Contract Labor Standards statute.

(2) For payment against existing contracts, the limit is as identified in the contract.

(3) For convenience checks, the threshold is one-half the micro purchase threshold.

(4) For contingency or humanitarian operations as authorized in a specific appropriations act or an Executive Order, the applicable act or order may adjust the micro-purchase threshold.

### **Subpart 5113.3 – Simplified Acquisition Methods**

#### **5113.302 Purchase orders.**

##### **5113.302-3 Obtaining contractor acceptance and modifying purchase orders.**

(b) It is not necessary to modify a purchase order to document a shortage in the final shipment, provided the shortage is within the permissible variation in quantity, if any, established in the purchase order.

### **5113.303 Blanket purchase agreements (BPAs).**

#### **5113.303-1-90 General.**

(a) It is preferable to have multiple BPAs for similar items and to establish prices using reverse auctions among BPA holders. If quantities are too small and not conducive to using a reverse auction, then when practicable, Contracting officers should establish pre-priced BPAs by negotiating firm unit prices for specific periods of time or by incorporating suppliers' price lists or catalogs in BPAs.

(b) Contracting officers should not establish blanket purchase agreements for supplies or services when the use of unpriced purchase orders is appropriate (see FAR 13.302-2).

#### **5113.303-2-90 Establishment of BPAs.**

(a) The Contracting officer shall do the following:

(1) Ensure that those individuals authorized to place calls under BPAs have received training and orientation in accordance with paragraph (b).

(2) Provide a copy of the BPA to individuals authorized to place BPA calls.

(3) Ensure that individuals have ready access to price lists or catalogs incorporated in BPAs. The use of reverse auctions to determine pricing among BPAs is the preferred method.

(4) Provide suppliers the names of individuals authorized to place calls.

(5) Inform individuals authorized to place calls that they may not further delegate the authority to others.

(b) Training for use of BPAs is the same as that required for the use of purchase cards. Orientation must focus on the BPA process, except that if the same individual will also be a purchase cardholder, BPA orientation must be in addition to the purchase card program orientation. The chief of the contracting office is responsible for approving training course content and instructor qualifications when someone outside the contracting office provides the training.

#### **5113.303-5 Purchases under BPAs.**



(b)(1) Individual purchases under BPAs established in accordance with FAR 13.303-2(c)(3) may exceed the simplified acquisition threshold.

(2) Individual purchases of commercial items under BPAs, other than BPAs established in accordance with FAR 13.303-2(c)(3), may exceed the simplified acquisition threshold up to the dollar limitation specified in FAR 13.500.

(c) Sole source individual commercial item purchases exceeding the simplified acquisition threshold shall comply with the documentation requirements of FAR 13.501(a).

#### **5113.303-6 Review procedures.**

(b) In addition to the review procedures in FAR 13.303-6, Contracting officers who authorize individuals to place calls under BPAs shall –

(i) Ensure that individuals equitably distribute calls among suppliers with BPAs;

(ii) Ensure that individuals do not split requirements to evade monetary limitations;

(iii) Require that individuals refer all cases where prices are not considered to be reasonable to the Contracting officer for consideration; and

(iv) Maintain continuing surveillance over individuals to ensure compliance with acquisition regulations.

#### **5113.305 Imprest funds and third party drafts.**

##### **5113.305-3 Conditions for use.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the approval as described in FAR 13.305(a). See Appendix GG for further delegation.

#### **5113.306-90 Standard form 44, purchase order – invoice – voucher.**

(a) The Contracting officer signature constitutes certification of fund availability under the appropriation cited on the order. The Contracting officer is responsible for ensuring that funds are available and for entering the proper accounting classification on the order.

(b) When the bulk funding concept defined at FAR 13.101 is used, the Contracting officer must inform the finance and accounting officer at the close of each accounting month of the amount of all purchases made from the bulk funding accounting by use of the Standard Form 44.

(c) If the supplier agrees, the Contracting officer may hold completed Standard Forms 44 until the end of a month and prepare Standard Form 1034 as the payment voucher with the Standard

Forms 44 attached as sub-vouchers. In such cases, the Contracting officer signature on Standard Form 1034 will be sufficient in place of a signature on each Standard Form 44 attached. If the supplier does not agree to use this procedure, or if a time payment discount offered is not possible because of this procedure, the Contracting officer must process the individual Standard Form 44 without delay to take the time payment discount.

#### **Subpart 5113.5 – Simplified Procedures for Certain Commercial Items**

##### **5113.500 General.**

(c)(1) The head of the contracting activity has the authority to make the determination as described in FAR 13.500(c)(1). See [Appendix GG](#) for further delegation.

# AFARS – PART 5114

## Sealed Bidding

*(Revised 01 October 2024)*

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### Subpart 5114.2 – Solicitation of Bids

#### 5114.201 Preparation of invitations for bids.

#### 5114.201-7 Contract clauses.

(b)(2) The head of contracting activity may waive the requirement at FAR 14.201-7(b)(2). See [Appendix GG](#) for further delegation.

(c)(2) The head of contracting activity may waive the requirement at FAR 14.201-7(c)(2). See [Appendix GG](#) for further delegation.

### Subpart 5114.4 – Opening of Bids and Award of Contract

#### 5114.407 Mistakes in bids.

#### 5114.407-3 Other mistakes disclosed before award.

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the determination described at FAR 14.407-3(c). See [Appendix GG](#) for further delegation.

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the determinations under FAR 14.407-3(a), (b), and (d). See [Appendix GG](#) for further delegation.

(g)(3) The determination authority (see FAR 14.407-3(e)) will return all documents to the Contracting officer with the determination.

(i) When sending a doubtful case to the Comptroller General of the United States for an advance decision, Contracting officers will indicate the status of the award in their transmittal document and the senior contracting official will recommend disposition.

#### **5114.407-4 Mistakes after award.**

(b) The HCA may make FAR 14.407-4(b) determinations. See [Appendix GG](#) for further delegation.

#### **5114.409 Information to bidders.**

##### **5114.409-2 Award of classified contracts.**

The Contracting officer shall advise unsuccessful bidders to dispose of classified information in accordance with Army Regulation 380-5.

# AFARS – PART 5115

## Contracting by Negotiation

*(Revised 01 October 2024)*

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## **5115.000 Scope of part.**

(1) The Army Source Selection Supplement (AS3) at [Appendix AA](#) contains detailed guidance pertaining to the source selection process. The AS3 is used in conjunction with this part and supplements the mandatory DoD Source Selection Procedures. It contains information on source selection processes and techniques that the Army uses for competitive, negotiated acquisitions using either formal or informal source selection procedures. See DoD Source Selection Procedures at 1.3, page 2 for exceptions.

(2) The AS3 is a comprehensive source selection resource which recites best practices that promote source selection flexibility and consistency within a given framework in Army source selections. Army personnel shall use the AS3 resource when conducting competitive source selections. The extent to which personnel will use the processes and techniques described in this supplement will depend upon the complexity and dollar value of each acquisition and the available resources. When using the AS3, apply prudent business sense to tailor the processes to fit the circumstances.

## **5115.001 Definitions.**

“Formal source selection,” as used in this part, means the source selection process in which someone other than the contracting officer is the source selection authority, normally for high dollar value or complex acquisitions.

## **Subpart 5115.2 – Solicitation and Receipt of Proposals and Information**

### **5115.201 Exchanges with industry before receipt of proposals.**

(c) Early involvement is essential for maximizing industry’s contribution to the planning, requirements definition, and acquisition processes. Communications with industry should start prior to drafting any solicitation. Measures will be taken to protect any intellectual property (IP) discussed during the planning/pre-solicitation phase, to include non-disclosure agreements as applicable ([see Appendices of the Implementation Guidance for Army Directive 2018-26](#))

(6) When a written acquisition plan is required per DFARS 207.103(d) and a draft request for proposal is not used, contracting officers must include the rationale for not using a draft request for proposal in the plan.

(f) All non-public contractor-owned IP discussed will be considered proprietary information and will not be disclosed publicly. This includes IP the Government is privy to as a result of discussions, documentation, or demonstrations.

#### **5115.204 Contract format.**

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may exempt individual contracts from the use of the uniform contract format. See [Appendix GG](#) for further delegation. The Deputy Assistant Secretary of the Army (Procurement), without power to further delegate, may exempt classes of contracts. The exempting authority will consult with affected contract administration and payment offices prior to granting the exemption.

### **Subpart 5115.3 – Source Selection**

#### **5115.300 Scope of subpart.**

Contracting officers will conduct source selections for architect-engineering services in accordance with FAR part 36.601.

#### **5115.300-90 Waiver approvals.**

The senior procurement executive may approve, in accordance with Paragraph 1.2.4 of the Department of Defense Source Selection Procedures, waivers for solicitations valued below \$1 billion. See [Appendix GG](#) for further delegation.

#### **5115.303 Responsibilities.**

TABLE 5115-1, Source Selection Authority (SSA) Appointments for FAR-Based Acquisitions	
SSA Designations	Appointing Authority
Acquisitions for systems and services, acquired through the Defense Acquisition System, for which milestone decision authority (or other decision authority) is at the Army Acquisition Executive (AAE) or Office of the Secretary of Defense level IAW the applicable Adaptive Acquisition Framework DoDI.	AAE, or as delegated
Other service acquisitions with a total planned dollar value of \$500 million or more, or	DASA(P) or Senior Services Manager

service acquisitions identified by the ASA(ALT) as a special interest. See DoDI 5000.74 and AR 70-13.	
All other acquisitions for which formal source selection procedures are used.	HCA delegable to the SCO  (Note 1)
Notes:  1. The HCA or SCO must coordinate with the responsible Program Executive Officer prior to nominating or, as applicable, appointing an SSA for a source selection in support of an Army acquisition program.  2. Appointment of selection officials for Other Transactions Agreements shall follow the Army's Other Transaction policy.	

(b)(2) Army SSAs shall utilize Appendix AA, Army Source Selection Supplement (AS3), when conducting competitive, negotiated source selections. A source selection plan is required for all competitive, negotiated acquisitions where the basis of award includes factors in addition to cost or price. Army SSAs must use the standard rating tables as detailed in the DoD Source Selection Procedures, to include the colors and adjectives.

(S-90) The appointment of an individual to serve as the SSA shall be commensurate with the complexity and dollar value of the acquisition. For acquisitions with a total estimated value of \$100 million or more, the SSA shall be an individual other than the contracting officer. For all other acquisitions, the contracting officer may serve as the SSA in accordance with FAR 15.303 unless the agency head appoints another individual.

(S-91) The Source Selection Evaluation Board chairperson is responsible for tailoring the reporting and documentary requirements in accordance with the AS3, and overseeing the source selection training for their source selection team.

(S-92) Contracting officers will assist program executive officers (PEOs), program managers (PMs), or other program or functional proponents to –

- (1) Develop and implement the acquisition strategy;
- (2) Prepare and obtain approval of the source selection plan before issuing the solicitation; and
- (3) Recommend an official as the SSA, when the AAE has delegated authority to appoint the SSA.



(S-93) PEOs, PMs, or other program or functional proponents provide the necessary funds for salaries, overtime, temporary duty travel, and other expenses for the source selection. In addition, PEOs, PMs, or other proponents may also provide office space, administrative equipment, clerical support, and other necessary administrative support to personnel involved in the source selection.

#### **5115.303-1 Appointments.**

(a) Contracting activities shall submit nominations for SSA appointment to the AAE, DASA(P) or Senior Services Manager as indicated in Table 5115-1 of this section. Each nomination must include the following:

(1) A memorandum from the HCA or SCO to the DASA(P) requesting the appointment of the nominee as SSA.

(2) A biography of the SSA nominee detailing the training, knowledge, and experience that qualifies them for this appointment.

(3) A memorandum for the record signed by the supporting legal office, ethics counselor, detailing the ethics briefing conducted with the nominee for this source selection, and verification the nominee's final disclosure report has been reviewed and not potential conflicts of interest were identified.

(4) Request for Source Selection Appointment documents for DASA(P) or AAE signature should be sent encrypted email to: [usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil).

#### **5115.304 Evaluation factors and significant subfactors.**

(b)(2)(A) Only the absolute minimum number of factors necessary for evaluation of proposals shall be established. When appropriate, the SSA may subdivide source selection factors into subfactors. On rare occasions, the SSA may further subdivide a subfactor into elements, if needed.

(B) As stated in the AS3, evaluation factors and subfactors must be definable in readily understood qualitative terms (i.e., adjectival, colors, or other indicators, but not numbers) and represent the key areas of importance for consideration. Numerical weighting (i.e., assigning points or percentages to evaluation factors and subfactors) is not an authorized method of expressing the relative importance of the factors and subfactors.

(d) When the Government intends to evaluate the cost of future production or performance beyond the instant contract, and to include these costs as part of the basis of selection and award, clearly specify the evaluation procedures for such costs in the solicitation. Additionally,

contracting officers must specify in the solicitation the Government's procedures and methodologies for developing any estimates before using any of the associated cost estimates for evaluating future or life cycle costs.

#### **5115.305 Proposal evaluation.**

(a) If the request for proposal identifies a threshold and objective performance for any of the requirements, the contracting officer must inform the offerors how the source selection team will evaluate the objective performance requirements and credit the performance above the threshold requirement.

(1) *Cost or price evaluation.* Do not score price or cost or combine it with other non-price or cost related aspects of the proposal evaluation.

(2) *Past performance evaluation.* The Contractor Performance Assessment Rating System is available via the Internet at <https://www.cpars.gov>.

(3) *Technical evaluation.* When divergent evaluations exist, and none of the evaluators have misinterpreted or misunderstood any aspects of the proposals, consider providing the SSA with written majority and minority opinions.

#### **5115.306 Exchanges with offerors after receipt of proposals.**

All exchanges with offerors after receipt of proposals must clearly identify the types of exchanges, i.e., clarifications, communications or discussions.

(c) *Competitive Range.* The SSA must approve the competitive range determination.

#### **5115.308 Source selection decision.**

The SSA shall prepare a source selection decision document for all source selections conducted using this part. The source selection decision document must reflect the SSA's integrated assessment and decision. The document must be the single summary document supporting selection of the best value proposal consistent with the stated evaluation criteria. It must clearly explain the decision and document the reasoning the SSA used to reach a decision. The document should be releasable to the Government Accountability Office and others authorized to receive proprietary and source selection information.

#### **5115.371 Only one offer.**

##### **5115.371-5 Waiver.**

(a) The head of the contracting activity is authorized to perform the functions at DFARS 215.371-5. See [Appendix GG](#) for further delegation.

## **Subpart 5115.4 – Contract Pricing**

### **5115.403 Obtaining certified cost or pricing data.**

#### **5115.403-1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 35).**

(c)(4) Waivers. Follow DFARS 215.403-1(c)(4)(A) to determine when an exceptional case waiver of the requirement to submit certified cost or pricing data is appropriate.

Army Contracting Officers shall follow the procedures at [AFARS PGI 5115.403-1](#) for tracking and reporting the required information when submitting exceptional case waivers.

(A)(2) Coordinate proposed exceptional case waivers that exceed \$100 million in writing with the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) prior to submission to the head of contracting activity (HCA) for approval. Submit the proposed waiver to the addressee listed at 5101.290(b)(2)(ii)(E).

(5) The ASA(ALT), delegable to the head of contracting activity without the authority to further delegate, is the approval authority for waivers in Section (E) of Defense Pricing, Contracting, and Acquisition Policy (DPCAP) [Class Deviation 2024-O0005](#) Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel. See AFARS 5153.206-93 and AFARS 5153.303-13 for instructions and sample format for reporting covered contracts applicable under this subpart to congressional defense committees.

#### **5115.403-3 Requiring data other than certified cost or pricing data.**

(a)(4) The head of contracting activity makes the determination as specified in FAR 15.403-3(a)(4). See [Appendix GG](#) for further delegation.

#### **5115.403-3-90 Process and Reporting Requirements Pertaining to Contractor Denials of Contracting Officer Requests for Data Other Than Certified Cost or Pricing Data.**

In accordance with DPCAP [memorandum](#), dated 22 March 2019, subject: Process and Reporting Requirements Pertaining to Contractor Denials of Contracting Officer Requests for Data Other Than Certified Cost or Pricing Data, in the event of an exigent situation when the HCA approves award without obtaining requested cost data from exclusive distributors and/or dealers, Army contracting activities shall notify the Office of the DASA(P) at the address listed at 5101.290(b)(2)(ii)(E).

The Office of the DASA(P) will then notify the Office of the Under Secretary of Defense (Acquisition and Sustainment). Each notification will include the following information:

- (a) Contractor name and DUNS number (Exclusive Distributor/Dealer).
- (b) Subcontractor name and DUNS number (e.g., OEM/actual manufacturer).
- (c) Contract number, modification or order number, if applicable.
- (d) Date and amount of the contract action.
- (e) Steps taken to attempt price analysis without requiring cost data.
- (f) Contractor's rationale for refusing to provide the data.
- (g) Actions taken by the contracting activity to obtain the data.
- (h) Data used to determine price reasonableness and resulting determination.
- (i) Actions planned to avoid this situation in the future.

#### **5115.404 Proposal analysis.**

##### **5115.404-1 Proposal analysis techniques.**

- (a) General.

(i)(A)(iv) The head of the contracting activity shall make the decision as stated in DFARS PGI 215.404-1(a)(i)(A)(iv) and in accordance with AFARS 5115.403-3-90. See [Appendix GG](#) for further delegation.

##### **5115.404-4 Profit.**

- (c) *Contracting officer responsibilities.*

(2)(C)(2) The head of the contracting activity approves use of the alternate approach discussed in DFARS 215.404-4(c)(2)(C)(2). See [Appendix GG](#) for further delegation.

#### **5115.406 Documentation.**

##### **5115.406-1 Prenegotiation objectives.**

(1) The contracting officers will prepare, review, and obtain approval of prenegotiation memoranda in accordance with the activity's business clearance procedures. In accordance with 5115.406-3, the contracting officer may consolidate the prenegotiation memorandum and price negotiation memorandum (POM/PNM) for competitive or non-competitive acquisitions. When intending to use a consolidated POM/PNM, the contracting officer must still comply with FAR 15.406-1 and DFARS PGI 215.406-1 and obtain written approval of the prenegotiation objectives before negotiation of any pricing action.

(i) *Sole source acquisitions.* For sole source actions, the prenegotiation memoranda document compliance with law, regulations, and policy and become the official record demonstrating the exercise of good business judgment. The prenegotiation memoranda describe the contractor's methodology and how it developed its proposal position to the extent it can be determined from the contractor's proposal and fact-finding efforts, how the price and technical auditors and reviewers developed their recommendations, and what the negotiator did in developing an independent prenegotiation position considering the pricing, audit, and technical analyses and recommendations. An understanding of the development of each of these positions is important when preparing for negotiations. The Defense Acquisition University's Acquisition Community Connection, available via the Internet at <https://acc.dau.mil/pricing>, contains the DoD Contract Pricing Reference Guides, which discuss in depth the pricing techniques and factors contracting officers should consider when developing negotiation positions.

(ii) *Competitive negotiated acquisitions.* For competitive negotiated acquisitions using formal source selection procedures, the contracting officer should ensure the source selection plan, as well as section M of the solicitation is documented and readily available. This should include the evaluation criteria and the basis for award contained in the solicitation, a summary schedule of offerors' prices, and the technical and cost evaluations. Also, the determination and supporting discussion of offerors determined to be within and outside the competitive range and a summary of the technical and cost evaluation notices the contracting officer intends to discuss with offerors selected to participate in the discussions should be documented and readily available to the contracting officer.

(2) When a significant disagreement as defined in DFARS PGI 215.406-1(b)(i) exists between the contracting officer and the Defense Contract Audit Agency (DCAA) auditor, and the auditor requests a higher-level review of the contracting officer's decision, the contracting officer will advise his/her management and provide the name, title, and telephone number of the higher-level review authority to the DCAA auditor. The initial higher-level review authority is the chief of the contracting office or district/center contracting chief in the United States Army Corps of Engineers. If the significant disagreement still exists after discussions with the chief of the contracting office, the matter is elevated to the SCO for resolution. If s/he is unable to resolve the disagreement, the HCA will attempt to resolve the disagreement. The HCA will notify the DASA(P) if DCAA elevates the significant disagreement to the Director, DPC. The contracting officer shall document the disposition of the higher-level review(s) in a memorandum for the contract file.

### **5115.406-3 Documenting the negotiation.**

(a) Contracting officers must document within the price negotiation memorandum the results of the negotiation in sufficient detail to clearly establish all significant aspects of the contract action. When utilizing a consolidated POM/PNM, the contracting officer must ensure the POM/PNM contains all required content for both documents, in accordance with FAR 15.406

and DFARS PGI 205.406, and is stated in sufficient detail to reconstruct actions and decisions and to support the reasonableness of the final price.

(b) If the final negotiated price is within a range specifically approved as the prenegotiation objective, and if negotiations did not present information that calls into question the reasonableness of the previously approved price range, the written approval obtained under 5115.406-1(1) may also serve as the approval for the consolidated POM/PNM. The approved POM/PNM may be used in determining the negotiated price to be fair and reasonable. Notwithstanding this subsection, the contracting officer still must obtain all other required pre-award approvals.

For guidance on make-or-buy analysis for Army programs of record see [AFARS PGI 5115.407-2](#).

#### **5115.407-3 Forward pricing rate agreements.**

(b)(i) The head of the contracting activity may waive rates as described in DFARS 215.407-3(b)(i). See [Appendix GG](#) for further delegation.

#### **5115.407-4 Should-cost review.**

*(b) Program should-cost review.*

(4) In coordination with the program manager or other customer, the SCO must establish the requirements and format for the program should-cost team report.

*(c) Overhead should-cost review.*

(2)(B) The head of the contracting activity may request an overhead should-cost review as described in DFARS PGI 215.407-4(c)(2)(B). See [Appendix GG](#) for further delegation.

### **Subpart 5115.6 – Unsolicited Proposals**

#### **5115.606 Agency procedures.**

See Department of the Army Pamphlet 70-3, paragraphs 10-19 and 20, for Army procedures pertaining to unsolicited proposals. Department of the Army Pamphlet 70-3 is located on the Army Publishing Directorate's website at <http://www.apd.army.mil/>.

#### **5115.608 Prohibitions.**

Government personnel shall not disclose proprietary data included in an unsolicited proposal for any purpose or use except for evaluation purposes (see FAR 15.608). In the event a contract

award is made as a result of an unsolicited proposal, the Government shall have the right to duplicate, use, or disclose proprietary data to the extent provided in the contract.

# AFARS – PART 5116

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## **Subpart 5116.1 – Selecting Contract Types**

### **5116.102-90 Policies.**

Contracting officers must document the rationale for selection of the contract type, to include consideration of the associated risks, in the contract file. The supporting documentation may be located in the contract type justification, a separate determination and findings, memorandum for record, or other appropriate document.

Follow the procedures at [AFARS PGI 5116.102-90-1](#) for selecting contract type.

See [AFARS PGI 5116.102-90-2](#) for guidance on using the Pricing website.

### **5116.103 Negotiating contract type.**

(c) Contracting officers should actively communicate and coordinate with their requiring activities to identify opportunities to transition away from cost-reimbursement contracts, when possible and in the best interest of the Government.

(d)(1) In addition to the items at FAR 16.103(d)(1), discuss how the profit arrangement motivates the contractor to control costs and meet performance requirements.

## **Subpart 5116.2 – Fixed-Price Contracts**

### **5116.203 Fixed-price contracts with economic price adjustment.**

#### **5116.203-4 Contract clauses.**

(d)(2) See AFARS 5101.304-90 and Appendix FF for clause approval procedures.

## **Subpart 5116.3 – Cost-Reimbursement Contracts**

### **5116.301 General.**

#### **5116.301-3 Limitations.**

The head of the contracting activity shall approve actions as described in DFARS 216.301-3. See [Appendix GG](#) for further delegation.

### **5116.306 Cost-plus-fixed-fee contracts.**

(c)(ii) Contracting officers requesting approval to award a contract for non-construction, environmental work (see DFARS 236.271) must submit their requests to the address at 5101.290(b)(2)(i).

## **Subpart 5116.4 – Incentive Contracts**

### **5116.401 General.**

(d)(i) The head of the contracting activity or designee shall sign the determination and finding. See [Appendix GG](#) for further delegation.

(e)(3)(i) The head of the contracting activity shall approve actions as described in FAR 16.401(e)(3)(i). See [Appendix GG](#) for further delegation.

(g) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall provide mechanisms for sharing proven incentive strategies as described in FAR 16.401(g). See [Appendix GG](#) for further delegation. See DPCAP [Guidance on Using Incentive and Other Contract Types](#) and AFARS PGI 5116.102-90-1.

### **5116.403 Fixed-price incentive contracts.**

#### **5116.403-1 Fixed-price incentive (firm target) contracts.**

See [AFARS PGI 5116.403-1](#) for guidance on fixed-price incentive (firm target) contracts.

### **5116.405 Cost-reimbursement incentive contracts.**

#### **5116.405-1 Cost-plus-incentive-fee contracts.**

(b)(3) For cost-plus-incentive-fee type contracts, contracting officers shall consider use of a 70/30 share line and a zero minimum fee as the point of departure for establishing the incentive arrangement during negotiations.

#### **5116.405-2 Cost-plus-award-fee contracts.**

(2)(A) In accordance with DFARS PGI 216.405-2, a contractor begins each evaluation period with zero percent of the available award fee due and works to earn the evaluated fee for each evaluation period. Contractors do not begin with 100% of the available award-fee and have deductions withdrawn to arrive at the evaluated fee for each evaluation period. In addition, contractors should not receive award fee above the base fee for simply meeting contract requirements. Earning an award fee is in accordance with the award fee plan, and should be directly commensurate with the level of performance under the contract. A contractor should not receive the maximum amount of award fee under a contract without a demonstrated superior level of performance, as provided for in the award-fee plan. Maximum contract fee is the sum of all fees (i.e., not just the award fee) and incentives payable under the contract, including performance and subcontracting incentives.

(B) When an Award-Fee Evaluation Board (AFEB) is used, the SCO or authorized contracting officer will appoint an Award-Fee Determining Official (AFDO) in writing, unless the SCO is the AFDO. The AFDO will then appoint the AFEB and its chairperson in writing. Such appointment letters will clearly outline the responsibilities and limitations of the AFEB and its chairperson. AFEB membership should consist of those contracting and acquisition management personnel, including contract administration personnel, most knowledgeable of the requirements and contractor performance in the areas evaluated. For contracts in support of major systems, the AFDO will coordinate the selection of technical AFEB members with the program executive officer or other management official responsible for technical requirements

prior to their appointment. The AFEB chairperson is responsible for ensuring sufficient training of all AFEB evaluators. AFDOs and AFEBs will document in the contract file the rationale for their decision(s) in sufficient detail to demonstrate the integrity of the award-fee determination process in the contract file. The AFDO may alter the AFEB's recommended award fee.

### **Subpart 5116.5 – Indefinite-Delivery Contracts**

#### **5116.504 – Indefinite Quantity Contracts.**

(a)(1) The contracting officer shall ensure an order that fulfills the minimum quantity of supplies or services is issued at the time of contract award.

(c)(1)(ii)(D)(I) The senior procurement executive shall approve actions as stated in DFARS 216.504(c)(1)(ii)(D)(I). See [Appendix GG](#) for further delegation.

#### **5116.505 Ordering.**

(b)(2)(ii)(C)(3) The head of the contracting activity shall approve actions as stated in FAR 16.505(b)(2)(ii)(C)(3). See [Appendix GG](#) for further delegation.

(b)(8) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall designate a task and delivery order ombudsman for the contracting activity. The ombudsman shall be a senior official, who is independent of the contracting officer and may be the command advocate for competition. The ombudsman shall be responsible for reviewing complaints from the contractors under multiple award task or delivery order contracts and ensuring they receive a fair opportunity for consideration, consistent with the procedures in the contract. See [Appendix GG](#) for further delegation.

#### **5116.505-91 Multiple award task order contracts.**

Contracting officers will document in the contract file all critical task order decisions, such as exceptions to the fair opportunity process described at FAR 16.505(b)(2) or the selection of a higher priced proposal because of its greater technical merit, in sufficient detail to justify the decision.

### **Subpart 5116.6 – Time-and-Materials, Labor-Hour, and Letter Contracts**

#### **5116.603 Letter contracts.**

##### **5116.603-2 Application.**

(c)(3) The head of the contracting activity shall perform the duties as described in FAR 16.603-2(c)(3). See [Appendix GG](#) for further delegation.

##### **5116.603-3 Limitations.**

The head of the contracting activity shall make the determination stated in FAR 16.603-3. See [Appendix GG](#) for further delegation.

# AFARS – PART 5117

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## **Subpart 5117.1 – Multi-Year Contracting**

### **5117.104 General.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may authorize modifications of the requirements as set forth in FAR 17.1. See [Appendix GG](#) for further delegation.

### **5117.105 Policy.**

#### **5117.105-1 Uses.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may enter into a multi-year contract for supplies as described in FAR 17.105-1(b). See [Appendix GG](#) for further delegation.

See [DPCAP Class Deviation 2024-O0005— Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#). See Appendix GG for further delegation.

### **5117.106 Procedures.**

### **5117.106-3 Special procedures applicable to DoD, NASA, and the Coast Guard.**

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) makes the approval as described in FAR 17.106-3(e). See [Appendix GG](#) for further delegation.

(f) The head of the contracting activity (HCA) may authorize the use of a solicitation requesting only multi-year prices as described in FAR 17.106-3(f). See [Appendix GG](#) for further delegation.

(g) The HCA may approve the use of variable unit prices as described in FAR 17.106-3(f). See [Appendix GG](#) for further delegation.

### **5117.108 Congressional notification.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) gives the written notification as set forth in FAR 17.108(b). See [Appendix GG](#) for further delegation.

For contracts awarded in accordance with [DPCAP Class Deviation 2024- 00005— Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#), see AFARS 5153.206-93(b) and (c) Instructions for Congressional Notification Requirement When Utilizing the Authorities Conferred by paragraphs (B) – (G) of DPC Class Deviation 2024- 00005 – Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel; Workload Forecasting Instructions.

### **5117.171 Multi-year contracts for services.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.171(a). See [Appendix GG](#) for further delegation.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.171(b). See [Appendix GG](#) for further delegation.

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must make a written determination as stated in DFARS 217.171(c). See [Appendix GG](#) for further delegation.

### **5117.172 Multi-year contracts for supplies.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.172(b). See [Appendix GG](#) for further delegation.

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.172(d). See [Appendix GG](#) for further delegation.

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.172(e). See [Appendix GG](#) for further delegation.

(f)(2) The HCA makes the determination as stated in DFARS 217.172(f)(2). See [Appendix GG](#) for further delegation.

(g) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.172(g). See [Appendix GG](#) for further delegation.

#### **5117.174 Multi-year contracts for electricity from renewable energy sources.**

(a) The HCA shall perform the functions as described in DFARS 217.174(a). See [Appendix GG](#) for further delegation.

(b) *Limitations.* The HCA may exercise the authority as stated in DFARS 217.174(b). See [Appendix GG](#) for further delegation.

### **Subpart 5117.2 – Options**

#### **5117.204 Contracts.**

(e) The HCA approves the use of contract terms in excess of the limitations specified in FAR 17.204(e). See [Appendix GG](#) for delegation.

(i)(C) DFARS 217.204(e)(i)(C) requires an “exceptional circumstances” determination to authorize task and delivery order contracts (including contracts for information technology) with ordering periods that would exceed 10 years. The Assistant Secretary of the Army (Acquisition, Logistics and Technology) approves the “exceptional circumstances” determination. See [Appendix GG](#) for further delegation.

(iii) The senior procurement executive shall approve use of options that extend performance under the order that extend more than 1 year beyond the 10-year limit or extended limit as stated in DFARS 217.204(e)(iii). See [Appendix GG](#) for further delegation.

#### **5117.206 Evaluation.**

In awarding the basic contract, if a Contracting officer determines that the Government is reasonably likely to exercise the option at FAR 52.217-8, Option to Extend Services, the Contracting officer shall evaluate the price of the option as part of the source selection. The solicitation shall include the basis for evaluating the option price (see FAR 17.203(b)). If the Contracting officer does not evaluate the option at FAR 52.217-8 at the time of award, but later decides to exercise the option, the Contracting officer shall prepare a justification and approval (J&A) in accordance with FAR 6.303 prior to exercising the option (see FAR 17.207(f)).

### **5117.207 Exercise of options.**

(c) In addition to the requirements at FAR 17.207(c) and DFARS 217.207(c), the Contracting officer may exercise options only after determining, when applicable, that –

(i) Government performance monitors have used a written quality assurance surveillance plan to ensure that services and supplies conform to contractual requirements (see FAR 37.603, 37.604, 46.102 and 46.401);

(ii) The Contracting officer has appointed a properly trained Contracting officer's representative for the contract or task order, or has documented the file to support retention of surveillance duties by the Contracting officer (see DFARS PGI 201.602-2);

(iii) The Contracting officer has verified registration in the Contractor Performance Assessment Reporting System of the contract or task order for the current period (see FAR 42.1502, DFARS 242.1502, and 5142.1502), and that the assessing official will complete the final report within 120 days following the end of the current performance period; and

(iv) There are monthly surveillance reports in the Virtual Contracting Enterprise (VCE) PCF, along with necessary corrective actions.

### **5117.290 Addition of option clause or quantities to contracts after award.**

Contracting officers shall obtain prior approval in accordance with FAR 6.304 before modifying a contract to incorporate option clauses or additional option quantities after award. Justifications shall include the reason for the proposed modification and the potential impact of disapproval.

## **Subpart 5117.5 – Interagency Acquisitions**

### **5117.502 Procedures.**

#### **5117.502-1 General.**

(a) *Written agreement on responsibility for management and administration.*

(1) Use the DD Form 448, Military Interdepartmental Purchase Request (MIPR) as Part B of the Office of Federal Procurement Policy (OFPP) model interagency agreement. If a non-DoD agency is unable to accept a MIPR for Part B, use the Part B provided in the OFPP model interagency agreement.

(b) *Business-case analysis requirements for multi-agency contracts and governmentwide acquisition contracts.* For guidance on business-case analysis, see FAR 17.502-1(b). Submit the business case to the Office of the Deputy Assistant Secretary of the Army (Procurement) at the email address listed in 5101.290(b)(2)(ii)(A).



(i) *Cover letter.* The SCO shall sign the cover letter, recommending the business case for approval. The letter must indicate whether there is any Congressional interest in the procurement.

(ii) *Business case review document.* The business case review document shall include the signatures of the preparer, Contracting officer, technical representative, requirements representative, program manager, program executive officer, legal counsel, and SCO.

(iii) *Business case.* Use the format provided at FAR 17.502-1(b). Include the command control number on the upper right hand corner of every page of the business case, including the review document and approval page, to enable the reassembling of the business case analysis if the documents become separated.

(iv) *Approval page.* Submit the approval language as the last page of the business case on a plain page, not letterhead.

## **5117.502-2 The Economy Act.**

(a) Assisted acquisitions that are subject to the Economy Act shall comply with DoD Financial Management Regulation DoD 7000.14-R, Vol 11A Chapter 3 and;

(c) The requiring activity is responsible for preparing the Economy Act determination and findings (D&F). Approval of the D&F is in accordance with FAR 17.502-2(c)(2). See [Appendix GG](#) for further delegation. The Economy Act D&F is required for both direct and assisted acquisitions, in addition to the approval to use a non-DoD contract, when applicable (see 5117.770).

### **Subpart 5117.7 – Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense**

## **5117.703 Policy.**

(e) The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) shall make the determination as described in FAR 17.703(e). See [Appendix GG](#) for further delegation.

## **5117.770 Procedures.**

(1) The requiring activity is responsible for making the approval required by DFARS 217.770. A Government official who is of a grade not lower than O-6 or GS-15 and is assigned to the requiring activity makes the approval. The approval document shall address the elements listed in DFARS 217.770(a)-(c). The requiring activity obtains prior concurrence of the determination in accordance with paragraph (2) of this section.

(2) The following officials from the requiring activity's responsible contracting office shall concur with the use of a non-DoD contract prior to public announcement of the requirement:

(i) For acquisitions valued at or above the simplified acquisition threshold, but less than \$50 million, the HCA. See [Appendix GG](#) for further delegation.

(ii) For acquisitions valued at or above \$50 million but less than \$250 million, the HCA. See [Appendix GG](#) for further delegation.

(iii) For acquisitions valued at or above \$250 million, the HCA. See [Appendix GG](#) for further delegation.

(3) If the proposed acquisition meets the requirements for a written acquisition plan, the Contracting officer should attach the approval to use a non-DoD contract to the acquisition plan for concurrent approval when routing the acquisition plan for coordination and approval.

(4) If the approving official approves the use of a non-DoD contract at the blanket purchase agreement level, the individual calls against the agreement do not require separate determinations.

(5) Contracting officers shall follow the reporting requirements in DFARS 204.6 to support the Army's data collection and reporting requirements at DFARS 217.770(d).

## **Subpart 5117.74 – Undefined Contract Actions**

### **5117.7404 Limitations.**

(a) Foreign military sales contracts.

(1)(ii) The HCA shall approve actions as stated in DFARS 217.7404(a)(1)(ii). See [Appendix GG](#) for further delegation.

### **5117.7404-1 Authorization.**

The HCA shall approve actions as stated in DFARS 217.7404-1. See [Appendix GG](#) for further delegation.

### **5117.7404-4 Limitations on obligations.**

(c) If a waiver under Section D of [DPCAP Class Deviation 2024- O0005- Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#) is utilized, the Contracting Officer shall obligate funds only in an amount consistent with the contractor's requirements for the definitization period, up to 100% of the total amount of the contract.

#### **5117.7404-5 Exceptions.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the limitations as described in DFARS 217.7404-5. See [Appendix GG](#) for further delegation.

In accordance with Section (D) of [DPCAP Class Deviation 2024- 00005 – Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#), the Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the limitations DFARS 217.7404(a) Foreign military sales contracts; 217.7404-3 Definitization schedule; and 217.7404-4, Limitations on obligations. See [Appendix GG](#) for further delegation. See AFARS 5153.206-93 and AFARS 5153.303-13 for instructions and sample format for reporting covered contracts applicable under this subpart to congressional defense committees.

#### **5117.7404-6 Allowable profit.**

The HCA activity shall perform the duties as stated in DFARS 217.7404-6. See [Appendix GG](#) for further delegation.

### **Subpart 5117.75 – Acquisition of Replenishment Parts**

#### **5117.7504 Acquisition of parts when data is not available.**

(4)(ii) The HCA authorizes the action described in DFARS PGI 217.7504(4)(ii). See [Appendix GG](#) for further delegation.

### **Subpart 5117.90 – Job Order Contracts**

#### **5117.9000 Scope of subpart.**

A Job Order Contract (JOC) is an indefinite-delivery, indefinite-quantity contract and an alternative contracting method to fulfill repair, maintenance, and minor construction requirements on a variety of projects ranging from sustainment, restoration, and modernization, simplified acquisition of base repair requirements, civil works operations and maintenance, small renovations, real property repair and maintenance with an estimated value more than the micro-purchase threshold for acquisitions of construction. A JOC includes a comprehensive collection of detailed repair, maintenance, and minor construction task descriptions or specifications, units of measure, and pre-established unit prices for discrete tasks. Each JOC order is comprised of several pre-described and pre-priced tasks. In general, proposed projects valued at or below the micro-purchase threshold for acquisitions of construction are considered inappropriate for ordering under a JOC because of the administrative costs associated with processing JOC orders and the simplified purchase methods available for these actions.

## **5117.9001 Definitions.**

As used in this subpart –

“JOC Price Book” (JOCPB) means the compilation of repair, maintenance, and minor construction tasks, associated units of measure and unit prices that are used in job order solicitations and a JOC. JOC unit prices include direct material, labor and equipment costs, but not indirect costs or profits which are addressed in the coefficient(s). The use of labor-only line items is appropriate for use when proper internal controls are in place and incidental to construction. Labor line items are not to provide services, typically performed under a separate service or requirements contract. The JOCPB reflects the current local costs in detail for construction tasks expected to be performed in the geographical area of the base contract with the primary use of developing a detailed line item price. For CONUS, the JOCPB shall be developed using commercially available pricing tools to ensure consistent and comprehensive pricing of tasks unless the Contracting officer determines the use of a commercially available pricing tool is not in the best interest of the government.

“Coefficient” means a numerical factor that represents costs (generally indirect costs) not included in JOCPB unit prices (e.g., general and administrative and other overhead costs, insurance costs, bonding and alternative payment protection costs, protective clothing, equipment rental, sales tax and compliance with tax laws, and profit). Other costs associated with changes such as wage rates and inflation in option years are also covered in the coefficient. Coefficients proposed by offerors are multiplied times the unit prices in the JOCPB to price a job or project on individual orders. The coefficient(s) proposed by the offeror and accepted by the Government are incorporated in the JOC and are only applied to the pre-priced task or item.

## **5117.9002 Applicability.**

(a) A JOC may be used to execute repair, maintenance, and minor construction requirements for the requiring activity and are subject to the requirements in other parts of the FAR, DFARS, and this regulation.

(b) A JOC must only be used for the projects covered at 5117.9000. The requiring activity’s reoccurring facilities engineering support services, such as utility plant operation, custodial, grounds maintenance, refuse collection and disposal, and similar work shall not be acquired using a JOC. Architect-engineer services as defined in FAR 36.102 and Design-Build requirements as defined in FAR 36.3 shall not be acquired under a JOC. However, informal (shop) and as-built drawings, incidental to the job, reflecting the plan of action and the completed project, are anticipated under a JOC.

## **5117.9003 Use of job order contracts.**

### **5117.9003-1 Planning and coordination.**

(a) A JOC should be considered when the workload is anticipated to be of such a yearly volume that benefits derived from a JOC utilization are greater than the costs of the Government resources and contractor overhead associated with establishing and using a JOC. These costs include the total Government resources required to award, use, monitor, and administer the JOC and JOC orders, and management oversight and functional support of the entire JOC process. The calculated workload for a potential JOC should exclude –

- (1) Work normally reserved for 8(a) or set aside for small businesses; and
- (2) Work that can be effectively and economically accomplished by in-house resources.

#### **5117.9004 Procedures.**

##### **5117.9004-1 Presolicitation.**

(a) To solicit for a JOC, the Government must develop task specifications and a JOCPB tailored to the needs of the requiring activity to be supported. Any special range pricing (to get quantity discounts) of units associated with the requirements of known JOC projects to be ordered must be specified.

##### **5117.9004-2 Solicitation.**

(a) The Contracting officer must ensure that the specifications and the JOCPB have undergone technical review and validation and are tailored to meet the projected requirements of the requiring activity and local economic conditions.

(b) The JOC solicitation must include realistic and reasonable annual minimum and maximum dollar amounts for projected requirements to encourage competition and lower coefficients. Generally, the higher the minimum is, the lower the coefficient proposed will be.

(c) The solicitation must explain the make-up of the Government unit prices and specify what types of costs, as a minimum, must be covered by the coefficient. Offerors may have multiple coefficients and must specify what additional types of costs are included in their coefficients in their proposal. These additional costs may be incorporated in the contract, if appropriate, and may preclude later disagreements over non-pre-priced tasks. Multiple coefficients may be used for normal working hours and other than normal working hours.

(d) The solicitation must explain that there will be no separate repayment(s) for bond premiums because the bond premium is repaid through the coefficient, and the coefficient is paid as an indirect cost under progress payment or other standard payment provisions.

(e) JOC solicitation and contracts must use either annual coefficient adjustments or an annually updated JOCPB, but not both. AFARS clause 5152.237-9000, Adjustments to Contractor's Coefficient for Option Years, can be used in JOC contracts in accordance with this paragraph when annual coefficient adjustments are used.

### **5117.9004-3 Ordering.**

(a) Except as otherwise specified in this subpart, orders must be executed in accordance with FAR 16.505(a).

(b) *Statement of work.*

(1) The SOW for the proposed order must contain sufficient detail to enable the Government to develop an independent government estimate (IGE), in accordance with FAR 36.203 and to ensure that the contractor can properly prepare a responsive and cost-effective proposal with a minimum of non-pre-priced tasks.

(2) The SOW must be updated before issuing the order to reflect the negotiated agreement's details and to include significant quantities, methods of construction, quality levels, and the number of days to complete the work.

(c) *Limitations.*

(1) Except as provided in paragraph (2), the value of non-pre-priced work under an order must not exceed 10 percent of the value of the pre-priced work.

(i) The value of the pre-priced work must be computed by multiplying the coefficient(s) times the appropriate unit price(s) in the JOCPB.

(ii) When the contract allows, indirect costs and profit for non-pre-priced work may be attributed by the application of a solicited and pre-agreed rate to be applied to the unburdened labor, equipment, and material costs of the non-pre-priced work.

(iii) Description of non-pre-priced work must not be manipulated or forced to fit under a pre-priced line item, either to avoid including non-pre-priced line items in the order or to reduce the value of non-pre-priced line items in an attempt to circumvent the limitation in (c)(2).

(2) Normally, if the value of the non-pre-priced work exceeds 10 percent, then the non-pre-priced work should be reduced, eliminated, performed in-house, or the job must be acquired using other contracting methods. However, Contracting officers may exceed the 10 percent if justified and approved in accordance with FAR 6.302. The Contracting officer shall negotiate the modification and make a determination that the price is fair and reasonable.

(d) *Distribution.* A copy of all JOC orders must be sent to the contracting office appointing ordering officers, the Finance and Accounting Office, the office or individual assigned responsibility for inspection and technical administration of the contract, and any appointed COR. The Contracting officer must maintain the permanent record of each transaction, and administration shall be done in accordance with the contracting activity procedures.

#### **5117.9005 JOC ordering officers.**

(a) *Appointment.* A “JOC ordering officer” appointment is authorized, but is only required when the Contracting officer will not be executing all task orders. Appointments of ordering officers under each JOC must be minimized. The JOC ordering officer shall be obtained in accordance with AFARS 5101.603-1, The Contracting officer is the appointing authority for each individual job order that is within the JOC ordering officer authorities. The requiring activity may recommend JOC ordering officers. The JOC ordering officer shall be appointed by letter similar to that in 5153.303-2 (see 5101.602-2-92), tailored for JOC.

(b) *Training.* All JOC ordering officers must receive specific training and orientation from the responsible contracting office at least annually and must document completion in PCF. This training must cover policy and procedures for the operation of a JOC and shall specifically address the ordering officer’s authority, limitations, and responsibilities, including ethics, conflict of interest, and potential pecuniary liabilities. JOC ordering officers shall, at a minimum, meet contracting activity COR training requirements.

(c) *Authorization and limitations.*

(1) JOC ordering officers are authorized to sign task orders on behalf of the Government between the micro-purchase threshold for acquisitions of construction and the Simplified Acquisition Threshold (SAT) as long as the value of the non-pre-priced item(s) does not exceed five percent of the total order to include contract modifications.

(2) The HCA may authorize JOC ordering officers to sign task orders of greater value than SAT. However, the delegated authority may not exceed the thresholds specified in 10 U.S.C. 2805(c) and may only be authorized when the HCA determines, in writing it is necessary to realize the benefits of a JOC, and provided that –

(i) adequate management controls are in place (e.g., Contracting officer oversight);

(ii) adequate training is provided;

(iii) the Contracting officer approves; and

(iv) the value of any non-pre-priced item(s) does not exceed 5 percent.

(3) JOC ordering officers may execute modifications to existing task orders provided that -

(i) the Contracting officer delegates explicitly this authority in the JOC ordering officer appointment letter;

(ii) the absolute value of the order as modified does not exceed the ordering officer’s authority; and

(iii) pricing is accomplished by using the JOCPB.

(iv) modifications shall be limited to changing quantities of JOCPB items in the existing order unless the Contracting officer signs an in-scope determination.

(4) JOC ordering officers must notify the Contracting officer immediately of any modifications. The Contracting officer shall execute any modification outside of paragraph 3 above.

(d) *Responsibilities.* JOC ordering officers --

(1) Are responsible for ensuring that all proposed JOC project descriptions and task orders express the Government's actual requirements, validated in accordance with the requiring activity's procedures;

(2) Must obtain concurrence from the Contracting officer that sufficient capacity exists on the JOC before issuing of a task order;

(3) Must obtain a valid Purchase Request and Commitment (PR&C) from resource management to ensure that adequate and proper funds are available for the project before issuing an order and/or modification;

(4) Must notify the Contracting officer of any additional bonding requirements associated with new orders or changes in the value of existing orders;

(5) As the principal point of contact for technical and engineering issues, must respond to requests for technical clarification from the JOC contractor, documenting both the request and the response, and conduct the joint pre-proposal site survey, assuring that the contractor is provided access to all required facilities, plans, and other documents required for full knowledge of the scope and conditions of the required job;

(6) For orders estimated to exceed the JOC ordering officer's signature authority, the JOC ordering officer shall conduct an initial evaluation of contractor proposals; may be authorized to solicit such proposals and clarify and negotiate units and quantities of pre-priced tasks; and shall assist the Contracting officer, as requested, in negotiations, and resolution of variances between the IGE and the contractor's proposal;

(7) Must maintain a contract file in PCF and complete contract documentation for each order and modification executed, including a record of all related correspondence and actions taken before award of the order and in the order administration phase; and

(8) Is responsible, along with a COR, if appointed, for assisting the Contracting officer in technical monitoring of the contractor's performance of orders issued under a JOC to include --

(i) Monitoring compliance with the SOW and schedule;



(ii) Ensuring contractor or supplier compliance with the clause at FAR 52.225-5, Trade Agreements (Nov 2023);

(iii) Ensuring compliance with the Wage Rate Requirements (Construction) statute (40 U.S.C. Chapter 31, Subchapter IV, formerly known as the Davis Bacon Act, subpart 22.4);

(iv) Assessment and validation of percentage of completion for progress payment purposes;

(v) Recommending to the Contracting officer changes to existing orders, beyond the ordering officer's authority;

(vi) Documenting and quickly reporting to the Contracting officer systemic or recurring problems in contractor performance;

(vii) Prioritization of orders when required (in coordination with the requiring activities), provided no increase in cost is involved;

(viii) Submitting performance evaluation reports (see AFARS 5136.201), as applicable; and

(ix) Providing to the requiring activity documents required for continuing customer responsibilities (e.g., as-built drawings and warranties).

#### **5117.9006 Contracting officer responsibilities.**

(a) At least once a year, the Contracting officer must ensure that ordering officer files and procedures are reviewed and that a representative sampling of orders is selected for tracking from initiation of the requirement to final payment and close-out of the order.

# AFARS – PART 5118

## Emergency Acquisitions

*(Revised 01 October 2024)*

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### Subpart 5118.1 – Available Acquisition Flexibilities

#### 5118.170 Additional acquisition flexibilities.

(a) See AFARS 5106.302-7(b)(2) for DPCAP Class Deviation 2024-O0005 instructions on use of other than competitive procedures under FAR 6.302-7 for “covered contracts”.

(h) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the notification as described in DFARS 218.170(h).

### Subpart 5118.2 – Emergency Acquisition Flexibilities

#### 5118.201 Contingency operation.

(9) See [Appendix GG](#). 5118.202 Defense or recovery from certain events.

(c) In accordance with section (C)(4) of [DPCAP Class Deviation 2024-O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel](#) contracting officers carrying out a procurement of a product or service for a covered contract may treat the product or service as a commercial product or a commercial service for the purpose of carrying out the procurement. See AFARS 5112.102(a)(i)(B)(3). See AFARS 5153.206-93 and AFARS 5153.303-12 for instructions and sample format for reporting covered contracts applicable under this subpart to congressional defense committees.

#### 5118.270 Head of contracting activity determinations.

(e) See [Appendix GG for further delegation](#).

See [AFARS PGI 5118.2-1](#) for additional information on acquisition flexibilities.

# **AFARS – PART 5119**

## **Small Business Programs**

*(Revised 01 October 2024)*

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## **Subpart 5119.2 – Policies**

### **5119.201 General policy.**

(c)(8) At those contracting activities where the Small Business Administration (SBA) has assigned a procurement center representative (PCR), a small business professional serves as the designated small business technical advisor. The Contracting Officer’s Representative (COR), or primary technical point of contact for the requirement when a COR is not required, shall assist the PCR and address technical aspects of the acquisition when requested by the small business professional.

(10)(B)(i) The Contracting officer shall prepare and submit the DD Form 2579 and supporting documentation to the assigned small business specialist for all acquisitions above the micro-purchase threshold, except Phase I or Phase II acquisitions for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. The DD Form 2579 shall include the small business specialist’s recommendation for actions including, but not limited to: all Federal Acquisition Regulation (FAR) parts 13, 14, and 15 actions, all orders placed against FAR 8.405-3 blanket purchase agreements, General Services Administration Federal Supply Schedule orders, and all delivery and task orders under multiple award, indefinite delivery indefinite quantity (IDIQ) contracts. Neither small business coordination nor a DD Form 2579 is required when the contracting office complies with the small business reservation under the simplified acquisition threshold at FAR 19.502-2(a). The Virtual Contracting Enterprise (VCE)-2579, DD2579 Small Business Coordination module) shall be used for all DD Form 2579 submissions. The original DD Form 2579 shall remain in the VCE Paperless Contract File (PCF) with a copy furnished to the SBA PCR and the activity small business specialist. The DD Form 2579 shall be approved by all parties including the SBA PCR when required, prior to issuing a solicitation or notice of proposed contract action.

(ii) VCE-2579 automatically assigns a Control Number for each DD Form 2579. The small business specialist must review and sign to their concurrence/non-concurrence on the DD Form 2579. If the SBA PCR lacks the necessary security clearance to review the DD Form 2579, the Contracting officer shall contact the SBA office serving the area where the contracting office is located for assistance.

(iii) The DD Form 2579 must be made available only to personnel who have a “need to know” until the contract is awarded. Copies distributed outside the Army, including SBA PCR coordination, must be marked “Controlled Unclassified Information.”

### **5119.202-1 Encouraging small business participation in acquisitions.**

(1) If circumstances dictate consolidation, the Contracting officer must obtain from the program manager or requiring activity written justification supporting the consolidated action. The head of the contracting activity must determine that a consolidated requirement cannot be placed under one of the preference programs prior to release of the solicitation. See [Appendix GG](#) for further delegation.

(2) When the acquisition strategy contemplates full and open competition for multiple award, IDIQ contracts, the Contracting officer shall insert language in the solicitation that allows for requirements to be set aside (totally or partially) for small businesses. Additionally, the Contracting officer has the discretion to set aside all task or delivery order requirements for small businesses where two or more small businesses hold IDIQ contracts. Contracting officers shall document why the rule of two cannot be applied to the available small business awardees prior to soliciting to the entire awardee pool, seek approval one level above the Contracting officer, and submit supporting documentation to the small business specialist and PCR during small business coordination.

### **5119.203 Relationship among small business programs.**

(c) The contract file must document the release of an 8(a) commitment in accordance with FAR 19.203(c). The Contracting officer shall provide a copy of all documentation releasing the 8(a) commitment to the small business specialist.

## **Subpart 5119.5 –Small Business Total Set-Asides, Partial Set-Asides, and Reserves**

### **5119.502 Setting aside acquisitions.**

#### **5119.502-3 Partial set-asides of contracts other than multiple-award contracts.**

(a)(5) The head of the contracting activity shall authorize actions as described in FAR 19.502-3. See [Appendix GG](#) for further delegation.

#### **5119.502-8 Rejecting Small Business Administration recommendations.**

(b) The head of the contracting activity shall make the decision as described in FAR 19.502-8(b). See [Appendix GG](#) for further delegation.

(d)(i) Process appeals, on a case-by-case basis, in accordance with the appropriate FAR section (19.502-8, 19.810, 19.1305, 19.1405, 19.1505, or 19.506) and in accordance with instructions from the Director, Headquarters Department of the Army, Office of Small Business Programs (HQDA, OSBP). The Contracting officer will prepare and submit the case file documents by email to the HQDA, OSBP Program Manager through contracting and small business channels. The files shall be coordinated with the Associate Director (AD), prior to the Contracting officer releasing to HQDA.

(ii) The small business specialist at each level must review the case. The case file must include –

- (A) A statement of attempts to resolve the matter;
  - (B) A response to each issue raised by SBA in its appeal;
  - (C) Supporting documents related to controversial aspects; and
- (iii) Suspend actions on the requirement pending outcome of the appeal.

**5119.502-9 Withdrawing or modifying small business set-asides.**

(b) If a PCR is not assigned or available, the AD shall refer disagreements to the small business specialist's appointing authority for resolution. ([See AFARS PGI 5119.201](#)).

**Subpart 5119.6 Certificates of Competency and Determinations of Responsibility**

**5119.602 Procedures.**

**5119.602-3 Resolving differences between the agency and the Small Business Administration.**

(c)(1)(i) The Contracting officer must prepare the case and send through contracting channels as described in 5119.502-8. The small business specialist at each level will review the case.

**Subpart 5119.7 – The Small Business Subcontracting Program**

**5119.705 Responsibilities of the Contracting officer under the subcontracting assistance program.**

**5119.705-2 Determining the need for a subcontracting plan.**

(d) When FAR 19.705-2(d) applies, Contracting officers shall include a notice in Section L or the Instruction to Offerors section of the solicitation to instruct offerors classified as other than small business when to submit subcontracting plans, whether with their initial proposals or at another time prior to award as determined by the Contracting officer. For information on small business participation proposals, see AFARS 5115.304, Evaluation factors and significant subfactors.

**5119.705-4 Reviewing the subcontracting plan.**

(d)(i) Contracting officers shall, with the participation of the small business specialist –

(A) Adhere to the requirements in FAR 19.705-4 and DFARS 219.705-4 and use the guidance prescribed in AFARS Appendix DD, Subcontracting Plan Evaluation Guide, AFARS Appendix AA, Army Source Selection Supplement, and the [DoD Subcontracting Program – Business Rules and Processes](#) (referenced at DFARS PGI 219.705-6(f)) to review all subcontracting plans, except for commercial plans that have been approved by the Government;

(B) Ensure separate statements and goals are provided for the basic contract and, if applicable, each option;

(C) Identify those areas where the plan is deficient and clarify with the offeror in an attempt to correct omissions; and

(D) Ensure that, if there is a commercial plan, it has been approved in accordance with FAR 19.704(d). If it has not been previously approved, follow the DoD Subcontracting Program – Business Rules and Processes to review the commercial plan.

(ii) Plans are not acceptable if they do not adequately address the subcontracting plan requirements at FAR 19.704, DFARS 219.704, and AFARS Appendix DD. If the plan is still rated unacceptable after clarifications or discussions, the offeror shall be ineligible for contract award.

#### **5119.705-6 Post award responsibilities of the Contracting officer.**

Subject to the concurrence of the chief of the contracting office and the agreement of the receiving individual's chain of command, the Contracting officer may delegate the duties in FAR 19.705-6 and supplements to another individual. The delegation must be in writing, include the scope of duties delegated, and signed by management officials from the contracting activity and authorized management officials from the supporting organization.

(f)(2) In addition to following the FAR subpart 19.7 and DFARS subpart 219.7 requirements, Contracting officers shall use the DoD Subcontracting Program – Business Rules and Processes and its appendices to review the appropriate subcontracting report submitted by the contractor in the Electronic Subcontracting Reporting System (eSRS). The DoD Subcontracting Program – Business Rules and Processes serves as guidance on the business rules and processes for the eSRS, including the various roles and responsibilities of DoD and industry personnel; it provides checklists and detailed explanation on subcontracting plans; and it provides information on reviewing the related subcontract reports submitted under various types of subcontract plans. Contracting officers should pay particular attention to the guidance contained in Appendix D, Guide to Preparing and Reviewing an Individual Subcontract Report (ISR) for an Individual Subcontracting Plan; Appendix E, Guide for Preparing and Reviewing a Summary Subcontract Report (SSR) for an Individual Subcontracting Plan; and Appendix F, Guide for Preparing and Reviewing a Summary Subcontract Report (SSR) for a Commercial Subcontracting Plan.

(g)(1) The contractor's explanation and mitigation plan should demonstrate its good faith effort in meeting the subcontracting goals, and the contractor's effort or lack of effort should be assessed annually in the Contract Performance Assessment Reporting System (CPARS).

#### **5119.705-6-90 Transferring post award responsibilities of the Contracting officer to another Contracting officer.**

(a) Prior to release from their Contracting officer responsibilities, the outgoing Contracting officer shall ensure required reviews of subcontracting reports under their purview have been conducted. If a report is rejected, provide an explanation to the contractor, and document the explanation in eSRS prior to transfer of responsibility.

(b) If a new Contracting officer has been identified, the outgoing Contracting officer shall advise the new Contracting officer of -

- (1) any eSRS reports that are required to be resubmitted by the contractor; and
- (2) any issues or concerns with the contractor's good faith effort to meet the goals provided in the approved subcontracting plan.
- (c) If a new Contracting officer has not been identified prior to their release, the outgoing Contracting officer shall notify their supervisor and document the contract file with information pertinent to the subcontracting report reviews for the new Contracting officer.
- (d) Prior to accepting responsibility for administering subcontracting reports, the new Contracting officer shall –
  - (1) ensure they are registered as a contracting official in the eSRS;
  - (2) review their responsibilities as a reviewer in the FAR subpart 19.7, DFARS subpart 219.7, and the DoD Subcontracting Program – Business Rules and Processes, Appendices D, E, and F; and
  - (3) inform the prime contractor to update the contract profile in eSRS with the name and email address of the new Contracting officer.

#### **Subpart 5119.8 – Contracting with the Small Business Administration (The 8(a) Program)**

##### **5119.803 Selecting acquisitions for the 8(a) program.**

- (a) The AD shall respond directly to general search letters from SBA. The AD may further delegate this function to the small business specialists at contracting activities.
- (b) The Contracting officer, in coordination with the small business specialist, shall respond to SBA requests for a specific requirement either by offering the requirement to the 8(a) program or by explaining to the SBA the rationale for not offering the requirement to the 8(a) program (see AFARS 5119.804-2).
- (c) Where a number of requirements are being offered to SBA for planning purposes, the AD, or their designated small business specialist, must identify the requirements to SBA. Specific individual requirements shall be offered in accordance with AFARS 5119.804-2(a).

##### **5119.804 Evaluation, offering, and acceptance.**

###### **5119.804-2 Agency offering.**

- (a) The contracting office must notify the SBA and contracting activity small business specialist of agency offering. The notification commits the Army to negotiating with the SBA.

(14) The Contracting officer must coordinate noncompetitive 8(a) offerings with a total estimated contract value above the thresholds in FAR 19.805-1(a)(2) with the contracting activity local competition advocate, who will review the technical requirements to ensure the requirements are not overly restrictive.



## **5119.808 Contract negotiation.**

### **5119.808-1 Sole source.**

(a) The Contracting officer must notify the contracting activity small business specialist of the intent to proceed with the acquisition if it exceeds \$100 million and the requesting agency has completed a justification in accordance with the requirements of FAR 6.303-1(b).

(b) When direct negotiation with an 8(a) contractor does not proceed satisfactorily, the Contracting officer must ask the SBA to enter negotiations promptly to expedite the award.

### **5119.810 SBA appeals.**

(b) Process appeals in accordance with AFARS 5119.502-8.

### **5119.812 Contract administration.**

(c)(i) The Contracting officer must promptly notify the SBA of contractor performance deficiencies. The Contracting officer must promptly report to the SBA any indication that the contractor requires technical or management assistance and document the contract file accordingly.

(ii) If the SBA fails to act in a timely manner to help the contractor take corrective action, the Contracting officer must report this failure to the AD with a recommendation for action. If the AD cannot resolve the matter, he or she will refer the matter to the Director, HQDA, OSBP.

(d)(i) The Contracting officer must notify the AD and the cognizant small business specialist, if an 8(a) contractor to which a contract was awarded transfers ownership or control of the firm or if the contract is transferred for any reason to another firm and a termination for convenience or waiver approval is pending.

(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) is the approving authority under this section for a waiver request to be submitted to the SBA. See [Appendix GG](#) for further delegation.

### **5119.815 Release and notification requirements for non-8(a) procurement.**

(a) Where a procurement is awarded as an 8(a) contract, its follow-on or renewal acquisition shall remain in the 8(a) program unless –

(1) SBA agrees to release it, in accordance with 13 Code of Federal Regulations § 124.504(d), FAR 19.815, and the DoD and SBA Partnership Agreement; or

(2) Follow-on or renewal acquisitions can transition from a sole source 8(a) acquisition to a mandatory source in accordance with FAR 19.815.

### **5119.816 Exiting the 8(a) program.**

(b) The head of the contracting agency shall make the determination as set forth in FAR 19.816(b). See [Appendix GG](#) for further delegation.

**5119.890 Notification of award.**

Immediately after award of any 8(a) contract, the Contracting officer must notify the contracting activity small business specialist and the cognizant SBA office. Notification will include the 8(a) firm's name, address, Unique Entity ID, CAGE code, a description of the supplies or services, the quantity, dollar value, date of award, SBA Requirement Number and contract number.

**Subpart 5119.13 – Historically Underutilized Business Zone (HUBZone) Program**

**5119.1305 HUBZone set-aside procedures.**

(d)(2) The head of the contracting activity shall make the determination as described in FAR 19.1305(d)(2). See [Appendix GG](#) for further delegation.

**Subpart 5119.14 - Service-Disabled Veteran-Owned Small Business Procurement Program**

**5119.1405 Service-disabled veteran-owned small business set-aside procedures.**

(d) The head of the contracting activity shall make the decision as stated in FAR 19.1405(d). See [Appendix GG](#) for further delegation.

# **AFARS – PART 5120**

*(as of 01 October 2024)*

**Reserved**

# **AFARS – PART 5121**

*(as of 01 October 2024)*

**Reserved**

## **AFARS – PART 5122**

### **Application of Labor Laws to Government Acquisitions**

*(Revised 01 October 2024)*

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## **5122.001 Definitions.**

“Labor advisor,” as used in this part, means the labor advisor, Contract and Fiscal Law Division, Office of the Judge Advocate General.

### **Subpart 5122.1 – Basic Labor Policies**

## **5122.101 Labor relations.**

### **5122.101-1 General.**

The labor advisor grants departmental approval for the actions listed in DFARS PGI 222.101-1. The head of the contracting activity (HCA) may contact a national office of a labor organization, a regional office of the Federal Mediation and Conciliation Service, National Mediation Board, or National Labor Relations Board for information. However, when a contract has been transferred to the Defense Contract Management Agency for administration, request the information from the Defense Contract Management Agency. See Appendix GG for further delegation.

### **5122.101-3 Reporting labor disputes.**

(2) Contact the labor advisor before disseminating any information on labor disputes. Army personnel cannot give information about work stoppages or labor disputes to representatives of labor or management without authorization from the labor advisor.

### **5122.101-3-70 Impact of labor disputes on defense programs.**

(b) The head of the contracting activity shall submit a report of findings and recommendations as described in DFARS PGI 222.101-3-70(b). See Appendix GG for further delegation.

## **5122.103 Overtime.**

#### **5122.103-4 Approvals.**

(a) The following individuals may approve overtime:

- (i) Contracting officer.
- (ii) Chief of contracting office.
- (iii) HCAs.
- (iv) Senior contracting official.

(v) Other individuals whom the Deputy Assistant Secretary of the Army (Procurement), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), specifically designates as needed.

#### **Subpart 5122.3 – Contract Work Hours and Safety Standards Act**

#### **5122.302 Liquidated damages and overtime pay.**

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as stated in FAR 22.302(c). See Appendix GG for further delegation.

#### **Subpart 5122.4 – Labor Standards for Contracts Involving Construction**

#### **5122.404 Construction wage requirements statute wage determinations.**

#### **5122.404-6 Modification of wage determinations.**

(b)(6) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may request an extension as stated in FAR 22.404-6(b)(6). See Appendix GG for further delegation.

#### **5122.406 Administration and enforcement.**

#### **5122.406-8 Investigations.**

(d) Send the Contracting officer's report to the following mail or email address:

Attn.: Labor Advisor, Contract and Fiscal Actions Division

Office of The Judge Advocate General

2200 Army Pentagon, 3B548

Washington, DC 20310.

[usarmy.pentagon.hqda-otjag.mbx.usalsa-kfld-rbg-support@mail.mil](mailto:usarmy.pentagon.hqda-otjag.mbx.usalsa-kfld-rbg-support@mail.mil).

The labor advisor forwards the report to the Department of Labor on behalf of the agency head (see FAR 22.406-8(d)(2)).

#### **5122.406-9 Withholding from or suspension of contract payments.**

*(c) Disposition of contract payments withheld or suspended.*

(4) *Liquidated damages.* See 5122.302(c) for officials authorized to adjust or waive assessments of liquidated damages in accordance with DFARS 22.406-9(c)(4).

### **Subpart 5122.5 - Use of Project Labor Agreements for Federal Construction Projects.**

#### **5122.504 General requirements for project labor agreements.**

(d) Exceptions to project labor agreement requirements—

(1) Exception. The format for a determination and findings (D&F) shall be used to make a request for exception to the requirements at 22.503(b) and shall be submitted to the address at 5101.290-1(b)(2)(ii)(C) in the Enterprise Staff Management System (ETMS) for senior procurement executive approval.

### **Subpart 5122.8 – Equal Employment Opportunity**

#### **5122.805 Procedures.**

(a)(8) The head of the contracting activity may approve the award as described in FAR 22.805(a)(8). See Appendix GG for further delegation.

#### **5122.807 Exemptions.**

(a)(1) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described in FAR 22.807(a). See Appendix GG for further delegation.

### **Subpart 5122.13 – Equal Opportunity for Veterans**

#### **5122.1305 Waivers.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may approve waiver requests under FAR 22.1305(a). See Appendix GG for further delegation.

(c) Requests for waivers shall be submitted to the addressee in AFARS 5101.290(b)(2)(ii)(B).



## **Subpart 5122.14 – Employment of Workers With Disabilities**

### **5122.1403 Waivers.**

- (a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may approve waiver requests under FAR 22.1403(a). See Appendix GG for further delegation.
- (c) Requests for waivers shall be submitted to the addressee in AFARS 5101.290(b)(2)(ii)(B).

## **Subpart 5122.15 - Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**

### **5122.1503 Procedures for acquiring end products on the list of products requiring contractor certification as to forced or indentured child labor.**

- (f) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may impose remedies as described in FAR 22.1503(f). See Appendix GG for further delegation.

## **Subpart 5122.16 – Notification of Employee Rights Under the National Labor Relations Act**

### **5122.1604 Compliance evaluation and complaint investigations and sanctions for violations.**

- (d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may provide the written objections as stated in FAR 22.1604(d). See Appendix GG for further delegation.

## **Subpart 5122.17 – Combating Trafficking in Persons**

### **5122.1703 Policy.**

- (a)(7) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall designate the authorized official of the contracting agency as described in FAR 22.1703(a)(7). See Appendix GG for further delegation.

### **5122.1704 Violations and remedies.**

- (c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall ensure that the Contracting officer is provided with the report as described in FAR 22.1704(c). See Appendix GG for further delegation.

## AFARS – PART 5123

### Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

*(Revised 01 October 2024)*

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#### **Subpart 5123.1 – Sustainable Acquisition Policy**

##### **5123.104 Exceptions.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination at FAR 23.104(a). See [Appendix GG](#) for further delegation.

##### **5123.105 Exemption authority.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, makes exemptions as set forth in FAR 23.105.

## **Subpart 5123.2 – Energy and Water Efficiency and Renewable Energy**

### **5123.204 Procurement exemptions.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the determination at FAR 23.204. See [Appendix GG](#) for further delegation.

### **5123.205 Energy-savings performance contracts.**

Energy-savings performance contracts are service contracts and require inclusion of a quality assurance surveillance plan in the contract file.

## **Subpart 5123.3 – Hazardous Material Identification and Material Safety Data**

### **5123.302 Policy.**

(d) See Army Regulation 700-141 Hazardous Materials Information Resource System for instructions for obtaining and processing Material Safety Data Sheets.

(e) The Contracting officer shall provide hazard warning labels and Material Safety Data Sheets to the safety office in accordance with Army Regulation 700-141.

### **5123.370 Safety precautions for ammunition and explosives.**

#### **5123.370-4 Procedures.**

(1)(i) The head of the contracting activity shall approve the waiver of the mandatory requirements at DFARS PGI 222.370-4(1)(i). See [Appendix GG](#) for further delegation.

## **Subpart 5123.8 – Ozone-Depleting Substances**

### **5123.803 Policy.**

#### **(1) *Contracts.***

(i) The organization with primary responsibility for determining the principal specifications and standards cited in the solicitation or contract is responsible for obtaining authorization to include the specification or standard in the contract.

(ii) The approving official must be from the technical or program organization with primary responsibility for determining the equipment or systems specifications and standards.

#### **(2) *Modifications.***

(i) For contracts administered by the Army, the Contracting officer must obtain an evaluation and written determination of the suitability of proposed substitutes for ozone-depleting substances from the organization in (1)(i).

(ii) The written determination must be based on a certification by a technical representative of the Environmental Support Office at the address below in coordination with the requiring activity. Elevate any dispute concerning what constitutes a suitable substitute through the requiring activity's leadership to the Army Acquisition Executive for a final decision.

Environmental Support Office  
Headquarters, Department of the Army  
2800 Crystal Drive, 5<sup>th</sup> Floor  
Arlington, VA 22202-3911,

#### **Subpart 5123.9 - Contractor Compliance With Environmental Management Systems**

##### **5123.903 Contract clause.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described in FAR 23.903. See [Appendix GG](#) for further delegation.

#### **Subpart 5123.12 - Ensuring Adequate COVID Safety Protocols for Federal Contractors**

##### **5123.12-90 Ensuring Adequate COVID Safety Protocols for Federal Contractors.**

Reserved.

# AFARS – PART 5124

## Protection of Privacy and Freedom of Information

*(Revised 01 October 2024)*

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### Subpart 5124.1 – Protection of Individual Privacy

#### 5124.103 Procedures.

(b)(i) The Contracting officer shall reference the following documents in solicitations and contracts that require the design, development, or operation of a system of records:

(A) DoD Directive 5400.11 (DoD Privacy and Civil Liberties Programs).

(B) DoD 5400.11-R (DoD Privacy Program).

(C) Regulations for community-specific protected information, as applicable, e.g. DoD Manual 6025.18, Implementation of the Health Insurance Portability and Accountability Act (HIPPA) Privacy Rule in DoD Health Care Programs.

(ii) The Contracting officer will ensure that work statements that require the design, development, or operation of a system of records include procedures to follow in the event of a Personal Identifiable Information (PII) breach.

(iii) The contracting officer should ensure that Government surveillance plans for contracts that require the design, development, or operation of a system of records include monitoring of the contractor's adherence to Privacy Act/PII regulations. The assessing official should document contractor-caused breaches or other incidents related to PII in past performance reports. (See AFARS 5142.1503-90(b)) Such incidents include instances in which the contractor did not adhere to Privacy Act/PII contractual requirements.

### Subpart 5124.2 – Freedom of Information Act

#### 5124.203 Policy.

(a) Contracting officers must follow instructions in Army Regulation (AR) 25-55 (The Department of the Army Freedom of Information Act Program) for the denial of, or release of, acquisition information.

(b)(i) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has delegated the initial denial authority to act on requests for procurement records under the Freedom of Information Act, except those procurement records under the purview of the Chief of Engineers and the Commander, Army Materiel Command, to the heads of the contracting activities (HCAs). The HCAs may further delegate this authority only to the senior contracting official (SCO).

(ii) If the Contracting officer concludes that he/she should deny some or all information requested, he/she must prepare the proposed response for the HCA in accordance with AR 25-55. The response must include appeal language substantially the same as the following:

“You may appeal, in whole or in part, this denial to the Secretary of the Army (Attn: Office of the General Counsel). In the event you decide to appeal, your letter of appeal must be postmarked no later than 60 calendar days after the date of this denial letter. Please address your appeal to *HCA address*). This denial is made on behalf of the Initial Denial Authority, (*name and title*), by (*name and rank*), HCA (*office*).” (*Substitute SCO for HCA if the SCO is the HCA’s designee.*)

(iii) Contracting officers in contracting activities other than the Army Materiel Command and the United States Army Corps of Engineers must send the proposed denial response to the HCA or, if delegated, to the SCO. Include copies of the records recommended for denial with a justification for the denial. Contracting officers in the Army Materiel Command and the United States Army Corps of Engineers must follow the procedures specified by their headquarters.

(iv) After coordination with counsel, the HCA will provide the denial response, modified, if necessary, to the requestor.

(v) Within three working days of receipt of appeals, HCAs must send notice, the appeal and the documents required by AR 25-55 to the Office of the General Counsel at the following address:

ATTN: SAGC  
General Counsel  
104 Army Pentagon  
Washington, DC 20310-0104.

# AFARS – PART 5125

## Foreign Acquisition

*(Revised 01 October 2024)*

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## **5125.070 Reporting of acquisition of end products manufactured outside the United States.**

This subpart implements the Army monthly reporting requirements on Made In America Laws, in accordance with Executive Order 14005, “Ensuring the Future is Made in All of America by All of America’s Workers” and Office of Management and Budget Memorandum M-21-26, “Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws”. Follow procedures at [AFARS PGI 5125.070-1](#).

### **Subpart 5125.1 - Buy American – Supplies**

#### **5125.103 Exceptions.**

(a)(ii)(B)(1) The position one level above the contracting officer, without further delegation, shall make the determination at DFARS 225.103(a)(ii)(B)(1).

(2) The head of the contracting activity shall make the determination at DFARS 225.103(a)(ii)(B)(2). See [Appendix GG](#) for further delegation.

(3) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination at DFARS 225.103(a)(ii)(B)(3). See [Appendix GG](#) for further delegation.

(b)(ii)(A) The position one level above the contracting officer, without further delegation, may make the determination at DFARS 225.103(b)(ii)(A).

(B) The chief of the contracting office, without further delegation, may make the determination at DFARS 225.103(b)(ii)(B).



(C) The head of the contracting activity may make the determination at DFARS 225.103(b)(ii)(C). See [Appendix GG](#) for further delegation.

#### **5125.105 Determining reasonableness of cost.**

(a)(1) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described at FAR 25.105(a)(1). See [Appendix GG](#) for further delegation.

### **Subpart 5125.2 – Buy American – Construction Materials**

#### **5125.202 Exceptions.**

(a)(1) *Impracticable or inconsistent with public interest.* The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has delegated to the Deputy Assistant Secretary of the Army (Procurement) and the Head of the Contracting Activity (HCA), United States Army Corps of Engineers (USACE), without power to delegate further, authority to determine that the use of a particular domestic construction material is impracticable. Determinations that application of the act would be inconsistent with the public interest are reserved for the Assistant Secretary of the Army (Acquisition, Logistics and Technology). See [Appendix GG](#).

(2) *Nonavailability.* For other materials, a nonavailability determination shall be approved at the levels specified in AFARS 5125.103(b)(ii).

#### **5125.204 Evaluating offers of foreign construction material.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to specify a higher percentage to the offered price as described in FAR 25.204(b). See [Appendix GG](#) for further delegation.

### **Subpart 5125.4- Trade Agreements**

#### **5125.403 World Trade Organization government procurement agreement and free trade agreements.**

(c)(ii)(A) The head of the contracting activity may approve the waiver as stated in DFARS 225.403(c)(ii)(A). See [Appendix GG](#) for further delegation.

### **Subpart 5125.6 – American Recovery and Reinvestment Act--Buy American Statute-- Construction Materials**

#### **5125.603 Exceptions.**

(a)(1)(i) The head of the contracting activity may make the determination as described in FAR 25.603(a)(1)(i). See [Appendix GG](#) for further delegation.

(iii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described in FAR 25.603(a)(1)(iii). See [Appendix GG](#) for further delegation.

(a)(2) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described in FAR 25.603(a)(2). See [Appendix GG](#) for further delegation.

### **Subpart 5125.8 – Other International Agreements and Coordination**

#### **5125.802 Procedures.**

##### **5125.802-71 End use certificates.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall sign end user certificates (EUCs). See [Appendix GG](#) for further delegation.

#### **5125.870 Contracting with Canadian contractors.**

##### **5125.870-4 Contracting procedures.**

(c)(2)(ii) The head of the contracting activity shall make the determination at DFARS 225.870-4(c)(2)(ii). See [Appendix GG](#) for further delegation.

(5) The head of the contracting activity shall make the determination at DFARS 225.870-4(c)(5). See [Appendix GG](#) for further delegation.

#### **5125.871 North Atlantic Treaty Organization (NATO) cooperative projects.**

##### **5125.871-7 Congressional notification.**

(a) Send the notification at least 30 days prior to award directly to the following address:

Deputy Assistant Secretary of the Army for Defense Exports and Cooperation  
Attn: SAAL-ZN  
2530 Crystal Drive, Suite 11104  
Arlington, VA 22202.

(b) See paragraph (a) in this section.

### **Subpart 5125.9 – Customs and Duties**

### **5125.903 Exempted supplies.**

(b)(ii) The procuring contracting officer must execute duty-free entry certificates when no administrative contracting officer is assigned.

## **Subpart 5125.10 – Additional Foreign Acquisition Regulations**

### **5125.1001 Waiver of right to examination of records.**

(a)(2)(iii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a nondelegable basis, shall execute the determination and findings as set forth in FAR 25.1001(a)(2)(iii).

## **Subpart 5125.70 – Authorization Acts, Appropriations Acts, and Other Statutory Restrictions on Foreign Acquisitions**

### **5125.7000 Scope of subpart.**

#### **5125.7000-90 Applicability to utilize a non-Army contracting activity.**

Army program executive offices, program management offices and other requiring activities that utilize a non-Army contracting activity to fulfill a requirement for a covered item are responsible for ensuring compliance with DFARS PGI 225.70.

#### **5125.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.**

##### **5125.7002-2 Exceptions.**

(b)(1)(ii)(I) The Secretary of the Army, on a nondelegable basis, is responsible for approving all domestic nonavailability determinations under 10 U.S.C. 2533a (Berry Amendment). (See DFARS 225.7002-2(b)(1)). The contracting officer shall not release the solicitation until the Secretary approves the determination.

(2) Submit all requests for an exception under this provision through procurement channels to the Deputy Assistant Secretary of the Army (Procurement) at the address located in 5101.290(b)(2)(ii)(C). Submit requests no later than 60 business days prior to the planned release of the solicitation. All requests shall fully explain why the item(s) in question cannot be procured as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices. The request shall include information on whether item(s) in question are managed by the Defense Logistics Agency (DLA) and written confirmation from the DLA that said item(s) are not available from the DLA in the time needed to meet Army requirements. In addition, all requests shall include a written certification signed by the General Officer/Senior Executive Service-level head of the requiring activity that addresses, with specificity, why alternatives that would not require an exception from the Berry Amendment are unacceptable.

See [AFARS PGI 5125.7002-2-1](#) for additional guidance on improving compliance with the Berry Amendment and Buy America Act.

### **5125.7003 Restrictions on acquisition of specialty metals.**

#### **5125.7003-3 Exceptions.**

(b)(5)(i)(I) The Secretary of the Army, on a nondelegable basis, is responsible for approving all domestic nonavailability determinations under 10 U.S.C. 2533b that apply to only one contract. (See DFARS 225.7003-3(b)(5)(i).) The Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)), on a nondelegable basis, is responsible for approving determinations that apply to more than one contract, see DFARS 225.7003-3(b)(5)(ii). The USD(AT&L), on a nondelegable basis, is responsible for approving national security waivers under DFARS 225.7003-3(d). In all cases, the contracting officer shall not release the solicitation until the Secretary approves the determination.

(2) Follow the procedures at 5125.7002-2 when submitting a request for an exception to restrictions on acquisition of specialty metals.

### **5125.7008 Waiver of restrictions of 10 U.S.C. 2534.**

(a)(2) The head of the contracting activity may waive a restriction as stated in DFARS 225.7008(a)(2). See [Appendix GG](#) for further delegation.

## **Subpart 5125.77 – Acquisitions in Support of Operations in Afghanistan**

### **5125.7703 Enhanced authority to acquire products or services from Afghanistan.**

#### **5125.7703-2 Determination requirements.**

(b)(2)(i) The head of the contracting activity is authorized to make the determination at DFARS 225.7703-2(b)(2)(i). See [Appendix GG](#) for further delegation.

# **AFARS – PART 5126**

## **Other Socioeconomic Programs**

*(as of 01 October 2024)*

No AFARS Text

# AFARS – PART 5127

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*(Revised 01 October 2024)*

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## **Subpart 5127.2 – Patents and Copyrights**

### **5127.201 Patent and copyright infringement liability.**

#### **5127.201-2 Contract clauses.**

(e) Obtain approval to exempt specific United States patents from the patent indemnity clause from:

Commander, US Army Legal Services Agency  
Attn: JALS-RL/IP  
Regulatory Law and Intellectual Property Division  
9275 Gunston Road, Suite 1300  
Fort Belvoir, VA 22060-5546.

However, the Commander, U.S. Army Materiel Command and designees that have patent counsel may give approval.

### **5127.202 Royalties.**

#### **5127.202-3 Adjustment of royalties.**

(a) The office having cognizance of patent matters must report the results of any action taken in compliance with FAR 27.202-3 to the Chief, Regulatory Law and Intellectual Property Law Division, U.S. Army Legal Services Agency.

## **Subpart 5127.3 – Patent Rights Under Government Contracts**

### **5127.303 Contract clauses.**

(b)(3) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, may make the determination as described in FAR 27.303(b)(3) and DFARS 227.303(2)(ii)(B).

(e)(1)(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may make the determination as described in FAR 27.303(e)(1)(ii). See Appendix GG for further delegation.

(e)(4)(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, may make the determination as described in FAR 27.303(e)(4)(ii).

### **5127.304 Procedures.**

Refer questions about Army procedures to the Chief, Regulatory Law and Intellectual Property Law Division at the address in AFARS 5127.201-2.

## **Subpart 5127.6 – Foreign License and Technical Assistance Agreements**

### **5127.675 Foreign license and technical assistance agreements between a domestic concern and a foreign government or concern.**

#### **5127.675-2 Review of agreements.**

(a) Send proposed agreements through the head of the contracting activity (HCA) to appropriate patent and technical personnel for review. Send the comments and recommendations of the HCA to:

Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (DASA(DE&C))

ATTN: SAAL-ZN

103 Army Pentagon

Washington, DC 20310.

[usarmy.pentagon.hqda-asalt.list.tmt-notification-saalzn-iad@army.mil](mailto:usarmy.pentagon.hqda-asalt.list.tmt-notification-saalzn-iad@army.mil)

## **Subpart 5127.70 – Infringement Claims, Licenses, and Assignments**

### **5127.7004 Requirements for filing an administrative claim for patent infringement.**

(c) Forward all communications which –

(1) Claim that the manufacture, use, or disposition of any article, material or process by or for any agency or component of the Army involves the use of any invention, whether patented or un-patented, and

(2) Make a claim for compensation, to the HCA which ordered the manufacture, use or disposition of the article, material or process, except in Army Materiel Command (AMC), forward them to the Commander, AMC. The HCA and Commander, AMC, shall process the matter in accordance with DFARS subpart 227.70, AFARS subpart 5127.70 and Army Regulation (AR) 27-60.

### **5127.7006-90 Investigation and administrative disposition of claims.**

(a) *Settlement.* The office granted clearance to investigate a claim may settle that claim in accordance with DFARS 227.7006, AFARS 5127.7006 and AR 27-60 by executing a patent release and settlement agreement, license agreement or assignment.



(b) *Fiscal procedures.*

(1) An agreement to pay a fixed amount for any release and settlement agreement, license agreement or assignment, by either a lump-sum payment or an amount determinable at the time of contract execution, is subject to the provision that the fixed amount to be paid may not exceed the funds available for the purpose. Prior to incurring any obligation, officials charged with making such agreements shall submit the proposed agreements to the cognizant finance and accounting officer for verification of the availability of funds. The following statement shall be included on the face of the agreement:

“The supplies and services obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following allotments; and available balances are sufficient to cover the cost of the supplies and services.”

(2) An agreement to pay running royalties on future acquisitions is not subject to the requirement for the statement contained in (1).

(3) Contact the Regulatory Law and Intellectual Property Law Division, Office of the Judge Advocate General (see AFARS 5127.201-2 for address) for questions on fiscal procedures related to patent matters.

(c) *Delegations of authority and approval requirements.*

(1) Under Section 606(b) of the Foreign Assistance Act of 1961 (75 Stat. 440, 22 U.S.C. 2356(b)) and DoD Directive 2000.3, authority to enter into agreements with claimants in full settlement and compromise of any claim against the United States under Section 606(a) of the Foreign Assistance Act of 1961, subject to the requirements of DFARS subpart 227.70 and AFARS 5127.70 and other rules and regulations published by higher headquarters, is authorized for the Commander, AMC; and the Chief of Engineers in accordance with AR 27-60, at 6-13. The Chief of Engineers may not delegate this authority. The Commander, AMC may delegate to the commanders of major subordinate commands only.

(2)(i) All agreements authorized by the Foreign Assistance Act of 1961 (22 U.S.C. 2356), the Invention Secrecy Act (35 U.S.C. 181-188) or 10 U.S.C. 3793 require approval by the Judge Advocate General when the agreement –

(A) Provides for total payment by the Government, including reasonable anticipated royalties, of \$500,000 or more;

(B) Includes a license to different Government agencies on different terms;

(C) Provides for compensation for damages other than for infringement of patents or copyrights, e.g., claims under the Foreign Assistance Act or the Invention Secrecy Act;

(D) Contains a release or license, which may operate to release a contractor from an obligation to indemnify the Government;

(E) Is in settlement of patent or copyright infringement liability for the use of foreign patents or copyrights;

(F) Is with a government or national representative of a government within the scope of a Foreign Assistance Program; or

(G) Requires the signature of, or concurrence on behalf of, another agency of the Government.

(ii) The office requesting approval shall submit the number of executed agreements with original signatures to the Chief, Regulatory Law and Intellectual Property Law Division, Office of the Judge Advocate General (OTJAG). (See AFARS 5127.201-2 for address.) The submission package shall include the agreement and a memorandum of facts signed by an authorized official of the office requesting approval.

(iii) Upon approval of the agreement by the Judge Advocate General forward one executed and approved copy of the agreement directly to the United States Patent and Trademark Office for recording. Send the remaining executed and approved copies to the office that requested approval, for distribution.

(d) *Distribution of agreements.*

(1) Each contracting party and each office processing the request for approval shall retain an executed and approved agreement with original signatures.

(2) The office requesting approval shall forward a copy of each license, which provides for the payment of a running royalty, to each interested HCA. Receipt of a copy of the license shall constitute notice that further procurement of the licensed subject matter requires the payment of royalties to the licensor. When necessary, the HCA shall notify the contracting offices affected.

**5127.7011 Procurement of rights in inventions, patents, and copyrights.**

(1) Subject to the limitations in DFARS subpart 227.70 and subpart AFARS 5127.70, the following may acquire the items and rights described in 10 U.S.C. 3793 and may enter into agreements in settlement of resulting claims:

- (i) The Commander, AMC.
  - (ii) The Chief of Engineers.
  - (iii) The Surgeon General.
  - (iv) The Commander, U.S. Army Space and Missile Defense Command.
- (2) Other contracting activities must obtain written approval of any proposed agreement from the addressee at AFARS 5101.290(b)(1) through the Chief, Regulatory Law and Intellectual Property Law Division, OTJAG, (see AFARS 5127.201-2 for address), except for agreements for acquisition of the right to reproduce copyrighted material when acquisition cost is \$2,500 or less.
- (3) Immediately send all communications relating to proposed patent licenses or assignment to the chief patent counsel or legal officer supporting the contracting office.
- (4) To assist national defense, various patent owners voluntarily grant royalty-free licenses, assignments and releases to the Government to use the inventions covered by their patents and applications for patents. Obtain a recommended, standardized format for such a grant from the Chief, Regulatory Law and Intellectual Property Law Division, OTJAG.

#### **Subpart 5127.71 – Rights in Technical Data**

##### **5127.7103 Other than commercial products, commercial services, or commercial processes.**

##### **5127.7103-13 Government right to review, verify, challenge, and validate asserted restrictions.**

(d)(6)(iii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the notification as described in DFARS 227.7103-13(d)(6)(iii).

##### **5127.7103-14 Conformity, acceptance, and warranty of technical data.**

(a)(2) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) is authorized to perform the duties described at DFARS 227.7103-14(a)(2). See Appendix GG for further delegation.

#### **Subpart 5127.72 –Computer Software, Computer Software Documentation, and Associated Rights**

##### **5127.7203 Other than commercial computer software and other than commercial computer software documentation.**

**5127.7203-13 Government right to review, verify, challenge, and validate asserted restrictions.**

(e)(1) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the notification as described in DFARS 227.7203-13(e)(1).

# **AFARS – PART 5128**

## **Bonds and Insurance**

*(Revised 01 October 2024)*

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### **Subpart 5128.1 – Bonds and Other Financial Protections**

**5128.101 Bid guarantees.**

**5128.101-1 Policy and use.**

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may authorize class waivers at FAR 28.101-1. See Appendix GG for further delegation.

#### **5128.105 Other types of bonds.**

The head of the contracting activity may approve using other types of bonds in connection with acquiring particular supplies or services. See Appendix GG for further delegation.

#### **5128.106 Administration.**

##### **5128.106-2 Substitution of surety bonds.**

(a) The head of the contracting activity may approve actions at FAR 28.106-2. See Appendix GG for further delegation.

##### **5128.106-6 Furnishing information.**

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination at FAR 28.106-6(c). See Appendix GG for further delegation.

### **Subpart 5128.2 – Sureties and Other Security for Bonds**

#### **5128.202 Acceptability of corporate sureties.**

(c) If corporate surety information from the U.S. Department of the Treasury website is not available, distribute in accordance with head of the contracting activity (HCA) instructions.

#### **5128.203 Acceptability of individual sureties.**

(g) Refer evidence to the local contracting office's procurement fraud advisor. See Army Regulation 27-40 Litigation.

##### **5128.203-5 Exclusion of individual sureties.**

(d) Send the determination and findings justifying acceptance to the HCA. If the HCA concurs, send the request and concurrence through the addressee in 5101.290(b)(5) to the Assistant Secretary of the Army (Acquisition, Logistics and Technology) for a determination. See Appendix GG for further delegation.

#### **5128.204 Alternatives in lieu of corporate or individual sureties.**

##### **5128.204-1 United States bonds or notes.**

When a contractor furnishes security in lieu of corporate or individual sureties on bonds, the Contracting officer must send a certified copy of the receipt for the deposited security and a

certified copy of any required power of attorney and agreement to legal counsel along with the bond.

### **Subpart 5128.3 – Insurance**

#### **5128.301 Policy.**

(b) When more than one agency is involved and the Army retains contract administration functions, the Contracting officer responsible for contract administration is the point of contact. Contracting officers shall review and approve the contractor's insurance program and coordinate with other interested agencies before acting on significant insurance matters.

#### **5128.305 Overseas workers compensation and war hazard insurance.**

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the recommendation as described in FAR 28.305(d). See Appendix GG for further delegation.

#### **5128.307 Insurance under cost-reimbursement contracts.**

##### **5128.307-1 Group insurance plans.**

(a) *Prior approval requirement.* Group insurance plans under cost-reimbursement contracts administered by the Army must be submitted for approval to the Contracting officer.

#### **5128.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.**

##### **5128.311-1 Contract clause.**

The head of the contracting activity may waive the requirement at DFARS 228.311-1. See Appendix GG for further delegation. When required in paragraph (g) of the clause at FAR 52.228-7, Insurance – Liability to Third Persons, the Contracting officer must send a notification to the following address with a request to inform the Director, Torts Branch, Civil Division, Attorney General:

Attn: JALS-LTT Army Litigation Division  
U.S. Army Legal Services Agency (USALSA)  
9275 Gunston Road  
Fort Belvoir, VA 22060.

#### **5128.371 Additional clauses.**

(a)(2) The head of the contracting activity makes the decision at DFARS 228.371(a)(2). See Appendix GG for further delegation.

# AFARS – PART 5129

## Taxes

*(Revised 01 October 2024)*

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### Subpart 5129.1 – General

#### 5129.101 Resolving tax problems.

(a) The Contracting officer shall provide to the legal counsel a comprehensive statement of facts and issues supported by –

(i) Copies of correspondence and documents needed to understand the problem;

(ii) A copy of the contract or relevant portion; and

(iii) The comments and recommendations of the Contracting officer, the reviewer and local counsel at each echelon of command through which the correspondence passes.

### Subpart 5129.2 – Federal Excise Taxes

#### 5129.201 General.

(b) Process applications to the Bureau of Alcohol, Tobacco, and Firearms for permits to procure alcohol free of tax pursuant to guidance at Title 27 Code of Federal Regulations, Section 22.172 Application and permit. The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has signature authority. See Appendix GG for further delegation.



Alcohol and Tobacco Tax and Trade Bureau Director National Revenue Center  
550 Main Street, Suite 8002,  
Cincinnati, Ohio 45202-5215.

### **Subpart 5129.3 – State and Local Taxes**

#### **5129.303 Application of state and local taxes to government contractors and subcontractors.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall perform the review as set forth in FAR 29.303(a). See Appendix GG for further delegation.

# AFARS – PART 5130

## Cost Accounting Standards Administration

*(Revised 01 October 2024)*

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### Subpart 5130.2 – CAS Program Requirements

#### **5130.201 Contract requirements.**

#### **5130.201-5 Waiver.**

(a)(2) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall perform the duties at FAR 30.201-5(a) and (b). See [Appendix GG](#) for further delegation.

(e) Contracting Officers shall follow the procedures at [AFARS PGI 5130.201-5\(e\)](#) for reporting all waivers granted under FAR 30.201-5(a), during the previous fiscal year, for any contract, subcontract, or modification expected to have a value of \$15 million or more.

#### **5130.202 Disclosure requirements.**

#### **5130.202-6 Responsibilities.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the authorization as described in FAR 30.202-6(b).

# AFARS – PART 5131

## Contract Cost Principles and Procedures

*(Revised 01 October 2024)*

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### Subpart 5131.2 – Contracts with Commercial Organizations

#### **5131.205 Selected costs.**

#### **5131.205-6 Compensation for personal services.**

(g)(6) *Severance pay.* The Assistant Secretary of the Army (Acquisition, Logistics and Technology) is permitted to waive certain cost allowability limitations as set forth in FAR 31.205-6(g)(6). See Appendix GG for further delegation.

(p)(4)(iii) *Limitation on allowability of compensation.* The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may establish exceptions as described at FAR 31.205-6(p)(4)(iii). See Appendix GG for further delegation.

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## **5132.006 Reduction or suspension of contract payments upon finding of fraud.**

### **5132.006-1 General.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to reduce or suspend contract payments where there is substantial evidence that the contractor's request for advance, partial, or progress payments is based on fraud. See Appendix GG for further delegation.

### **5132.006-2 Definition.**

The Army's remedy coordination official is the Chief, Procurement Fraud Division, Office of The Judge Advocate General; telephone (703) 693-1228.

### **5132.006-3 Responsibilities.**

(b) Report suspected fraud related to advance, partial, or progress payments to the contracting office's procurement fraud advisor, who will coordinate the matter as prescribed in Army Regulation 27-40.

## **5132.007 Contract financing payments.**

(a)(3) and (4) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may prescribe the periods for payment as described in FAR 32.007(a)(3) and (4). See Appendix GG for further delegation.

## **Subpart 5132.1 – Non-Commercial Item Purchase Financing**

### **5132.111 Contract clauses for non-commercial purchases.**

(a)(7) The Contracting officer must document the contract file with the rationale to support the amount of payments withheld under FAR 52.232-7(a)(7).

#### **5132.114 Unusual contract financing.**

The Principal Director, Defense Pricing, Contracting, and Acquisition Policy (DPCAP) on a non-delegable basis, shall approve actions as stated in FAR 32.114 and DFARS 201.402(1)(vi).

### **Subpart 5132.2 – Commercial Item Purchase Financing**

#### **5132.201 Statutory authority.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as described at FAR 32.201. See Appendix GG for further delegation.

#### **5132.202 General.**

##### **5132.202-1 Policy.**

(d) The Principal Director, DPCAP, on a non-delegable basis, shall approve actions as stated in FAR 32.202-1 and DFARS 201.402(1)(vi).

### **Subpart 5132.4 Advance Payments for Non-Commercial Items**

#### **5132.402 General.**

(c)(1)(iii)(A) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the determination that the advance payment is in the public interest as described at FAR 32.402(c)(1)(iii)(A).

(c)(1)(iii)(B) The Secretary of the Army, on a non-delegable basis, shall make the determination that the advance payment facilitates the national defense as described at FAR 32.402(c)(1)(iii)(B).

#### **5132.407 Interest.**

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the authorization as described at FAR 32.407(d).

#### **5132.409 Contracting officer action.**

##### **5132.409-1 Recommendation for approval.**

The local contract financing office shall prepare the documents required by FAR 32.409-1(e) and (f).

### **Subpart 5132.5 – Progress Payments Based on Costs**

#### **5132.501 General.**

##### **5132.501-2 Unusual progress payments.**

(a)(2) Requests for approval of unusual progress payments must include the following documentation from the contractor:

(A) Monthly cash flow forecasts for the period, which include the additional financing.

(B) Estimated profit and loss statements and balance sheets for the same period as the cash flow forecast.

(C) The most recent, audited financial statements.

(D) A description of significant events before or after preparation of financial statements that materially affect the financial condition of the company, the operating statement, or the cash flow statement.

(3) See DFARS PGI 232.501-2. Submit all unusual progress payments requests to the addressee in AFARS 5101.290(b)(3).

### **Subpart 5132.6 – Contract Debts**

#### **5132.606 Debt collection.**

(c)(i) Send case files to the contract financing office within 15 calendar days after the end of the 30-day period following the Contracting officer's demand for payment (see FAR 32.604). The address is as follows:

DFAS-IN/Debt and Claims  
Dept. 3300  
8899 East 56th Street  
Indianapolis, IN 46249-3300

(ii) The case file must include a copy of the Contracting officer's demand; a statement as to whether or not the contract contains an interest clause; and, if so, a copy of the clause or a reference to the clause number.

(iii) If the debt represents excess costs incurred in purchasing supplies or services against the account of a defaulted contractor, the case file shall include –

(A) The name and address of the replacement contractor and UEI and/or CAGE code;

(B) The disbursing office voucher number;

(C) The date paid;

(D) Bills of lading numbers, if any;

(E) The name of the carrier, when applicable; and

(F) The name and symbol number of the disbursing officer.

(iv) If the debt represents liquidated damages, the case file shall include an explanation of the basis for assessing liquidated damages.

#### **5132.607 Installment payments and deferment of collection.**

##### **5132.607-2 Deferment of collection.**

(b) When a request for deferment of a contract debt is received from a contractor, the Contracting officer must notify the payment office and advise the payment office identified in the contract that the contractor's request is under consideration in accordance with FAR 32.607-2(b). See AFARS PGI 5132.607-2(c)(2) for further instruction.

##### **5132.671 Bankruptcy reporting.**

Send information in accordance with the procedures at DFARS PGI 232.671 to the addressee in AFARS 5132.606(c).

### **Subpart 5132.7 – Contract Funding**

#### **5132.702 Policy.**

(a)(i) Except as authorized in FAR subparts 17.1 and 32.7 and in paragraphs (a)(ii) and (iii) in this section, before issuing a solicitation, the Contracting officer must have a written statement or equivalent indicating that sufficient funds are available.

(ii) Contracting officers may issue solicitations for high priority requirements and Research, Development, Test and Evaluation incrementally funded contracts before ensuring availability of funds when there is a high probability that the requiring activity will not cancel the requirement. For foreign military sales cases, Contracting officers may issue solicitations after the acceptance of a foreign military sales case, but before assurance of funds availability when the United States Army Security Assistance Command determines in writing that the offer appears certain to be accepted.

(A) The Contracting officer shall not issue a solicitation under the circumstances in (a)(ii) unless the comptroller has signed the following statement on the purchase request:

“This requirement is included or provided for in the financial plan for fiscal year \_\_\_\_\_. The accounting classification will be \_\_\_\_\_. This statement is not a commitment of funds.”

(B) The Contracting officer shall include the following statement in all solicitations issued pursuant to this authority when the clause at FAR 52.232-18, Availability of Funds, is not used:

“Funds are not presently available for this acquisition. No contract award will be made until appropriated funds are made available.”



(C) The operating official designated, by local regulations or by a “delegation of authority” letter, as the official authorized to certify funds availability, must certify funds available prior to contract award.

(D) The Contracting officer shall not issue a solicitation for a research and development contract that is incrementally funded over successive years without sufficient planned funds (Future Years Defense Program) to cover the entire period of the multi-year performance. The HCA may approve an exception, provided the approval identifies steps to revise the approved Future Years Defense Program to include adequate resources.

### **Subpart 5132.8 – Assignment of Claims**

#### **5132.803 Policies.**

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, shall make the determination as described at FAR 32.803(d).

### **Subpart 5132.9 – Prompt Payment**

#### **5132.901 Applicability.**

(1)(ii) The HCA, after consultation with the cognizant comptroller, will make the determination at DFARS 232.901(1)(ii). See Appendix GG for further delegation.

(3) The HCA will make the determination at DFARS 232.901(3). See Appendix GG for further delegation.

#### **5132.903 Responsibilities.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall perform the duties as set forth in FAR 32.903(a). See Appendix GG for further delegation.

#### **5132.906 Making payments.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as required by FAR 32.906(a). See Appendix GG for further delegation.

### **Subpart 5132.11 – Electronic Funds Transfer**

#### **5132.1106 EFT mechanisms.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall make the determination as required by FAR 32.1106 (a) and (b). See Appendix GG for further delegation.

### **Subpart 5132.71 – Levies on Contract Payments**

#### **5132.7101 Policy and procedures.**

(b)(4) Subject to DFARS 232.7101(b) and the procedures at the DFARS PGI 232.7101(b), the Contracting officer shall obtain written endorsement from the SCO prior to sending the notification memorandum to the Principal Director, DPCAP. The Contracting officer shall include a copy of the written endorsement by the SCO and all other communication at the lower levels, to include legal counsel in the contract file. The endorsement by the SCO is non-delegable. In addition to the assessment the contractor provides, the Contracting officer shall obtain from the appropriate requiring activity any other information necessary to prepare the notification. The Contracting officer shall provide a copy of the notification memorandum sent to the Principal Director, DPCAP to the address at AFARS 5101.290(b)(2)(ii)(A).

(c) When the Contracting officer receives a response from the Principal Director, DPCAP, the Contracting officer shall send a copy of the response to the address at 5101.290(b)(2)(ii)(A).

# AFARS – PART 5133

## Protests, Disputes, and Appeals

*(Revised 01 October 2024)*

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## **5133.090 Definition.**

“Alternative dispute resolution (ADR)” means any procedure, in lieu of litigation, used to resolve issues in controversy, including but not limited to facilitation, conciliation, mediation, early neutral evaluation, non-binding arbitration, minitrial, fact-finding, ombudsman process, or any combination thereof.

## **Subpart 5133.1 – Protests**

### **5133.102 General.**

(a)(1) See AFARS 5104.802(f)(i)(2) for the requirement to notify DASA(P).(2) Contracting officers and their legal counsel are encouraged to use the Government Accountability Office’s (GAO’s) flexible alternative procedures, including alternative dispute resolution, when appropriate in defending a GAO protest.

(b)(i) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may make agency head determinations regarding actions described in FAR 33.102(b)(1) through (b)(3). See [Appendix GG](#) for further delegation.

(ii) Actions taken must be consistent with 10 U.S.C. 3308(b), 31 U.S.C. 3554, and FAR part 33.

(iii) For award of costs, Contracting officers must attempt to reach an agreement on the amounts the Government will pay to a protester or an interested party. If the Contracting officer and the protester or interested party do not reach agreement, persons exercising authority as cited in paragraph (b)(i) of this section may make the agency determination on the amount the Government will pay, at the request of the protester or an interested party.

(iv) Officials must consult legal counsel in exercising this authority.

### **5133.103 Protests to the agency.**

(d)(3) As soon as practicable, the Contracting officer must consult with the legal office concerning the protest. Protests received at a level higher than the Contracting officer should be referred to the contracting office for resolution. Concurrent with this referral, the office that initially received the protest must inform the protester, identifying the contracting office that will handle the protest and giving the point of contact within that office.

(4) Handle requests for independent review of a protest at a level above the Contracting officer as follows:

(i) For Contracting officers under the jurisdiction of the United States Army Materiel Command (AMC), in accordance with AMC established procedures.

(ii) For Contracting officers under the jurisdiction of the United States Army Corps of Engineers (USACE), in accordance with the USACE established procedures.

(iii) For Contracting officers in all other contracting activities, in accordance with activity established procedures. If contracting personnel will conduct the independent review, the HCA will appoint a review authority. See [Appendix GG](#) for further delegation. The HCA or delegated designee, may also appoint individuals assigned outside contracting channels as a review authority (e.g., attorneys, chief of staff, installation commanders).

### **5133.103-90 Annual agency bid protest report.**

HCAs must prepare an annual report of agency bid protests and send it to the addressee in AFARS 5101.290(b)(2)(ii)(B) not later than 30 calendar days following the end of the fiscal year. The analysis must include –

(a) The number of protests received during the reporting period, to include their disposition;

(b) An assessment of the causes of the most frequently recurring issues, including a description of all corrective actions taken to include the award of protest costs;

(c) The distribution of protests by subordinate contracting offices; and

(d) Any additional information considered necessary to a full understanding of the efficiency and effectiveness of the activity's agency protest procedures.

### **5133.104 Protests to GAO.**

(a) *General procedure.* The Contracting officer must take the action required of the “agency” in FAR 33.104.

(3)(i)(I) Contracting offices must use the following reporting procedures; the SCO may require the contracting offices to send the report through the SCO’s office:

(i) Contracting offices reporting to AMC must send the report directly to the addressee in AFARS 5101.290(b)(7).

(ii) Contracting offices reporting directly to the USACE must send the report directly to the following address:

U.S. Army Corps of Engineers  
Attn: CECC-C  
441 G St., N.W.  
Washington, DC 20314-1000.

(iii) All other Army contracting offices must send the report via courier or express mail service to:

U.S. Legal Services Agency, ATTN: JALS-KFLD  
Contract and Fiscal Law Division  
9275 Gunston Road, Suite 2100  
Fort Belvoir, VA 22060-5546.

(iv) The Contracting officer must send the report not later than 20 days after the GAO notifies the agency by telephone that a protest has been filed. If the GAO decides to use the express option and the Contracting officer concludes that the report cannot be furnished in time, he/she must notify the appropriate office in (i)-(iii) at once so that it may request an extension from GAO.

(2) Before forwarding the report to the GAO Comptroller General, the addressees in paragraphs (a)(3)(i)(I)(i)-(iii) of this section must review the report and recommend any changes required to ensure the report is accurate, complete, and legally sufficient.

(b) *Protests before award.* See [Appendix GG](#).

(1)(A) The Contracting officer must prepare a determination and findings (D&F) for HCA approval when it is necessary to request authorization to award a contract notwithstanding a protest. This authority is non-delegable. The D&F must clearly address –

(1) Whether significant adverse consequences will necessarily occur if the stay is not overridden;

(2) Whether reasonable alternatives to the override exist that would adequately address the circumstances presented;

(3) How the potential costs of proceeding with the override, including the costs associated with the potential that GAO might sustain the protest, compare to the benefits associated with the approach being considered for addressing the agency's needs; and

(4) The impact of the override on competition and the integrity of the procurement system.

(B) A written notification to the Office of the Deputy Assistant Secretary of the Army (Procurement) is required, no less than one day before any HCA override is approved. The Contracting officer shall send notification documentation as outlined in subparagraph (b)(1)(A) to the address listed at AFARS 5101.290(b)(2)(ii)(B). (See [Override of Competition in Contracting Act \(CICA\) Stays: A Guidebook](#).)

(C) Within three days after the contracting office receives notification of the protest, the HCA may endorse the request for approval and electronically transmit the request and the D&F to the appropriate office in paragraphs (a)(3)(i)(I)(i)-(iii) of this section. That office shall immediately distribute the request and the D&F to the addressee in AFARS 5101.290(b)(1).

(c) *Protests after award.* See [Appendix GG](#).

(2) Process the finding as required at paragraph (b) of this section. The D&F must clearly address the areas identified in paragraph (b)(1)(A). The HCA, on a non-delegable basis, must approve the D&F before the Contracting officer authorizes continuing performance. Furthermore, a written notification to the DASA(P) is required, no less than one day before any HCA override is granted. The Contracting officer shall send notification documentation as outlined in subparagraph (b)(1)(A) to the address listed at AFARS 5101.290(b)(2)(ii)(B). Process the request for approval as required in paragraph (b).

(g) *Notice to GAO.* The head of the contracting activity shall report to GAO as described at FAR 33.104(g). See [Appendix GG](#) for further delegation. Send the report to the addressee in AFARS 5101.290(b)(1) not later than 45 days after receipt of the recommendations.

### **5133.170 Briefing requirement for protested acquisitions valued at \$1 billion or more.**

#### **5133.170-90 Procedures.**

(a) Within 10 days of receipt of a protest, provide an initial, written notification of the protest via email to the Office of the DASA(P) at the address at AFARS 5101.290(b)(2)(ii)(B) and furnish a copy to the SCO, field attorney and trial attorney. The initial notification shall be in the form of a briefing and shall include the following items:

- (1) Buying activity and Contracting officer with telephone number and email address.
- (2) Protester and counsel.
- (3) Protest number and date filed.
- (4) Protest forum (GAO or Court of Federal Claims).
- (5) Description of the protested acquisition, estimated dollar value and whether it is a pre- or post-award protest.
- (6) Summary of protest allegations.
- (7) Status of the stay or stop work order.
- (8) Anticipated date of protest resolution.
- (9) Any other information deemed appropriate.
- (10) Attach a copy of the protest.

(b) After the Contracting officer formulates the agency response, he/she may provide more detailed information relating to the position that the agency will take before filing the agency report in the protest action.

(c) If required, the Contracting officer shall schedule a formal briefing on the protest with the DASA(P) or the Defense Pricing, Contracting, and Acquisition Policy subsequent to the submission of the follow-up information.

### **5133.190 Reporting and analysis of bid protests.**

#### **5133.190-1 Bid protest action report.**

Within 15 calendar days following notification of resolution of a GAO protest, the Contracting officer must send a bid protest action report in the format in AFARS 5153.303-6 (double spaced between item numbers) to the following addresses:



(a) AMC contracting activities send the report to the addressee in AFARS 5101.290(b)(7).

(b) USACE contracting activities send the report to the addressee in AFARS 5133.104(a)(3)(i)(I)(ii).

(c) All other contracting activities send the report to the addressee in AFARS 5133.104(a)(3)(i)(I)(iii).

#### **5133.190-2 Quarterly bid protest analysis report.**

(a) AMC, USACE and the Contract and Fiscal Law Division, U.S. Army Legal Services Agency must prepare a quarterly bid protest analysis report for GAO protests using the format in AFARS 5153.303-7 (double space between item numbers) and send with the bid protest action reports to the addressee in AFARS 5101.290(b)(2)(ii)(B) not later than 30 calendar days following the end of the quarter. The analysis will include the number of protests in which a flexible alternative procedure was used, in accordance with 4 C.F.R. 21.10, and will also include an assessment of the causes of the most frequently recurring issues and recommendations for appropriate corrective action. Reconcile the numbers submitted with the most current data available from the GAO.

(b) The ODASA(P) will prepare a consolidated quarterly report not later than 45 calendar days following the end of each quarter.

### **Subpart 5133.2 – Disputes and Appeals**

#### **5133.203 Applicability.**

(b)(2) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall determine the application at FAR 33.203. See [Appendix GG](#) for further delegation.

#### **5133.204 Policy.**

(a) As used in this section:

“Dispute Resolution Specialist” means the official designated by the head of an agency to implement agency ADR policy as prescribed by Section 3(b) of the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571-584 and Note. The Principal Deputy General Counsel of the Army is designated the Army Dispute Resolution Specialist.

“Issue in controversy” means a material disagreement between the Army and a contractor that may result in a claim, or is all or part of an existing claim.

(b) Contracting officers and their legal counsel, assisted by other members of the Acquisition Team as necessary, are encouraged to use ADR techniques to resolve pre-appeal disputes (e.g., claims, unresolved requests for equitable adjustment, and other issues in controversy) to the maximum extent practicable and appropriate. For any dispute in which unassisted negotiations have reached impasse or in which the Contracting officer has received a request for ADR, the Contracting officer shall review the dispute to determine whether ADR is appropriate for resolving it, applying the reasons listed in paragraph (c) of this section. If the Contracting officer finds ADR to be appropriate, the Contracting officer should offer or agree to ADR. Participation in ADR does not obligate any party to settle or accept a proposal for settlement. This section does not create any right to ADR for any contractor or prospective contractor, and a decision by the Contracting officer finding ADR to be inappropriate is not subject to appeal.

(c) The use of ADR to resolve an issue in controversy is generally authorized if the parties agree. However, the Contracting officer or other authorized official may decide that ADR is inappropriate to resolve the issue for any of the following reasons:

(1) A definitive or authoritative resolution of the matter is required for precedential value, and an ADR proceeding is not likely to be accepted generally as an authoritative precedent.

(2) The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and an ADR proceeding would not likely serve to develop a recommended policy for the Army.

(3) Maintaining established policies is of special importance, so that variations among individual decisions are not increased, and an ADR proceeding would not likely reach consistent results among individual decisions.

(4) The matter significantly affects persons or organizations who are not parties to the ADR proceeding.

(5) A full public record of the proceeding is important, and an ADR proceeding cannot provide such a record.

(6) The Army must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the Army's fulfillment of that requirement.

(7) The issue is amenable to a disposition that will fully resolve the matter quickly and with a high probability of finality, including procedures under Rules 11 and 12 of the Rules of the Armed Services Board of Contract Appeals (ASBCA).

(8) The anticipated transaction costs of ADR in money and time materially exceed the anticipated transaction costs of litigation.

(9) The dispute involves one or more credible allegations or indications of fraud, gross mismanagement, abuse of official authority, or violation of federal or state criminal laws.

(10) Any other specific reason why the Contracting officer determines ADR is inappropriate. Sole reliance on this provision to find ADR inappropriate must be approved by the cognizant SCO, or higher authority. Forward a copy of any decision based on this provision, with supporting rationale, to the Army Dispute Resolution Specialist at [usarmy.pentagon.hqda-ogc.mbx.adr@mail.mil](mailto:usarmy.pentagon.hqda-ogc.mbx.adr@mail.mil). Include the name, telephone number and email address of the point of contact for the decision.

(d) The Contracting officer, legal advisor, attorney of record, or other official responsible for procurement ADR matters within the cognizant interested organization(s) may contact the Army ADR Program Office in the Office of the Army General Counsel (SAGC-ADR) for advice and guidance on ADR processes, strategies, and other informal dispute resolution matters. Send correspondence to:

Department of the Army General Counsel  
ADR Program Office (SAGC-ADR)  
104 Army Pentagon  
Washington DC 20310-0104;

by fax to 703-697-9235; or by email to: [usarmy.pentagon.hqda-ogc.mbx.adr@mail.mil](mailto:usarmy.pentagon.hqda-ogc.mbx.adr@mail.mil). Ensure appropriate coordination through command channels before contacting SAGC-ADR directly for assistance under this section. USACE contracting activities may also contact

U.S. Army Corps of Engineers  
Attn: CECC-C Alternative Dispute Resolution Specialist  
441 G St., N.W.  
Washington, DC 20314-1000,

for dispute resolution guidance.

(e) Appeals filed with the ASBCA are eligible for ADR consideration, consistent with the Chief Trial Attorney's authority over litigation of all ASBCA matters. Apply the reasons in paragraph (c) of this section when considering whether to participate in ADR. All decisions whether to participate in ADR for any issue in controversy are within the Chief Trial Attorney's discretion, and are not subject to appeal.

#### **5133.212 Contracting officer's duties upon appeal.**

### **5133.212-90 Appeal procedures.**

(a) For purposes of this section and DFARS Appendix A, the Army Chief Trial Attorney or the Engineer Chief Trial Attorney performs the duties and responsibilities of the Chief Trial Attorney as follows:

(1) In accordance with Army Regulation (AR) 27-1, the Army Chief Trial Attorney appointed by the Judge Advocate General is the authorized representative of the Secretary of the Army with sole authority and responsibility for the conduct and control of litigation of contract disputes for all Department of the Army cases docketed with the ASBCA, except for United States Army Corps of Engineers (USACE) cases described in (2) and (3).

(2) The Engineer Chief Trial Attorney, appointed by the USACE Chief Counsel, is the authorized representative of the Secretary of the Army and has sole authority and responsibility for the conduct and control of litigation of contract disputes for all USACE cases docketed with the ASBCA of a value of less than \$3 million

(3) The Director, Litigation Division, U.S. Army Legal Services Agency may determine, on a case-by-case basis, to delegate USACE cases of a value of \$3 million or more to the Engineer Chief Trial Attorney.

(b) All contract disputes addressed in this section remain subject to the litigation oversight authority and responsibility of the General Counsel of the Department of the Army.

### **5133.212-91 Notice of an appeal.**

Contracting officers must perform the following actions concurrently:

(a) Send any notice of appeal received directly, including the envelope showing the postmark directly to:

Chairman, ASBCA  
5109 Leesburg Pike  
Skyline 6, Room 703  
Falls Church, VA 22041-3208.

(b) When the Defense Contract Management Agency has participated in contract award and/or administration, send to the Defense Contract Management Agency office involved, the notice of the appeal with direction to preserve all documents pertaining to the contract.

### **5133.212-92 Comprehensive report to the Chief Trial Attorney.**

(a) Concurrent with forwarding the appeal file to the ASBCA, the Contracting officer must send the following documents to the addressee in AFARS 5133.104(a)(3)(i)(I)(ii) or (iii) as applicable with a copy to the reviewing official designated in accordance with AFARS 5133.212-93:

(1) A copy of the appeal file.

(2) A trial attorney's litigation file. The Contracting officer shall not provide this report to the ASBCA or the contractor. The litigation file shall include the information listed in paragraphs (2)(i) through (iv) of this section.

(i) The names, current addresses and telephone numbers of all potential witnesses (including the contractor's) who have information concerning the facts in dispute.

(ii) A signed statement of each Government witness itemizing personal knowledge of the facts to which the witness will testify under oath at hearing, or a summary if it is impossible to obtain a signed statement. Include the following:

(A) Background and circumstances surrounding the generation of pertinent documents.

(B) Explanation, basis and/or rationale of those portions of the available documents which will require clarification at the hearing.

(C) List of any facts and events not shown by available documents.

(D) Identification of any other persons who have personal knowledge of pertinent facts.

(E) A statement regarding the expected availability of the witness for the hearing.

(iii) An analysis for the Chief Trial Attorney discussing the contractor's individual allegations and overall position with an opinion of the validity of each, and an appraisal of the strengths and weaknesses apparent in both parties' positions.

(iv) A memorandum by the legal advisor or the official making the decision, with input from legal counsel, setting forth an analysis of the legal issues involved in the dispute, including comments about the adequacy of the findings of fact and the legal sufficiency of the decision.

(b) The Contracting officer must send a copy of all correspondence, and other data pertinent to the dispute, to the Chief Trial Attorney. This includes all documents received after submitting

the trial attorney's litigation. The Contracting officer shall forward copies to the reviewing official.

(c) The Chief Trial Attorney may, upon discovery of new facts or circumstances, have the reviewing official reconsider the matter.

#### **5133.212-93 Review of appeal.**

(a) The head of the contracting activity shall –

(1) Furnish technical and legal assistance to the Contracting officer as required; and

(2) Establish procedures to ensure that review of all appeals filed under the disputes clause occur at a level higher than the Contracting officer.

(b) The HCA designated reviewing official shall –

(1) Ensure that the findings cover all issues in dispute and are consistent with the decision from the appeal;

(2) Ensure that the Contracting officer's comprehensive report to the Chief Trial Attorney, including the evidence submitted in support of the Contracting officer's decision, is complete;

(3) Within 10 calendar days after receiving the Contracting officer's comprehensive report, forward to the Chief Trial Attorney –

(i) Evaluations, conclusions and recommendations;

(ii) Any additional evidence considered essential to enable the Chief Trial Attorney to protect the interests of the Government before the ASBCA; and

(iii) If the reviewing official decides that the available evidence does not sufficiently support the Contracting officer's decision, or that the decision is erroneous, an estimated date by which the contracting office will either furnish additional support or withdraw the decision; and

(4) Assist the Chief Trial Attorney in obtaining additional evidence or in making other necessary preparations for presenting the Government's position before the ASBCA.

#### **5133.212-94 Receipt of complaint.**

(a) See DFARS Appendix A, Part 2, Rules , Rule 6, paragraph b. If the Contracting officer receives the complaint after forwarding the comprehensive report to the Chief Trial Attorney, he/she must, within 15 calendar days after receipt of the complaint, send directly to the Chief Trial Attorney supplementary information regarding any issues raised in the complaint that the comprehensive report did not sufficiently cover. Include specific admissions or denials of each allegation of fact contained in the complaint and a statement of any affirmative defenses or counterclaims applicable.

(b) Provide copies of the supplementary information furnished to the Chief Trial Attorney to the reviewing official.

#### **5133.212-95 Litigation.**

(a) See AFARS 5133.212-90(a)(1) regarding the authority and responsibility of the Chief Trial Attorney.

(b) The Chief Trial Attorney will present all Army cases to the ASBCA, using trial attorneys assigned to the office, except the Chief Trial Attorney may authorize local legal counsel to act as trial attorneys or to assist in the presentation of Army cases if the appeal has particular significance to the contracting activity and that it involves difficult operational issues and technical facts.

(c) Local legal counsel and personnel within the contracting activity assist and support the Office of the Chief Trial Attorney in preparing the case.

(d) The Chief Trial Attorney and the attorneys assigned may communicate directly with any person or organization to secure any witnesses, documents, or information considered necessary in connection with representing the Government in matters before the ASBCA. The Chief Trial Attorney must inform the Contracting officer of any actions taken in connection with these matters.

#### **5133.212-96 Disposition.**

(a) The authority and responsibility to settle contract disputes docketed with the ASBCA remains with the Contracting officer, subject to (b) and the following:

(1) The Contracting officer must advise the Chief Trial Attorney of all offers of settlement from a contractor, whether directly from the contractor or through the contractor's attorney.

(2) The Contracting officer must consult with the Chief Trial Attorney before accepting a contractor's offer of settlement and before making a settlement offer to the contractor.

(b) The Chief Trial Attorney has all necessary authority to conclude settlement agreements with the concurrence of the Contracting officer, the reviewing official, or the DASA(P). He/she must notify the appropriate Army Command legal office/staff judge advocate of any disagreement regarding the settlement of a case before raising the matter to the Assistant Secretary of the Army (Acquisition, Logistics and Technology).

(1) The Chief Trial Attorney or an individual trial attorney may enter into an agreement on matters for which there is no substantial controversy and which will not have the effect of disposing of an appeal, provided that, in the case of a pre-hearing written stipulation or agreement, the Chief Trial Attorney has granted this authority to the individual trial attorney in advance.

(2) In appropriate cases, such as those where time-consuming delays would occur by returning the appeal to the Contracting officer, the Chief Trial Attorney or an individual trial attorney acting with the prior approval of the Chief Trial Attorney may enter into an agreement with an appellant which will have the effect of disposing of an appeal after obtaining concurrence from a representative of the HCA. Such agreement may then become the basis of an ASBCA decision disposing of the appeal.

#### **5133.212-97 Review of ASBCA decisions.**

(a) *Contracting activity review.*

(1) The contracting activity must review ASBCA decisions and, if the HCA thinks that the ASBCA should reconsider a decision or appeal to the U.S. Court of Appeals for the Federal Circuit, the HCA may within 10 calendar days after receipt of the decision, request the Chief Trial Attorney to either –

(i) File a motion for reconsideration, stating the grounds relied upon to sustain the motion; or

(ii) Initiate action seeking an appeal to the U.S. Court of Appeals for the Federal Circuit, stating the basis for such an appeal pursuant to the review standards of section 7107(b) of the Contract Disputes statute (41 U.S.C. chapter 71).

(2) If the Chief Trial Attorney or the HCA designated reviewing official does not concur with a request of the within five calendar days, the Chief Trial Attorney or the HCA designated reviewing official shall forward the request, together with reasons for opposition, through the Judge Advocate General to the addressee in AFARS 5101.290(b)(1) for the decision in coordination with the General Counsel of the Army. If the DASA(P) determines that the Government will not make a motion for reconsideration or that the Government will not take an



appeal to the U.S. Court of Appeals for the Federal Circuit, the Chief Trial Attorney may certify this fact to the ASBCA.

(3) When it appears that an adverse decision of the ASBCA has resulted from flaws in the regulations that implement DoD policy rather than an error by the ASBCA, recommendations for changes to acquisition regulations should be developed following the format in DFARS 201.201-1(d)(i) and submitted to the addressee in AFARS 5101.290(b)(2)(ii)(B).

(b) *Chief Trial Attorney review.* The Chief Trial Attorney independently reviews all ASBCA decisions involving Army contracts to determine whether the ASBCA should reconsider any decision or if the Army should appeal a decision to the U.S. Court of Appeals for the Federal Circuit.

### **5133.212-98 Dispute settlement and judgments, use of the Judgment Fund.**

(a) *Judgment Fund.*

(1) The Contract Disputes statute provides for the use of the Judgment Fund (“the Fund”) (31 U.S.C. 1304) to pay for adverse judgments against the Government. Under certain circumstances, the Army can convert settlement agreements in Contract Disputes statute cases before the ASBCA into consent judgments to access the Fund to pay for settlements. In Contract Disputes statute cases before Federal courts where Department of Justice represents the Army, the Department of Justice may use its independent authority to use the Fund for settlements. Contracting officers should consult with their legal counsel and their local resource management office prior to taking any actions related to the use of the Fund. Only authorized officials of a Government agency may submit a request for payment from the Fund. Requests submitted by anyone other than an authorized Government official are deemed fraudulent. Filing a false or fraudulent claim constitutes a Federal offense that is punishable by fines, imprisonment, or both (See 31 U.S.C. 3729 and 18 U.S.C. 287). The Army authorized official for use of the Fund is the Assistant Secretary of the Army for Financial Management and Comptroller (ASA(FM&C)). See [Appendix GG](#) for further delegation. Army contracting activities shall follow the policy set forth in this section of the AFARS.

(2) The Army must reimburse the Fund with funds current as of the date of the judgment. According to the [DoD Financial Management Regulation, \(FMR\), Volume 3, Chapter 08, paragraph 4.2.7](#), approval authority is required from the cognizant Assistant Secretary of the Military Department for Financial Management and Comptroller or Defense Agency Comptroller for all Judgment Fund Reimbursements to the Department of the Treasury in excess of \$1,000,000.

(b) *Fiscal considerations in settlements.* If funds appropriate to pay a settlement are expired but the account remains open, Contracting officers must use expired funds to pay the settlement. If the account remains open but no expired funds remain, Contracting officers must use the Judgment Fund to access current funds to pay the settlement. Access to the Fund requires a consent judgment from the Board or use of the Department of Justice's independent authority to use the Fund. The Contracting officer may use current funds to pay the settlement if appropriate accounts are canceled or closed.

(c) *Settlement procedures.*

(1) The ASA(FM&C) tracks available expired funds within the Army.

(2) The Army shall use the following procedures for settlements:

(i) In situations where contract funds have expired but the accounts have not closed, the Army shall fund settlements with expired funds if available. Contracting officers will ascertain the availability of appropriate expired funds through their resource management office.

(ii) If the resource management office determines that no expired funds exist within the Army to fund the settlement and the accounts are not closed, the Contracting officer must access the Fund through a consent judgment in order to use current year funds to pay the settlement (i.e., reimburse the Fund).

(iii) If no expired funds exist but the account remains open, use the following procedure. If current year funds are available to reimburse the Fund, then the Contracting officer may enter into a consent decree and allow the Fund to pay the judgment. If there is not sufficient current funding to reimburse the Fund, the Contracting officer must receive authorization from the ASA(FM&C) prior to entering into a consent decree.

(iv) If the accounts are closed, use the following procedure. If the Contracting officer determines there are sufficient funds to pay the settlement, he/she will not use the Fund, and pay the settlement with Agency funds. If sufficient current funds are not available, ASA(FM&C) will provide approval to access the Fund prior to the Contracting officer entering into a consent judgment.

(v) When use of the Fund is authorized, the Contracting officer shall work with the resource management office to ensure execution of the appropriate Certificate of Finality and Bureau of the Fiscal Service forms (FS Forms 195, 196, 197A and 198 (if appropriate)) and submit the payment request to the FMS. The "reimbursement contact" on FS Form 196 shall be the ASA(FM&C).

(d) *Judgments.* Use the following procedures to pay judgments using the Fund.

(1) The Contracting officer shall ascertain the availability of current funds through financial management channels. If current funds are available, the Contracting officer will not use the Fund, and will pay the judgment with Agency funds.

(2) If current funds are not available, the Contracting officer must receive authorization from the ASA(FM&C) to access the Fund prior to paying the judgment.

(e) *Settlement agreements.* All settlements converted to consent judgments and funded by the Fund shall be in writing and contain appropriate release language. The Contracting officer, local attorney and trial attorney shall ensure that all settlement amounts are fair and reasonable.

(f) *Expeditious handling.* To expedite handling of settlements, the inquiries and approvals these procedures require may be oral; however, to support the action, the Contracting officer must document the steps taken in a memorandum for record and include a copy in the contract file.

#### **5133.213 Obligation to continue performance.**

(a) The Contracting officer must obtain written approval from the HCA to use the Alternate I paragraph in the clause at FAR 52.233-1. See [Appendix GG](#) for further delegation.

#### **5133.215 Contract clauses.**

(3) The head of the contracting activity shall make the determination at DFARS 233.215(3). See [Appendix GG](#) for further delegation.

### **Subpart 5133.90 – Grant and Cooperative Agreement Claims, Disputes and Appeals**

#### **5133.9001 Designation of grant appeal authority.**

(a) Procedures governing grants and cooperative agreements are set forth in Department of Defense Directive 3210.06, Defense Grant and Agreement Regulatory System (DGARS) and the Code of Federal Regulation (CFR) provisions cited in that directive.

(b) 32 CFR section 22.815(e)(1) requires the designation of grant appeal authorities to decide formal administrative appeals brought under 32 CFR section 22.815(e)(3).

(c) The HCA that awarded the grant or cooperative agreement shall serve as the grant appeal authority, provided that the individual is a general officer or member of the Senior Executive Service. The grant appeal authority may utilize a board in accordance with 32 CFR section 22.815(e)(1).

(d) The HCA may not delegate grant appeal authority. In the event that the HCA is not a general officer or member of the Senior Executive Service, the DASA(P) shall designate a qualified individual as the grant appeal authority on a case-by-case basis.

(d) The grant appeal authority shall utilize the procedures specified in 32 CFR sections 22.815(e) and (f).

# AFARS – PART 5134

## Major System Acquisition

*(Revised 01 October 2024)*

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### Subpart 5134.0 – General

#### 5134.003 Responsibilities.

See Army Regulation 70-1, Army Acquisition Policy.

### Subpart 5134.2 – Earned Value Management System

[See Army Class Deviation, Approval of Class Deviation from the Earned Value Management System Requirements of the Defense Federal Acquisition Regulation Supplement for Certain Fixed-Price Incentive \(Firm Target\) \(FPIF\) Contracts, dated 6 December 2015.](#) This class deviation allows a deviation from the Earned Value Management System (EVMS) requirements prescribed in DFARS 234.2 and associated DFARS clauses 252.234-7001 and 252.234-7002. The class deviation applies to FPIF contracts for full rate production (FRP) subsequent to the first FRP lot, in support of Defense acquisition programs, supporting services contracts where work is not measurable and discrete, and contracts for non-developmental services not supporting a Defense acquisition program. This deviation is effective until incorporated in the DFARS or rescinded.

[See Army Class Deviation, Approval of Class Deviation from the Earned Value Management System Requirements of the DFARS for Requirements with an Approved Department of Defense Instruction \(DoDI\) 5000.02 Earned Value Management Applicability Determination or Waiver.](#) This class deviation applies when a DoDI 5000.02 EVM applicability determination finds that EVM is not applicable or an EVM waiver has been executed by the designated officials.

### Subpart 5134.70—Acquisition of Major Weapon Systems as Commercial Items

#### 5134.7002 Policy.

(d)(4) The head of the contracting activity shall make the determination under DFARS 234.7002(d)(4). See Appendix GG for further delegation.

# AFARS – PART 5135

## Research and Development Contracting

*(Revised 01 October 2024)*

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### **5135.006 Contracting methods and contract type.**

(b)(i) The Contracting officer cannot release the solicitation until the milestone decision authority approves the contract method and contract type.

### **5135.014 Government property and title.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) makes the determination as set forth in FAR 35.014(b). See Appendix GG for further delegation.

### **5135.014-90 Special requirements for research and development contracts.**

(a) Prior to entering into a contract for research or development or both which provides for the acquisition or construction by, or furnishing to, the contractor of research, development, or test facilities and equipment, the Secretary of the Army must determine that the facilities and equipment are necessary for the performance of the contract (10 U.S.C. 2353). See AFARS 5101.707.

(b) Send each request for secretarial determination to the addressee in AFARS 5101.290(b)(2)(ii)(B). Each request must contain the following:

(1) A detailed description of the acquisition supporting a finding that the contract is for research or development or both.

- (2) The contract type.
- (3) The type of funds, appropriation and amount.
- (4) Required property or services.
- (5) Name of the potential contractor.
- (6) Any urgency considerations.

(7) A description of the research, development or test facilities and associated equipment and specialized housing which the contractor will acquire or construct or which the Government will furnish to the contractor. Include the contractor or Government-furnished property estimated cost and the reasons this property is necessary for the performance of the contract.

(8) When the Government will furnish property to the contractor, an explanation of how it will do so, e.g., loan, lease, sale, or other. When the Government will seek reimbursement under a lease or sale, provide the fair market value that Government will charge to the contractor.

(9) Details concerning ownership of land on which the facilities or equipment are to be located, e.g., Government owned, private, etc.

(10) Details concerning whether the installed or constructed facilities will be removable or separable without unreasonable expense or unreasonable loss of value.

(11) In the case of installed or constructed facilities on property the United States does not own, and that are not removable or separable without unreasonable expense or unreasonable loss of value, describe the provisions to be included in the contract for –

(i) Reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(ii) An option for the United States to acquire the underlying land; or

(iii) An alternative provision considered adequate to protect the interests of the United States in the facilities and an explanation of why it is adequate.

#### **5135.015 Contracts for research with educational institutions and nonprofit organizations.**

##### **5135.015-70 Special use allowances for research facilities acquired by educational institutions.**

(c) The head of the contracting activity may approve special use allowances as described at DFARS 235.015-70(c). See Appendix GG for further delegation.



(d)(3)(ii) The head of the contracting activity shall make the determination at DFARS 235.015-70(d)(3)(ii). See Appendix GG for further delegation.

**5135.070 Indemnification against unusually hazardous risks.**

**5135.070-1 Indemnification under research and development contracts.**

(1) Send requests for authorization through contracting channels to the addressee in 5101.290(b)(2)(ii)(B) in time to reach the addressee at least 30 working days prior to the planned release of the solicitation.

(2) Each secretarial request for authorization must contain –

- (i) The information required by FAR 50.104-3(b) except (b)(1)(iii);
  - (ii) The clause and facts showing that the contract is for research or development or both;
  - (iii) A statement that the proposed indemnification clause complies fully with the requirements of 10 U.S.C. 2354;
  - (iv) The reasons the use of the indemnification clause would be in the Government's interest; and
  - (v) The signatures of the head of the contracting activity or the senior contracting official and the Contracting officer.
- (3) Handle requests for indemnification under Pub. L. 85-804 in accordance with FAR 50.104-3 and DFARS 250.104-3-70.

## **AFARS – PART 5136**

### **Construction and Architect-Engineer Contracts**

*(Revised 01 October 2024)*

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## **Subpart 5136.2 – Special Aspects of Contracting for Construction**

### **5136.201 Evaluation of contractor performance.**

- (1) See AFARS 5142.1503-90 for the requirements to prepare contractor past performance evaluations on construction contracts.
- (2) At a minimum, prepare the report (DD Form 2626, Performance Evaluation (Construction)) at the final acceptance of work and include the signed copy in the contract file. The Contracting officer's representative or ordering officer if there is no Contracting officer's representative, must be responsible for monitoring contract performance.

### **5136.2-90 Special procedures for job order contracts.**

Before awarding a job order contract, Contracting officers must review all performance evaluations in CPARS on those offerors in range for award. Contracting officers may rely solely on the CPARS database information in assessing past performance.

### **5136.208 Concurrent performance of firm-fixed-price and other types of construction contracts.**

The head of the contracting activity may approve contracts with cost variation or cost adjustment features as described at FAR 36.208. See [Appendix GG](#) for further delegation.

### **5136.209 Construction contracts with architect-engineer firms.**

Subject to the resolution of organizational conflict of interest concerns, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) may approve award of a construction contract to the firm that designed the project. See [Appendix GG](#) for further delegation.

### **5136.213 Special procedures for sealed bidding in construction contracting.**

#### **5136.213-2 Presolicitation notices.**

- (a) The head of the contracting activity may waive the requirement as stated in FAR 36.213-2(a). See [Appendix GG](#) for further delegation.

### **5136.270 Expediting construction contracts.**

The Secretary of the Army shall make the approval set forth in DFARS 236.270. This approval authority may not be redelegated.

### **5136.272 Prequalification of sources.**

(b) The head of the contracting activity must perform the functions at DFARS 236.272(b). See [Appendix GG](#) for further delegation.

### **Subpart 5136.3 – Two-Phase Design-Build Selection Procedures**

#### **5136.301 Use of two-phase design-build selection procedures.**

(b)(3)(vi) The head of the contracting activity, on a non-delegable basis, shall establish other criteria as described at FAR 36.301(b)(3)(vi).

### **Subpart 5136.5 – Contract Clauses**

#### **5136.570 Additional provisions and clauses.**

(b)(2) The head of the contracting activity shall approve actions as described at DFARS 236.570(b)(2). See [Appendix GG](#) for further delegation.

### **Subpart 5136.6 – Architect-Engineer Services**

#### **5136.601 Policy.**

##### **5136.601-90 Authority for architect-engineer contracting.**

(a) Army contracting activities, and subordinate offices, authorized to contract for architect-engineer services are as follows:

- (1) The U.S. Army Corps of Engineers (USACE).
- (2) The National Guard Bureau (NGB).
- (3) The U.S. Army Mission and Installation Contracting Command.

(4) The U.S. Army Contracting Command, 414<sup>th</sup> Contracting Support Brigade, Vicenza, Italy, for architect-engineer services for operations and maintenance appropriations and Army Family Housing (Operations) funded projects.

(b) Other Army contracting activities, as mutually agreed with the USACE, may execute task orders for architect-engineer services, under USACE indefinite-delivery contracts. The installation Contracting officer and facilities engineering personnel must comply with the instructions of the USACE Contracting officer regarding the negotiation, issuance, and administration of task orders.

##### **5136.601-3 Applicable contracting procedures.**

##### **5136.601-3-90 Limitations.**

Headquarters, USACE, and Headquarters, NGB, must establish appropriate controls on the use of indefinite-delivery contracts for architect-engineering services by subordinate contracting offices.

#### **5136.602 Selection of firms for architect-engineer contracts.**

##### **5136.602-1 Selection criteria.**

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to approve design competition. See [Appendix GG](#) for further delegation.

##### **5136.602-4 Selection authority.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the final selection decision in accordance with all appropriate source selection guidance. See [Appendix GG](#) for further delegation.

##### **5136.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.**

The USACE and the NGB may use both short processes.

(b)(2) The ASA(ALT) has the authority to approve the selection report or return it to the chairperson for appropriate revision. See [Appendix GG](#) for further delegation.

#### **5136.604 Performance evaluation.**

See AFARS Subpart 5142.15 for the requirements to prepare contractor past performance evaluations on architect-engineer contracts.

#### **5136.609 Contract clauses.**

##### **5136.609-1 Design within funding limitations.**

(c)(1) The head of the contracting activity shall make the determination at FAR 36.609-1(c)(1). See [Appendix GG](#) for further delegation.

# **AFARS – PART 5137**

## **Service Contracting**

*(Revised 01 October 2024)*

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## **Subpart 5137.1 – Service Contracts – General**

### **5137.102-90 Policy.**

Department of Defense Instruction (DoDI) 5000.74, Defense Acquisition Services, dated 5 January 2016, is the primary authority for service acquisitions.

### **5137.104 Personal services contracts.**

(b)(i) The head of the contracting activity (HCA) will make the determination as required by DFARS 237.104(b)(i) to authorize contracts pursuant to 10 U.S.C. 129b and 5 U.S.C. 3109. See [Appendix GG](#) for further delegation. When a blanket determination and findings (D&F) applies, the Contracting officer will include in the contract file a copy of the blanket D&F and a statement signed by the Contracting officer clearly showing why the blanket D&F is applicable to the proposed contract.

(ii)(C)(2) The HCA for the U.S. Army Medical Command must approve requirements for services at DFARS 237.104(b)(ii)(C)(2). See [Appendix GG](#) for further delegation.

(iii)(A)(2) The HCA will make the determination as required by DFARS 237.104(b)(iii) to authorize contracts pursuant to 10 U.S.C. 129b(d). See [Appendix GG](#) for further delegation.

(S-90) Contracting officers will ensure that purchase requests for personal services in the areas listed in DA Pamphlet 25-91 (Visual Information Procedures) have been approved by the local multimedia/visual information activity. See Army Regulation 25-1.

### **5137.112 Government use of private sector temporaries.**

Direct questions about acquisition of these services to the civilian personnel office.

### **5137.113-1 Waiver of cost allowability limitations.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has authority to make the determination at FAR 37.113-1. See [Appendix GG](#) for further delegation.

### **5137.170 Approval of contracts and task orders for services.**

## **5137.170-2 Approval requirements.**

(a) *Acquisition of services through a contract or task order that is not performance based.*

(1) The HCA has authority to approve actions for the dollar threshold identified at DFARS 237.170-2(a)(1). See [Appendix GG](#) for further delegation.

(2) The senior procurement executive has authority to approve actions for the dollar threshold identified at DFARS 237.170-2(a)(2). See [Appendix GG](#) for further delegation.

### **Subpart 5137.2 – Advisory and Assistance Services**

## **5137.204 Guidelines for determining availability of personnel.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has authority to make the determination at FAR 37.204. See [Appendix GG](#) for further delegation.

### **Subpart 5137.5 – Management Oversight of Service Contracts**

## **5137.503 Agency-head responsibilities.**

Army Regulation 70-13, Management and Oversight of Service Contracts, chapter 2, implements the responsibilities set forth in FAR 37.503(a), (b) and (d). See 5107.5 for implementation of FAR 37.503(c) and DFARS 237.503.

## **5137.590-1 Definitions.**

As used in this section –

“Acquisition of services” means the execution of one or multiple contracts or other instruments committing or obligating funds (e.g., fund transfer, orders under the Federal Supply Schedules or other existing contracts, etc.) to acquire services for a specified requirement.

“Decision authority” means the official with review and approval responsibility as designated and associated with the thresholds at 5137.590-3.

“Information Technology (IT) services” means the performance of any work related to IT and the operation of IT, including National Security Systems. This includes outsourced IT-based business processes, outsourced information technology and outsourced information functions.

“Service” means the engagement of the time and effort of a contractor whose primary purpose is to perform an identifiable task, or tasks, rather than to furnish an end item of supply.

## **5137.590-2 Applicability.**



- (a) Oversight of services acquisition is the shared responsibility of requiring activities, contracting activities, and the Office of the ASA(ALT). See DoDI 5000.74, Defense Acquisition of Services, section 2 for applicability of the instruction and this subpart.
- (b) Except as provided in paragraphs (d) and (e) below, and DoDI 5000.74, paragraph 1.1. b, the requirements in this section apply to service acquisitions including any service acquisition determined to be of special interest by the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), the ASA(ALT), the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)), and the Senior Services Manager (SSM).
- (c) The requirements in this section also apply to any acquisition of services that is made through the use of a contract or task order entered into or issued by an agency other than the DoD, unless the non-defense agency has certified in accordance with FAR 17.703(a).
- (d) Task orders executed within a service acquisition reviewed pursuant to this subpart do not require a separate acquisition strategy or review, provided the Contracting officer issues the task order consistent with any conditions specified by the acquisition strategy decision authority. A separate acquisition strategy may be executed for complex task orders.
- (e) Decision authorities shall retain the ability to respond rapidly to emergencies. Accordingly, the decision authority may approve either verbally or electronically services determined to be an emergency acquisition in accordance with FAR 18.001(a), (b) or (c). This procedure requires a formal notification of intent by the Contracting officer to the decision authority. This procedure also requires the submission of a formal acquisition strategy to the decision authority within 30 days of the notice to proceed.

#### **5137.590-3 Review thresholds.**

- (a) DoDI 5000.74, Defense Acquisition of Services, dated 5 January 2016 (incorporating change 2, 31 August 2018) sets forth review thresholds for review of Acquisition Strategies. The Army Acquisition Executive (AAE) has delegated the authority for Army Acquisition of Services Categories. See [Appendix GG](#) for delegations. Special interest programs may be designated by the USD(AT&L) regardless of the estimated dollar value.
- (b) After approval of the acquisition strategy, the acquisition may proceed, and the Contracting officer may release the final solicitation, subject to the separate peer review process outlined in DFARS 201.170 and in AFARS 5101.170, and any other required local reviews.

#### **5137.590-4 Review procedures.**

The HCA shall establish procedures for reviews of service acquisitions as delegated. Contracting officers shall forward, through the contracting chain as necessary, service acquisitions meeting the review thresholds identified in [Appendix GG](#) to the appropriate approval authority for review and approval prior to issuance of the solicitation. For service acquisitions requiring USD(AT&L), DASA(P) or SSM review and approval, the HCA (or SCO if delegated) will submit the acquisition strategy via ETMS2 to the Office of the DASA(P), ATTN: Senior Services Manager [usarmy.pentagon.hqda-asalt.list.ssaal-p-ssm@mail.mil](mailto:usarmy.pentagon.hqda-asalt.list.ssaal-p-ssm@mail.mil). At a minimum, the strategy will contain all the information included at AFARS 5137.590-6.

**5137.590-5 Reserved.**

**5137.590-6 Acquisition strategy content.**

(a) At a minimum, the acquisition strategy will address the following:

(1) *Requirement.* The outcomes to be satisfied and if such outcomes are performance-based (see FAR subpart 37.6). If not performance-based, obtain the Senior Procurement Executive's approval for acquisitions exceeding the dollar threshold identified at DFARS 237.170-2(a)(2). Address the service acquisition measures of success and how the requirement will be satisfied or was previously satisfied.

(i) Will the requirement be satisfied through the use of a non-DOD contract? If so, indicate whether the appropriate official has approved the acquisition in accordance with the policy and procedures described at AFARS 5117.770.

(ii) Include a discussion of the procurement history.

(iii) Address challenges that drive the mission or acquisition approach.

(iv) Indicate if there is any congressional interest in the requirement.

(v) Discuss opportunities for strategic sourcing.

(vi) All acquisitions of IT services, regardless of dollar value, are subject to the Clinger-Cohen Act: 40 U.S.C. 11101 et seq. Discuss the specific applicability and implications of the Clinger-Cohen Act.

(vii) Describe the use of Category Management procedures when planning for this acquisition. Category Management is the business practice of buying common goods and services using an enterprise approach to reduce redundancies, increase efficiencies and drive savings from Government acquisition programs. All Category Management guidance/terminology is explained in Memorandum 19-13, dated 20 March 2019, titled, Category Management: Making Smarter Use of Common Contract Solutions and Practices. The

Army implemented Category Management in a memorandum released on 06 February 2020, titled Category Management Implementation and Execution.

(a) Discuss review of existing Spend Under Management (SUM) contracts and how the command analyzed specific requirement in context of all forecasted contract requirements within the command/enterprise.

(b) If a SUM contract was not utilized, provide rationale for utilizing a Tier 0 contract.

(2) *Risk Management.* Provide an assessment of current and potential technical, cost, schedule and performance risks, the level of stated risks, and a risk mitigation plan.

(3) *Competition.* Explain how the acquisition will provide for full and open competition. If other than full and open competition applies to the acquisition, explain why and include a citation of the statutory authority that allows for other than full and open competition. Address plans for competition for any foreseeable follow-on acquisitions.

(i) Describe the nature and extent of the market research that the Government acquisition team conducted. This should, at a minimum, address the identification of small business sources capable of performing the services and discuss how this information impacted the acquisition strategy for both prime and subcontracting opportunities.

(ii) Is this a consolidated requirement? If so, indicate whether appropriate official has approved the consolidation (see AFARS 5107.170-3(a)(3)).

(4) *Socio-Economic Implications.* Address how the new acquisition will support the achievements of small business goals and targets. Address how the new acquisition will support any other socio-economic program and/or required-source program, such as AbilityOne.

(i) If this is a bundled requirement, include the benefit analysis as prescribed in the DoD Benefit Analysis Guidebook located at:

[http://www.acq.osd.mil/osbp/docs/benefits\\_analysis\\_guidebook.pdf](http://www.acq.osd.mil/osbp/docs/benefits_analysis_guidebook.pdf).

(ii) Indicate whether the Small Business Administration procurement center representative has concurred on the DD Form 2579.

(iii) Include a discussion of subcontracting potential and goals.

(5) *Business Arrangements.* Address how the acquisition will be funded, the type of business arrangements anticipated (e.g., single contract, multiple award task order contract, task orders under existing multiple award contracts, interdepartmental transfers, and interdepartmental purchase requests), the duration of each business arrangement (base period and

all option periods), cost estimate for the total planned acquisition, and pricing arrangements (e.g., fixed price, cost reimbursement, time and materials, labor hour, or variations, based on guidance in FAR part 16 and, for commercial services, in FAR part 12). At a minimum, address the following:

- (i) Include the total estimated dollar value of the procurement, to include all options.
- (ii) Address whether funding is available and the type of funds that will be used.
- (iii) Address the contract type and the basis for selection. If the Contracting officer anticipates using a contract type with award fee, include a discussion of the award fee plan, related criteria and evaluation process to include how the award fee evaluation will incorporate attainment of the metrics.
- (iv) Assess long-term continuing requirements using cost-type contracts for conversion to fixed price or other lower risk contractual arrangement, especially when the Contracting officer decides to use a cost-type contract after initial analysis indicates that a fixed-price or other low-risk contract instrument may be appropriate.
- (v) Discuss the source selection process, including whether it will be formal or informal, proposed evaluation criteria, and the basis for award. If the procurement will use a formal source selection process, do not identify the name of the SSA in the strategy.
- (vi) Discuss any waivers or deviations that will be required.
- (vii) Discuss contract administration to include the involvement of the Contracting officer's representative and/or the Defense Contract Management Agency.
- (viii) Discuss the existing or planned management approach following contract award to include the tracking procedures or processes used to monitor contract performance. This approach could include, but not be limited to, a quality assurance surveillance plan and written oversight plans and responsibilities.
- (ix) Include a milestone schedule which contains key points up to time of award.

(6) *Multi-year contracts.* If the acquisition strategy calls for a multi-year service contract as defined in FAR subpart 17.1 (see also DFARS 217.171) under the authority of 10 U.S.C. 2306c, the acquisition strategy must address the Army's plans for budgeting for termination liability.

(7) *Leases.* Include a lease-purchase strategy if required by OMB Circular A-94, Section 13.

(8) *Metrics*. Address the cost, the schedule and the performance metrics to include the plan for measuring service acquisition outcomes against requirements. If the acquisition strategy does not include metrics, the Contracting officer must submit the metrics for the decision authority approval prior to execution of any business instrument (e.g., contract, military interdepartmental purchase request (MIPR)) that initiates the acquisition.

#### **5137.590-7 Data collection and reporting.**

(a) Data identified in DoDI 5000.74 Enclosure 6 should be collected by the Office of the Senior Service Manager, for all requirements regardless of dollar amount, and reported in the Annual DoD Services Acquisition Report. Data collection will be automated, as it is already captured in the DoD standard procurement data systems.

(b) Post award peer reviews will be done in accordance with AFARS 5101.170(b)(vi) for actions with a total planned dollar value of \$250 million or more but less than \$1 billion. For actions over \$1 billion, reviews will be done in accordance with 5101.170(a).

### **Subpart 5137.72 – Educational Service Agreements**

#### **5137.7204 Format and clauses for educational service agreements.**

Contracting officers may use DD Form 1155 or Standard Form 26, as appropriate, as order forms under educational service agreements.

#### **5137.7204-90 Establishing educational service agreements.**

One of the offices in AFARS 5137.7204-93 will furnish requests and information necessary for the establishment of an educational service agreement.

#### **5137.7204-91 Purchase requests.**

(a) Requests to issue an order under the educational service agreement must include –

(1) The estimated cost of training by year, semester, term, or quarter;

(2) The authority to adjust cost figures without requesting approval whenever the actual cost of a course will exceed the estimated cost by less than \$100, except when the course is taught by professors of military science; and

(3) The information in AFARS 5137.7204-92(c)(1)-(4).

(b) The Contracting officer shall obtain additional funds in writing from the funding activity when the actual cost of a course will exceed the estimated cost by \$100 or more, except when professors of military science teach the course.

### **5137.7204-92 Ordering procedures.**

(a) The Contracting officer shall issue a separate order for each required training session (e.g. year, semester, term, or quarter), and obligate funds to cover the instruction of those individuals identified on the order form for the period specified.

(b) The Contracting officer may issue an order for the next fiscal year prior to the availability of funds, notwithstanding 5132.7 to preclude delays in enrollment. Insert the clause in FAR 52.232-18, Availability of Funds, in the order. When the funds become available, the Contracting officer shall use Standard Form 30 to modify the order to cite the appropriation chargeable and to delete the Availability of Funds clause.

(c) An order may authorize the enrollment of any number of military personnel or Reserve Officers' Training Corps (ROTC) scholarship cadets and must –

(1) Identify each individual authorized to enroll by name and rank; for ROTC scholarship cadets, show social security number in lieu of rank;

(2) Identify the individual as an Army Medical Department member or ROTC scholarship cadet, when applicable;

(3) Identify each course for which the individual is enrolling and its actual or estimated cost;

(4) State the appropriation chargeable for the instruction of each individual; and

(5) Include the statement: “Whenever the actual cost of a course will exceed the estimated cost shown on this order by \$100 or more, the Contractor shall submit a written request for approval to the Contracting Officer prior to commencing instruction.”

### **5137.7204-93 Distribution of orders.**

Distribute one copy of each order, modification, and payment voucher as follows –

(a) For Army Medical Department personnel,

Commander, AMEDDC&S, Department of Health Education and Training  
Attn: MCCA-HE  
2377 Greeley Road, Suite B  
Fort Sam Houston, TX 78234-5075;

(b) The appropriate professor of military science for ROTC scholarship cadets;

(c) For Army officer personnel other than those identified in (a) and (b),

Office of the Deputy Chief of Staff, G1  
Director of Military Personnel Management, Officer Division  
Attn: DAPE-MPO-S  
300 Army Pentagon  
Washington DC 20310-0300;

(d) For Army enlisted personnel other than those identified in (a),

Office of the Deputy Chief of Staff, G1  
Director of Military Personnel Management, Enlisted Division  
Attn: DAPE-MPE-PD  
300 Army Pentagon  
Washington DC 20310-0300.

#### **5137.7204-94 Gratuitous agreements.**

- (a) A gratuitous agreement is an agreement with a civilian educational institution or with a commercial firm for training of military personnel for which the Government does not pay.
- (b) One of the offices in AFARS 5137.7204-93 will furnish requests and information necessary for the execution of a gratuitous agreement to the contracting office.
- (c) The Contracting officer shall furnish two copies of the gratuitous agreement to the appropriate addressee in AFARS 5137.7204-93. In addition, the Contracting officer shall furnish a copy of the agreement to all Army activities likely to have use for the training covered by the agreement.

#### **Subpart 5137.74 – Services at Installations Being Closed**

##### **5137.7401 Policy.**

- (c) The head of the contracting activity makes the determination at DFARS 237.7401(c). See [Appendix GG](#) for further delegation.

#### **Subpart 5137.90 – Security Clearances and Identification for Contractor Personnel**

##### **5137.9001 Responsibilities.**

The Contracting officer is responsible for identifying contractor required security clearances in the solicitation and including the DD Form 254 as an attachment. The Contracting officer is also responsible for including the process and procedures for contractor personnel to obtain identification cards, tags, and badges.

#### **Subpart 5137.91 – Accounting for Contract Services**

### **5137.9101 Policy.**

- (a) Contracting officers shall ensure that the requirement to report contractor manpower is included in all contracts, task/delivery orders and modifications. The cognizant Contracting officer shall include a separate line item in Section B of the contract to allow for payment in compliance with this requirement.
- (b) The list of contracts for which reporting is not applicable is located on the Assistant Secretary of the Army Manpower and Reserve Affairs (ASA(M&RA)) website at <https://www.army.mil/asamra#org-resources>.
- (c) The Under Secretary of Defense for Acquisition & Sustainment established services contractor reporting in [www.SAM.gov](http://www.SAM.gov) on October 15, 2020. It provides most of the source data for compliance with section 2330a of Title 10, United States Code.
- (d) Enter data into the [www.SAM.gov](http://www.SAM.gov) system at any time during the contract's period of performance. However, data must be accurate and complete and entered into [www.SAM.gov](http://www.SAM.gov) not later than October 31 after the completion of each fiscal year or part of a fiscal year for which such contract is active.
- (e) The Contractor Manpower Reporting application is available at <https://www.SAM.gov>.



# **AFARS – PART 5138**

## **Federal Supply Schedule Contracting**

*(as of 01 October 2024)*

No AFARS Text

## **AFARS – PART 5139**

### **Acquisition of Information Technology**

*(Revised 17 March 2025)*

#### Subpart 5139.1 – General

5139.101 Policy.

5139.101-90 Policy.

#### Subpart 5139.74 – Telecommunications Services

5139.7402 Policy.

#### Subpart 5139.76 – Cloud Computing

5139.7602 Policy and Responsibilities.

### **Subpart 5139.1 – General**

See [AFARS PGI 5139.1-1](#) for guidance on Internal Use Software in contract documentation.

See [AFARS PGI 5139.1-2](#) for information on reform of information technology desktop and notebook purchase and configuration.

See [AFARS PGI 5139.1-3](#) for instruction on development, security, and operations (DevSecOps).

See AFARS PGI 5139.1-4 for information on contracting for Software Development.

See [AFARS PGI 5139.101-90-1\(b\)\(1\)](#) for information on implementation of CHESS Mandate for IT Service Contracts.

#### **5139.101 Policy.**

(1) The head of the contracting activity has the authority to make the determination under DFARS 239.101(1). See [Appendix GG](#) for further delegation.

(2) Information technology (IT) purchases must be submitted through the Information Technology Approval System (ITAS). The ITAS approval memo and supporting documentation shall be part of the requirements package submitted to the Contracting officer and shall also be part of the resulting solicitation and contract file documentation. The ITAS Approval website is located at <https://cprobe.army.mil/enterprise-portal/web/itas/home>.

(3) The United States Space Force (USSF) Commercial Satellite Communications Office (CSCO), on behalf of the Assistant Secretary of the Air Force for Space Acquisition and Integration (SAF/SQ), is the sole authority for procurement of Commercial Satellite Communication services and capabilities for the DoD. All procurement for commercial satellite

communication (COMSATCOM) services or products shall be procured through the USSF CSCO.

### **5139.101-90 Policy.**

#### *(a) Commercial information technology hardware and software.*

(1) Except as provided in AFARS 5139.101-90(a)(3), the Army's Computer Hardware, Enterprise Software and Solutions (CHESS) program, under the Program Executive Office Enterprise Information Systems, is the mandatory source for commercial IT hardware and software purchases. CHESS contracts provide IT products and services that comply with U.S. Army Network Enterprise Technology Command, Army and DoD policy and standards. Purchasers of commercial hardware and software must satisfy their IT requirements by utilizing the Joint and Enterprise License Agreements (J/ELA), DoD Enterprise Software Initiative (ESI) agreements, and/or CHESS contracts first, regardless of dollar value or financial appropriation. Additionally, purchasers of IT requirements through a third party such as a system integrator must ensure solicitations and contract vehicles include the requirement to purchase through the CHESS and the DoD ESI agreements.

(2) Any IT hardware or software purchase made outside of the CHESS contracts requires an Army Deputy Chief of Staff (DCS), G-6 approved ITAS Approval, unless the purchase meets one of the exceptions in (a)(3) below. The ITAS Approval along with supporting documentation shall be part of the procurement package submitted to the Contracting officer and shall also be part of the resulting solicitation and contract file(s). Supporting documentation must include documentation submitted with the ITAS Approval request such as a CHESS Statement of Non-Availability (SoNA) for items that are not available from CHESS or other rationale for not using CHESS. The CHESS website located at <http://chess.army.mil> provides a complete list of CHESS contracts, the DoD ESI as well as information concerning ITAS Approvals and CHESS SONAs. The ITAS Approval website is located at <https://cprobe.army.mil/enterprise-portal/web/itas/home>.

#### *(3) Exceptions.*

(i) IT embedded in weapons systems.

(ii) Purchases of peripheral electronic supplies for IT equipment (for example, keyboards, mice, webcams, compact disks, cables or cords, and so forth) up to \$500 per purchase of supplies (not per item). GPC rules regarding split purchases still apply.

(iii) Contracting officers may purchase commercial IT hardware or software outside of the CHESS contracts, for procurements in support of Non-Program Executive Officer (PEO)/Project Manager (PM) managed National Intelligence Program (NIP) or Military Intelligence Program (MIP) systems (Non-PEO/PM managed NIP or MIP will be requested using the Army G-2 Army Request for Information Technology–Military Intelligence (ARFIT-MI)).

(iv) The Product Lead, Common Hardware Systems (PdL CHS) coordinates across the Army's computing environments and tactical program offices to modify commercially

available off-the-shelf IT to meet specific program requirements for transport or ruggedization, to ensure configuration and end of life management. Organizations that receive written authorization from PdL CHS to use a CHS contract are exempt from the requirement to obtain a CHES SoNA. In such circumstances, requiring activities will provide PdL CHS's written authorization to the Contracting officer as part of the procurement package. Contracting officers shall place the written authorization in the contract file.

(v) CHES exemptions. The following are exempt from both the mandatory use of CHES and the requirement to submit a statement of non-availability (SoNA) for obtaining ITAS approval to procure IT outside of CHES—

(A) Commercially developed IT offered to the Army's accredited institutions of higher education at a price discount more favorable for the Army than prices available through CHES.

(B) Procurements of government off-the-shelf information technology (GOTS IT) as defined by the Committee on National Security Systems: software and hardware developed by the technical staff of a U.S. Government organization for use by the Government. GOTS IT sales and distribution are controlled by the Government. GOTS IT is both commercially unavailable to the public and unavailable via CHES.

(C) In accordance with DFARS 208.7402(a), Departments and agencies shall fulfill requirements for commercial software and commercial software services, such as software maintenance, in accordance with the DoD Enterprise Software Initiative (ESI) (see <https://www.esi.mil/>). Note that purchasing from a Joint or an Agency Enterprise License Agreement (ELA) or DOD Enterprise Software Agreement (ESA) is considered the same as purchasing through CHES, and does not require a SoNA.

(D) Printing Equipment, specifically, Unclassified and Secret-level printing devices (to include, but not limited to, self-service office copiers and multi-functional devices (MFD), desktop and stand-alone printers, and scanners) purchased or leased with federal funds appropriated to the Army, shall be procured through DLA Document Services using its Equipment Management Solutions Portal (<https://www.public.dacs.dla.mil/ems/ext/>). If the required product is not available through DLA, an Exception to Policy (ETP) must be issued and the second mandatory source is Army CHES. If using CHES, the ITAS submission must include the DLA ETP. For more details, see Army CIO memorandum Army Procurement or Lease of Printing Devices and Services, dated 17 November 2023, and DODI 5330.03 Single Manager of DoD Document Services.

(1) U.S. Army National Guard (ARNG), U.S. Army Reserve (USAR), Army-wide departmental printing and Army Headquarters printing services provided by the U.S. Army Print and Media Distribution Center (APMDC), and Army intelligence printers and services acquired under the National Intelligence Program (NIP) or the Military Intelligence Program (MIP) are exempt from the mandatory use of DLA Document Services for printing equipment, however CHES is still the mandatory source for printing equipment.

(2) Products exempt from this policy include items that are funded or procured with non-Army funding and manufacturing equipment, such as 3-D printers.

*(b) Information technology services.*

(1) Except as provided in AFARS 5139.101-90(b)(4), the Army's CHES program is the mandatory source for the purchase of commercial IT services. Purchasers of commercial IT services must satisfy their requirements by utilizing the CHES contracts first, regardless of dollar value or financial appropriation. When procuring IT services, contracting personnel must consider setting aside requirements for small businesses and other small business categories in accordance with FAR 13.003(b)(1) and FAR subpart 19.5. Contracting officers shall ensure that the procurement package contains sufficient supporting documentation to assist the Contracting officer in determining whether to set aside the requirement for small businesses and other small business categories in accordance with FAR 13.003(b)(1) and FAR subpart 19.5. Purchasers of commercial IT services that meet the requirement for small business set-asides shall use the small business/socioeconomic set-aside functions within the CHES RFP tool. If no small business within the CHES contracts can satisfy the requirement, a CHES SoNA should be requested.

(2) Any purchase of commercial IT services made outside of the CHES contracts requires an Army DCS, G6 approved ITAS Approval. The ITAS Approval along with supporting documentation shall be part of the procurement package submitted to the Contracting officer and shall also be part of the resulting solicitation and contract file(s). Supporting documentation must include documentation submitted with the ITAS Approval request such as a CHES SoNA for items that are not available from CHES, market research analysis, or other rationale for not using CHES. The CHES website located at <http://ches.army.mil> provides a complete list of CHES contracts as well as information concerning ITAS Approval and CHES SoNAs. The ITAS Approval website is located at <https://cprobe.army.mil/enterprise-portal/web/itas/home>.

(3) If a services requirement includes any IT hardware and/or software, the Contracting officer must ensure solicitations and contract vehicles include the requirement to purchase through the J/ELA, DoD ESI agreements, and/or CHES contracts. If a services requirement includes non-CHES IT hardware or software, personnel must secure an Army DCS, G-6 approved ITAS Approval for the non-CHES IT hardware and software per paragraph (a)(2) in this section. The procurement package and contract file documentation requirements of paragraph (a)(2) apply to hardware and software purchased as part of IT services requirements.

*(4) Exceptions.*

(i) IT embedded in weapons systems.

(ii) Purchases of peripheral electronic supplies for IT equipment (for example, keyboards, mice, webcams, compact disks, cables or cords, and so forth) up to \$500 per purchase of supplies (not per item). GPC rules regarding split purchases still apply.

(iii) Contracting officers may purchase commercial IT services outside of the CHES contracts, for procurements in support of Non-Program Executive Officer (PEO)/Project

Manager (PM) managed National Intelligence Program (NIP) or Military Intelligence Program (MIP) systems (Non-PEO/PM managed NIP or MIP will be requested using the Army G-2 Army Request for Information Technology–Military Intelligence (ARFIT-MI)).

(iv) The Product Lead, Common Hardware Systems (PdL CHS) coordinates across the Army's computing environments and tactical program offices to modify commercially available off-the-shelf IT to meet specific program requirements for transport or ruggedization, to ensure configuration and end of life management. Organizations that receive written authorization from PdL CHS to use a CHS contract are exempt from the requirement to obtain a CHES SoNA. In such circumstances, requiring activities will provide PdL CHS's written authorization to the Contracting officer as part of the procurement package. Contracting officers shall place the written authorization in the contract file.

(v) CHES exemptions. The following are exempt from both the mandatory use of CHES and the requirement to submit a statement of non-availability (SoNA) for obtaining ITAS approval to procure IT outside of CHES—

(A) Commercially developed IT offered to the Army's accredited institutions of higher education at a price discount more favorable for the Army than prices available through CHES.

(B) Procurements of government off-the-shelf information technology (GOTS IT) as defined by the Committee on National Security Systems: software and hardware developed by the technical staff of a U.S. Government organization for use by the Government. GOTS IT sales and distribution are controlled by the Government. GOTS IT is both commercially unavailable to the public and unavailable via CHES.

(C) Procurement of all cloud services, software development, and continuous software evolution service-type contracts (e.g., labor).

(D) Pursuant to DFARS 208.7402(a) Departments and agencies shall fulfill requirements for commercial software and commercial software services, such as software maintenance, in accordance with the DoD Enterprise Software Initiative (ESI) (see <https://www.esi.mil/>). In some cases, DOD ESI will direct the use of the appropriate CHES contract.

(E) Printing Services, specifically, maintenance of installed Government-owned or DLA leased printing devices to include repairs; and printing, scanning, and document conversion, shall be procured through DLA Document Services using its Equipment Management Solutions Portal (<https://www.public.dacs.dla.mil/ems/ext/>). If the required service is not available through DLA, an Exception to Policy (ETP) must be issued and the second mandatory source is Army CHES. If using CHES, the ITAS submission must include the DLA ETP.

(1) U.S. Army National Guard (ARNG), U.S. Army Reserve (USAR), Army-wide departmental printing and Army Headquarters printing services provided by the U.S. Army Print and Media Distribution Center (APMDC), and Army intelligence printers

and services acquired under the National Intelligence Program (NIP) or the Military Intelligence Program (MIP) are exempt from the mandatory use of DLA Document Services for printing services, however CHESS is still the mandatory source for printing services.

(2) Printing services exempt from this policy include products managed by the Army Print and Media Distribution Center (APMDC) such as Armywide publications (books, flyers, posters, and so forth).

(5) *Performance Work Statement (PWS) Language for Army capabilities on the Department of Defense Information Network (DoDIN).*

Army Chief Information Officer memorandum: Army Information Technology Solutions and Services Mandatory Performance Work Statement Language, dated 6 February 2025, provides that requirements and contracts related to Army capabilities on the Department of Defense Information Network (DoDIN) should implement the memorandum's enclosed PWS language. The referenced PWS language is available at HQDA, Office of the Chief Information Officer - Army Technology Solutions PWS Language - 20250122.pdf - All Documents.

(c) *Training.* Senior contracting officials must ensure that contracting personnel receive appropriate CHESS training and should ensure that contracting personnel document the training on their individual development plans. Personnel can request CHESS training and view the training slides at <https://chess.army.mil/UserTrainingRequest>.

(d) *Cloud Computing.* The Army Enterprise Cloud Management Agency (ECMA) is the central point for all efforts and processes related to cloud adoption across the Army. ECMA established a standardized cloud architecture which is intended for use by all Army mission areas. ECMA provides enterprise-level contracts for commercial Cloud Service Provider (CSP) offerings, common services, and application migration support.

## **Subpart 5139.74 – Telecommunications Services**

### **5139.7402 Policy.**

(b)(4) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may authorize actions as described in DFARS 239.7402(b)(4). See [Appendix GG](#) for further delegation.

(e) *Commercial Satellite Communications.* Pursuant to Public Law 116-283 Section 1605 and DoD policy, DoD organizations, Services, and Combatant Commands must procure all Commercial Satellite Communications (COMSATCOM) services through the United States Space Force's (USSF's) Commercial SATCOM Communications Office (CSCO). Commercial managed services or internet through satellites are considered Commercial SATCOM and represent the SATCOM Segment of the DoD Information Network (DoDIN). See paragraph (d) of Enclosure (E) to [Chairman Joint Chiefs of Staff Instruction \(CJCSI\) 6250.01G](#) and paragraph 1.2 of DoD Instruction (DoDI) 8420.02.

(1) Contracting officers are not authorized to procure any COMSATCOM services, unless a waiver is provided by program offices or requiring activities that authorizes procurement of COMSAT products or services that are not available through the USSF's CSCO.

(2) Program offices or requiring activities shall contact one of the USS Force CSCO, local Regional SATCOM Support Centers (RSSCs) for a waiver and all procurement assistance.

West CMCL: 719-554-4304 DSN 312-692-4304  
East CMCL: 813-828-6836 / 6841 DSN 312-968-6836 / 6841  
Europe CMCL: 49 (0)711 907120 5265 DSN 324-434-5230  
Pacific CMCL: 808-656-0683 DSN 315-456-656-0683  
Email: rsscwest.commercial@us.af.mil

## **Subpart 5139.76 – Cloud Computing**

### **5139.7602 Policy and Responsibilities.**

(a) Contracting officers shall ensure contract actions for cloud-related requirements reflect the Technology Business Management taxonomy at AFARS Appendix HH – Cloud Computing and follow the guidance provided at AFARS 5111.106 unless the requiring activity provides a waiver approved by ECMA (armycloud@army.mil). The waiver must be filed in the official contract file.

(b) Contracting officers should review cloud computing requirement packages to ensure they are compliant with the Army Chief Information Officer memorandum: Army Information Technology Solutions and Services Mandatory Performance Work Statement Language, dated 6 February 2025. The referenced PWS language is available at HQDA, Office of the Chief Information Officer - Army Technology Solutions PWS Language - 20250122.pdf - All Documents.



# **AFARS – PART 5140**

## **Information Security and Supply Chain Security**

*(01 October 2024)*

No AFARS Text

# AFARS – PART 5141

## Acquisition of Utility Services

*(Revised 01 October 2024)*

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### Subpart 5141.1 – General

See [AFARS PGI 5141.1-1](#) for guidance on termination for convenience of Army energy savings performance contracts.

#### **5141.102 Applicability.**

See Army Regulation 420-41 Acquisition and Sale of Utilities Services.

### Subpart 5141.2 – Acquiring Utility Services

#### **5141.201 Policy.**

In accordance with Army Regulation 420-41, the Chief of Engineers is the Department of the Army power procurement officer exercising authority delegated by the Assistant Secretary of the Army (Acquisition, Logistics and Technology) and is responsible for the administration of the purchase and sale of utility services and for policies, engineering, rates, and legal sufficiency related to all utility services transactions and contracts in which the Army has a monetary interest. The Chief of Engineers may enter into definite term utility contracts for utility services for periods not to exceed 10 years. The Chief of Engineers may redelegate this authority to the deputy Army power procurement officer.

## **AFARS – PART 5142**

### **Contract Administration and Audit Services**

*(Revised 14 March 2025)*

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#### **Subpart 5142.1 – Contract Audit Services**

**5142.190 Follow-up on contract audit reports.**

**5142.190-1 Responsibilities.**

(a) The Deputy Assistant Secretary of the Army (Procurement) is the Army's contract audit follow-up official.

(b) The senior contracting official (SCO) shall perform the functions of the Army's contract audit follow-up official for their respective commands. SCOs shall –

(1) Establish Overage Audit Review Boards;

(2) Ensure that the effective resolution and disposition of audit findings and recommendations in a timely manner while fully protecting the Government's interests is a factor in organizational and individual performance standards and objectives; and

(3) Maintain close surveillance of all contract audit reports, resolve, and dispose any audit reported.

(c) Chiefs of contracting or contract administration offices shall track and assist Contracting officers in the resolution and disposition of those audit recommendations which appear unlikely to be resolved within six months of the date of an audit report.

(d) Contract audit follow up monitor

(1) The Monitor shall receive new audits and coordinate with Contracting officers, their SCO and the ODASA(P) to resolve and disposition audits in a timely manner.

(2) The Monitor shall ensure Contracting officers receive a copy of the audit and status updates on the resolution and disposition of the audit on a monthly basis.

(3) The Monitor shall maintain current information and status of the audits in the contract audit follow up system.

(e) Contracting officers shall –

(1) Resolve the recommendations as described in DoD Instruction (DoDI) 7640.02 not later than six months from the date of the audit report and dispose those recommendations within 12 months;

(2) Invite the auditor to participate in the review when it is considered necessary; and

(3) Appear before the Overage Audit Review Board to discuss the resolution and disposition of any audit reported in accordance with 5142.190-4(a)(4).

See [AFARS PGI 5142.1-1](#) for information on DCAA audit assistance for special access programs.

**5142.190-2 Tracking of contract audit report recommendations.**

(a) Centrally track all contract audit reports from request for audit through receipt, resolution and disposition. Each contracting or contract administration office, including satellite offices such as Government-owned contractor-operated, shall establish a single entity for requesting, receiving and tracking all audit reports. Provide the activity name, address, attention symbol, point of contact and telephone number of the single entity to the contract administration services office and Defense Contract Audit Agency regions involved.

(b) Centrally track and report audit report data in accordance with DoDI 7640.2. Maintain a file for each audit report and include in each file the following information:

- (1) Report number.
- (2) Activity address code.
- (3) Issuing agency.
- (4) Date of report.
- (5) Contractor name.
- (6) Contract number(s).
- (7) Organization responsible for disposition.
- (8) Contracting officer responsible for disposition.
- (9) Total amount subjected to audit.
- (10) Total questioned costs.

(c) For reportable audit reports, the central files shall also include the following information:

- (1) Type(s) of recommendations contained in report. Use the codes in DoDI 7640.2.
- (2) Target date of resolution.
- (3) Actual date of resolution.
- (4) Target date for disposition.
- (5) Date of final decision (if any) of Contracting officer.

(6) Date of filing with Armed Services Board of Contract Appeals or court (if any) and docket or case number.

(7) Disposition results in terms of questioned costs sustained.

### **5142.190-3 Reporting.**

(a) For unclassified audits, contracting or contract administrative offices shall ensure that all records in the contract audit follow up system have updated remarks prior to the 31 March and 30 September Department of Defense Inspector General data pull.

(b) For classified audits, contracting or contract administrative offices shall submit the Status Report on Specified Contract Audit Reports (RCS DD-IG (SA)1580), as required by DoDI 7640.2 to reach the addressee at 5101.290(b)(2)(ii)(A), not later than 15 March and 15 September of each year. Obtain the program and instructions from the addressee at 5101.290(b)(2)(ii)(A). Negative reports are required.

### **5142.190-4 Overage Audit Review Boards.**

(a) Make every effort to resolve audit recommendations within six months of the date of an audit report and disposition them within 12 months. Each SCO shall establish and chair an Overage Audit Review Board (the Board) to review the status of open audits reported as overage or unresolved on the Status Report on Specified Contract Audit Reports. The SCO shall chair the Board. The Board shall –

(1) Be comprised of the contracting activity's senior legal, contracting, and pricing personnel;

(2) Review all open, unresolved audits over six months old and resolved audits over 12 months old that are reported as open on the most recent Status Report on Specified Contract Audit Reports;

(3) Meet early in November to consider the audits due to be reported on 30 November and early in May to consider those audits due to be reported on 31 May. The Board may meet at other times, as necessary;

(4) Hear the Contracting officer's presentation of efforts to resolve and dispose the audit recommendations;

(5) Assist the Contracting officer in developing a plan of action for timely resolution and disposition of the audit recommendations; and

(6) Provide the Contracting officer with necessary guidance and assistance to resolve and dispose the audit recommendations. This shall include reordering priorities, assigning additional or alternate resources or committing the personal attention of the HCA or the SCO to the effort.

(b) Upon completion of its review, but not later than 30 November and 31 May, the Overage Audit Review Board shall submit to the addressee in 5101.290(b)(2)(ii)(A), under a summary cover letter from the SCO, a detailed plan of action for the resolution and disposition of each audit report in the four major categories listed in (1).

(1) The Board shall separate the audits into the following four major categories for reporting:

- (i) 6-12 months old, unresolved.
- (ii) Overage (over 12 months old), unresolved.
- (iii) Overage (over 12 months old), resolved.
- (iv) Resolution date slip from previous report.

(2) Each plan of action shall contain the following information:

- (i) Audit report number.
- (ii) Report date.
- (iii) Contractor name.
- (iv) Type of audit.
- (v) Cost questioned or cost avoidance.
- (vi) A narrative plan of action for resolution and disposition of the audit findings.
- (vii) Target resolution date.
- (viii) Target disposition date.
- (ix) Contracting officer's name.
- (x) Contracting officer's email address.

(3) The Board's report shall describe the action taken to resolve the audit and identify attendees and their role in the process, such as the Contracting officer.

## **5142.190-5 Processing Audit Findings.**

(a) Resolution Status. The Contracting officer shall update the audit CAFU record to resolution status when the written pre-negotiation objective memorandum is approved. For audit reports covering CAS noncompliances, resolution is achieved when the Contracting officer issues a notice of potential noncompliance to the contractor. For audit reports covering business systems, resolution is achieved when the Contracting officer notifies the contractor in writing of the initial determination.

(b) Disposition Status. The Contracting officer shall provide a copy of the post-negotiation memorandum to the DCAA auditor and other affected government offices, as applicable. The contracting officer shall update the audit CAFU record to disposition status when the written post-negotiation memorandum is approved and one of the following actions occurs:

(1) The Contracting officer notifies the contractor in writing of the final determination covering business systems findings and recommendations.

(2) The Contracting officer negotiates a settlement covering all audit issues with the contractor (including corporate or home office allocations) and executes any required contracting action (e.g. indirect rate agreement).

(3) The Contracting officer issues a final determination/decision on a CAS noncompliance audit or other matter pursuant to the disputes clause. The Contracting officer must reinstate the audit report as an open report (“in litigation status”) if the contractor appeals to:

(i) The Armed Services Board of Contract Appeals (ASBCA) within 90 days, or

(ii) The U.S. Court of Federal Claims within 12 months.

(4) The Contracting officer makes a final determination on a disclosure statement submission or revision.

(5) The ASBCA or U.S. Court of Federal Claims renders a decision, any required actions directed by ASBCA or the Court are completed, and a contractual document is executed.

(6) DCAA supplements or supersedes the audit report.

(7) The Contracting officer determines final action on a CAS cost impact proposal.

(8) The Contracting officer makes a written determination that corrective actions have been taken, so that no further actions can be reasonably anticipated.

(c) Where to store files in PCF. Audit reports are stored in PCF based on the type of audit being resolved and dispositioned.



(1) Pre-Award Audits. Pre-Award Audit documentation shall be filed in PCF within the following section: I Pre-Award, C. Evaluation, 04. Evaluations, Technical Evaluations.

(2) Incurred Cost, Defective Pricing, Claims, Business System, Cost Accounting Standards, Operations, Earned Value Management System, Other shall be filed in PCF within the following section: II Award, F. Post Award Documents, 01 Post Award Documentation.

(3) Terminations shall be filed in PCF within the following section: II Award, I. Administration, 10 Post Terminations.

### **Subpart 5142.2 – Contract Administration Services**

#### **5142.202 Assignment of contract administration.**

(c)(2) The head of the contracting activity shall approve the delegation as stated in FAR 42.202(c)(2). See [Appendix GG](#) for further delegation.

### **Subpart 5142.3 – Contract Administration Office Functions**

#### **5142.302 Contract administration functions.**

(a)(S-75)(c)(1)(i)(C) The head of the contracting activity shall direct a formal program of Government monitoring of contractor policies, procedures, and practices for controlling costs at contractor locations as stated in DFARS PGI 242.302(a)(S-75)(c)(1)(i)(C). See [Appendix GG](#) for further delegation.

### **Subpart 5142.6 – Corporate Administrative Contracting Officer**

#### **5142.602 Assignment and location.**

(a)(2) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) approves the need for a CACO. See [Appendix GG](#) for further delegation.

### **Subpart 5142.7 – Indirect Cost Rates**

#### **5142.703 General.**

##### **5142.703-2 Certification of indirect costs.**

(b)(1) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the certification requirement at FAR 42.703-2. See [Appendix GG](#) for further delegation.

### **Subpart 5142.15 – Contractor Performance Information**

#### **5142.1502 Policy.**

(d) *Orders under single-agency contracts.* Where the scope of the indefinite delivery contract is narrow or orders will be essentially similar, the Contracting officer shall prepare reports at the base contract level.

### **5142.1503 Procedures.**

(a)(1)(ii)(I) Contracting officer's representatives (CORs) will assist the Contracting officer with entering objective performance information in the Contractor Performance Assessment Reports System (CPARS) for each contract or order assigned. The Contracting officer may assign the COR the role of assessing official representative in CPARS.

(2) Include the Contracting officer in the assessment process prior to forwarding a report to the contractor for review.

(2) See 5142.1503-90(a) for a list of CPARS assessing officials (AOs) for contracts in different business sectors.

(b)(2)(vi) The AO shall consider the extent to which the contractor complied with Department of Defense policy for item unique identification; see DFARS 211.274-2 Policy for item unique identification, and AFARS 5111.274-2.

(b)(4) The AO shall support the rating assigned to an element or sub-element with narrative rationale. Narratives shall clearly convey the rationale behind the rating to the contractor, as well as to a Government source selection official who is not familiar with the instant contract. This is especially important for any rating above or below satisfactory. The AO should support narratives with quantifiable or verifiable documentation. While larger or more complex efforts warrant greater detail, narratives should be clear and concise.

(f) See Army Regulation 715-30, as revised, for maintenance of past performance information that cannot be maintained in an unclassified database.

(h)(2) The Contracting officer shall process the CPARS initial registration consolidated format and a CPARS access request form (or a single consolidated form that contains all the required information from both forms) and shall ensure the CPARS focal point receives both documents to ensure completion of registration within 30 calendar days from award of a contract. CPARS registration formats are located at 5153.303-9 Initial registration and 5153.303-10 Access request.

## **5142.1503-90 Policy.**

(a) The CPARS AOs are as follows:

<b><u>Business Sector</u></b>	<b><u>CPARS Assessing Official</u></b>
Systems	Program Manager (PM)
Operations Support	Contracting Officer
Services	Contracting Officer or PM*
Information Technology	Contracting Officer
Construction	Contracting Officer
Architect-Engineering	Contracting Officer
All other contracts	Contracting Officer

\* The PM (program/project/product manager) is the assessing official for those service contracts providing technical or management support to the program office.

(b) The AO may prepare an out-of-cycle or “addendum” report if there is a need to record an extraordinary event prior to the next regularly scheduled evaluation or if it is necessary to report a meaningful occurrence during the period between physical completion of the contract and contract closeout. The AO shall prepare an addendum report in CPARS if any unusual or extraordinary action occurs during contract execution including the issuance of a show cause letter, stop work order or termination of the contract. Additionally, the AO may prepare addendum reports to record contractor’s performance relative to contract close-out and other administrative requirements (e.g., final indirect cost proposals, technical data, etc.).

(c) For job order contracts, the Contracting officer shall ensure completion of an assessment report for each order of \$700,000 or more.

## **Subpart 5142.71 – Voluntary Refunds**

### **5142.7100 General.**

(4) Voluntary refunds must be approved by the head of the contracting activity as described in DFARS PGI 242.7100(4). See [Appendix GG](#) for further delegation.

# AFARS – PART 5143

## Contract Modifications

*(Revised 01 October 2024)*

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### Subpart 5143.2 – Change Orders

#### **5143.204 Administration.**

#### **5143.204-70-5 Exceptions.**

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the limitations under DFARS 243.204-70-2, 243.204-70-3, and 243.204-70-4. See Appendix GG for further delegation.

(S-90) See [Army Class Deviation 2024-PP01—Unpriced Change Orders Related to Ukraine, Taiwan, and Israel](#). (26 Feb 2024).

#### **5143.204-70-6 Allowable profit.**

The head of the contracting activity shall ensure the profit allowed reflects the conventions under DFARS 243.204-70-6. See Appendix GG for further delegation.

#### **5143.205 Contract clauses.**

(c) The Contracting officer may change the period in which the contractor may assert claims under the clause at FAR 52.243-3, Changes—Time-and-Materials or Labor-Hours, to a period less than “30 days.”

# **AFARS – PART 5144**

## **Subcontracting Policies and Procedures**

*(Revised 01 October 2024)*

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### **Subpart 5144.3 – Contractors Purchasing System Reviews**

#### **5144.302 Requirements.**

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology), on a non-delegable basis, may raise or lower the \$50 million review level for contracts administered by the Army, if it is considered to be in the Government’s best interest.

# **AFARS – PART 5145**

## **Government Property**

*(Revised 01 October 2024)*

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## **5145.000 Scope of part.**

[See AFARS PGI 5145.000\(b\)\(5\)\(S-90\)\(i\)](#) for instructions associated with accounting for incidental property within the contract.

### **Subpart 5145.1 – General**

#### **5145.101 Definitions.**

As used in this part—

“Accounting Requirements Code” (ARC) is a code assigned to each item of supply to identify its specific classification and the degree of accounting and control that must be applied at the user level. Logistics Support Activity assigns the accounting requirements code (ARC) using the ARC assignment criteria contained in DA Pam 708–2, Cataloging and Supply Management Data Procedures for the Army Enterprise Material Master.

“Nonexpendable”, as used in the definition of equipment at AR 735-5, Property Accountability Policies refers to an item that is not consumed in use and that retains its original identity during the period of use. These items have an ARC of “N” contained in the Federal Logistics Data Base (FEDLOG)

#### **5145.102 Policy.**

(b) See AFARS 5145.103-70.

(e) The head of the contracting activity shall make the determination at FAR 45.102(e). See [Appendix GG](#) for further delegation.

(4) *Government-furnished property identification.*

(ii)(B) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to determine exceptions to the item unique identification requirement to tag, mark and label items used to support a contingency operation, or to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack as set forth in DFARS 245.102(4)(ii)(B). See [Appendix GG](#) for further delegation.

(C)(I)(i) The responsible Program Executive Officer shall execute the determination and findings for all ACAT I programs. See [Appendix GG](#).

(ii) The head of the contracting activity shall execute the determination and findings for all non-ACAT I programs. See [Appendix GG](#) for further delegation.

#### **5145.103 General.**

[See AFARS PGI 5145.103\(a\)\(6\)](#) for instructions associated with declaring excess property.

#### **5145.103-70 Furnishing Government property to contractors.**

(2) The Contracting officer shall ensure the Requiring Activity's documentation to support furnishing Government property for commercial services below the Simplified Acquisition Threshold (SAT), as defined in FAR 2.101, meets the requirements outlined in FAR 45.102 and DFARS PGI 245.103-70(2).

The Contracting officer shall include documentation received from the Requiring Activity which supports the decision to provide Government Property in the Paperless Contract File (PCF) Pre-award Section (i.e., Requirements Package folder), in accordance with AFARS 5104.8.

#### **5145.103-72 Government-furnished property attachments to solicitations and awards.**

- (a) The requiring activity or Program Management Office (PMO) is responsible for initiating the GFP attachment in the GFP module.
- (b) The Contracting officer is responsible for approving the GFP attachment in the GFP module.

#### **5145.103-73 Government property under sustainment contracts.**

(1) Contracting officers may accept alternate Data Item Description from that identified in the DFARS PGI 245.103-73, if the requiring activity so determines.

[See AFARS PGI 5145.103-74\(1\)\(a\)](#) for instructions associated with the use of Logistics Management Program (LMP) and Total Asset Visibility at Contractor Locations (TAV-C).

#### **5145.103-74 Contracting office responsibilities.**

[See AFARS PGI 5145.103-74](#) for instructions associated with documentation of Government Property and recurring inventory reports.

#### **5145.105 Contractor's property management system compliance.**

[See AFARS PGI 5145.105](#) for instructions associated with the Contractor's property management system compliance.

#### **5145.107 Contract Clauses.**

[See AFARS PGI 5145.107](#) for instructions associated with the use of clauses in solicitations and contracts which include the use of GFP 5145.190.

#### **5145.190-1 Leasing personal property.**

- (a) See Army Regulation 700-131 para 2-3 Government Furnished Equipment.



## **5145.190-2 Furnishing Government property after award.**

[See AFARS PGI 5145.190-2](#) for instructions associated with the Furnishing Government property after award.

### **Subpart 5145.2 – Solicitation and Evaluation Procedures**

#### **5145.201 Solicitation.**

[See AFARS PGI 5145.201](#) for instructions associated with the solicitation procedures.

#### **5145.202 Evaluation Procedures.**

[See AFARS PGI 5145.202](#) for instructions associated with the evaluation procedures.

### **Subpart 5145.3 – Authorizing the Use and Rental of Government Property**

#### **5145.301 Use and rental.**

(f) The head of the contracting activity shall provide prior approval where non-Government use is expected to exceed 25 percent of the total use of Government and commercial work performed. See [Appendix GG](#) for further delegation.

#### **5145.390 Documentation of Government property in contracts.**

Contracting officers must ensure that changes to Government property made over time are reflected by modifications to the contract. Any changes to the GFP attachment over the life of the contract require both a contract modification and a GFP attachment update.

(a) Contracting officers must ensure that additions and deletions of GFP made over time are reflected by modifications to the contract and the GFP attachment within the PIEE module at least annually (see AFARS 5145.103-74 Contracting office responsibilities.

(b) Contracting officers shall ensure that the contract action report statement within Federal Procurement Data System – Next Generation (FPDS-NG) is annotated as “Transaction uses GFP” on the initial action and all subsequent contract modifications until all property is dispositioned.

### **Subpart 5145.4– Title to Government Property**

#### **5145.402-70 Policy.**

(a) [See AFARS PGI 5145.402- 70](#) for instructions associated with Contractor Acquired Property (CAP).

(b) Requiring activities and accountable property officials shall obtain Government property records from the Procurement Integrated Enterprise Environment (PIEE) GFP module, including loss and disposition records.

#### **Subpart 5145.5 – Support Government Property Administration**

##### **5145.570-90 Storage at the Government's expense.**

The approval authority for determinations that contractor inventory may be stored at the Government's expense for one year or more must be one level higher than the Contracting officer.

#### **Subpart 5145.6– Reporting, Reutilization, and Disposal**

##### **5145.605 Inventory disposal reports.**

[See AFARS PGI 5145.605](#) for instructions associated with Inventory disposal reports.

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## Quality Assurance

*(Revised 01 October 2024)*

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### Subpart 5146.5 – Acceptance

#### **5146.501 General.**

Include acceptance documentation as a permanent part of the contract file prior to contract closure.

#### **5146.503 Place of acceptance.**

When contemplating destination acceptance in solicitations and contracts, Contracting officers shall—

(1) Verify the Department of Defense Activity Address Code (DoDAAC) of each receiving activity in the solicitation or contract (DoDAAC verification information is available at <https://home.daas.dla.mil/DAASINQ/>);

(2) Prior to assigning acceptance responsibility, ensure that there is a registered acceptor available in Wide Area Workflow (WAWF) for each destination acceptance point (WAWF acceptor information is available at <https://wawf.eb.mil> under “Active DoDAACs and Roles”);

(3) When no WAWF acceptor is available at destination, use source acceptance or “acceptance at other” in WAWF;

(4) Not designate destination acceptance at a contractor location, but shall instead clearly designate a Government acceptance point within Section E of the contract schedule; and

(5) Clearly define the acceptance procedures in Section E.

### Subpart 5146.7 – Warranties

**5146.702 General.**

(c) See [Army Regulation 700-139](#) for procedures on tracking and accumulating data on warranty costs.

# **AFARS – PART 5147**

## **Transportation**

*(Revised 01 October 2024)*

No AFARS Text

# AFARS – PART 5148

## Value Engineering

*(Revised 01 October 2024)*

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### Subpart 5148.1 – Policies and Procedures

#### 5148.102 Policies.

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has authority to exempt individual contracts, or specific classes of contracts, from including value engineering provisions as prescribed by FAR 48.201 and 48.202. See [Appendix GG](#) for further delegation.

(b) Refer to the Department of the Army Pamphlet 70–3, 17 September 2018, paragraph 6-14, which is available via the [Army Publishing Directorate](#).

#### 5148.104 Sharing arrangements.

#### 5148.104-3 Sharing collateral savings.

(a) The head of the contracting activity shall make the determination at FAR 48.104-3(a). See [Appendix GG](#) for further delegation.

### Subpart 5148.2 – Contract Clauses

#### 5148.201 Clauses for supply or service contracts.

(a)(6) See 5148.102(a).

(e) The head of the contracting activity shall make the determination at FAR 48.201(e). See [Appendix GG](#) for further delegation.

**5148.202 Clause for construction contracts.**

The head of the contracting activity shall make the determination at FAR 48.202. See [Appendix GG](#) for further delegation.

## **AFARS – PART 5149**

### **Termination of Contracts**

*(Revised 01 October 2024)*

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#### **Subpart 5149.1 – General Principles**

##### **5149.101 Authorities and responsibilities.**

(b)(i) Contracting officers should exercise the authority to terminate a contract for convenience of the Government only after full coordination with senior officials of the activity which requested establishment of the contract.

##### **5149.101-90 Contracts resulting from military interdepartmental purchase requests.**

Terminate contracts resulting from military interdepartmental purchase requests in accordance with DFARS 208.7004, DFARS PGI 208.7004-6 and 208.7004-7.

##### **5149.102 Notice of termination.**



The Contracting officer shall notify the cognizant suspension and debarment official of all decisions to terminate a contractor for default. Send the notification to the suspension and debarment official in accordance with AFARS 5109.403. Include a copy of the Contracting officer's notice of termination for default or cause to the contractor in accordance with FAR 49.102(a).

#### **5149.107 Audit of prime contract settlement proposals and subcontract settlements.**

(a) Within five calendar days after receipt from the contractor, send electronically all settlement proposals to the responsible audit office. Include inventory and accounting information and related documents.

### **Subpart 5149.4 – Termination for Default**

#### **5149.401 General.**

See AFARS 5142.1503-90(b) for the requirement to prepare a contractor past performance assessment report for all contracts or orders immediately upon termination for default.

#### **5149.402 Termination of fixed-price contracts for default.**

##### **5149.402-3 Procedure for default.**

(e)(4) Contracting officers should not terminate for default any contract with a small business firm to whom a Certificate of Competency was issued, or to whom loans were made with the Small Business Administration's participation, without prior written approval of the head of the contracting activity.

(f)(6) When unliquidated progress payments, advance payments, guaranteed loans, or anticipated excess repurchase costs are involved, the Contracting officer must –

(A) Obtain from the Contracting officer a statement of the value of the inventory that may be available for offset against the outstanding financing; and

(B) Identify and state the approximate amount of the excess acquisition costs applicable.

### **Subpart 5149.5 – Contract Termination Clauses**

#### **5149.501 General.**

##### **5149.501-70 Special termination costs.**

(a) In accordance with DFARS 249.501-70, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) shall approve use of clause at DFARS 252.249-7000. See Appendix GG for further delegation.

### **Subpart 5149.70 – Special Termination Requirements**

#### **5149.7001 Congressional notification on significant contract terminations.**

(1) The Contracting officer shall send to the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) notifications of significant contract terminations –

- (i) As soon as the Contracting officer identifies a potential full or partial termination; and
- (ii) Once the Contracting officer has made a final decision to terminate.

(2) The Contracting officer is not authorized to release any termination notice or any information concerning the proposed significant contract termination until the Office of the Chief Legislative Liaison clears the termination notice. The ODASA(P) will coordinate notification with the Office of the Chief Legislative Liaison. ODASA(P) will then notify the Contracting officer whether the action is cleared for termination.

(3) The Contracting officer shall send termination notifications in the format in DFARS PGI 249.7001. Send the unclassified notices through the senior contracting official (SCO) to the address at AFARS 5101.290(b)(2)(ii)(B).

(4) See FAR 3.104-4(f)(1) if the notification discloses any contractor bid or proposal information or source selection information.

#### **5149.7003 Notification of anticipated contract terminations or reductions.**

(b)(i) The requirements in DFARS 249.7003 apply for terminations or substantial reductions under major defense programs, notwithstanding the separate congressional notification required in DFARS 249.7001 and AFARS 5149.7001.

(ii) Contracting officers shall send the Secretary of Labor notice required in DFARS 249.7003 to ODASA(P). ODASA(P) will be responsible for coordinating the notification to the Secretary of Labor.

(iii) The Contracting officer shall send termination notifications in the format in DFARS PGI 249.7001. Send the unclassified notices through the SCO directly to the address at AFARS 5101.290(b)(2)(ii)(B). Contracting officers and SCOs shall ensure the Secretary of Labor notice arrives at ODASA(P) with sufficient time for ODASA(P) to process and send the notice to the Secretary of Labor.

(iv) If both DFARS 249.7001 and 249.7003 apply, the timing requirements of 249.7003 may necessitate release of the 249.7003(b)(2) notification before the 249.7001 notification. In such cases, the Contracting officer shall provide the DFARS 249.7003(b)(2) notices within the required timeframe, but shall not provide the contractor with other information on the anticipated termination until the requirements at DFARS 249.7001 and AFARS 5149.7001 have been satisfied.

## AFARS – PART 5150

### Extraordinary Contractual Actions and the Safety Act

*(Revised 01 October 2024)*

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#### Subpart 5150.1 – Extraordinary Contractual Actions

##### **5150.101 General.**

##### **5150.101-3 Records.**

(1)(iii) See DFARS PGI 250.103. Unless otherwise specified, the Contracting officer is responsible for maintaining all records under subpart 5150.1. The Office of the Deputy Assistant Secretary of the Army (Procurement) will maintain a record of all memorandums of decision executed at the Secretariat level.

##### **5150.102 Delegation of and limitations on exercise of authority.**

##### **5150.102-1 Delegation of authority.**

(d) The Secretary of the Army, on a non-delegable basis, has the authority to indemnify against unusually hazardous or nuclear risks, including extension of such indemnification to subcontracts.

##### **5150.102-1-70 Delegations.**

(a) *Military Departments.* Subject to the restrictions on delegations of authority in DFARS Part 250 and FAR 50.102-1 and 50.102-3, HCAs may exercise, without power of redelegation, the

contract adjustment authority contained in the Act and Executive Order for amounts not exceeding the threshold at FAR 50.102-1(b).

(i) The authority to deny contract adjustment requests, regardless of dollar value, is delegated to the head of the contracting activity, without power of redelegation. See Appendix GG.

(ii) Requests for contract adjustments for amounts exceeding the threshold at FAR 50.102-1(b), and that are endorsed by the contracting activity, are adjudicated by the Army Contract Adjustment Board. See AFARS 5150.102-2.

#### **5150.102-2 Contract adjustments boards.**

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) convenes the Army Contract Adjustment Board (ACAB) on an as-needed basis. In accordance with Headquarters, Department of the Army General Orders Number 2020-01 (and any successor document) the Office of the Army General Counsel provides the ACAB Recorder.

#### **5150.103 Contract adjustments.**

##### **5150.103-5 Processing cases.**

Within five working days of receipt of a request for contract adjustment, regardless of dollar amount, the Contracting officer shall submit the request, through procurement channels as described below.

(1) For contract adjustment on existing firm-fixed-price contracts to account for inflationary conditions (See <https://www.acq.osd.mil/dpap/policy/policyvault/USA001773-22-DPC.pdf> for Defense Pricing and Contracting guidance)—

(a) Contracting officers shall send FAR Part 50 contract adjustment requests to the Office of the Deputy Assistant Secretary of the Army (Procurement (ODASA(P))) via [usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil), within 5-business days of receipt. Subject line should state “FAR Part 50 Extraordinary Contractual Actions\_Inflation Impacts\_Vendor Name”.

(b) The ODASA(P) will submit the contractor request to DPC within 5-business days of receipt from the Contracting officer. The request will be submitted to DPC via [osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil](mailto:osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil).

(c) AFARS Subparts 5150.103-5(1)(a) and (b) satisfy DPC reporting guidance of 10-business days.

(2) For processing and disposition of cases for contract adjustments, Contracting officers shall—

(a) Submit the Preliminary Record of Request for Adjustment, through their local headquarters office, to the ODASA(P) via the Enterprise Task Management System 2.0 (ETMS2 – commonly referred to as the Task Management Tool or TMT) within 30 days after the close of the month in which the record is prepared.

(b) Follow the procedures at DFARS PGI 250.103-5 and DFARS PGI 250.101-3(2) to prepare the preliminary and final record and coordinate with their local Senior Contracting Official and legal counsel prior to submitting to the ODASA(P).

(3) The ODASA(P) will staff the request with the Office of the General Counsel/Acquisition Law Practice Group and the Army Contract Adjustment Board (ACAB).

(4) The ACAB is convened by the ASA(ALT) on an as-needed basis. The ACAB will approve or disapprove the request. The Contracting officer will be notified of the ACAB's decision and shall prepare the final record as described in DFARS PGI 250.103-6.

# **AFARS – PART 5151**

## **Use of Government Sources by Contractors**

*(Revised 01 October 2024)*

No AFARS Text

# AFARS – PART 5152

## Solicitation Provisions and Contract Clauses

*(Revised 01 October 2024)*

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### Subpart 5152.1 – Instructions for Using Provisions and Clauses

#### 5152.101 Using part 5152.

(b) *Numbering.*

(2) *Provisions or clauses that supplement the FAR.*

(i)(C) Requests for approval of nonstandard clauses or provisions which are deviations, one time and recurring, must be processed in accordance with 5101.4.

(ii)(A) The Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) Procurement Policy Directorate (SAAL-PP), will assign clause and provision numbers for the AFARS and Army suborganizational level clauses in accordance with Appendix FF, the Department of the Army Plan for Control of Nonstandard Clauses. SAAL-PP will number Army provisions and clauses in the same manner in which the FAR numbers provisions and clauses, except if the contracting activity must publish the provision or clause in the *Federal Register* and codify it in Title 48, Code of Federal Regulations (see FAR 1.3 and 1.5), precede the number with “51.”

(B) AFARS provision or clause numbers use a four-digit sequential number in the 9000 series, e.g., -9000, -9001, and 9002. Army command, subordinate command or contracting offices provision or clause numbers also use a four-digit sequential number in the 9000 series.



## **Subpart 5152.2 – Texts of Provisions and Clauses**

### **5152.211-9000 Evaluation of Subline Items.**

As prescribed in 5111.703(c)(i), insert the following provision:

#### **EVALUATION OF SUBLINE ITEMS (DEC 2019)**

Item Nos. \_\_\_\_\_ are subdivided into two or more estimated quantities and are to be separately priced. The Government will evaluate each of these items on the basis of total price of its subline items.

(End of provision)

### **5152.211-9001 Variations in Estimated Quantities—Subline Items.**

As prescribed in 5111.703(c)(ii), insert the following clause:

#### **VARIATIONS IN ESTIMATED QUANTITIES — SUBLINE ITEMS (DEC 2019)**

This variation in estimated quantities clause is applicable only to item Nos. \_\_\_\_.

(a) Variation from the estimated quantity in the actual work performed under any second or subsequent subline item or elimination of all work under such a second or subsequent subline item will not be the basis for an adjustment in contract unit price.

(b) Where the actual quantity of work performed for item Nos. \_\_\_\_\_ is less than 85% of the quantity of the first subline item listed under such item, the contractor will be paid at the contract unit price for that subline item for the actual quantity of work performed and, in addition, an equitable adjustment shall be made in accordance with the clause at Federal Acquisition Regulation (FAR) 52.211-18, Variation in Estimated Quantities.

(c) If the actual quantity of work performed under item Nos. \_\_\_\_\_ exceeds 115% or is less than 85% of the total estimated quantity of the subline item under that item and/or if the quantity of the work performed under the second subline item or any subsequent subline item under item Nos. \_\_\_\_\_ exceeds 115% or is less than 85% of the estimated quantity of any such subline item, and if such variation causes an increase or a decrease in the time required for performance of this contract the contract completion time will be adjusted in accordance with the clause FAR 52.211-18, Variation in Estimated Quantities.

(End of clause)

### **5152.237-9000 Adjustments to Contractor's Coefficient for Option Years (Job Order Contracts).**

For job order contracts, insert the following clause in solicitations and contracts in accordance with 5117.9004-2(e).

**ADJUSTMENTS TO CONTRACTOR'S COEFFICIENT FOR OPTION YEARS (JOB ORDER CONTRACTS) (FEB 2005)**

Pricing of option periods, to include consideration of any adjustments shall be performed by an economic price adjustment for those periods, as follows:

An economic adjustment will be applied to the contract coefficient(s) addressing changes in the cost of labor, equipment and material in the Unit Price Book (UPB) (this includes consideration of Davis Bacon issues). This allows for economic increase or decrease of the prices in the UPB and serves to adjust line item prices by the percentage increase or decrease of the economic trend in the construction market. The economic price adjustment will be based on the Building Cost Index (BCI) found in the Market Trend pages of the Engineering News Record (ENR). The economic adjustment is not applied to the cost items comprising the coefficient. No upward adjustment shall apply to task orders awarded prior to the effective date of the adjustment, regardless of the date of commencement of work hereunder.

The adjustment will be made in accordance with the following equation. The resulting revised coefficient(s) shall be applied throughout the option year.

$$N = C + I$$

Where: N = New Coefficient

C = Base Year Coefficient

I = Change Factor (% increase or decrease from base to option year)

The Index Factor, I, shall be computed according to the following equation:

$$I = (BCIN/BCIC) - 1$$

Where:

BCIN is the Building Cost Index, published in the most current issue of ENR at the time of award of the option period.

BCIC is the Building Cost Index, as published in the ENR on the date of the award of the contract. The BCIC is \_\_\_\_\_, based on the award date of \_\_\_\_\_.

If the BCI or the ENR ceases to be published, the parties shall agree on substitute indices.

EXAMPLE: For the base year of a contract the coefficient is 1.10. The cost to the government for a line item whose cost is \$100.00 is  $1.10 \times \$100.00 = \$110.00$ .

OPTION YEAR 1. For the first option year the coefficient will be adjusted as follows:

$$I = (BCIN/BCIC) - 1$$

$$I = (3111.86/3071.10) - 1$$

$$I = 1.0133 - 1$$

$$I = 0.0133$$

The new coefficient would be calculated as follows:

$$N = C + I$$

$$N = 1.10 + 0.0133$$

$$N = 1.1133$$

The above line item under the option period would be

$$1.1133 \times \$100.00 = \$111.33.$$

OPTION YEAR 2. For the second option year, if the BCI is 3062.99, the coefficient will be adjusted as follows:

$$I = (BCIN/BCIC) - 1$$

$$I = (3062.99/3071.10) - 1$$

$$I = 0.9974 - 1$$

$$I = -0.0026$$

The new coefficient will be calculated as follows:

$$N = C + I$$

$$N = 1.10 + (-0.0026)$$

$$N = 1.0974$$

The above line item under the second option period would be

$$1.0974 \times \$100.00 = \$109.74.$$

Note 1. Round calculations for the Change Factor (I) to the nearest ten thousandth.

*[End of clause.]*

# AFARS – PART 5153

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*(Revised 01 October 2024)*

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## **Subpart 5153.2 – Prescription of Forms**

### **5153.201 Federal acquisition system.**

#### **5153.201-90 Sample contracting officer’s representative designation letter.**

In accordance with AFARS 5101.602-2-91, the Army will use the Virtual Contracting Enterprise Contracting Officer’s Representative (COR) module to nominate, appoint, track, and revoke COR appointments. When the Virtual Contracting Enterprise COR module is unavailable, contracting officers shall use the sample COR designation letter format in AFARS 5153.303-1 to designate a COR. Designate CORs using official letterhead and follow standard procedures for

correspondence. Address the designation to the individual by name, including rank or grade, and full mailing address.

**5153.201-91 Sample ordering officer appointment letter.**

Use the sample ordering officer appointment letter format in AFARS 5153.303-2 to appoint an ordering officer in accordance with AFARS 5101.602-2-92. Use official letterhead and follow standard procedures for correspondence. Address the appointment to the individual by name, including rank or grade, and full mailing address.

**5153.206 Competition requirements.**

**5153.206-90 Format for justification review document.**

Use the justification review document format at AFARS 5153.303-4 to document the requesting activity's internal review of a proposed justification when using other than full and open competition. Contracting officers will tailor the justification review document format to accommodate the justification's approval threshold. For example, justifications approved by a contracting officer may not require command advocate for competition, senior contracting official or head of the contracting activity review. The completed format becomes the cover page(s) of the justification. Do not use letterhead for this document.

**5153.206-91 Format for justification and approval for other than full and open competition.**

Use the justification and approval format at AFARS 5153.303-5 to support justifications for other than full and open competition in accordance with the Competition in Contracting Act as implemented in the FAR. Contracting officers shall tailor the justification and approval format to accommodate other type justifications in accordance with the FAR approval thresholds and required content. Do not use letterhead for this document. The approval page is separate from the certifications.

**5153.206-92 Format for Determination and Findings for other than full and open competition. (DPCAP Class Deviation 2024- O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel).**

See AFARS 5153.303-11 for determination and findings sample format.

**5153.206-93 Instructions for Congressional Notification Requirement When Utilizing the Authorities Conferred by paragraphs (B) – (G) of DPCAP Class Deviation 2024- O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel; Workload Forecasting Instructions**

a. When using the authority at paragraph (B) of of DPCAP Class Deviation 2024-O0005 – Temporary Authorization for Covered Contracts Related to Ukraine, Taiwan, and Israel, subparagraph (H)(1) of the class deviation requires written Congressional and DPCAP notification not later than seven days before contract award. Contracting officers shall use the sample format at AFARS 5153.303-12 for the notification.

b. When using the authorities at paragraphs (B) thorough (G) of DPCAP Class Deviation 2024-O0005 – Temporary Authorization for Covered Contracts Related to Ukraine, Taiwan, and Israel, subparagraph (H)(2) of the class deviation requires written Congressional and DPCAP notification within seven days after contract award. Contracting officers shall use the sample format at AFARS 5153.303-13 for the notification.

c. Contracting Officers shall submit congressional defense and DPCAP notification for HQDA review, coordination, and/or approval via ETMS2 to the ODASA(P) directorate listed at AFARS 5101.290(b)(1)(ii)(B) within one-day after award in order to meet the congressional defense committee requirement. Furthermore, to forecast workload requirements, the ODASA(P) will task Commands via the Enterprise Task Management Software Solution (ETMS2) bi-weekly to provide a listing of applicable actions. A template will be provided in ETMS2 to collect the following information for all applicable actions.

- 1) Program name.
- 2) Contract number, and modification number, if applicable.
- 3) Total estimated contract value (including options).
- 4) Contracting activity name and DoDAAC.
- 5) Contractor name and Commercial and Government Entity (CAGE) code.
- 6) Quantities and/or period of performance.
- 7) Reason for using the authority.
- 8) Expected outcome of using the authority, including estimated reductions in schedule.

Contracting Officers shall submit this data via ETMS2 as instructed.

### **5153.213 Simplified acquisition procedures.**

#### **5153.213-70 Completion of DD Form 1155, order for supplies or services.**

(a) *Instructions for DD Form 1155 entries.* (See DFARS PGI 253.213-70.)

Block 19, Schedule of Supplies or Services, for task orders under job order contracts, see 5117.9004-3(g)(1).

### **5153.233 Protests, disputes, and appeals.**

#### **5153.233-90 Format for bid protest action report.**



Use the format for a bid protest action report at 5153.303-6 to provide notification of a Government Accountability Office protest resolution. Contracting officers will email the report to the addressees provided at AFARS 5133.190-1 within 15 calendar days of its resolution.

**5153.233-91 Format for quarterly bid protest analysis report.**

Use the sample format for the quarterly bid protest analysis report at AFARS 5153.303-7 to submit quarterly bid protest reports in accordance with AFARS 5133.190-2. The quarterly bid protest analysis report for Government Accountability Office protests is emailed with copies of the bid protest action reports to the addressee in AFARS 5101.290(b)(5), not later than 30 calendar days following the end of the quarter.

**5153.242 Contract administration and audit services.**

**5153.242-90 Contractor Performance Assessment Reporting System initial registration consolidated format.**

Use the sample Contractor Performance Assessment Reporting System (CPARS) initial registration consolidated format at AFARS 5153.303-9 to submit contract registration information to the CPARS contracting activity focal point upon award of a contract eligible for a past performance assessment report. Retain the completed document in the official contract file.

**5153.242-91 CPARS access request format.**

Use the sample CPARS access request format at AFARS 5153.303-10 to submit contract access information to the CPARS contracting activity focal point upon award of a contract eligible for a past performance assessment report. Retain the completed document in the official contract file.

**5153.245 Government property.**

**5153.245-90 Sample withdrawal of approval of property control system letter.**

Use the sample withdrawal of approval of property control system letter at AFARS 5153.303-8 in accordance with FAR subpart 45.5 and DFARS subpart 245.5 to notify a contractor that approval of his property control system is withdrawn. Use official letterhead and follow standard procedures for correspondence.

**5153.245-91 Consumption reports for ammunition.**

When the contract, including a delivery or task order, will involve the furnishing of munitions as Government Furnished Material (GFM), Contracting officers shall include a contract line item and Section J attachment for the Contract Data Requirements List (CDRL), DD Form 1423-2 (Rev. Aug 96) to collect periodic consumption data for the GFM from the contractor as authorized by Federal Acquisition Regulation clause 52.245-1, Government Property. The

CDRL shall identify the format, frequency, and addressee(s), to include the Defense Contract Management Agency when applicable, for submission of the periodic consumption reports as identified by the requiring activity.

### **Subpart 5153.3 – Illustration of Forms**

#### **5153.303 Agency forms.**

This subpart sets forth standard Army formats for specified actions. Contracting officers may tailor these formats where appropriate, and when they are not otherwise limited, to fit the specific acquisition or contracting action. Standardized and vetted templates for use are located in the [Army Templates and Guides](#) section on PAM.

#### **5153.303-1 Sample Contracting officer's representative (COR) designation.**

COR Designation template is available in the Army Templates and Guides section on [PAM](#).

#### **5153.303-2 Sample ordering officer appointment.**

Ordering Officer Appointment Template is available in the [Army Templates and Guides](#) section on [PAM](#).

#### **5153.303-3 Reserved.**

#### **5153.303-4 Format for a justification review document for other than full and open competition.**

[J&A FAR Part 6 Template](#) is located in the Army Templates and Guides on [PAM](#).

#### **5153.303-6 Format for a bid protest action report.**

Bid Protest Action Report template is available in the [Army Templates and Guides](#) section on PAM.

#### **5153.303-7 Format for a quarterly bid protest analysis report.**

Quarterly Bid Protest Analysis Report template is available in the [Army Templates and Guides](#) section on PAM.

#### **5153.303-8 Withdrawal of approval of property control system.**

Withdrawal of Approval of Property Control System template is available in the [Army Templates and Guides](#) section on PAM.

**5153.303-9 Contractor Performance Assessment Report System initial registration consolidated format.**

CPARS Initial Registration Consolidated Format is available in the [Army Templates and Guides](#) section on PAM.

**5153.303-10 Contractor Performance Assessment Report System access request format.**

CPARS Access Request Form is available in the [Army Templates and Guides](#) section on PAM.

**5153.303-11 Format for Determination and Findings for other than full and open competition. (DPCAP Class Deviation 2024- O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel).**

See D&F Template located in the [Army Templates and Guides](#) on [PAM](#) to document a public interest determination under 10 USC 3204(a)(7) and FAR 6.302-7 in support of the award of a “covered contract.” See DPCAP Class Deviation 2024-O0005– Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel.

**5153.303-12 Format for Advance Congressional Notification When Utilizing Authorities Conferred by DPCAP Class Deviation 2024- O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel.**

See Advance Congressional Notification Template When Utilizing Authorities Conferred by DPCAP Class Deviation 2024-O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel located in the [Army Templates and Guides](#) on [PAM](#).

**5153.303-13 Format for Post Award Congressional Notification When Utilizing Authorities Conferred by DPCAP Class Deviation 2024-O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel.**

See Post Award Congressional Notification Template When Utilizing Authorities Conferred by DPCAP Class Deviation 2024- O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel located in the [Army Templates and Guides](#) on [PAM](#).

# **AFARS – APPENDIX AA**



# **ARMY SOURCE SELECTION SUPPLEMENT (AS3)**

**Rev 1 DEC 2024**

# **Summary of Significant Key Updates to Army Source Selection Supplement (AS3) (2024):**

**Section 1.4** – Source Selection Team Roles and Responsibilities - Update to exempt Office of General Counsel Attorneys from being requested or required to sign non-disclosure agreements.

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# CHAPTER 1: PURPOSE, ROLES, AND RESPONSIBILITIES

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## 1.1 Purpose

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The Army Source Selection Supplement (AS3) implements and supplements the mandatory Department of Defense (DoD) Source Selection Procedures to establish consistent policies and procedures for Army source selections. The Federal Acquisition Regulation (FAR) and its supplements (Defense FAR Supplement (DFARS), DFARS Procedures, Guidance, and Information (PGI), Army FAR Supplement (AFARS) and the AFARS PGI) prescribe the general policies governing these acquisitions.

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## 1.2 Applicability and Waivers

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The AS3 applies to best value, negotiated, competitive source selections with an estimated value greater than \$10 million, and **may also be used as guidance in all other acquisitions**. DoD Source Selection Procedures: <https://www.acq.osd.mil/dpap/policy/policyvault/USA000740-22-DPC.pdf>, Paragraph 1.2, content for applicability and waivers also applies to Army waiver procedures.

The AS3 is not a stand-alone document and shall be used in conjunction with FAR Part 15, DFARS and DFARS PGI Subpart 215, AFARS and AFARS PGI Subpart 5115 and the DoD Source Selection Procedures. Any conflicts shall be resolved through the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)), Policy Directorate, mailbox [usarmy.pentagon.hqda-as-a-alt.mbx.office-of-the-dasa-p@army.mil](mailto:usarmy.pentagon.hqda-as-a-alt.mbx.office-of-the-dasa-p@army.mil).

Any request for waiver of the DoD Source Selection Procedures shall be submitted by the cognizant Senior Contracting Official (SCO), through their Head of the Contracting Activity (HCA), to the DASA(P), Attn: Policy Directorate (SAAL-PP). ODASA(P) will process all waivers as follows:

- For solicitations valued at \$1 billion or more, waivers may only be approved with the express, written permission of the Director, Defense Pricing, Contracting, and Acquisition Policy (DPCAP).
- For solicitations valued below \$1 billion, waivers must be approved by the DASA(P).

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## 1.3 Best Value Continuum

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**Subjective Tradeoff.** Use of subjective tradeoff is appropriate for most Army source selections. See Appendix B for more information. (*Reference DoD Source Selection Procedures* <https://www.acq.osd.mil/dpap/policy/policyvault/USA000740-22-DPC.pdf>, Section 1.3.1.3)



**Value Adjusted Total Evaluated Price (VATEP).** Use of VATEP may be most suitable for procuring developmental items when the government can determine the value (or worth) of “better performance” and quantify it in the Request for Proposal (RFP). See Appendix B for more information. (*Reference DoD Source Selection Procedures 1.3.1.4*)

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## 1.4 Source Selection Team Roles & Responsibilities

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Source selection is a multi-disciplined team effort. The Source Selection Team (SST) should include representatives from appropriate functional areas such as contracting, small business, technical, logistics, cost/price, legal, and program management. User organizations should also be represented.

The success of any source selection is usually determined by the personnel involved at all levels, and their degree of active participation. Likewise, the Source Selection Authority (SSA), with assistance from the SCO, will ensure the appointment of personnel with the requisite skills, expertise, and experience to ensure the success of the source selection, to include members appointed to the Source Selection Advisory Council (SSAC).

The SCO is responsible for determining the capability of the organization to effectively resource the SST as set forth in the hierarchy of source selection expertise below (See Figure 1-1). In the event the SCO determines the required expertise is not obtainable, the HCA will be consulted. If the HCA concurs the appropriate resources are still unavailable, the DASA(P) will be notified and will assist in providing resources from other contracting activities or assign the procurement to another contracting activity for execution.

- ***Look within own organization for expertise.***
- ***Identify and appoint Government personnel outside own organization with the requisite expertise.***
- ***Identify junior personnel to grow expertise and experience in source selection by allowing them to participate on non-technical factors.***
- ***If expertise does not exist, then move acquisition elsewhere.***
- ***Consider establishing and/or hiring, on an ad hoc basis, qualified retired annuitants to supplement source selection teams.***
- ***Establish an advance pool of experts to supplement on an ad hoc and rotational basis.***
- ***In accordance with FAR Subparts 7.5 and 9.5, contractor experts may be hired as advisors to augment the Source Selection Evaluation Board (SSEB) but CANNOT participate as voting members of the SSEB. Due diligence shall be made to ensure there is no organizational conflict of interest or inclusion of inherently governmental functions in duties performed.***

*Figure 1-1: Hierarchy of Source Selection Expertise*

The size and composition of the SST will vary depending upon the requirements of each acquisition. For example, major hardware acquisitions frequently involve requirements impacting various organizations from across the Army (or from other services on joint-

service programs). In such cases, and when forming the SST, SSEB Factor/Subfactor teams should include evaluator representation from each major requirements organization. These evaluators should be assigned to the evaluation criteria associated with their specific area of requirements and expertise. Inclusion of technical evaluators who are subject matter experts on the requirement(s) being evaluated is essential to a successful evaluation process providing fair/accurate assessment of the proposals, and absolutely critical where joint-service and/or multiple functional requirements are involved.

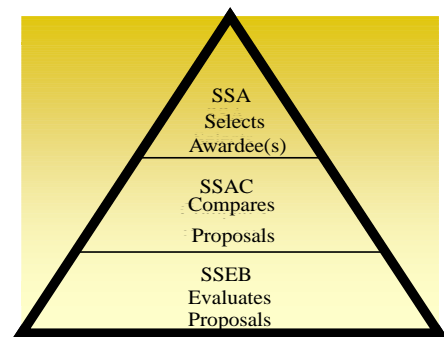
Whether the team is large or small, it should be structured to ensure teamwork, unity of purpose, and allow for appropriate open communication among the team members throughout the process. This will facilitate a comprehensive evaluation and selection of the best value proposal.

### **Key Components of the SST**

For source selections with a total estimated value of \$100M or more, the SST shall consist of the SSA, a SSAC, and an SSEB. Each of these SST entities has distinct and separate functions (See Figure 1-2).

**NOTE:** Source selections using LPTA methodology do NOT require the SSAC or require a SSAC Report be prepared.

The SSEB is usually comprised of multiple groups of evaluators who are responsible for evaluating specific areas of the proposal against the RFP requirements. Additionally, legal counsel, small business professionals, cost/price, and technical experts may also serve as SST advisors. The precise structure of the SSEB is a matter within the SSA's discretion.



*Figure 1-2: SST Responsibilities*

The information below supplements the Roles and Responsibilities found in the DoD Source Selection Procedures (See paragraph 1.4).

### **The SSA.**

- Appointment. The AFARS 5115.303 provides the policy on SSA appointments.
  - All appointed SSAs are considered procurement officials and are subject to the associated statutory / regulatory rules.
  - Once appointed, the SSA cannot further delegate their SSA authorities.
  - For source selections exceeding \$100M, the SSA is other than the PCO.
- Ensures the Source Selection Plan (SSP) and evaluation criteria are consistent with the requirements of the solicitation and applicable regulations.

- **NOTE:** The identity of the SSA shall be considered procurement sensitive and shall not be disclosed to anyone who has not signed a non-disclosure agreement for that RFP / acquisition.

### **The Procuring Contracting Officer (PCO).**

*(No Supplemental Army Guidance.)*

### **The SSAC.**

- The SSAC will consist of senior government personnel and may include representation from the cognizant contracting office and legal office.
- For Acquisition Category I/II source selections involving requirements organizations from across the Army (or from other services on joint-service programs), the SSAC must include representation from all significant requirements organizations. The SSAC representatives must be at an organization / grade level commensurate with the other members of the SSAC, usually military O-6/GS-15 or higher.

### **The SSEB.**

- **The SSEB Chairperson.**
  - Ensures the SSEB members understand the evaluation criteria and establishes a uniform approach to the evaluation and rating effort. Seeks to build consensus among the SSEB members.
  - Isolates policy issues and major questions requiring decision by the SSA.
  - Relieves and replaces SSEB members from assignment **only** in the event of a demonstrated emergency or other appropriate cause.
  - Arranges for the SSEB members to work compensatory time, when necessary, authorized, and approved.
  - Arranges for the needed administrative staff at the evaluation work site.
- **The SSEB Members.**
  - Prepare the evaluation notices (ENs).
  - Briefs the SSAC/SSA (as requested) and responds to comments / instructions from the SSAC/SSA.

## **Legal Counsel.**

Non-disclosure agreements (NDAs) will not be requested or required of HQDA Office of General Counsel (OGC) attorneys.

## **Other Advisors.**

*(No Supplemental Army Guidance.)*

## **Program Manager (PM) / Requiring Activity (RA).**

*(No Supplemental Army Guidance.)*

## **Small Business Team.**

- Assists requirements office and PCO with Market Research during planning and throughout the various acquisition phases.
- Assists in shaping Acquisition Strategy in support of small businesses when applicable.
- Provides review of draft and final documents prior to release to potential offerors.

## **Tools.**

- Army's Virtual Source Selection Advisory Team (VSSAT) Tile is accessible through Army's Knowledge Management Portal Procurement.Army.Mil (PAM) Source selection tile (<https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/SourceSelection.aspx>).

## **Administrative Support.**

- Each acquisition will vary in terms of the administrative support requirements.

Figure 1-3 on the following page contains a checklist of some important requirements common to many acquisitions.

- *Adequate facilities (to include space for the evaluators, related meetings, and discussions with Offerors): Consider whether the facilities are of an adequate size, capable of segregation for various committees, comfortable, properly furnished, secure, accessible to disabled persons, and close to support services such as copiers, restrooms, and eating facilities.*
- *Appropriate security controls, such as identification badges and access control.*
- *Adequate secure storage space for proposals and source selection materials.*
- *Appropriate computer hardware and software and related support.*
- *Adequate telephones, facsimile machines, copiers and/or printing services in areas able to be secured.*
- *All Non-Disclosure Agreements signed, trackable by name to each participant, and properly stored.*
- *Adequate office supplies.*
- *Adequate lodging and transportation for personnel on temporary duty (TDY).*
- *Clear guidance disseminated to all participants regarding process, protocols, restrictions or limitations, and safeguards, if source selection is to be performed in a virtual environment.*

*Figure 1-3: Administrative Support Requirements*

# CHAPTER 2: PRESOLICITATION ACTIVITIES

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## 2.1 Conduct Acquisition Planning

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**Acquisition Planning.** Acquisition planning should start when an agency identifies a need for supplies, construction and/or services. When practical, utilize an integrated product team (IPT) approach to develop the acquisition plan and/or strategy as required. This early teaming effort may reduce false starts and resulting delays that frequently accompany the preparation of a complex procurement. (Reference DoD Source Selection Procedures 2.1.1)

- **Best Practice:** *Some of the decisions/determinations made during the planning phase are key and will impact the entire acquisition from source selection through contract administration. Including key stakeholders, such as contract administrators, small business professionals (SBPs), Contracting Officer's Representatives (CORs), Quality Assurance (QA) and Property Administrator, will help to ensure consideration of issues that may impact the requirements, performance, and acquisition strategy as a whole.*

**Risk Assessment.** Risk analysis is a critical component of acquisition planning, and the market research results should be a primary consideration as part of this analysis. Early identification, formation, and direct involvement of the acquisition team (and key stakeholders) will help to ensure a comprehensive understanding of the requirements and any marketplace influences on risk and risk mitigation. (Reference DoD Source Selection Procedures 2.1.1.2)

**Peer Reviews.** See AFARS 5101.170 for Preaward peer reviews. Planning and including realistic time allowances for all requisite reviews when establishing milestone schedules, is essential to the success of your acquisition.

**Market Research.** Market research is a shared responsibility and continuous process conducted by the PM, requiring activity, PCO, SBP, and other acquisition team members which directly influences how the acquisition strategy and source selection process is shaped. (Reference DoD Source Selection Procedures 2.1.2 and AFARS 5110.002)

Some techniques you may use in conducting market research include:

- Use general sources of information available from the marketplace, other DoD/ government agencies, and the internet.
- Contact knowledgeable individuals, such as SBPs, regarding market capabilities and business practices.
- Review the results of recent market research for same or similar requirements.

- Query government and/or commercial databases (e.g., Dynamic Small Business Search [https://dsbs.sba.gov/search/dsp\\_dsbs.cfm](https://dsbs.sba.gov/search/dsp_dsbs.cfm), System for Award Management (SAM.Gov); <https://sam.gov/content/home>.)
- Conduct industry engagement/industry days in coordination with supporting Small Business Office.
- Prepare a draft Request for Proposal (RFP) and ensure review by a SBP prior to issuing. (*DoD Source Selection Procedures 2.1.2.3*)

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## 2.2 Develop a Source Selection Plan

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**Selection of Evaluation Factors.** Selecting the correct evaluation factors is the most important decision in the evaluation process. Structure the evaluation factors and their relative importance to clearly reflect the needs of your acquisition, with consideration given to the inclusion and evaluation of intellectual property/data rights and what is necessary and prudent be included in the acquisition.

**Mandatory Evaluation Considerations.** For source selections, you must evaluate cost/price (unless the exception at FAR 15.304(c)(1)(ii)(A) applies) and the acceptability/quality of the proposed product or service through one or more non-cost evaluation factors (e.g., past performance, technical excellence, management capability, and key personnel qualifications).

As stated at FAR 15.304(c)(1)(ii)(A)), the PCO may exclude cost/price as an evaluation factor for a Multiple Award IDIQ effort issued for the same or similar services if the Government intends to make award to all "qualifying offerors" and Cost/Price will be considered as one of the factors for all tasks/delivery orders.

Additionally, you must evaluate past performance on all negotiated competitive acquisitions expected to exceed the thresholds identified in FAR 15.304 and DFARS 215.304, unless the PCO documents why it would not be appropriate. There may be other required evaluation factors, such as small business participation, based upon regulatory and/or statutory requirements. (*See FAR 15.304 and its supplements*)

From this vantage point, the acquisition team must apply prudent business judgment to add other evaluation factors, subfactors, and elements that are important to selecting the most advantageous proposal(s). The number of factors and subfactors should be kept to the absolute minimum required to effectively assess the proposal(s). The use of more factors than needed to conduct the evaluation can complicate and extend the process, while providing no additional value and thereby diluting meaningful discriminators. Limiting factors also serves to reduce the evaluation oversight span-of-control responsibilities of the SSEB leadership, SSA/SSAC, PCO, and legal counsel, thereby permitting more focused oversight on the remaining (and most important) factors/subfactors and reducing the likelihood of evaluation errors.

Common evaluation factors are cost/price, technical, past performance, and small business participation.

**NOTE:** Ensure small business participation remains an independent factor, not subordinate and a subfactor to any other evaluation factor. Additionally, if appropriate for the requirement, you may have other evaluation factors and/or may use one or more levels of subfactors. The standard Army naming convention for the various levels is: Evaluation Factor, Subfactor, and Element. (See Figure 2-1)

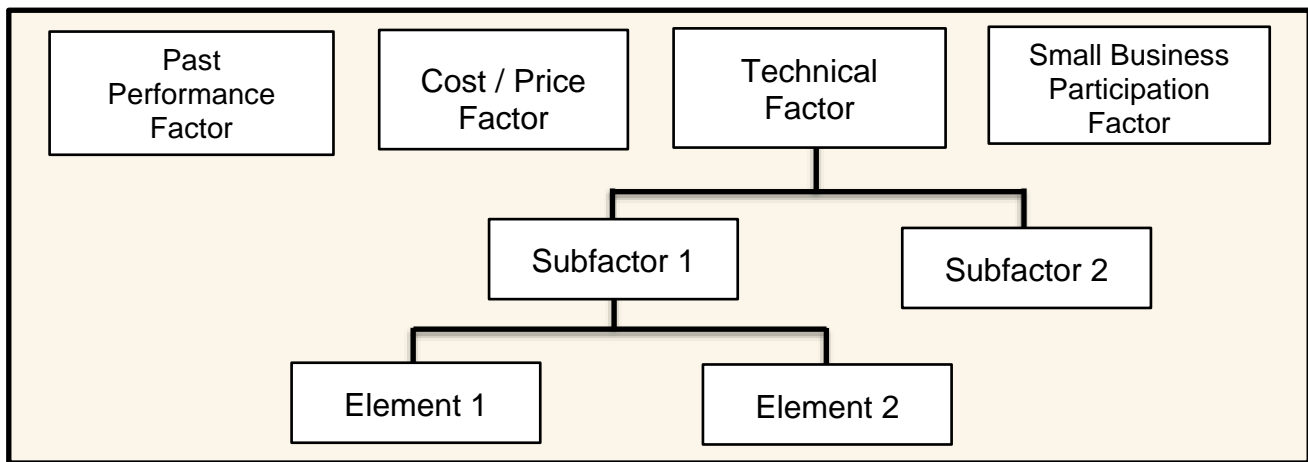


Figure 2-1: Sample Evaluation Factor Structure

**Establishing Evaluation Factors and Subfactors.** The acquisition team develops the evaluation factors and any appropriate subfactors and elements. The team should select the factors based on user requirements, acquisition objectives, thorough market research and risk analysis. Figure 2-2 illustrates the steps involved in developing the factors and subfactors. The use of elements should only be utilized on rare occasions. (AFARS 5115.304)

Once the RFP is issued, the factors and subfactors give the offerors insight into the significant considerations the government will use in selecting the best value proposal and help them to understand the source selection process. Carefully consider whether minimum “acceptable/unacceptable” entry-gates can be included.

The team must also specify whether technical ratings will be applied at the subfactor level or rolled up to the factor level, with the information contained and clearly stated in the RFP so all stakeholders know how the evaluation of ratings will be applied.

**NOTE:** The Small Business Subcontracting Plan is not a factor or subfactor to be rated but, as stated at FAR 19.705-4, shall be reviewed for adequacy and determined to be “acceptable or unacceptable based the requirements identified at FAR 19.704. When used properly, this use of entry-gate criteria can streamline the evaluation process significantly.”



- ***Conduct market research as a starting point for development of criteria in order to maximize competition.***
- ***Conduct risk analysis in accordance with FAR 7.105 as necessary to support the acquisition.***
- ***Brainstorm critical factors and subfactors.***
- ***Identify key discriminators.***
- ***Define the discriminators as evaluation factors and subfactors, and their relative order of importance.***
- ***Obtain SSA approval of the list of factors and subfactors.***
- ***When a draft RFP is used, clearly inform offerors in the draft RFP of the proposed factors and subfactors, and their relative order of importance.***
- ***Assess feedback during presolicitation exchanges.***
- ***Get SSA approval as necessary to change the factors and subfactors before issuing the RFP.***
- ***Clearly inform offerors of the factors and subfactors, and their relative importance, in the formal RFP. Do not change the factors and subfactors after receipt of proposals except in extreme circumstances, and only then after obtaining SSA's approval and amending the RFP and SSP.***

*Figure 2-2: Steps Involved in Formulating Evaluation Factors and Subfactors*

**Nongovernment Advisors.** Allowance and guidelines for use of contracted advisory services is stated at FAR 37.203, FAR 37.204, and FAR 37.205. If utilized, prior to issuing a solicitation, the head of the agency shall make a written determination based on availability of qualified personnel within the agency. Nongovernment advisors may assist in and provide input regarding the evaluation, but they shall not determine ratings or rankings of the offeror's proposals. Recommend clarifying allowances and or access that will be given the advisors (e.g., access to the entire proposal or only access to the part concerning their particular expertise? Can they write strengths and weaknesses or only assist other evaluators in this process? Can they participate in the consensus process without participating in/providing input for the rating assignment?).

Reminder, nongovernment sources can include academia, nonprofit institutions, and industry.

**Reminder:** When using nongovernment advisors, you must advise potential offerors of the nongovernment advisors' participation in the source selection and obtain the offerors consent to provide access to its proprietary information to the nongovernment advisor or the company which employs the nongovernment advisor. Figure 2-3 identifies suggested RFP language relative to the use of commercial firms to support the source selection process. (Reference DoD Source Selection Procedures 2.2.8)

*(1) Offerors are advised that employees of the firms identified below may serve as non-government advisors in the source selection process. These individuals will be authorized access only to those portions of the proposal data and discussions that are necessary to enable them to perform their respective duties. Such firms are expressly prohibited from competing on the subject acquisition.*

*INSERT NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF FIRMS*

*(2) In accomplishing their duties related to the source selection process, the aforementioned firms may require access to proprietary information contained in the offerors' proposals. Therefore, pursuant to FAR 9.505-4, these firms must execute an agreement with each offeror that states that they will (1) protect the offerors' information from unauthorized use or disclosure for as long as it remains proprietary and (2) refrain from using the information for any purpose other than that for which it was furnished. To expedite the evaluation process, each offeror must contact the above companies to effect execution of such an agreement prior to the submission of proposals. Each offeror shall submit copies of the agreement with their proposal.*

**NOTE: This requirement shall flow down to all Subcontractors.**

Figure 2-3: Suggested RFP Language for the use of Nongovernment Advisors

**Source Selection for Services.** The source selection process for services, including development of the SSP, is often very complex. Organizations must ensure that the SST is comprised of qualified personnel with specific knowledge of the types of services to be acquired.

The use of Sample Tasks is an effective tool in the evaluation of services. Sample Tasks can provide insight as to the offeror's level of understanding of the work to be performed, as well as how the technical approach relates to the cost/price proposed for that Sample Task. (See Appendix H for an example of a Sample Task.)

- To the maximum extent practicable, sample tasks should set forth requirements that are contemplated for award, establishing the expectation that offerors will be held accountable for the resources and costs they propose.
- The use of generic or hypothetical sample tasks may unintentionally create an environment that misleads offerors to understate resources and costs due to the fact that the sample tasks will not be awarded. Care must be taken to draft the

sample tasks as closely as possible to the types and scope of services expected to be acquired from the Performance Work Statement (PWS). If possible, consider the use of a “live” task, which would be awarded at time of contract award.

- Evaluation criteria should be limited to essential areas of performance that are measurable during the proposal evaluation process. This will permit a more focused evaluation of the offeror’s proposed solution to the sample task.
- If utilizing a sample task, ensure this is accounted for and aligned with Sections L and M (or equivalent sections for procurements not using uniform contract format (UCF)).

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## **2.3 Develop the Request for Proposals**

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The success of an acquisition is directly linked to the quality of the RFP. A well-written RFP will:

- Facilitate fair competition;
- Convey a clear understanding of the government’s requirements;
- Clearly identify the evaluation and award criteria;
- Clearly detail information required by the offerors;
- Limit criteria to discriminators that are not overly restrictive, but add value and reduce risk;
- Preserve the offeror’s flexibility to propose innovative solutions when appropriate;
- Specify areas where the offerors can make technical and cost tradeoffs in their proposals;
- Ensure that Sections L and M (or equivalent sections) relate back to each other and the SSP.

### **Ways to Improve the RFP Process**

***Ensure Consistency in the RFP and Related Documents.*** RFP inconsistencies can create ambiguity and result in less advantageous offers, require RFP amendments, cause delays in the acquisition, and result in litigation. Inconsistencies between the descriptions of the government’s requirements, instructions on how to prepare a proposal, and information related to the evaluation factors and subfactors are particularly troublesome and can be a result of various groups of personnel developing different RFP sections

without adequate coordination and review. Additionally, when one document is revised, those revisions must also be made to other corresponding documents.

It may be beneficial to develop a matrix that correlates the RFP sections and content to ensure consistency. Figure 2-4 illustrates how key documents and evaluation standards map to one another, showing the recommended sequencing for document preparation. Providing industry with a similar copy of the matrix as a reference tool and part of the solicitation can aid in proposal preparation. You may also consider including a column for offerors to complete in the tracking matrix (as shown in Figure 2-4), denoting where in their proposal the requirement is addressed. This approach promotes understanding of the linkage within the solicitation, explains how all parts of the proposal will be used in the evaluation process, and enables a crosswalk for both the government and offerors to ensure all requirements have been addressed.

SPECIFICATION AND PWS		EVALUATION FACTORS, SUBFACTORS EVALUATION AND SUBMISSION INFORMATION		PROPOSAL REFERENCE
SPECIFICATION	PWS	PROPOSAL EVALUATION INFORMATION RFP Section M Factor – Technical Subfactor – Software Modification Approach	PROPOSAL SUBMISSION INFORMATION RFP Section L	OFFEROR TO COMPLETE Provide Page and Paragraph Number Where Addressed
Software code shall meet the computer software design and coding requirements as defined in International Standards Organization (ISO) 9000-3.	3.1.1. The contractor shall modify, integrate and test software as specified in the system specification.  3.1.1.3 The contractor shall prepare a software modification plan.	The offeror's software modification approach will be evaluated relative to the modified software's ability to accommodate open architecture, tracking accuracy, and reliability.	The offeror will describe its approach to software modification and explain how the software will accommodate open architecture, conforms to ISO-9000-3, tracks accurately, and maintains reliability.	

*Figure 2-4 Requirements to RFP to Proposal Tracking Matrix*

**Avoid Requesting Too Much Information from the Offerors.** Instructions for preparing and submitting proposals are critical to the acquisition. Always keep in mind:

- There must be a direct linkage between solicitation requirements and objectives, each evaluation factor and subfactor, and the proposal preparation instructions.
- Request only the **essential information** needed to evaluate proposals against the evaluation factors and subfactors.

- Never ask for information that will not be evaluated. Instructions that require voluminous information can unintentionally limit or reduce competition by causing potential offerors to forego responding to the solicitation in favor of a less costly business opportunity.
- Excessively large proposals may increase the time and costs associated with performing the evaluation. Specific guidance such as proposal page limitations or page recommendations and narrative font style and size are encouraged but need to be clearly defined and tailored to the needs of the acquisition.
- Focus exclusively on **true discriminators** (discriminators linked to critical requirements which are based on market research, the assessment of risk, and that enables the evaluation to discern between various values in the offeror's proposal). Failure to do so dilutes the evaluation and compromises the SSA's ability to identify the best value proposal.
- Use performance-based requirements but remain mindful that design requirements that are too detailed, or overly prescriptive performance work statements, severely limits the offerors' flexibility to propose their best solutions. Instead, use functional or performance-based requirements to the maximum extent practicable. While it may be more difficult to develop evaluation criteria and conduct the evaluation process using this approach, the benefits warrant and support it. These benefits can include increased competition, access to the best commercial technology, better technical solutions, and fewer situations for protests.

### **Drafting Instructions to Offerors (Section L or Equivalent)**

**Provide specific guidance to offerors regarding the structure of their proposals.** The proposal should be divided into distinct volumes or files. These volumes/files should correlate to each of the evaluation teams (e.g., technical, cost/price, past performance, etc.) or factors. How each volume/file is to be structured should be stated. These practices will facilitate distributing and aligning the proposal material to the various teams or specific factors, making it easier for evaluators to locate specific information in the proposals.

**NOTE:** Clearly advise offerors to keep technical and pricing information separate and not inter-mixed between proposal volumes.

**Past Performance Information.** Tailor the proposal submission requirements to reflect the complexity of the procurement and the relative importance assigned to past performance. Request only the information necessary for the evaluation. Consider the following when developing proposal submission requirements:

- **Contract references.** Request offerors to submit a list of government and non-government contract references to include joint venture participation. References are to include contract number, contract type and dollar value, place of

performance, date of award, whether performance is on-going or complete, extent of subcontracting, and the names, phone numbers, and e-mail addresses of at least two points of contacts for each contract.

- Require the list to include all relevant on-going contracts, or contracts completed during a specified period. This approach will provide an 'unfiltered' view of the offeror's contract efforts, not just the 'select' contract efforts. If you anticipate the number of contracts will be excessive, limit the submission to a specified number of the most recent, relevant contracts. In such cases, require the contracts to have been active for a specified period of time, since newly awarded contracts will probably not provide sufficient information.
- Recommend limiting the specified period to contracts performed within the last three years, or no greater than six years for simple construction, architect-engineering (A-E) contracts, and more complex works. Recency of past performance should be calculated using the RFP release date as a benchmark. A shorter period may be appropriate for acquisitions where there are numerous actions and/or many vendors providing the required items.
- When appropriate and determining recency for certain types of large construction works (e.g., military housing, navigation projects or other large civil works), a greater time period in excess of six years should be considered and used to obtain realistic examples of past performance.
- When offerors are likely to be large, multi-function firms, limit the contract references to those performed by the segment of the firm (e.g., division, group, and unit) that is submitting a proposal.
- **Past Performance Information of a Prospective Subcontractor.** When planning how a subcontractors' past performance is intended to be evaluated, explain how any related adverse past performance information will be handled. In some acquisitions, an offeror's prospective subcontractor may be the offeror's competitor on other acquisitions. In such cases, the prospective subcontractor may be hesitant to have any adverse information related to its past performance released to the offeror. The acquisition should be tailored accordingly and advise offerors in the RFP how the disclosure of such information will be handled.
- **Questionnaires.** Questionnaires or interviews may be utilized to obtain the information from individuals having knowledge about the offeror's past performance, and details such as contract points of contact (name, email, and phone numbers) shall be included in the information provided back to the government in the proposal.

Consider the following when using questionnaires:

- Keep the questionnaire short. Typically, it should be no longer than 1-2 pages.

- Format the questionnaire to easily facilitate electronic completion (e.g., fill-in blocks, and electronic checkboxes).
- Include a copy of the questionnaire in the RFP.
- Either distribute the questionnaires to the points of contact or have the offerors distribute the questionnaires. Prior to the government sending out the questionnaires, and when practical, contact the respective points of contact and emphasize the importance of the completed questionnaires returned to the government promptly. Having the offerors send out the questionnaires may save time and resources.
- **Small Business Participation Past Performance.** All offerors shall submit information substantiating their past performance and compliance with FAR 52.219-8 Utilization of Small Business Concerns, FAR 52.219-9 Small Business Subcontracting Plan, and DFARS Subpart 215.305 Proposal Evaluation, to maximize opportunities for small business subcontractors. Offerors shall also provide a statement indicating whether any negative information has been reported in the past three years (or other number of years as identified in the solicitation) concerning their past compliance with FAR 52.219-8 or FAR 52.219-9. If any such negative information is reported, the offeror may submit explanations or comments responding to such negative information. Offerors with no prior contracts containing FAR 52.219-8 and/or 52.219-9 shall certify stating as such. For other than small business, include SF 294 and SF 295 (or Individual Subcontracting and Summary Subcontracting Reports in eSRS) information for Government contracts with these reporting requirements for the last X (fill in number, same as period stated elsewhere for past performance) number of years.
- **Relevant Past Performance.** Include in the RFP a definition of what constitutes relevant past performance. Factors that may be used to define relevancy include similarity, size, complexity, dollar value, contract type, and degree of subcontracting/teaming. As appropriate, require the offeror provide a description of how the contract references are relevant to the immediate acquisition. In some cases, previous contracts as a whole may be relevant to the immediate acquisition, while only portions of other contracts may be relevant.

**Small Business Participation.** The Army methodology for evaluating small business participation in **unrestricted** source selections is to establish a separate factor (versus a subfactor under technical) with an assigned relative order of importance for small business participation as it relates to the other source selection evaluation factors as stated at FAR 15.304(c)(3)(ii) and (c)(4).

When evaluating small business participation, solicitations must be structured to give offers submitted by small business concerns the highest rating for this evaluation factor in accordance with FAR 15.305(a)(5). In addition, small businesses are not required to submit any information (see C.F.R.125.3(g)(3)) in connection with the small business

participation evaluation factor or required to submit a proposed Small Business Participation Commitment Document.

- **Proposal Submission Instructions.** The submission instructions should be written clearly enough to indicate that:
  - Other than small business contractors may achieve the small business participation goals through subcontracting to small businesses.
  - Small business contractors may achieve small business participation goals through their own performance/participation as a prime and also through a joint venture, teaming arrangement, and/or subcontracting to other small businesses.
- **Small Business Participation Commitment Document (SBPCD).** The SBPCD format is designed to streamline and bring uniformity to responses and evaluations for small business participation when required under FAR 15.304. The format provides clarity that is distinctly different from the Small Business Subcontracting Plan required for other than small businesses. (See FAR 52.219-9)

A sample SBPCD format is located at Appendix F and can be provided in the instructions to offerors or as an attachment to the RFP. **NOTE:** The SBPCD is to be rated acceptable/unacceptable. (Ref DoD Source Selection Procedures 2.3.2.8 and 3.1.4.1.2. Table 6).

- **Subcontracting Plan.** Separate from the SBPCD, other than small business offerors must also submit a small business subcontracting plan meeting the requirements of FAR 52.219-9 and DFARS 252.219-7003 (or DFARS 252.219-7004 if the offeror has a comprehensive subcontracting plan).
  - Other than small businesses must submit acceptable subcontracting plans to be eligible for award. Subcontracting plans shall reflect, and be consistent with, the commitments offered in the SBPCD.
  - When a specific small business is identified in a proposal, the same small businesses identified and considered in the evaluation shall be listed in the subcontracting plan submitted pursuant to FAR 52.219-9 to facilitate compliance with DFARS 252.219-7003(e).
  - The Subcontracting Plan is determined acceptable / unacceptable (See FAR 19.705-4(c)).



## **Drafting Evaluation Criteria (Section M or Equivalent)**

In Section M (or equivalent) of the RFP, clearly state how each factor will be evaluated and the relative importance of evaluation factors.

**Past Performance Information.** Clearly state how past performance will be evaluated, its relative importance, and how offerors with no relevant past performance will be evaluated. Consider the following when drafting this section:

- **Use Past Performance to streamline the source selection process.** Instead of evaluating management as a separate evaluation factor, consider assessing management effectiveness in meeting Technical and Schedule requirements as part of the past performance evaluation. Using past performance in this way may, under appropriate circumstances, eliminate the need for the offeror to submit management and quality plans.
- **Past Performance Considerations.** At a minimum, consider the offeror's record of complying with contractual requirements in the areas of schedule, technical quality, and cost control (for cost reimbursement contracts). You may also consider the offeror's record of business relations. Tailor the scope of the areas considered to the immediate acquisition.

**Small Business Participation.** Other than small businesses will be evaluated on their level of proposed small business participation in the performance of a resulting contract relative to the objectives established herein. Offerors shall submit a SBPCD which specifies the offeror's level and degree of commitment to small business utilization/participation in performance of this requirement. A SBPCD is required from all offerors, including companies with commercial plans and comprehensive subcontracting plans.

Small businesses are not required to submit subcontracting plans but will be required to address the extent of small business performance (participation) in their proposals when required by the solicitation.

The government may evaluate:

- The extent to which such firms, as defined in FAR Part 19, are specifically identified in proposals;
- The extent of commitment to use such firms (and enforceable commitments will be considered more favorably than non-enforceable ones);
- Identification of the complexity and variety of the work small firms are to perform;
- The realism of the proposal; and

- Past performance of the offerors in complying with requirements of the clauses at FAR 52.219-8, Utilization of Small Business Concerns, and 52.219-9 Small Business Subcontracting Plan.
- Small business participation goals/Minimum Quantitative Requirement (MRQ) is based on market research (e.g., inclusive of researching historical data and contacting subject matter experts). Research can entail the type and complexity of work, the availability of small businesses, and their capability and capacity.
- If using the percentage of subcontracted dollars for the SBPCD, the dollars should correlate directly to the percentage of subcontracted dollars in the small business subcontracting plan for other than small businesses. **NOTE:** DoD's assigned subcontracting goals may be used to establish small business participation minimum goals when market research results confirms that these goals are achievable or when market research is lacking sufficient data to use another source as a baseline.
- Small business prime offerors shall be advised that their own participation as a prime can be counted towards the percentages set in this evaluation factor. Small businesses shall not be required to subcontract to other small businesses in order to achieve the small business participation goals, unless small business goals are set as a percentage of planned subcontracting dollars.
- Requiring offerors to provide both the percentage and the associated total dollar equivalent of work to be performed by small businesses can assist in providing consistency in the evaluation. Additionally, the information may be helpful to provide transparency for small businesses when previously performed services are currently consolidated and/or bundled into an unrestricted acquisition.

**NOTE:** Dollars awarded to a firm with multiple SB designations should be counted in each applicable category. For example, a firm that is a WOSB and a SDVOSB would be counted in the SB, WOSB, VOSB, and SDVOSB categories.

- The extent of participation of small business prime offerors and small business subcontractors. **The Army's preferred methodology for evaluating small business participation goals in source selections is in terms of the percentage of the VALUE of the total acquisition.** However, it is permissible to set goals as a percentage of 'planned subcontracting' dollars.
  - Total Contract Value/Dollars Example: This scenario provides clear results for the evaluation. *Scenario:* Small business participation goal is set at 15% of total contract value and dollars equivalent on a procurement valued at \$1,000,000:
 

Other than Small Business Offeror A: 20% (20% of \$1,000,000 = \$200,000)

Other than Small Business Offeror B: 25% (25% of \$1,000,000 = \$250,000)

Small Disadvantaged Business (SDB) Offeror C: 15% (SDB **self-performs** 15% of the \$1,000,000 = \$150,000)

- Sample language: The extent to which the offeror meets or exceeds the goals: Goals for this procurement are -- Small Business: **{a%}** of the total contract value; Small Disadvantaged Business (SDB): **{b%}** of the total contract value; Women-Owned Small Business (WOSB): **{c%}** of the total contract value; Historically Underutilized Business Zone (HUBZone) Small Business: **{d%}** of the total contract value; Veteran Owned Small Business (VOSB): **{e%}** of the total contract value; Service Disabled Veteran Owned Small Business (SDVOSB): **{f%}** of the total contract value. **(NOTE:** a participation plan that reflects **{c%}** of the contract value for WOSB would also count towards the overall Small Business Goal; percentages for SDVOSB also count towards VOSB).
- Percentage of participation in terms of subcontracted dollars is the LEAST preferred methodology.
  - Percentage of Planned Subcontracting Dollars Example: Since each offeror in the scenario below is allowed to determine how much of the work is planned for subcontracting, including small business and other than small business, using the percentage of planned subcontracting dollars methodology can provide a skewed evaluation of small business participation if not analyzed thoroughly. Percentage of planned subcontracted dollars can reflect a high percentage with low dollars going to small businesses (e.g., Other than Small Business Offeror B below), and vice versa with a lower percentage but higher dollars (e.g., Other than Small Business Offeror A below) going to small business, as shown in the scenario below.

Scenario: Small business participation goal is set at 15% of the planned subcontracted dollars on a procurement valued at \$1,000,000:

Other than Small Business Offeror A: 22% (22% of \$200,000 planned for total subcontracting = \$44,000 small business subcontracted dollars)

Other than Small Business Offeror B: 30% (30% of \$10,000 planned for subcontracting = \$3,000 small business subcontracted dollars)

SDB Offeror C: 15% (SDB **self-performs** 15% of the total contract = \$150,000)

- Sample language: (Alternate when using planned subcontracted dollars) The extent to which the offeror meets or exceeds the goals: Goals for this procurement are -- Small Business: **{a%}** of the total subcontracted

dollars; SDB: **{b%}** of the total subcontracted dollars; WOSB: **{c%}** of the total subcontracted dollars; HUBZone: **{d%}** of the total subcontracted dollars; VOSB: **{e%}** of the total subcontracted dollars; SDVOSB: **{f%}** of the total subcontracted dollars. (Note: The total must equal 100%).

**Establishing Relative Importance.** When using the tradeoff process, you must assign relative importance to each evaluation factor and subfactor. Tailor the relative importance to your specific requirements.

Use priority statements to express the relative importance of the evaluation factors and subfactors. Priority statements relate one evaluation factor (or subfactor) to each of the other evaluation factors (or subfactors). Figure 2-5 below contains a sample priority statement. (*Reference DoD Source Selection Procedures 2.3.3*)

**Reminder:** Numerical weighting (i.e., assigning points or percentages to the evaluation factors and subfactors), is **NOT** an authorized method of expressing the relative importance of evaluation factors and subfactors (See AFARS 5115.304(b)(2)(B)).

*The Technical, Past Performance, and Small Business Participation Factors, when combined, are significantly more important than cost or price. Technical is significantly more important than Past Performance and Small Business Participation, which are equal. The Past Performance and Small Business Participation Factors are more important than the Cost Factor.*

*Figure 2-5: Sample Priority Statement*

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## 2.4 Release the Request for Proposals – (No Supplemental Army Guidance)

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# CHAPTER 3: EVALUATION AND DECISION PROCESS

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## 3.1 Evaluation Activities

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While the specific evaluation processes and tasks will vary between source selections, the basic objective remains constant – **to provide the SSA with the information needed to make an informed and reasoned selection.** To this end result, the evaluators will identify strengths, weaknesses, deficiencies, risks, and uncertainties applicable to each proposal. The process of identifying these findings is crucial to the competitive range determination, the conduct of meaningful discussions and debriefings, and the tradeoff analysis described in the Source Selection Decision Document (SSDD).

**Reminder:** The SSEB **shall not** perform comparative analysis of proposals or make source selection recommendations unless requested by the SSA (*Reference DoD Source Selection Procedures 1.4.4.4.3*).

While the below steps are identified in a linear manner, some of the process is iterative and some steps may be accomplished concurrently. Except where noted, these steps apply to the evaluation of both the cost and non-cost factors. The groups responsible for evaluating past performance, other non-cost factors, and cost/price normally perform their evaluations in parallel. The PCO and SSEB Chairperson shall ensure that the evaluation of each proposal is performed in a fair, integrated and comprehensive manner.

- **Best Practice:** *Identify acquisition teams at the requirements development phase and provide comprehensive training on the entire process, from acquisition planning through source selection decision. Provide SSEB training covering the final RFP and SSP approximately one to two weeks prior to receipt of proposals.*

**Step 1: Conduct SSEB Training** – Prior to receipt of proposals, each evaluator must become familiar with all pertinent documents (e.g., the RFP and SSP). Source selection evaluation training shall be provided/required for each evaluation and conducted by the PCO, at the PCO's request, and under their supervision; the evaluation training may be conducted by another qualified source selection expert or an agency team. Training shall include an overview of the source selection process, required documents, and include a detailed focus on how to properly document rationale for the assigned rating, as well as the assessment of each offeror's proposal's strengths, weaknesses, uncertainties, risks, and deficiencies. Designated Legal Counsel is recommended to assist in the source selection evaluation training as well, providing content relating to ethics, procurement integrity, the protection of source selection information, and signing of non-disclosure agreements.

The training will be based on the contents of the DoD Source Selection Procedures and this supplement. Defense Acquisition University (DAU) training may be useful and can be required for SSEB members at the PCO or SSA's discretion. Ensuring all SSEB members

have current, and a standardized level of training is a priority and is especially crucial when evaluators have no previous or varying levels of prior source selection evaluation experience, as is frequently the case. Specific organization or requirement information should be included as part of the initial SSEB training.

**Step 2: Perform Initial Screening of Proposals** – Upon receipt of proposals, the PCO or designee shall conduct an initial screening to ensure offerors’ proposals comply with the RFP instructions for submission of all required information, including electronic media, in the quantities and format specified in the RFP. The screening of prime and major subcontractor names to ensure no conflict of interest for the SST is strongly recommended, especially if contract advisors are used as part of the evaluation team. Figure 3-1 is an extract of a sample proposal screening checklist that may be used to accomplish this initial screening and should be tailored to match the specific proposal submission requirements of the RFP.

***A key aspect of this step is to also screen proposals for any exceptions taken by offerors to the terms and conditions as set forth within the RFP.***

TAB	TECHNICAL PROPOSAL	Circle Applicable Response
1: Executive Summary	Does this tab include a brief synopsis of the technical proposal?	Y / N
	Does it identify the offeror’s proposed teaming partners and/or subcontractors and discuss the nature and extent of their proposed involvement in satisfying the government’s requirements?	Y / N
	Is a letter of commitment from each proposed team member and key subcontractor included at this tab?	Y / N
2: Matrix	Does this tab include a matrix which cross-references the proposal and Volume 1 RFP paragraphs (at least all titled paragraphs)?	Y / N
3: Exceptions	Are any exceptions identified at this tab?	Y / N
4: Install/ Modify/ Terminate and Restore Service	Does this tab address paragraph 2.1 of the RFP? Is there a description of the format and content of a typical service restoration plan (as required by PWS para 2.1.5.a)?	Y / N
5: Customer Coordination	Does this tab include a detailed description of the proposed customer coordination services....	Y / N

*Figure 3-1: Sample Proposal Screening Checklist (Extract)*

**Step 3: Sharing of Cost/Price Information** – The SSEB Chairperson and PCO, in coordination with the SSA, shall determine whether cost information will be provided to the technical evaluators and, if it will be provided, under what conditions, when, and what information shall be provided. The SSEB Chairperson and PCO shall ensure the small

business participation evaluation team verifies the total proposed price (not individual cost elements) and any subcontracting information with the Cost/Price team. This will ensure the dollar amounts are consistent with what is being proposed in the small business participation proposal.

**Step 4: Conduct Initial Evaluation** – Evaluators will independently read and evaluate the offeror’s proposal against the criteria identified in the RFP and SSP, document their initial evaluation findings (e.g., strengths, weaknesses, deficiencies, risks, and uncertainties), and draft proposed evaluation notices (ENs) for each finding to be addressed, ensuring resulting narrative is sound and meaningful.

**Step 5: Identify and Document Areas of the Proposal That May Be Resolvable Through Clarifications or Communications** – If information is required to enhance the government’s understanding of the proposal, the PCO may request amplifying or other relevant information from the offeror by means of the clarification or communication process (see FAR 15.306). The PCO should engage the legal advisor prior to conducting this process. *(See Figure 3-3 for a detailed discussion of the differences between clarifications, communications, and discussions.)*

**Step 6: Assign Ratings for Non-Cost Evaluation Factors When Using the Tradeoff Process** – At this point, the evaluators may or may not individually assign ratings to each evaluation factor or subfactor for which they are responsible. At a minimum, each evaluation team (factor, subfactor) must convene to discuss the offeror’s proposal. The purpose of the discussion is to share their views on the offeror’s strengths, weaknesses, deficiencies, risks, and uncertainties related to their assigned evaluation factor(s) / subfactor(s) and to reach a team consensus on findings and rating as appropriate.

**NOTE:** Ratings must be supported by evaluation findings and narrative statements.

- Consensus requires a meeting of the minds on the assigned rating and associated deficiencies, strengths, weaknesses, uncertainties, and risks. **NOTE:** A simple averaging of the individual evaluation results does not constitute consensus.
- In exceptional cases where the evaluators are unable to reach consensus without unreasonably delaying the source selection process, the evaluation report shall include the majority conclusion and the dissenting view(s) in the form of a minority opinion, each with supporting rationale. The report must be briefed to the SSAC (if used) and the SSA.

**Step 7: Finalize ENs** – ENs will include deficiencies, significant weaknesses, weaknesses (and any uncertainties not resolved through clarifications or communications) as well as ENs for significant strengths, and strengths, if dictated by the SSP.

**Step 8: Prepare Summary Evaluation Reports for Each Factor** – Each Factor Chair will prepare a summary report for their respective factor which provides a discussion of their

associated findings. These reports will help form the Summary SSEB Evaluation Report and must be prepared at each phase of the process: initial, interim, and final evaluations.

**Step 9: Prepare a Summary SSEB Evaluation Report** – The final step is for the SSEB Chairperson to prepare a summary report for each proposal that includes the evaluated price, the rating for each evaluation factor and subfactor, and a discussion of the associated findings (strengths, weaknesses, deficiencies, risks, and uncertainties). A Summary SSEB Evaluation Report must be prepared at each stage of the process: initial, interim, and final evaluations.

## **Cost or Price Evaluation**

Figure 3-2 below provides a side-by-side comparison of what price analysis, cost analysis, and cost realism analysis should include and when each must be used. For detailed instructions and professional guidance on how to conduct these analyses, refer to FAR 15.4, and the Army Cost and Price Portal on the ODASA(P) PAM Knowledge Management Portal. <https://armyetaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/CostPrice.aspx>.

	<b>Price Analysis</b>	<b>Cost Analysis</b>	<b>Cost Realism Analysis</b>
<b>What is it?</b>	<p>The process of examining and evaluating an offeror's proposed price to determine if it is fair and reasonable without evaluating its separate cost elements and proposed profit/fee.</p> <p>Price analysis always involves some type of comparison with other prices; e.g., comparing an offeror's proposed price with the proposed prices of competing offerors or with previously proposed prices for the same or similar items.</p>	<p>The review and evaluation of the separate cost elements in an offeror's proposal and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.</p>	<p>The process of independently evaluating specific elements of each offeror's cost estimate to determine whether the estimated cost elements are:</p> <ul style="list-style-type: none"> <li>• realistic for the work to be performed;</li> <li>• reflect a clear understanding of the requirements; and</li> <li>• consistent with the unique methods of performance and materials described in the Offeror's technical proposal.</li> </ul> <p>The probable cost estimate is a product of a cost realism analysis.</p>
<b>When must you perform it?</b>	<p>When cost and pricing data is not required to determine if the overall price is fair and reasonable.</p> <p>Price realism may be performed to determine that the price offered is consistent with the effort proposed.</p>	<p>When Certified Cost or Pricing Data has been submitted.</p> <p>When Data Other Than Certified Cost or Pricing Data is submitted if being evaluated for cost reasonableness or cost realism. May also be used when a fair and reasonable price cannot</p>	<p>When cost-reimbursement contracts are anticipated. Also, you may use it on fixed price (FP) incentive contracts or, in exceptional cases, on other competitive FP contracts when the Offerors may not fully understand new requirements, there are quality concerns, or past experience indicates contractors' proposed costs</p>



		be determined through price alone. (See FAR 15.404-1(a)(4).	have resulted in quality/ service shortfalls.  However, when cost realism analysis is performed on FP contracts, proposals shall be evaluated using the criteria in the solicitation, and the offered prices shall not be adjusted as a result of the analysis.
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*Figure 3-2: Comparison of Price, Cost, and Cost Realism Analysis*

The following are some general evaluation guidelines and recommendations for evaluating cost/price:

- The Independent Government Cost Estimate (IGE) may play a key role in cost/price analysis. It serves as a benchmark for price analysis and in cost realism and may also serve as a benchmark for individual cost elements. The IGE must contain a rationale of how it was developed (e.g., what estimating tools were used and what assumptions were made) in order to properly evaluate cost/price.
- With the approval of the SSEB Chairperson and the PCO, the cost/price evaluators should coordinate with the non-cost factor evaluation team leads, as necessary, to ensure consistency between the proposed costs/prices and other portions of the proposal. This interchange between SSEB factor teams is part of the initial validation exercise and should be continued throughout the evaluation process to ensure that interrelationships are promptly identified, and the evaluation findings reflect their recognition. For example, the technical evaluation may reveal areas where each offeror's approach is inadequate or its resourcing unrealistic, given the proposed approach. The technical evaluators and the cost evaluators should crosswalk technical deficiencies and weaknesses and their impact on cost to ensure an adequate understanding of risks and to ensure proper cost realism adjustments can be made to the proposed costs, if applicable.
- When conducting price analysis, consider not only the total price, including options, but also the prices for the individual Contract Line Items to ensure they are not unbalanced. Unbalanced pricing exists when the price of one or more contract line items is significantly over or understated as indicated by the application of cost/price analysis techniques. The PCO, with concurrence of the SSA, if permitted by the RFP may reject the offer if they determine that this poses an unacceptable risk to the government. For more information on unbalanced pricing, see FAR 15.404-1(g).
- For fixed-price contracts, the evaluation can be as simple as consideration of adequate price competition/comparison of proposed prices received in response to the solicitation and ensuring prices are fair and reasonable.

- Pricing from proposals with marginal or unacceptable technical ratings should only be included in comparison of proposed prices after determining that the offeror included all necessary requirements in the proposed price (for example, a proposal with a significant weakness or deficiency based on a missing item, process, or labor category in the technical proposal is likely to have omitted the same in the proposed price). If only one proposal is determined to be technically acceptable, adequate price competition should not be used as the sole basis for determining price reasonableness.
- For cost-reimbursement contracts, you must analyze the offerors' estimated costs for both realism and reasonableness. In a competitive environment, the cost realism analysis enables you to determine each offeror's probable cost of performance. This precludes an award decision based on an overly optimistic cost estimate.

## **Technical Evaluation**

Either of DoD's two methodologies for evaluation (*Reference DoD Source selection Procedures 3.1.2.1. Methodology 1 – Separate Technical/Risk Rating Process or 3.1.2.2. Methodology 2 – Combined Technical/Risk Rating*) may be utilized when evaluating proposals. The methodology chosen should appropriately 'fit' the individual requirement and procurement action with all factors considered.

## **Past Performance Evaluation**

In past performance evaluations, the offeror's performance record on similar contract efforts is examined, with the information used to reasonably predict whether the offeror will successfully perform the subject requirement. **It is important to understand the difference between an offeror's experience and its past performance** – experience is **what** (work) the offeror has done; past performance is **how well** the offeror did it.

FAR Parts 9, 12, 15, 36, and 42 contain regulatory policies related to the evaluation of past performance. FAR Part 36 provides specific procedures, forms, and thresholds for evaluation of Architect & Engineering and construction acquisitions.

The Army provides source selection guidance, resources, and best practices for use by the Army Contracting Enterprise (ACE) on the Procurement.Army.Mil (PAM) platform (see <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/SourceSelection.aspx>).

**Recency.** (*No Supplemental Army Guidance. – Reference DoD Source Selection Procedures 3.1.3.1.1.*)

**Relevance.** A helpful tool that may assist in determining/verifying the relevancy of a contract referenced in an offeror's past performance is to locate and review the contract and requirements in Electronic Document Access (EDA). **NOTE:** EDA requires user registration within the Wide Area Workflow (WAWF) suite of tools located on the

Procurement Integrated Enterprise Environment (PIEE) site <https://piee.eb.mil/>. To ensure your ability to access contract records, complete this process well in advance of the start of source selection. . (Reference *DD Source Selection Procedures* 3.1.3.1.2)

Quality of Products or Services. (No Supplemental Army Guidance. Reference *DoD Source Selection Procedures* 3.1.3.1.3.)

**Sources of Past Performance Information.** Where possible, use past performance information available from government-wide and agency-wide databases. Use of such information will help to expedite and streamline the evaluation process.

- If possible, contact two points of contact on each contract effort selected for in-depth review. The PCOs, SBPs, CORs, Fee Determining Officials, and program management office representatives are often excellent sources of information.
- If multiple points of contact are providing past performance information on contract (for example, the PCO, SBP, and PM), arrange for submission of consolidated input from these sources. This may remove the need for the evaluation team to reconcile variances in past performance information submitted.
- In assessing the feedback, pay particular attention to the source of that feedback and their familiarity with the requirements of the contract being assessed. For example, end users may be unfamiliar with the contract requirements or certain issues and resolution arising from contract performance may not be apparent to them.
- The agency has an obligation to consider information that has a bearing on an offeror's past performance if the SST is aware of (or should have been aware of) the information. For example, an agency may not ignore contract performance by an offeror involving the same agency, the same services, and/or the same PCO, simply because an agency official fails to complete the necessary assessments or documentation. Consult legal counsel on how to address this type of information.

**Addressing Adverse Past Performance Information.** When adverse past performance is obtained, as appropriate, contact the respective point of contact for that contract to obtain further information about the circumstances surrounding the situation. Additionally, and when practical, contact at least one other individual to get a second perspective on the offeror's performance on the subject acquisition. Consider the context of the performance problems, any mitigating circumstances, the number and severity of the problems, the demonstrated effectiveness of corrective actions taken, and the overall work record.

If there is past performance information that adversely impacts an offeror's proposal assessment, provide the offeror an opportunity to address any such information on which it has not had a previous opportunity to comment. This opportunity may occur during clarifications, communications, or discussions, depending upon whether discussions are anticipated.

When addressing adverse past performance information, identify the contract, but do not identify the name of the individual who provided the information. Summarize the problem(s) with sufficient detail to give the offeror a reasonable opportunity to respond.

**NOTE:** Past performance is considered a responsibility-type determination for purposes of SBA's Certificate of Competency (COC) program, even if the next acceptable offer is also from a small business (See FAR 19.601). FAR 19.602-1(a) requires agencies to refer a finding of non-responsibility to the SBA if the determination would preclude award. Therefore, if the PCO refuses to consider a small business concern for award after evaluating the concern's past performance as a non-trade-off evaluation factor (e.g., a pass/fail, go/no-go, or acceptable/unacceptable), the matter must be referred to the SBA. Alternatively, when past performance will be an evaluation factor in the trade-off process, SBA referral is not required because the evaluation of past performance is part of a comparative, best value evaluation and not a responsibility determination.

### **Small Business Evaluation**

**The Army methodology for rating the small business participation factor is to utilize the DoD Source Selection Procedures rating scheme for Small Business**

**Participation** (See DoD Source Selection Procedures 3.1.4.1.2 – Table 6). Solely relying on acceptable/unacceptable or pass/fail rating schemes are the least preferred method of evaluating small business participation in best value tradeoff source selections. This rating scheme does not allow evaluators to give higher ratings to offerors that significantly exceed the stated small business goals or submit proof of binding agreements with small businesses and therefore are discouraged.

Additionally, small business past performance should be considered and is required in some cases (See FAR 15.304(c)(3)(ii)). In looking at small business past performance, the government evaluates how well the offeror has performed in achieving its small business goals. Remember that this should only be evaluated for other than small businesses in assessing their compliance with FAR 52.219-9. A tool regularly used by the government is the electronic Subcontracting Reporting System (eSRS).

**NOTE:** DFARS PGI 215.304 provides an example that indicates evaluation of past performance compliance within a separate small business participation factor. This may instead be evaluated under the past performance factor, **but not in both factors**.

Small business offerors (other than firms utilizing the HUBZone price preference) proposing on unrestricted requirements are not held to the requirements of FAR 52.219-14 Limitations on Subcontracting because the clause is applicable to small business set-aside procurements only. However, small business offerors should meet the small business participation factor goals through any, or a combination of the following: performance as a prime small business, performance as a joint venture, or small business subcontracting.

DoD Source Selection Procedures 3.1.6 require the offeror to include a commitment signed by both the offeror and the subcontractor certifying that, if a contract is awarded resulting from the proposal, the parties commit to joint performance as proposed when subcontractor experience is submitted for consideration as part of the proposal. If the signed commitment is not fully executed by both parties and provided with the Past Performance Proposal, subcontractor references will not be evaluated or considered.

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## 3.2 Documentation of Initial Evaluation Results

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See Army template source selection documents located in PAM - Template Library <https://spcs3.kc.army.mil/asaalt/procurement/SitePages/NewTemplates.aspx>).

Following initial evaluations and all required reviews (see DoD Source Selection Procedures 3.2.1), award will either be made without discussions or with discussions (see DoD Source Selection Procedures 3.2.2 and 3.2.3).

### **Types of Exchanges**

After receipt of proposals, there are three types of exchanges that may occur between the government and offerors -- clarifications, communications, and negotiations / discussions. When they occur, their purpose and scope, and whether offerors are allowed to revise their proposals as a result of the exchanges are different for each.

Clarifications may only be used when an award will be made without discussions (see FAR 15.306(a)(1) and DoD Source Selection Procedures 3.3.1).

Communications (see FAR 15.306(b) and DoD Source Selection Procedures 3.5.2) and discussions (see FAR 15.306(b) and DoD Source Selection Procedures 3.5) are used when a competitive range will be established. ***All SSEB exchanges must be accomplished through the use of evaluation notifications (ENs).***

	Clarifications	Communications	Negotiations/Discussions
<b>When They Occur</b>	<p>Limited exchanges, between the government and offerors <b>when award WITHOUT discussions</b> is contemplated.</p> <p><b>NOTE:</b> Award may be made without discussions if the solicitation announces that the government intends to evaluate proposals and make award without discussions. <b>See section 3.3 for acquisitions with an estimated value over \$100M.</b></p>	<p>After receipt of proposals, leading to the establishment of the competitive range of offerors with which the government intends to conduct discussions.</p> <p>May only be held with those offerors (other than offerors under FAR 15.306(b)(1)(i)) whose exclusion from the competitive range is uncertain.</p>	<p>After establishing the competitive range</p> <p><b>NOTE:</b> The term “negotiations” applies to both competitive and non-competitive acquisitions. In competitive acquisitions, negotiations are also called discussions.</p>
<b>Scope of the Exchanges</b>	Most limited of the three types of exchanges. Clarifications are not required to be held with all offerors.	Limited; similar to fact finding	Most detailed and extensive. When conducting discussions with one offeror must conduct with all offerors in the competitive range.
<b>Purpose</b>	To clarify certain aspects of proposals	To enhance the government’s understanding of the proposal by addressing issues that must be explored to allow a reasonable interpretation of the offeror’s proposal to determine whether a proposal should be placed in the competitive range	To allow the offeror an opportunity to revise its proposal so that the government obtains the best value, based on the requirement and applicable evaluation factors
<b>Examples of Topics of Exchanges</b>	<ul style="list-style-type: none"> <li>• Relevance of an offeror’s past performance</li> <li>• Adverse past performance information</li> <li>• Resolution of minor or clerical errors</li> </ul>	<ul style="list-style-type: none"> <li>• Address issues that must be explored to determine whether a proposal should be placed in the competitive range</li> <li>• Ambiguities or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes)</li> <li>• Relevance of an offeror’s past performance</li> <li>• Adverse past performance information</li> </ul>	<p>Examples of potential discussion topics include the identification of all evaluated deficiencies, significant weaknesses, and any adverse past performance information to which the offeror has not yet had an opportunity to respond.</p> <p>Additionally, it is a best practice to identify strengths and significant weaknesses to ensure that the offeror does not remove when submitting the FPR.</p> <p>Finally, the PCO may inform the Offeror that its price is too low or too high with the basis of these conclusions.</p>
<b>Are Resultant Proposal Revisions Allowed?</b>	No	No	Yes

Figure 3-3: Comparison of Types of Exchanges (After Receipt of Proposals)

## **Conducting Exchanges with Offerors**

The PCO controls all exchanges with offerors. Before participating in any exchanges, the PCO shall review the ground rules with the team members. Exchanges may be conducted in-person, telephonically, via videoconference, or via written correspondence.

During exchanges with offerors, the government may not:

- Favor one offeror over another;
- Reveal an offeror's technical solution to another offeror;
- Reveal an offeror's price to another offeror without that offeror's permission;
- Knowingly disclose source selection information, or reveal the name of individuals providing past performance information;
- Reveal source selection information in violation of statutory and regulatory requirements.

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### **3.3 Award Without Discussions**

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***Reminder:*** Discussions should be conducted and are the expected course of action for all acquisitions with an estimated value of \$100 million or more unless inappropriate for a particular circumstance. ***Award without discussions on complex, large procurements is discouraged and seldom in the government's best interest. (Reference DFARS 215.306 and DoD Source Selection Procedures 3.2.3)***

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### **3.4 Competitive Range Decision Document – (No Supplemental Army Guidance)**

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### **3.5 Discussion Process**

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#### **Competitive Range**

If the competitive range is further reduced for purposes of efficiency, the basis for this reduction must be adequately documented. Considerations for further restricting competition may include expected dollar value of the award, complexity of the acquisition and solutions proposed, and extent of available resources (see FAR 15.306(c)).

**NOTE:** Predetermined cut-off ratings (e.g., setting a minimum rating or identifying a predetermined number of offerors to be included in the competitive range) must not be established. The government may not limit a competitive range for the purposes of efficiency on the basis of technical scores alone.

The PCO, with approval of the SSA, should continually reassess the competitive range as discussions and evaluations continue to ensure neither the government nor the offerors waste resources by keeping proposals in the competitive range that are no longer contenders for award (see DoD Source Selection Procedures 3.4 and 3.5.3).

## **Discussions**

The government’s objectives, to include the competitive range decision narrative, shall be fully documented in the prenegotiation objective memorandum (POM) prior to entering into discussions (See FAR 15.406-1 and DFARS PGI 215.406-1).

Meaningful discussions do not include advising the individual offerors on how to revise their proposal nor does it include information on how their proposal compares to other offerors’ proposals.

Additionally, discussions must not be misleading. An agency’s framing of a discussion question may not inadvertently mislead an offeror to respond in a manner that does not address the agency’s concerns, or that misinforms the offeror concerning its proposal weaknesses or deficiencies or the government’s requirements.

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### **3.6 Final Proposal Revisions – *(No Supplemental Army Guidance)***

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### **3.7 Documentation of Final Evaluation Results**

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At the request of the SSA, the SSAC and/or SSEB members may also present the evaluation results by means of one or more briefings. Figure 3-4 illustrates a sample proposal evaluation matrix that can be used during for the briefing. The documentation should be clear and concise and should cross-reference, rather than repeat, information in existing documents as much as possible (e.g., the SSP, evaluation team reports, etc.). In rare instances, if the SSA identifies concerns with the evaluation findings and/or analysis, the SSA may require the SSEB and/or SSAC to conduct a re-evaluation and/or analysis to address these concerns. ***The evaluation results shall clearly be documented in the SSEB Report*** (See DoD Source Selection Procedures Paragraph 1.4.4.4.1.5.1, Paragraph 2.2.6, Paragraph 3.2, Paragraph 3.3.2, Paragraph 3.7, and Paragraph 4.1.9).

OFFEROR*	TECHNICAL EVALUATION	PAST PERFORMANCE CONFIDENCE	SMALL BUSINESS PARTICIPATION	TOTAL EVALUATED PRICE
A	Outstanding	Substantial Confidence	Good	\$171,503,971



B	Outstanding	Limited Confidence	Good	\$134,983,305
C	Good	Limited Confidence	Outstanding	\$120,976,836
D	Outstanding	Limited Confidence	Outstanding	\$150,840,308
E	Acceptable	Substantial Confidence	Acceptable	\$115,751,933

Figure 3-4: Sample Proposal Evaluation Matrix.

*\*There is NO significance implied by use of alphabetic identifiers to differentiate between the example offerors.*

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### 3.8 Conduct and Document the Comparative Analysis

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When performing the comparative analysis, the SSAC will consider each offeror's total evaluated price and the discriminators in the non-cost ratings as indicated by the SSEB's evaluation findings for each offeror. Consider these differences in light of the ***relative importance (or weight) assigned to each evaluation factor.***

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### 3.9 Best-Value Decision – (No Supplemental Army Guidance)

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### 3.10 Source Selection Decision Document

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(See Army source selection template documents located in PAM - Template Library <https://spcs3.kc.army.mil/asaalt/procurement/SitePages/NewTemplates.aspx>).

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### 3.11 Debriefings – See Appendix A

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### 3.12 Integrating Proposal into the Contract

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When planning the acquisition/source selection, coordinate closely with legal counsel to select the best method to incorporate beneficial aspects, such as the small business participation commitment document or above-threshold performance, into the award document. This is vital when aspects of a proposal are cited or emphasized in the SSDD because they were identified as beneficial to the government, especially when the aspects of the proposal support a price premium paid by the government. The following methods may be considered:

**Use of Attachment.** Beneficial aspects can be captured in a separate document attached to the PWS/Statement of Work (SOW)/SOO which clearly defines the changes to requirements based on specific beneficial aspects but leaves the original PWS/SOW/SOO untouched.

**Section C PWS/ SOW/ SOO, System Specifications, Section H – Special Contract Requirements, or Other.** Above-threshold performance may be captured within the PWS/SOW/SOO, System Specifications, Section H - Special Contract Requirements, or otherwise captured in the contract document, depending upon what is proposed. If using this method, care must be executed not to permanently increase the government's requirements in future RFPs unless it is an intentional decision on the part of the organization to do so.

- **Best Practice:** *Methods other than an addendum to the PWS/SOW/SOO addendum may be preferred due to the possibility of inadvertent inclusion in subsequent contracts (causing requirements creep). The intent is not to increase the government's minimum requirements, but to hold a particular offeror to their proposal. (The government may later determine that the minimum requirement should include the higher performance and include it at time of re-compete).*

**Model Contract Process.** The RFP should discuss the model contract process (if used) in Section L (or equivalent) to ensure that offerors know that they will be contractually bound to their proposed above-threshold performance. Include language in the RFP describing how the government will capture the promised above-threshold performance prior to award. Above-threshold performance and significant strengths the government expects to capture in the contract should be addressed with the offerors during the discussions process.

When used, model contracts are typically sent to offerors prior to closing discussions and submission of Final Proposal Revisions (FPRs) to include the above-threshold performance that will be captured upon contract award, thereby ensuring that all parties are aware of what is expected of the prospective awardee. Ensure that each offeror's proposed above-threshold performance is carefully and correctly incorporated into each model contract and the final narrative is consistent with the letter to the offeror requesting the FPR.

**Incorporation of Portions of Offeror's Technical Proposal by Reference.** The RFP should advise offerors that any part of their proposal can be incorporated by reference. Only incorporate those portions of an offeror's technical proposal that provide benefit to the government.

### **Awarding the Contract(s) and Posting to SAM.gov**

After the SSA has signed the source selection decision document, the PCO will execute and distribute the contract award(s) and post to SAM.gov in accordance with FAR 5.303,

DFARS 205.303, and AFARS 5105.303 Announcement of contract awards. Congressional notification may be required IAW FAR 5.303 and AFARS 5105.303. For Section 8(a) Set-Asides, the SBA shall be notified IAW FAR 19.804. For Small Business Programs, the apparent unsuccessful offerors shall be provided the pre-award notice required by FAR 15.503.

### **Notification to Unsuccessful Offerors**

The PCO must notify unsuccessful offerors in writing after contract award or whenever their proposals are eliminated from the competition within the timeframe identified in Figure 3-5 below. This chart provides a side-by-side comparison of the differences between preaward and postaward notices. The type of information that must be included in the notice will depend upon whether it is sent before or after contract award.

	<b>PREAWARD NOTICE FAR 15.503(a)</b>	<b>POSTAWARD NOTICE FAR 15.503(b)</b>
<b>Who Must be Notified?</b>	Any offeror whose proposal was excluded from the competitive range or otherwise eliminated from the competition before contract award.	Any offeror whose proposal was in the competitive range but was not selected for award or who had not received a preaward notice.
<b>When Must it be Sent?</b>	Promptly after the offeror's proposal was eliminated from the competition.	Within three days after the date of contract award.
<b>What is Included in the Notice?</b>	<ul style="list-style-type: none"> <li>• A summary of the basis for the determination.</li> <li>• A statement that the government will not consider any further proposal revisions from the offeror.</li> </ul> <p><b>NOTE:</b> Small business offerors are entitled to additional information as well as the timelines associated with small business offerors as described at FAR Part 15.503(a)(2) and FAR Part 19.302(d).</p> <p>After contract award, and upon request from an offeror who previously received a preaward notice, the PCO must provide the offeror the information normally provided as part of a postaward notice.</p>	<ul style="list-style-type: none"> <li>• Number of offerors solicited.</li> <li>• Number of proposals received.</li> <li>• Name(s) and address(s) of awardee(s)</li> <li>• Items, quantities, and unit prices of each awardee. However, unit prices may not be freely releasable under Freedom of Information Act (FOIA). <b>Therefore, PCOs should always consult legal counsel prior to disclosing unit prices.</b></li> <li>• A summary of the reason(s) the offeror's proposal was not selected, unless the price information readily reveals the reason.</li> <li>• Notice of right to request a debriefing.</li> </ul>

*Figure 3-5: Comparison of Preaward and Postaward Notices*

# CHAPTER 4: DOCUMENTATION REQUIREMENTS

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## 4.1 Minimum Requirements

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All documentation, from requirement concept and initiation through all phases of the procurement process, shall be properly safeguarded and appropriately handled. Unless documentation is to be marked at a higher classification, it will be properly marked in accordance with government (CUI) policy and procedures. <https://www.dodcui.mil/>.

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## 4.2 Electronic Source Selection

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If the PCO determines use of an electronic system for storing and handling source selection documentation is appropriate for the acquisition, the Army's Virtual Contracting Enterprise (VCE) Acquisition Source Selection Interactive Support Tool (ASSIST) is available.

ASSIST is a secure web-based contracting tool, accessible by Common Access Card (CAC) or External Certificate Authority (ECA), used to facilitate the coordination and management of all evaluation documentation generated in a source selection. For more information, please reference the ASSIST user guide at <https://assist1.army.mil>.

## CHAPTER 5: DEFINITIONS

**Adverse past performance** is defined as past performance information that supports a less than satisfactory rating on any evaluation. Adverse past performance that must be addressed with Offerors includes unfavorable comments received from sources such as those received from respondents from past performance questionnaires or interviews that have not been finalized within a formal rating system. A best practice can be to discuss adverse past performance which caused a rating to be lowered to Satisfactory Confidence.

**Due Diligence (Industry)** – The process followed by prospective contractors to fully understand the government requirement in order to submit a complete, responsive proposal to the government which will result in a successful acquisition. Methods may include such activities as conducting site visits, attending industry days, one-on-one sessions with the acquisition teams, pre-proposal conferences and responding to draft requests for proposals.

**Due Diligence (Government)** – The process followed by the government acquisition team to ensure all prospective contractors are as informed of the government requirement and method of acquisition as possible in order to receive a reasonable number of competitive proposals from industry. Methods may include such activities as providing for site visits, conducting industry days, one-on-one sessions with interested vendors, pre-proposal conferences and sending draft requests for proposals to industry.

**Evaluation Findings** are the evaluator's written observations/judgments regarding the individual merits of the proposal against the RFP requirements.

**Formal Source Selection** means the source selection process used where someone other than the PCO is the SSA, normally for high dollar value or complex acquisitions.

**Other than Small Business** means businesses determined to be other than a small business based upon industry size standards assigned to North American Industry Classification System (NAICS) code. Includes: large businesses, state and local government and non-profit companies. May also include public utilities, educational institutions, and foreign-owned firms based in the U.S. and contributing to the U.S. economy through the payment of taxes or otherwise.

**Minor or Clerical Error** is a minor informality or irregularity that is merely a matter of form and not of substance or a clerical error apparent on its face in the proposal. These may include obvious misplacement of decimal points, incorrect discounts, reversal of prices, and mis-designation of units.

**Probable Cost or also known as Most Probable Cost** is the government's best estimate of the costs that a contractor will incur in performing a cost-reimbursement contract (FAR 15.404-1(d)(2)(i)). The probable cost must be ascertained by making a cost realism analysis during the evaluation of each proposal and must be used in making the source selection decision for best value.

**Program Manager or Requiring Activity** is the entity responsible for providing contract requirements documents within the RFP that communicates those requirements to the offeror.

**Rating** is the adjective/color descriptor assigned by the evaluators to the non-Cost/Price Factors and corresponding Subfactors. It represents their conclusions as to the quality of the proposal, supported by narrative write-ups identifying the associated findings (strengths, weaknesses, deficiencies, risks, and uncertainties).

**Requirements Documents** are all aspects of the RFP that convey the needs of the government to offerors, including the PWS/SOW/SOO, technical requirement documents, and system requirement documents. **NOTE:** All documents are to be properly safeguarded, to include marking, handling, and storage in accordance with government controlled unclassified information (CUI) policy and regulations if not properly marked at a higher level.

**Sample Task** is a hypothetical task that is given to Offerors during source selection to evaluate their understanding of the work and their ability to perform the work. It must be a reasonable representative of the type of work that will be required. Some rates used to price the task order must be binding on the contractor for the sample to be valid. Incorporation of binding rates also applies to any live/real task order.

**Statement of Objectives (SOO)** is an alternative to a statement of work and is provided as part of a request for proposal (RFP). The SOO provides the government's overall objectives of an acquisition/procurement to which an offeror responds, providing in their proposal a solution and possible means of support to achieve the contractual objective.

**Small Business Professional (SBP)** is the all-inclusive term used to identify the individuals working in small business offices that assist requiring activities and contracting personnel throughout the acquisition process. SBP support to maximize opportunities for small businesses through document reviews and procedural guidance relating to market research, small business goals and subcontracting opportunities among other functions internal and external to the government.

**Source Selection** is the process used in competitive, negotiated contracting to select the proposal that offers the best value to the government.

**NOTE:** A SSAC is only required for acquisitions over \$100M and is NOT required for LPTA evaluation methodology.

**Source Selection Team** is a team that is tailored to the unique acquisition, tasked with carrying out a source selection. Composition of the team generally consists of the SSA, PCO (if different from the SSA), SSAC (if applicable), SSEB, Advisors, Cost/Price Experts, Legal Counsel, small business professionals, and other subject-matter experts.

**Standard of Proof** is the evidence or standard by which the government (evaluator) determines whether an offeror has complied with the government's stated requirement.

**Tradeoff Process** is the competitive negotiation process where the government evaluates both cost/price and non-cost/price factors and awards the contract to the offeror proposing the combination of factors which offer the best value to the government. The process is appropriate when it is in the government's best interest to consider award to other than the lowest priced offeror or the highest technically rated offeror.

The SSA must then determine if a higher rated technical offer is "worth" the additional cost to the government.

# APPENDIX A

## Debriefing Guide

### A-1 Purpose of Debriefing

#### ***Constructive Communication with Industry***

Transparency, to the extent allowable by applicable regulations and laws, ***throughout the process*** can help to build trust and confidence on the part of offerors regarding the treatment of their proposal and the source selection decision outcome.

Unsuccessful offerors are sometimes able to accept negative findings in a debriefing if they perceive that the government acted with fairness, consistency, objectivity, and in accordance with the evaluation criteria described in the RFP.

### A-2 Requirements

Figure A-1 below provides a comprehensive side-by-side comparison of the requirements for preaward and postaward debriefings.

	<b>PREAWARD DEBRIEFING FAR 15.505</b>	<b>POSTAWARD DEBRIEFING FAR 15.506</b>
<b>Who is Entitled to a Debriefing?</b>	Offerors excluded from the competitive range or otherwise excluded from the competition before award.	Any unsuccessful Offeror who has not had a preaward debriefing. <b><i>A successful offeror may also be provided a debriefing.</i></b>
<b>When Must the Government Conduct a Debriefing?</b>	As soon as practicable after receipt of a timely, written request. However, the PCO may refuse the request for a preaward debriefing if it is not in the best interest of the government to conduct a preaward debriefing. (1) (2)	Within five days, to the maximum extent practicable, after receipt of a timely, written request for a debriefing. (3)
<b>What is a Timely Request?</b>	A request received by the contracting activity within 3 calendar days after the offeror received notice of exclusion from the competition. (4)	A request received by the contracting activity within 3 calendar days after the offeror received notice of contract award. (4)
<b>What Can <u>Not</u> Be Disclosed?</b>	<ul style="list-style-type: none"> <li>• Number of offerors</li> <li>• Identity of other offerors</li> <li>• Content of other offerors' proposals</li> <li>• Ranking of other offerors</li> <li>• Evaluation of other offerors</li> <li>• Point-by-point comparisons of a debriefed offeror's proposal with other proposals</li> </ul> Information prohibited from disclosure by FAR 24.202 or information exempt from release under the FOIA (5)	<ul style="list-style-type: none"> <li>• Point-by-point comparisons of a debriefed offeror's proposal with other proposals. (The ratings of a debriefed offeror and the awardee may be disclosed to the subfactor level without violating this principle.)</li> <li>• Information prohibited from disclosure by FAR 24.202, or information exempt from release under the FOIA. (5)</li> </ul>
	<b>Legal counsel must be consulted if there is <u>any</u> question regarding the releasability of information</b>	



<b>What Should Be Discussed?</b>	<ul style="list-style-type: none"> <li>• The agency's evaluation of significant elements in the offeror's proposal (6);</li> <li>• A summary of the rationale for eliminating the offeror from the competition;</li> <li>• Reasonable responses to relevant questions about whether source selection procedures contained in the RFP, applicable regulations, and other applicable authorities were followed in the process of eliminating the Offeror from the competition.</li> </ul>	<ul style="list-style-type: none"> <li>• The government's evaluation of the significant weaknesses, weaknesses, or deficiencies in the offeror's proposal, if applicable.</li> <li>• The overall evaluated cost/price (include unit prices only if releasable under FOIA, and DO NOT disclose the IGE); technical rating, if applicable, of the successful offeror and the debriefed offeror; and past performance information on the debriefed offeror;</li> <li>• The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;</li> <li>• A summary of the rationale for award;</li> <li>• For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and</li> <li>• Reasonable responses to relevant questions about whether source selection procedures contained in the RFP, applicable regulations, and other applicable authorities were followed.</li> <li>• Other information, as appropriate.</li> </ul>
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*Figure A-1: Comparison of Preaward and Postaward Debriefings*

**Notes to Figure A-1:**

- (1) The offeror may request the debriefing be delayed until after contract award. When delayed, the debriefing shall include all the information provided in a postaward debriefing.
- (2) In the event either the government or offeror delays the debriefing, the PCO must provide the debriefing within the timeframe established for postaward debriefings.
- (3) If an offeror submits an untimely request for debriefing, the PCO may nonetheless conduct a debriefing if feasible. In such case, inform the offeror the request is untimely. **NOTE:** If new information is provided during an untimely debriefing, it may form the basis of a timely protest. Therefore, obtain legal advice prior to providing an untimely debriefing
- (4) Do not count the day the offeror received the notice; start with the next day. Consider sending the notice by mail with return receipt requested or by electronic means (facsimile transmission or e-mail) with immediate acknowledgment requested so that you can easily establish the date the offeror received it.
- (5) Includes such things as trade secrets; privileged or confidential information, e.g., manufacturing processes and techniques, commercial and financial information, and cost data; and the names of individuals providing past performance information. It does not include information otherwise available without restriction to the government or public.
- (6) If the element was significant enough to eliminate the offeror from the competitive range, it is significant for debriefing purposes. Include both positive and negative aspects of the offeror's proposal to help improve future proposals.

## **Other Information to Ensure a Meaningful Debriefing**

In a postaward debriefing, disclose the evaluation ratings of the debriefed offeror and awardee to the subfactor level of evaluation; and all significant weaknesses, weaknesses, strengths, and deficiencies (if any) of the debriefed offeror's proposal.

Disclose the debriefed offeror's total evaluated prices and the awardee's total evaluated cost/price (include unit prices only if releasable under FOIA, but DO NOT disclose the IGE).

Disclose a summary of the rationale for the contract award decision. The rationale is contained in the SSA's SSDD. Evaluation information concerning the other unsuccessful offerors and information not releasable under FOIA must be redacted prior to release of an SSDD, ensuring no information listed in FAR 15.506(e) is released.

For award of a contract in excess of \$10 million and not in excess of \$100 million with a small business or nontraditional defense contractor, the debrief must include an option for the small business or nontraditional defense contractor to request a redacted copy of the SSDD (*Reference DFARS Subpart 215.506(d)(i)*).

For all other awards below \$100M, consider furnishing the debriefed offerors with a **redacted** copy of the SSDD.

For award of a contract exceeding \$100M, a redacted copy of the SSDD is required to be furnished to offerors (*Reference DFARS Subpart 215.506(d)(ii)*).

Clearly indicate when the debriefing has been concluded. Formal conclusion of the debriefing begins the protest window.

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### **A-3 Notification of Debriefing**

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Regardless of the method of debriefing, the PCO should document all aspects of the process for arranging the debriefing date to include written acknowledgement from the offeror.

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### **A-4 Debriefing Location**

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The PCO should always consider the needs of the offeror as well as the ability of the government to accommodate when selecting the debriefing location. Just as important is the inclusion of the right personnel in the debriefing process. Therefore, all reasonable efforts should be made to ensure key individuals from distant locations can participate.

For face-to-face debriefings, the PCO shall ensure that all access and security requirements for offerors and government personnel attendance are met. This may include requirements to access the installation or debriefing facility.

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### **A-5 Debriefing Attendees**

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**Government Personnel.** As chair of the debriefing, the PCO should coordinate attendance of the appropriate government participants and ensure legal counsel attends, especially when the offeror's legal counsel is going to attend. (*Reference DoD Source Selection Procedures Appendix A.5.1*) The PCO shall also invite the SBP.

**Debriefed Offeror Personnel.** Subcontractors may attend the prime contractor's debriefing with the invitation and consent of the prime contractor. (*Reference DoD Source Selection Procedures Appendix A.5.2*)

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## **A-6 Preparing for the Debriefing**

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Because debriefings are time-sensitive, the prioritization of (and preparation for) this event(s) is critical. The extent of preparation may vary considerably with the complexity of each acquisition. This documentation (in addition to the outline, if used) will establish a “framework” to ensure the debriefing remains focused and productive.

### ***Establish and Prepare Debriefing Documentation***

- Briefing charts alone (with information taken directly from final briefing slides presented to the SSA) may be sufficient.
- A written script (which may later be provided to the offeror) may be prudent in addition to briefing charts.
- Review and be familiar with the final evaluation report for the debriefed offeror.

### ***Practice the Debriefing***

- Rehearse the order and execution of the debriefing.
- Ensure the government participants understand their roles and when to speak.
- Set rules for taking new questions and caucusing.

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## **A-7 Outline for the Debriefing – (No Supplemental Army Guidance)**

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## **A-8 Conducting the Debriefing**

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### ***Handling Questions***

- You may request that questions from the offeror's personnel be funneled through their main spokesperson (this facilitates the orderly conduct of the debriefing).
- As a general rule, do not answer questions “on the fly”.

- Hold a government caucus to formulate a response before providing an answer (*maintain source selection materials in caucus room for reference, if needed*).
- Government participants should only speak when requested by the PCO with discussions tightly controlled.
- Additional questions may be answered during the debrief. DFARS Subpart 215.506-70 and DoD Source Selection Procedures Appendix A both provide specific guidance and timeframes for handling questions received during or following the debrief of offerors. Note: When providing a required postaward debriefing to successful and unsuccessful offerors, pay careful attention to the procedures and timeframes in DFARS 215.506-70. The number of days for these actions are in **business days**, not calendar days.
- The postaward debriefing is NOT considered concluded until all criteria specified in the DFARS and DoD Source Selection Guide has been properly met or performed.
- Ensure redacted SSDD is legally sufficient, as applicable, and all actions are performed timely per DFARS and DoD Source Selection Procedures.

### ***The Post Debriefing Memorandum***

- The PCO must include a summary of each debriefing as a record in the contract file. This post-debriefing memorandum should include, at a minimum:
  - A list of all debriefing attendees;
  - A summary of the information disclosed during the debriefing. (The most efficient means for doing this is to attach the debriefing slides to the memorandum.);
  - The offeror's request for a debriefing, if any;
  - The substance of all questions and answers discussed at, or provided subsequent to, the debriefing. This includes previously submitted questions, any hand-outs, and a list of written questions/answers;
  - Any other relevant documents.

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## **A-9 Sample Offeror Questions – (No Supplemental Army Guidance)**

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# APPENDIX B

## Tradeoff Source Selection Process: Subjective Tradeoff and Value Adjusted Total Evaluated Price Tradeoff

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### B-1 Subjective Tradeoff

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Where the tradeoff source selection process is used to obtain best value, ***the subjective tradeoff process is appropriate for most Army source selections.*** The subjective tradeoff process provides the following benefits in source selection:

- The ability for offerors to propose various technical approaches that may be of benefit to the government. The competitive environment should encourage the freedom to do so depending upon what the solicitation places the most value/importance upon;
- The ability to have meaningful comparisons and establish discriminators among competing proposals;
- The ability to place a greater value on past performance by enabling discernment of an offeror's performance record;
- The ability of the SSA to give consideration to the benefit/value of non-cost/price factor differences between offerors and to determine if those differences justify paying the cost/price differential between them.

When using this process, clearly:

- State the relative importance of the factors and subfactors;
- Describe, in Section L, the approaches or capabilities that the government places a higher value on for exceeding the threshold (minimum) requirements if applicable, and;
- Describe, in Section M, how the government will evaluate these areas and assign findings (strengths or significant strengths) correlated to the expected positive impact or benefit received when the offeror exceeds threshold requirements.

***Use of Entry-Gate Criteria*** – As part of the subjective tradeoff source selection process, the DoD Source Selection Procedures allows for the use of entry-gate criteria. This is considered a combination approach utilizing concepts from both LPTA and Subjective Tradeoff. When determining your evaluation criteria, the PM and the PCO should closely examine the key requirements and carefully consider whether some objective elements

(i.e., entry-gate criteria) could be evaluated using an acceptable/unacceptable or pass/fail rating methodology. During the evaluation of proposals, offerors must be determined to be acceptable or pass the entry-gate criteria in order to advance in the subjective tradeoff evaluation. When the requirement can be clearly stated with a corresponding standard of proof, using this combination approach with entry-gate criteria can simplify and streamline the evaluation process. See also Appendix C for more information on acceptable/unacceptable criteria.

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## **B-2 Value Adjusted Total Evaluated Price Tradeoff**

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VATEP may be appropriate where the PM is able to establish an affordability cap (limits on pursuing any above-threshold requirements), determine a relative order of importance for above-minimum performance or criteria, and assign a monetary value. ***Use of VATEP may be most suitable for procuring developmental items, where the government can determine the value (or worth) of “better performance” and quantify it in the RFP.***

### **VATEP Example 1**

**Scenario:** This effort is for the purchase of an aircraft with multiple minimum performance specifications (threshold), some of which also have desired performance specifications (objective). The PM / RA has identified the 3 most desired objectives for which a Value Adjusted Total Evaluated Price will be determined.

**SECTION M LANGUAGE:** At the end of the paragraph, “Basis of Award”, insert the following language:

This RFP employs the use of Value Adjusted Total Evaluated Price (VATEP) techniques which identifies, in advance, the value placed on above-threshold performance or capabilities in the Air Movement Mission-Range and Payload, Self-Deployment, and/or Cruise Airspeed requirements. The specific VATEP procedures and values for this effort are set forth below:

If an offeror’s proposal exceeds the mandatory minimum performance specifications for the Air Movement Mission-Range and Payload, Self-Deployment Mission, and/or Cruise Airspeed requirements set forth in the Air Vehicle technical subfactor, the following VATEP procedures will be applied:

An offeror can earn VATEP evaluation credit for meeting performance between the threshold and objective for the Air Movement Mission-Range and Payload and/or Cruise Airspeed requirements. An offeror can also earn VATEP evaluation credit for meeting the objective for the Self-Deployment Mission. The VATEP eligible objectives shall be embodied in the FUA Aircraft and also priced and delivered in Contract Line Item Number (CLIN) X001AA.

The offeror's total evaluated price for CLIN X001AA will be adjusted, for evaluation purposes only, in accordance with the chart below where above-threshold performance has been achieved for any of the three objectives identified. The VATEP objectives must be available on the first aircraft in order to be eligible for VATEP evaluation credit. Risk will not be assessed in VATEP since risk was already assessed in the Air Vehicle subfactor.

VATEP Objectives	Specification Paragraph	Maximum VATEP % Reduction in CLIN X001AA Proposed Price	Calculation of VATEP %	Identify where in Offeror's proposal the VATEP objective is met or partially met
Air Movement Mission-Range and Payload	6.3.2	3%	(Offerors proposed payload less the threshold of 2100)/600*3% [Not-to-Exceed 3%] <b>NOTE: 2100 is the threshold and 600 is the delta between the threshold and objective</b>	
Self-Deployment	6.3.1	2%	Objective is binary. An Offerors proposal will either meet or fail to meet the objective.	
Cruise Airspeed	6.1.6	1%	(Offerors proposed cruise airspeed less the threshold of 250)/150*1% [Not-to-Exceed 1%] <b>NOTE: 250 is the threshold and 150 is the delta between the threshold and objective</b>	

The SSA will consider the VATEP of the cost/price factor, along with the other evaluation factors, in making the source selection decision.

*VATEP is a technique used for evaluation purposes only. The value adjusted total evaluated price will not change the proposed unit prices set forth in Section B of the proposal, nor will it change the estimated contract value for award purposes.*

**SECTION L LANGUAGE:** The offeror shall complete RFP Attachment L-5 (VATEP Calculations) to facilitate the government's review process.

**(NOTE:** RFP Attachment L-5 contains the chart identified in Section M above.)

## VATEP Example 2

*Example:* The Army is buying a large equipment trailer (LET) using VATEP, and one of the requirements is maximum payload. The threshold is 80,000 lbs., and the objective is 85,000. As stated in the RFP, During Step 2 of the VATEP process the SST will adjust each offeror's total proposed price (TPP) to derive the total evaluated price (TEP) by \$1,000 for each 50 lbs. of increased payload over the threshold, for a maximum adjustment to the TEP of \$100,000. This adjustment is for evaluation purposes only, and

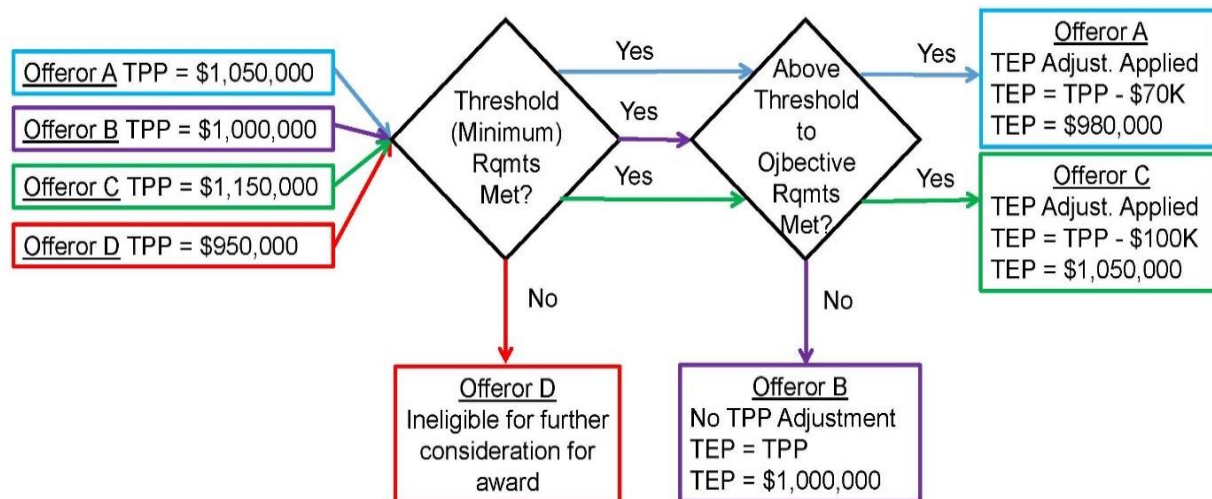
will not change the proposed pricing, which will become the awarded price. If an offeror proposes the threshold for payload, then they will receive no adjustment. In this example, four proposals are received:

- Offeror A: TPP=\$1,050,000; at least an “acceptable” rating for all minimum requirements, proposes a maximum payload of 83,500 lbs., an increase of 3,500 lbs. over the threshold.
- Offeror B: TPP=\$1,000,000; at least an “acceptable” rating for all minimum requirements, proposes the threshold maximum payload of 80,000 lbs.
- Offeror C: TPP=\$1,150,000; at least an “acceptable” rating for all minimum requirements, proposes a maximum payload at the objective level of 85,000 lbs., an increase of 5,000 lbs. over the threshold
- Offeror D: TPP=\$950,000; “unacceptable” for two minimum requirements, proposes a maximum payload at the objective level of 85,000 lbs., an increase of 5,000 lbs. over the threshold. *Offeror D is eliminated in Step 1.*

At the conclusion of Step 1, offeror B has the lowest TPP, with offeror A as the second-lowest cost/price and Offeror C as the highest price. However, offerors A and C have their TPPs adjusted since they have proposed maximum payloads above the threshold, while offeror B has no adjustment since they have proposed only the threshold maximum payload. The TEP adjustments are as follows:

- Offeror A has proposed an increase of 3,500 lbs., which leads to a decrease of their TPP by \$70,000, for a TEP of \$980,000.
- Offeror B has proposed the threshold and receives no adjustment to their TPP. Therefore, their TEP is \$1,000,000.
- Offeror C has a proposed increase of 5,000 lbs., which leads to a decrease of their TPP by the maximum amount of \$100,000, for a TEP of \$1,050,000.





**Requirement:** The US Government (USG) is soliciting for a large equipment trailer (LET). The LET has a rated payload of a minimum of 80,000 lbs. (40 tons), with an objective payload of 85,000 lbs. (42.5 tons). The LET is to be used to transport a variety of equipment. The LET will be employed for use on primary and secondary roads. The payload objective will be used to determine a Value Adjusted Total Evaluated Price (VATEP).

**SECTION M LANGUAGE:** At the end of the “Basis of Award” paragraph, insert the following language:

This RFP employs the use of the Value Adjusted Total Evaluated Price (VATEP) technique, which identifies in advance the value placed on above-threshold performance for the payload requirement. The specific VATEP procedures and value for this effort are set forth below.

The offeror’s total proposed price will be adjusted to arrive at a total evaluated price, for evaluation purposes only, in accordance with the chart below where above-threshold performance has been achieved for the payload requirement. The VATEP objective must be available on the first LET in order to be eligible for VATEP evaluation credit. Risk will not be assessed in VATEP. For each 50 lbs. of increased payload, the total evaluated price (TEP) will be reduced by \$1,000, for a maximum adjustment to TEP of \$100,000. No credit will be provided above the maximum for performance over the objective.

VATEP Objectives	ATPD Paragraph	Maximum VATEP Reduction to Total Evaluated Price	Calculation of VATEP %	Identify where in Offeror's proposal the VATEP objective is met or partially met
Payload	4.3.2	\$100,000	(Offeror's proposed payload less the threshold of 8000)/50*\$1,000 [Not-to-Exceed \$100,000 total reduction] <b>NOTE:</b> 8000 is the threshold and 5,000 is the delta between the threshold and objective	

The SSA will consider the VATEP of the cost/price factor, along with the other evaluation factors, in making the source selection decision.

The VATEP adjustment is for evaluation purposes only, and will not change the proposed pricing, which will become the awarded price. If an Offeror proposes the threshold for payload, then they will receive no adjustment.

**SECTION L LANGUAGE:** The offeror shall complete RFP Attachment L-X (VATEP Calculations) to facilitate the government review process.

The offeror's LET shall meet or exceed the threshold identified in the table below. LETs that fail to meet the threshold will not be considered. If an offeror's proposed payload exceeds the threshold performance specification set forth in the technical subfactor, the following VATEP procedures will be applied:

An offeror can earn VATEP evaluation credit for meeting performance between the threshold and objective, or for meeting the objective requirement. This credit will be assessed as a reduction in the total evaluated price. If performance between threshold and objective is being proposed, the exact performance value shall be listed in Attachment L-X. A LET that meets the proposed above-threshold payload performance shall also be priced and delivered in CLIN X001AA.

# APPENDIX C

## Lowest Priced Technically Acceptable Source Selection Process

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### C-1 Purpose

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The purpose of this Appendix is to assist acquisition professionals in making sound decisions for determining whether to use a Tradeoff or LPTA source selection process to obtain best value. LPTA is an available source selection approach. However, a lack of understanding of when it is an appropriate choice may result in misapplication of this process. This Appendix includes “side-by-side” comparisons of LPTA vs. Tradeoff characteristics, methodologies, common concerns associated with each, tips and best practices.

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### C-2 References

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1. Federal Acquisition Regulation Part 15 <https://www.acquisition.gov/far/part-15>.
2. Defense Federal Acquisition Regulation Supplement (DFARS and Procedures, Guidance, and Information (PGI) Part 215  
<https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>.
3. Army Federal Acquisition Regulation Supplement (AFARS) and AFARS Procedures, Guidance, and Information (AFARS-PGI) Part 5115  
[https://spcs3.kc.army.mil/asaalt/procurement/AFARS/AFARS\\_5115.aspx](https://spcs3.kc.army.mil/asaalt/procurement/AFARS/AFARS_5115.aspx).
4. Department of Defense Source Selection Procedures  
<https://www.acq.osd.mil/dpap/policy/policyvault/USA000740-22-DPC.pdf>.
5. Government Accountability Office Cases - Various
6. News Article ‘Putting Best Value Back into the trade Off Acquisition Process” May 20, 2019 USAAC <https://asc.army.mil/web/news-putting-best-value-back-into-the-trade-off-acquisition-process/>.

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### C-3 Purpose

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**Policy Perspective on Use of LPTA.** The DoD Source Selection Procedures includes a separate Appendix C devoted to the LPTA Source Selection Process (reference 4).

Of note, and identified upfront in the DoD Source Selection Guide, is reference to DFARS 215.101-2-70 Limitations and Prohibitions specific to types of procurements and when LPTA is NOT to be used as a source selection procedure and when contracting officers are required to avoid using LPTA or are prohibited from using the process.

The use of LPTA has increased but not necessarily successfully in all cases, causing concern by both the government and industry partners. Some specific concerns include:

- Government officials are not able to adequately define the requirement and, therefore, not able to adequately define technical acceptability.
- Awarded prices are unrealistically low.
  - Incumbent contractors underbid at unrealistic prices.
  - Winning contractors cannot attract qualified employees.
  - Contractors are unable to perform at acceptable quality levels.
- Poor outcomes from using LPTA endanger the security of government resources, to include information systems and networks and personnel.

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## C-4 What is Risk?

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Whether using Tradeoff or LPTA, the focus should always be on identifying the key discriminators based upon market research and the assessment of risk. Risk, as it pertains to source selection, is the potential for unsuccessful contract performance. Increased risk comes with numerous possible complicating factors including:

Disruption of Schedule	Funding/Budget Availability
Increased Cost or Degradation of Performance	Contract Type – Pricing Arrangement
Need for Increased Government Oversight	Dependencies on Other Projects/Systems
The Likelihood of Unsuccessful Contract Performance	Possible Effect on Other Simultaneous Projects
Technical Feasibility	Operational Risk

While it is impossible to eliminate all risk, the objective is to reduce or mitigate risks by selecting the best value offeror through a sound source selection evaluation process.

**The Government's risk is increased where the criteria (standards) are set too low.**

The source selection team must work together to ensure the PWS/SOW/SOO/ Specification is complete and reflects the government's needs at the right quality level.

Identifying key discriminators that are linked to the critical requirements where key risks lie is one of the most important steps in the process of determining the right process to achieve best value.

### Key Risk Areas = Discriminators = Possible Evaluation Criteria

Crystal Clear, Non-Debatable Evaluation Criteria  
 + Evaluation on Basis of Technical Acceptability  
 + Objective Standard of Proof for Each Criteria

**= Candidate for LPTA Source Selection Process**

If the evaluation criteria cannot be objectively defined strictly on the basis of acceptable/unacceptable, and a clear “**standard of proof**” be determined for each, the procurement is not a candidate for the LPTA process.

**NOTE:** If some, but not all, evaluation criteria fit the LPTA requirements a **combination approach** may be a consideration.

**Caution –** If the customer/requiring activity is concerned about improving performance, LPTA is not an appropriate source selection approach.

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## C-5 Quick Comparison of Best Value Basics

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### The FAR on Tradeoff vs LPTA Source Selection Processes

FAR 15.101-1 Tradeoff Process		FAR 15.101-2 LPTA Process	
Permits tradeoffs among cost or price and non-cost factors and allows the government to accept other than the lowest price proposal.		Does not permit tradeoff among cost or price and non-cost factors.	
Used in competitive negotiated contracting.		Used in competitive negotiated contracting.	
Select the most <u>advantageous</u> offer.		Select the lowest price proposal that meets/exceeds minimum requirements.	
Evaluate and compare factors in addition to cost or price.			
Proposals may be ranked.		No ranking of proposals.	
Exchanges may occur.		Exchanges may occur.	
IF	THEN	IF	THEN
<ul style="list-style-type: none"> <li>- Generally considered complex items or services</li> <li>- Less definitive</li> <li>- Developmental or developmental work is required</li> <li>- Non-price factors play a dominant role in the source selection decision</li> </ul>	<p><b>Use the Tradeoff Process</b></p>	<ul style="list-style-type: none"> <li>- Commercial/non-complex items or services</li> <li>- Clear and well-defined requirements</li> <li>- Stable requirements</li> <li>- Items or services are readily and consistently available in the marketplace</li> <li>- Risk of unsuccessful performance is minimal</li> <li>- There is neither value, need or willingness to pay for higher performance</li> <li>- Cost/price plays a dominant role in the source selection decision</li> </ul>	<p><b>Consider using the LPTA Process</b></p>

## C-6 Comparing Key Characteristics

Tradeoff vs LPTA Methods of Source Selection	
TRADEOFF	LPTA
SUMMARY OVERVIEW	SUMMARY OVERVIEW
<p>A Tradeoff process is appropriate when it may be in the best interest of the government to:</p> <ol style="list-style-type: none"> <li>consider award to other than the lowest-priced Offeror or:</li> <li>other than the highest technically rated Offeror.</li> </ol> <p>Therefore, if the ability to distinguish between the quality of non-cost/price factors and cost/price factors within Offerors' proposals and give credit (assign strengths) for aspects which provide a benefit to the government and for which it might be willing to pay more for (premium), then the tradeoff process is the best approach.</p> <ul style="list-style-type: none"> <li>Less definitive</li> <li>More complex and time-consuming development work</li> <li>Greater performance risk/integration risk</li> <li>Technical and past performance considerations more important than price</li> <li>Price based on performance-based approach</li> <li>Past performance is critical in reducing risk</li> </ul>	<p>An LPTA process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest price.</p> <p>Award is made to the responsible contractor who is technically acceptable and has the lowest evaluated price.</p> <ul style="list-style-type: none"> <li>government design or stable requirements, clearly definable</li> <li>Risk of unsuccessful performance is minimal</li> <li>No mission-related reason to pay a premium for quality or performance exceeding the acceptable level</li> <li>Only use LPTA when able to clearly define and strictly evaluate Offerors' proposals based on technical acceptability</li> <li>Technical evaluation lends itself to acceptable/unacceptable basis</li> <li>When requirement is easy to price</li> <li>When past performance is not critical to reducing risk</li> <li>When a "<u>standard of proof</u>" is identifiable for each evaluation criteria</li> </ul>

Tradeoff vs LPTA Methods of Source Selection	
TRADEOFF	LPTA
Encourages Innovation	Innovation Not Needed, Encouraged, nor Rewarded
Proposals can offer various technical approaches that may be of benefit to the government and the competitive environment should encourage this depending upon what the solicitation places the most value/importance upon.	LPTA inherently places the most value on the technical acceptability to provide known, stable requirements for the lowest price and the government will not benefit from/is not willing to pay for above threshold performance.
Maximum Flexibility	Minimum Flexibility
<p>The tradeoff process provides the most discretion/flexibility when it comes to the award decision.</p> <p>The Source Selection Evaluation Board (SSEB) can identify strengths within proposals that may benefit the government and increase the value of the proposal.</p> <p>The Source Selection Authority can give consideration to the benefit/value of non-cost/price factor differences between Offerors to determine if those differences justify paying the cost/price differential between them.</p>	<p>Tradeoffs not permitted – intended to be a simple selection process based upon technical acceptability/lowest price.</p> <p>Use a checklist or form to document the technical evaluation (1) to ensure the requirements/criteria/standards are suitable for this process; and (2) enable the offeror to provide the standard of proof and determine whether the offeror should be rated as acceptable or unacceptable for that item.</p> <ul style="list-style-type: none"> <li>- You must be able to evaluate everything included in your “checklist” using an <u>objective</u> standard of proof.</li> <li>- By associating minimum standards with relative risks for execution of each task, risk of unsuccessful performance can be mitigated or decreased.</li> <li>-The offeror is required to provide clear proof that they meet the requirement (and the government determines what the standard of proof is and announces it in the RFP).</li> </ul> <p>No additional “credit” can be given for exceeding established standards.</p>

<b>Tradeoff vs LPTA Methods of Source Selection</b>	
<b>TRADEOFF</b>	<b>LPTA</b>
<b>Competitive Range and Discussions</b>	<b>Competitive Range and Discussions</b>
<p>52.215-1, Instructions to Offerors – Competitive Acquisition enables the government to provide notice to prospective Offerors of the intent to make award without discussions as well as limit the number of proposals in the competitive range to the number at which an efficient competition can be conducted.</p> <p>Contracting officer can provide the opportunity for offerors to eliminate weaknesses and deficiencies through the discussion process.</p>	<p>If few or no acceptable offers are received or proposals indicate that the requirements are misunderstood, the contracting officer may set a competitive range and conduct discussions with technically unacceptable Offerors and provide them the opportunity to eliminate deficiencies.</p> <p>A proposal rated technically acceptable cannot be further improved through the discussion process. However, all offerors in the competitive range must be afforded the opportunity to submit a revised proposal after discussions have concluded. See <i>Commercial Design Group, Inc.</i>, B-400923.4, August 6, 2009, CPD ¶ 157.</p>
<b>Enables Meaningful Comparisons</b>	<b>No Comparisons Permitted</b>
Tradeoff allows for meaningful comparisons and discrimination between and among competing proposals.	If some, but not all, evaluation criteria fit the LPTA requirements, a combination approach may be a consideration. If a combination approach is used, comparison is allowable only for those factors based on tradeoff.
<b>Evaluation is More Complex But Can Be Simplified Using a Hybrid Approach When Appropriate</b>	<b>Evaluation is Straightforward</b>
<p>By using a combination approach, the government can simplify some aspects of the evaluation where criteria are clear, can be evaluated on an acceptable/unacceptable basis, and a clear standard of proof can be linked to each one.</p> <p>Examples of may include professional qualifications, special certifications, licensing.</p>	<p>Well-written evaluation criteria and “standard of proof” that the Offeror must provide to satisfy each, should enable the evaluation to be conducted in an efficient and straightforward manner.</p> <p>If not all evaluation criteria is clear and objective with an objective standard of proof for evaluation, a combination approach may be appropriate.</p>



Tradeoff vs LPTA Methods of Source Selection	
TRADEOFF	LPTA
Performance Risk and Past Performance Assessment	Past Performance Rated Acceptable or Unacceptable
In the case of an offeror without a record of recent/relevant past performance, or for whom information on past performance is not available, or so sparse that no meaningful past performance rating can be assigned, you must evaluate the offeror's lack of past performance as "Neutral Confidence", having no favorable or unfavorable impact on the evaluation.	<p>Past performance shall be evaluated unless waived. However, a comparative assessment is not allowed. When using LPTA, unknown past performance shall be considered acceptable.</p> <p>- You may utilize a combination approach where past performance is evaluated as part of the tradeoff and technical approach is assessed on acceptable/unacceptable basis.</p>
Planning Considerations	Planning Considerations
<p>The tradeoff methodology generally involves in-depth planning and more time and resources.</p> <p>Tradeoffs must be clearly documented and supported.</p>	<p>The LPTA process is not necessarily faster.</p> <p>Requires significant up-front time investment to clearly identify the critical technical requirements (standards) for evaluation and the standard of proof (evidence of the offeror's compliance with the requirement) to determine whether each one is met (technical acceptability).</p> <p><b><i>The time investment is key to establishing whether the requirement is suitable for LPTA, and if so, setting up the procurement for success.</i></b></p>

## C-7 Rating Methodologies

**Rating Methodologies.** Tradeoff and LPTA each have a unique rating methodology as summarized below.

COMPARING HOW OFFERORS ARE RATED FOR EACH APPROACH	
TRADEOFF	LPTA
Technical Performance	Technical Performance
<p>Subjective evaluation in accordance with DoD Source Selection Procedures and the Army Source Selection Supplement</p> <p>Allows the government to:</p> <ul style="list-style-type: none"> <li>a) consider award to other than the lowest-priced offeror, or;</li> <li>b) other than the highest technically rated offeror</li> </ul>	<p>Objective evaluation of minimum requirements in accordance with DoD Source Selection Procedures and the Army Source Selection Supplement</p> <p>Evaluated as acceptable or unacceptable</p>
Past Performance	Past Performance
Confidence Assessment	Acceptable or Unacceptable
Comparative analysis permitted	No comparative analysis permitted
Small Business Participation	Small Business Participation
Factor or Subfactor	<p>Exempt from evaluation (DFARS 215.304(c)(i)).</p> <p>However, if desired as an evaluation factor, it should be considered one of the technical factors/subfactors and evaluated accordingly</p>
Price	Price
Not rated adjectively	Not rated adjectively
Evaluated in accordance with the Source Selection Plan and Sections L and M (or equivalent sections) of the RFP	Of the acceptable proposals, lowest evaluated price wins
Tradeoffs	Tradeoffs
In accordance with the Source Selection Plan and Sections L and M (or equivalent sections) of the RFP	<p>Tradeoff not permitted</p> <p>No additional credit for exceeding standards</p>

## C-8 Common Concerns for Each Methodology

It is important to understand and consider the benefits and possible down-sides of each approach in order to ensure you select the one that will help you achieve best value for the customer/program. Below are some of the common concerns.

COMPARING COMMON CONCERNS	
TRADEOFF	LPTA
Will the Government Get What It Is Paying More For?	Will the Government Get What It Needs At the Price Proposed?
<p>The government shall incorporate evaluated strengths as a contractually binding requirement to the greatest extent possible (particularly when offeror was selected under VATEP).</p> <p>Post-award management must follow through to ensure receipt of the anticipated benefits.</p>	<p>The government sometimes has difficulty identifying with enough clarity and specificity what its requirements are (even when we think we've done a good job).</p> <p>If this occurs, the contract may require modifications to ensure the government's needs are met, which may increase the price over time.</p> <p>Thorough, upfront analysis is essential. Careful post-award management is equally as important.</p> <p>Apply lessons learned to appropriately determine the source selection methodology for follow-on contracts.</p>
Ensure the Tradeoff Decision Is Sound	Low Acceptability Standards/Evaluation Criteria Increase Performance Risk
<p>Does the order of importance of factors and subfactors reflect the goals of the program, and what is most important to the customer and the end user/warfighter?</p> <p>Was the order of importance adequately described in the RFP?</p> <p>Did the evaluation follow the Source Selection Plan and RFP?</p>	<p>Acceptability standards that are set too low can result in low prices that are also too low, resulting in award to the wrong Offeror at increased performance risk.</p> <p>LPTA should not mean buying cheaper goods or services. Minimum requirements does not mean "bare bones".</p> <p>No additional credit for exceeding standards</p>

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## C-9 Tips and Best Practices for Using LPTA

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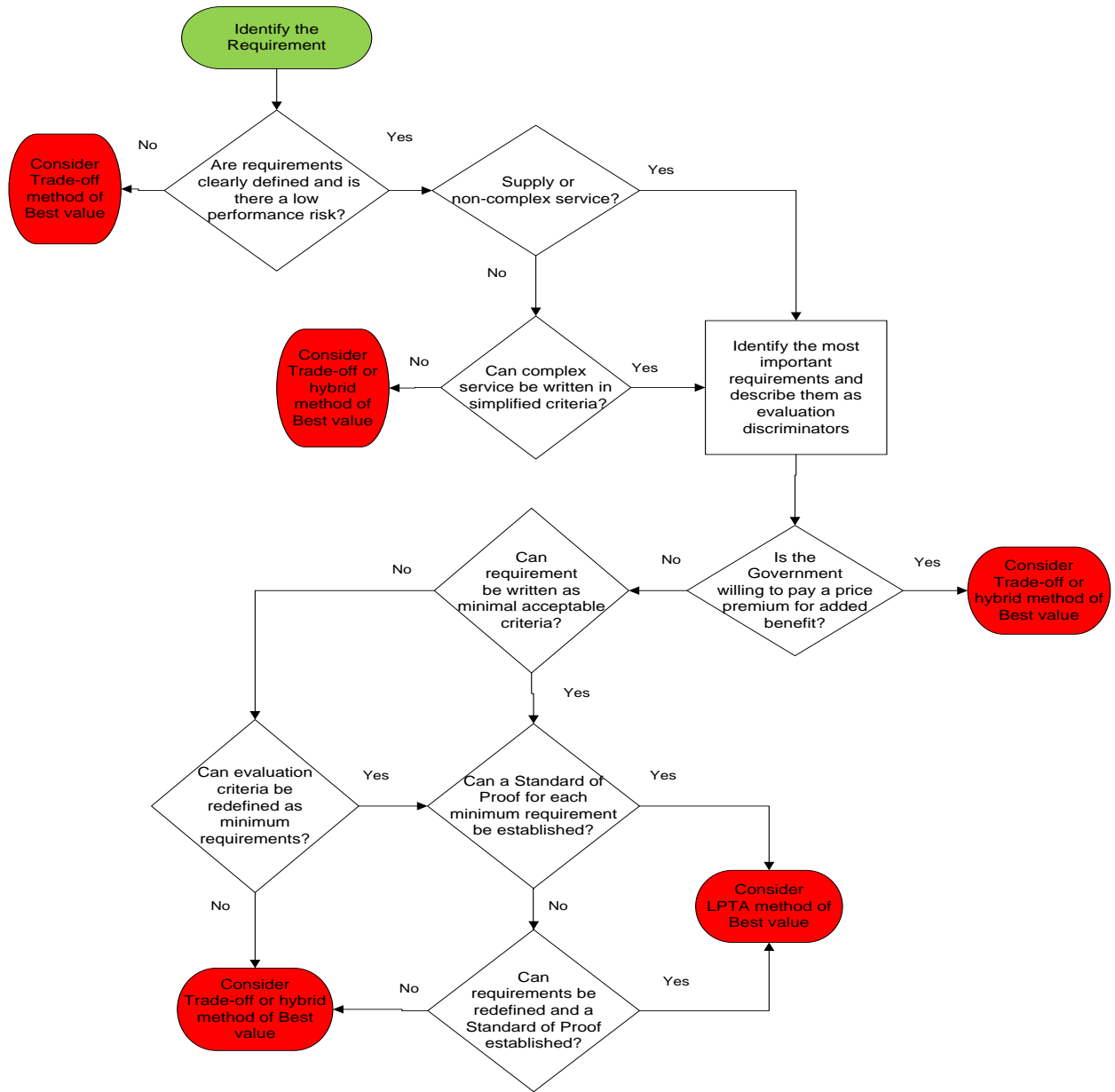
Below are some general tips and agreed-upon best practices to guide application of LPTA techniques.

Tips and Best Practices for Using LPTA
Establishing Technical Factors For Evaluation
<p>When establishing technical factors for evaluation, each must link to specific critical technical requirements in the PWS/SOW/SOO.</p> <p>Using a Technical Information Questionnaire (TIQ), which includes the requirement (and PWS/SOW/SOO reference), the criteria, and the “standard of proof” will make the job of the evaluator far easier.</p> <p>Also, providing a technical information questionnaire to the Offeror to complete which includes the requirement (and PWS/SOW/SOO reference), the criteria, and the “standard of proof” required, will ensure consistency throughout the process. <i>See Attachment C-1, Technical Information Questionnaire.</i></p>
“Buy-In” and Performance Risk Can be Mitigated
<p><b><i>In LPTA –a very low price is often the result of acceptability standards (criteria) that are set too low or are ill-defined.</i></b></p> <p><u>Rigorous Definition and Evaluation of “Technical Acceptability” is key to success.</u> By associating minimum standards with relative risks for execution of each task, the overall performance risk can be mitigated or decreased.</p>
Source Selection Evaluation Training
<p>Train the SSEB on the specific process of evaluating the proposal against the <b><i>standard of proof</i></b> relative to each evaluation criteria and documentation.</p>
Brand Name or Equal RFPs
<p>Ensure the salient characteristics are included in the solicitation. If a firm is offering an equal product, the proposal must demonstrate that the product conforms to the salient characteristics listed in the solicitation. If the firm fails to comply, its product is properly rejected as technically unacceptable. <i>Nas/Corp-Telmah, Inc.</i>, B-405893, Jan.10, 2012, 2012 CPD ¶ 88 at 2.</p>

## C-10 LPTA Requirement and Standard of Proof Samples

LPTA REQUIREMENT/STANDARD OF PROOF SAMPLES		
SUPPLIES	PROFESSIONAL SERVICES Corporate	SIMPLE SERVICES
<p><b>Criteria:</b> All illumination must be provided by LED lights drawing a maximum of 5 amps (C.13.1)</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Are all the lights of the Light Emitting Diode (LED) type and a maximum combined draw of 5 amps?</p> <p><b>Standard of Proof:</b> Manufacturer's spec sheets showing LED characteristics.</p>	<p><b>Criteria:</b> Five program analysts with a Bachelor's Degree in a business discipline with a minimum of 10 years of program analyst experience or a post-graduate degree in a business discipline (Master's or Doctorate) with a minimum of 5 years of program analyst experience.</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Do all of the program analyst executives possess either a Bachelor's Degree in a business discipline with a minimum of 10 years of program analyst experience or a post-graduate degree in a business discipline (Master's or Doctorate) with a minimum of 5 years of program analyst experience?</p> <p><b>Standard of proof:</b> Resume showing degree and years of experience as specified.</p>	<p><b>Criteria:</b> Contractor shall possess storage facility to store all equipment listed in attachment X within 15 miles of Arsenal (15 radial miles from geographic center of Arsenal).</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Does the Offeror possess storage facility that meets 15-mile requirement listed in Section C.4.4?</p> <p><b>Standard of proof:</b> Provide evidence of ownership or lease of facility that meets requirements listed in Section C.4.4.</p>
<p><b>Criteria:</b> The vehicle must be transportable by C-17, C-5, and military sea and rail IAW ATPD XXXX Section 3.1.X and 3.1.X</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Does the width of the vehicle exceed 96"?</p> <p><b>Standard of Proof:</b> CAD drawing with all outside dimensions noted.</p>	<p><b>Criteria:</b> Five Communications Personnel with minimum of 4 years of experience with military tactical or satellite communications system.</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Do all of the candidates have a minimum of 4 years of experience with military tactical or satellite communications system?</p> <p><b>Standard of Proof:</b> Resumes showing years of experience as specified.</p>	<p><b>Criteria:</b> Offerors must possess the equipment required to refinish a 3,500 sq. ft. wood floor.</p> <p><b>Question on Technical Information Questionnaire (TIQ):</b> Does the Offeror own or lease equipment that will be used to refinish a 3,500 sq. ft. wood floor IAW C.4.5?</p> <p><b>Standard of Proof:</b> Specify list of equipment and certificates of ownership for equipment or lease agreements.</p>
<p><b>Requirement:</b> Engine must be able to be operated with JP-8 (C.1.3)</p> <p><b>Question on TIQ:</b> Does the vehicle run on JP-8 IAW ATPD- XXXX Section 3.3.5.1?</p> <p><b>Standard of Proof:</b> Manufacturer's spec sheet for engine.</p>		


## C-11 Flow Chart For Selection of Best Value Methodology



## C-12 LPTA – Sample Evaluator Write-Up

### Describe the Evaluation Process in the Source Selection Plan – Then Fully Document the Evaluation in Accordance With the SSP

Use a checklist or evaluation form such as the one below:

<b>FACTOR 3: Usability</b>	<b>SUBFACTOR 3.2: Setup and Breakdown</b>	<b>OFFEROR:</b>	
		<b>RFP No:</b>	
<b>Instruction to Offeror</b>		<b>Evaluation Criteria</b>	
The offeror shall setup its radar system for test to the point of data recording. After completion of the test, the Offeror shall breakdown its system and return the system to its pre-setup state.		<p>The government will evaluate the offeror's radar system setup and breakdown.</p> <p>To receive an acceptable rating, the Offeror must demonstrate all of the below items:</p> <ul style="list-style-type: none"> <li>a. The system must be transportable by a two person carry.</li> <li>b. The system must be setup, broken down and operated by one person.</li> <li>c. The offeror must set up its radar system within a time not to exceed one hour using one person and break down its radar system within a time not to exceed one hour using one person.</li> <li>d. Cable connectors connect and disconnect using no more than one turn, or other quick-disconnect system.</li> <li>e. When the radar system antenna is mounted on the tripod, the range of motion must be +90 degrees to -10 degrees in elevation (horizontal is 0 degrees) and 360 degrees azimuth, without antenna removal.</li> </ul>	
		<p>* The system is transportable by a two person carry; and is setup, broken down and operated by one person.</p> <p>* The offeror sets up its radar system within a time not to exceed one (1) hour using one person, and breaks down its radar system within a time not to exceed one (1) hour using one person.</p> <p>* Cable connectors are quick to connect and disconnect using no more than one turn, or other quick-disconnect system.</p> <p>* When the radar system antenna is mounted on the tripod, the range of motion is +90 degrees to -10 degrees in elevation (horizontal is 0 degrees) and 360 degrees azimuth, without antenna removal.</p>	
		<p><b>Acceptable</b></p>	
<b>Unacceptable</b>		Not clearly meeting the requirements required to be acceptable.	
		<b>Acceptable</b>	<b>Unacceptable</b>
<b>SETUP/ BREAKDOWN NARRATIVE:</b>			
<b>TEAM MEMBER:</b>		<b>DATE:</b>	

**Evaluation Criteria: The Government will evaluate the offeror's radar system setup and breakdown.**

***To receive an acceptable rating, the offeror must demonstrate all of the below items:***

**Standard  
of Proof**

- a. The system must be transportable by a two person carry.
- b. The system must be setup, broken down and operated by one person.
- c. The Offeror must set up its radar system within a time not to exceed one hour using one person and break down its radar system within a time not to exceed one hour using one person.
- d. Cable connectors connect and disconnect using no more than one turn, or other quick-disconnect system.
- e. When the radar system antenna is mounted on the tripod, the range of motion must be +90 degrees to -10 degrees in elevation (horizontal is 0 degrees) and 360 degrees azimuth, without antenna removal.

Evaluation narrative write-up below provides an example of both 'Acceptable' and 'Unacceptable' proposal responses:

**Narrative:**

**Acceptable:** The offeror proposed a system that can be transported by two people (page 12); can be setup, broken down, and operated by one person (page 13); and can be assembled and disassembled in less than one hour (45 minutes) (page 14). The offeror's approach uses cable connectors that connect and disconnect using only one turn and the range of motion of the radar system antenna is +90 degrees to -10 degrees in elevation and 360 degrees azimuth (page 22).

**Unacceptable:** The offeror proposed a system that can be transported by two people (page 12); can be setup, broken down, and operated by one person (page 13); ***however, the system cannot be assembled and disassembled in less than one hour (90 minutes, as stated in the offeror's proposal in Volume 1, page 16). Based on the evaluation criteria, this is unacceptable and results in the entire factor being unacceptable.*** The offeror's approach uses cable connectors that connect and disconnect using only one turn and the range of motion of the radar system antenna is +90 degrees to -10 degrees in elevation and 360 degrees azimuth (page 22).



**ATTACHMENT C-1**  
**TECHNICAL INFORMATION QUESTIONNAIRE/EVALUATION MATRIX**

**OFFEROR NAME:** \_\_\_\_\_  
**RFP NUMBER:** \_\_\_\_\_

Factors	RFP Requirement Reference	Proposal Reference	Standard of Proof	Acceptable/ Unacceptable	Evaluators Comments
<b>1.0 TECHNICAL EXECUTION</b>					
1.1. Key Personnel Professional Qualifications					
1.2 Technical Certifications					
1.3 Onsite Courseware Acceptance					
1.4 Onsite Training Course					
1.5 Electronic Classroom Upgrade					
<b>2.0 PROGRAM MANAGEMENT</b>					
2.1 Integrated Master Schedule (IMS)					
2.2 Computer-Based Training Development Schedule/Plan					
2.3 Electronic Classroom Upgrade Schedule / Plan					
<b>3.0 ON-SITE PERSONNEL AND CERTIFICATIONS</b>					
3.1 Manning Chart Provided					
3.2 Labor categories to perform courseware and electronic classroom requirements. Minimum labor categories include Instructional Systems Specialists, Graphic Artists, Programmers, Computer Specialists and/or Engineers and Subject Matter Experts..					
<b>4.0 SECURITY</b>					
4.1 Classified Information Security Requirements					
<b>5.0 PAST PERFORMANCE</b>					

# APPENDIX D

## Streamlining Source Selection

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### **D-1 General Streamlining Tactics – *(No Supplemental Army Guidance)***

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### **D-2 Preparation for Proposal Evaluation and Source Selection – *(No Supplemental Army Guidance)***

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### **D-3 Source Selection Management Plan – *(No Supplemental Army Guidance)***

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### **D-4 Tiered or Gated Approaches – *(No Supplemental Army Guidance)***

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### **D-5 Oral Presentations**

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#### **Introduction**

Oral presentations, as presented at FAR Part 15.102, provides offerors an opportunity to substitute or augment written information and can be conducted in person, via video teleconferencing, or a mix of the two. Pre-recorded videotaped presentations do not constitute an oral presentation since it does not represent a real-time exchange of information, however, recordings may be included in offeror submissions when appropriate.

Oral presentations can be beneficial in a variety of acquisitions and are most useful when the requirements are clear, complete, and are stated in performance or functional terms. Oral presentations may be ideal for gathering information related to how well offerors understand, will approach, and qualifications offerors are to perform required work.

#### **Scope of the Oral Presentation**

Before deciding if oral presentations will be allowed for a given acquisition, the PCO or SSA must first consider and determine if applicable state or country privacy laws will impact and or restrict recordings of presenters/presentations. If oral presentations are deemed acceptable, the PCO or SSA then decides if the information needed to be evaluated and if factors and subfactor criteria is best presented orally, in writing, or through a combination of both means.

Oral presentations cannot be incorporated into the contract by reference, so any information to be made part of the contract needs to be submitted in writing. At a minimum, the offeror must submit certifications, representations, and a signed offer sheet (including any exceptions to the government's terms and conditions) in writing. Additionally, as a rule of thumb, the offeror must submit other hard data ("facts"), such as pricing or costing data and contractual commitments, as part of the written proposal.

Oral presentations can convey information in such diverse areas as responses to sample tasks, understanding the requirements, experience, and relevancy of past performance.

*In deciding what information to have the offerors provide through oral presentations, you should consider the following:*

- *The government's ability to adequately evaluate the information.*
- *The need to incorporate any information into the resultant contract.*
- *The impact on the efficiency of the acquisition.*
- *The impact (including cost) on small businesses.*

Require offerors to submit their briefing materials in advance of the presentations. This will allow government attendees an opportunity to review the materials and prepare any associated questions.

## **Request for Proposal Information**

If oral presentations are appropriate, all offerors must be notified in the RFP that the government will use oral presentations to evaluate and select the contractor. The proposal preparation instructions must contain explicit instructions and guidance regarding the extent and nature of the process that will be used. Elaborate presentations should be discouraged since they may detract from the information being presented. At a minimum, include the following information in the RFP:

- The types of information the offeror must address during the oral presentations and how it relates to the evaluation criteria,
- The required format and content of the presentation charts and any supporting documentation,
- Any restrictions on the number of charts, the number of bullets per chart, and how material/ documentation will be handled that does not comply with the restrictions,
- The required submission date for presentation charts and/or materials,

- The approximate timeframe when the oral presentations will be conducted and how the order of the offerors' presentations will be determined,
- Whether any rescheduling will be permitted if an offeror requests a change after the schedule has been established,
- The total amount of time each offeror will have to conduct their oral presentation,
- Who will make the presentation and a requirement that the offeror provide a list of names and position titles of presenters,
- Whether presentations will be by video, or audio taped,
- The location and a description of the presentation site and resources available to offerors,
- Any rules and/or prohibitions regarding equipment and media,
- How will documents or information referenced in the presentation material but never presented orally be treated,
- Any limitations on Government-Offeror interactions during and or after presentations,
- Whether presentations will constitute discussions (*See Figure 3-3*),
- Whether use of information provided during oral presentations is solely for source selection purposes, or whether information will become part of the contract (which will in turn require a subsequent written submission of that information), and
- Whether offerors should include any cost/price data in their presentations.

## Timing and Sequencing

Oral presentations can be conducted either before or after establishing the competitive range. When oral presentations are the only means of proposal submission, they must be presented by all offerors. If oral presentations are conducted prior to establishing the competitive range, care must be taken to ensure the presentations do not result in discussions.

Since preparing and presenting oral presentations involves time and expense, thought should be given regarding requiring offerors who are not likely to be serious candidates for award having to conduct oral presentations. This can be an important consideration with some small businesses. When this is or will likely be a concern, it is recommended to

establish the competitive range prior to oral presentations and clearly articulate the methodology and order of process in the RFP.

The PCO will often draw lots to determine sequence of the offerors' presentations. The time between the first and the last presentations should be as short as possible to minimize any perceived or actual advantages to the offerors that present later in the sequence.

## Time Limits

Establish a total time limit for each offeror's presentation. It is not advisable to limit the time for individual topics or sections within the presentation as this detail is at the discretion of and is the presenter's responsibility to decide. If planning a question-and-answer session, it is excluded from the allotted time for presentations and a separate time limit it is established.

There is no ideal amount of time to be allotted for presentations and or question-and-answer sessions. The decision of how much time to allocate is determined based on prudent business judgment supported by the complexity of the acquisition and the PCO's or others' experience and lessons learned.

## Facility

Ideally presentations will be conducted in a facility and environment that can be controlled. This helps guard against interruptions, distractions, and helps to ensure a more level playing field for all offerors and presenters. Nothing precludes oral presentations being conducted at offeror's facilities. This may be more efficient if site visits, or other demonstrations are part of the source selection process.

If using a government-controlled facility it should be made available for a pre-inspection, and if warranted a brief run-through of the agenda and order of events. Allowing offerors to get acquainted with the facility can help to minimize distractions during the presentation of content.

## Recording the Presentations

***Recording the presentation by some appropriate means is not only required by FAR 15.1029(e), but it also makes good business sense.***

Having an exact record of the presentation can prove useful during the evaluation process, and in the event of a protest or litigation. Oral presentations can be recorded using a variety of media, e.g., videotapes, audio tapes, written transcripts, or a copy of the offeror's briefing slides or presentation notes. The SSA is responsible for determining the method and level of detail of the record.

If using videotaping, allow for the natural behavior of the presenters. If slides or view graphs are used, the camera should view both the podium and screen at the same time. Microphones shall be placed so that all communications can be recorded clearly and at adequate volume. Every effort should be made to avoid letting the recording become the focus of the presentation.

The recording, which is considered source selection information, will become part of the official record. A copy of the recording shall be provided to the offeror, with the master copy sealed and securely stored by the government to ensure there are no allegations of tampering in the event of a protest or court action.

## **Government Attendance**

The PCO should chair every presentation. All of the government personnel involved in evaluating the presentations should attend every presentation.

## **Presenters**

The offeror's key personnel who will perform or personally direct the work being described should conduct their relevant portions of the presentations. Key personnel include project managers, task leaders, and other in-house staff of the offerors, or their prospective key subcontractors' organizations. This will avoid the oral presentation becoming the domain of a professional presenter, which would increase costs, detract from the advantages of oral presentations, and adversely affect small businesses.

## **Reviewing the Ground Rules**

Prior to each presentation, the PCO shall review the ground rules with the attendees. This includes discussing any restrictions on Government-Offeror information exchanges, information disclosure rules, documentation requirements, and housekeeping items. These ground rules should also be included in the RFP.

If using a quiz as part of your evaluation, the PCO needs to discuss the related ground rules. For example, can the offeror caucus or contact outside sources by cell phone before answering?

Too much control and regulation should be avoided since it will inhibit the exchange of information. However, if intent is to avoid discussions, the PCO should control all exchanges during the presentations. If conducting oral presentations after opening discussions, compliance with FAR 15.306 and 15.307 is required.

## Evaluation of Presentations

Evaluations should be performed immediately after each presentation. Using preprinted evaluation forms will help the evaluators collect their thoughts and impressions. Remember, even if preprinted forms are used, evaluators have to provide the rationale for their conclusions.

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### **D-6 Using Demonstration in Source Selection – *(No Supplemental Army Guidance)***

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### **D-7 Highest Technically Rated Offeror (HRTO) Approach – *(No Supplemental Army Guidance)***

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### **D-8 Performance Price Tradeoff – *(No Supplemental Army Guidance)***

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### **D-9 Useful Websites and Training**

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Source Selection templates are located on the ODASA(P) Procurement.Army.Mil (PAM) Knowledge Management Portal, in the Army Templates and Guides Library:

<https://spcs3.kc.army.mil/asaalt/procurement/SitePages/NewTemplates.aspx>

# **APPENDIX E**

## **Intellectual Property, Data Deliverables, and Associated License Rights**

### **CHAPTER 1: PURPOSE, ROLES, AND RESPONSIBILITIES**

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#### **E-1.1 Purpose**

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The purpose of Appendix E is to provide acquisition professionals with guidance and/or best practices for conducting market research, developing solicitations, evaluating proposals, and awarding acquisitions requiring intellectual property (IP), data deliverables, and associated license rights. IP, data deliverables, and associated license rights are required for the operation, maintenance, installation, and training (OMIT); modernization; and sustainment of Army systems and services throughout a program's lifecycle.

Historically, the acquisition of IP, data deliverables and associated licenses has been constrained by the Government's inability to accurately define requirements, resulting in a number of programs becoming "vendor locked" into sole source agreements. The Government is now focused on reducing the number of sole source arrangements, promoting competition to the maximum extent practical, and avoiding or mitigating scenarios where a small amount of proprietary technology restricts a competitive re-procurement or sustainment of a system or service.

Title 10, U.S.C. § 2464(a)(1) states that the DoD must maintain a "ready and controlled" source of technical competencies and resources necessary to ensure effective and timely response to mobilization, national defense contingency situations, and other emergency requirements. In order to achieve that objective, appropriate levels of IP, data deliverables, and associated license rights must be obtained. The acquisition authority for licensing, management of IP, data deliverables and associated license rights is Title 10, U.S.C. Chapter 275, Proprietary Contractor Data and Rights in Technical Data.

The Program Office is responsible for preparing an IP Strategy, which is summarized, or wholly contained within, in the Acquisition Strategy/Plan sent to the Contracting Officer. The IP Strategy is a living document that identifies and manages the full spectrum of required IP, data deliverables, and associated license rights from inception of a program through the complete life cycle. The continuous assessment of program needs can lead to achieving greater competition and more affordable sustainment costs within the business objectives of the program.



The information provided in this Appendix and referenced templates are focused on generating thoughts and discussions among and across the respective acquisition teams. Use and/or modify as appropriate for individual acquisitions.

*NOTE: This guide may be used for all source selections, however, the language used in this guide is tailored to FAR Part 15 processes and procedures.*

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## **E-1.2 Applicability and Waivers – (No Supplemental Army Guidance)**

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### **E-1.3 Best Value Continuum**

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**Subjective Tradeoff.** Subjective tradeoff can be utilized for the acquisition of IP, data deliverables, and associated license rights. (Reference DoD Source Selection Procedures identified at 1.3.1.3, Appendix B, and Army Source Selection Supplements Appendix B).

**Value Adjusted Total Evaluated Price (VATEP).** Use of VATEP may be suitable for procuring Intellectual Property when the Government can determine the value (or worth) and quantify it in the Request for Proposal (RFP). (See DOD Source Selection Procedures identified at 1.3.1.4, Appendix B, and Army Source Selection Supplement Appendix B).

**Lowest Price Technically Acceptable.** Lowest Price Technically Acceptable (LPTA). Use of LPTA is not suitable for procuring Intellectual Property or data rights.

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## **E-1.4 Source Selection Team Roles and Responsibilities**

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### **Key Components of the Source Selection Team (SST)**

#### **The Procuring Contracting Officer (PCO).**

Early in the acquisition process, the PCO will work with program personnel to ensure the acquisition strategy includes identifying, acquiring, licensing, and enforcing the U.S. Government's rights to IP, data deliverables, and associated rights necessary to support operation, maintenance, installation, training (OMIT); modernization; and sustainment of a system or service throughout the acquisition lifecycle.

Work with the Program Manager (PM) to: 1) clearly define the overall requirement; 2) determine what IP, data deliverables, and associated license rights are necessary to achieve lifecycle goals; and 3) include in the solicitation/contract.

Negotiate for IP, data deliverables, and associated license rights early in the acquisition lifecycle and/or when competition exists in order to achieve a more affordable cost/price for the Government.

Provide business advice regarding IP strategy to PMs and Product Support Managers, as appropriate.

Assist in crafting the evaluation criteria.

### **Legal Counsel.**

Consult cognizant legal offices (IP Attorney and/or Patent Attorney, if available) for detailed advice on IP, data deliverables, and associated license rights. Include IP Attorney or Patent Attorney if available, as an additional legal advisor to the source selection team.

### **Program Manager (PM) / Requiring Activity (RA).**

Establish an Integrated Product Team (IPT) including subject matter experts (SMEs) from a variety of disciplines, including early coordination with PCOs and an IP or patent attorney.

In conjunction with Materiel Developers (MATDEVs), prepare an IP Strategy as a standalone document, or wholly contained within the Acquisition Strategy or Simplified Acquisition Management Plan (SAMP), which is required for all program types covered by DoDI 5010.44, Intellectual Property Acquisition and Licensing, starting at inception of a program. Although a team effort, the PM is ultimately responsible for preparing all comprehensive requirement documentation, subject to approval by the cognizant Milestone Decision Authority or other provisions within the Adaptive Acquisition Framework (AAF) (e.g., Urgent Capability Acquisition, Middle Tier of Acquisition, Major Capability Acquisition, etc.). The development and continuous updating of an effective and robust IP strategy will require active participation of SMEs from a wide variety of disciplines, including but not limited to, engineering, logistics, contracting, cost, and accounting, legal, etc. In addition, Implementation Guidance for Army Directive 2018-26, Enabling Modernization through Management of Intellectual Property, 17 December 2020, Appendix C provides a sample negotiated license.

Ensure program personnel engaged in all stages of the acquisition life cycle have relevant knowledge of the rights and obligations of the Government regarding IP matters, including IP law and regulations.

Identify early in the acquisition process the intellectual property, data deliverables, and associated license rights needed in all phases of a defense business system or weapons system lifecycle.

For identified license rights, identify whether the Government: has already received these rights under another agreement; would be entitled to these license rights by operation of standard DFARS clauses; or would need to negotiate a separate license agreement to receive these license rights.

Support the PCO in development of the negotiation objectives and be accessible for participation in the negotiation process for required IP, data deliverables, and associated license rights.

Coordinate with Product Support Managers, logistics chief, technology lead, or other project office personnel, as appropriate.

Assist in crafting evaluation criteria.

# CHAPTER 2: PRESOLICITATION ACTIVITIES

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## E-2.1 Conduct Acquisition Planning

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The Program Managers and MATDEVs are required to document an IP strategy for all program types covered by DoDI 5010.44, Intellectual Property Acquisition and Licensing, starting at the Materiel Development Decision (MDD) and out through the declaration of a Program of Record (POR). The IP strategy is summarized in the Acquisition Strategy/Plan or SAMP and identifies the program's comprehensive approach to managing the IP, data deliverables, and license rights requirements that will affect the program's cost, schedule, and performance throughout the acquisition lifecycle. The IP strategy evolves over time and should continuously reflect the current status and desired goals of the program which is achieving greater competition and more affordable sustainment costs within the business objectives of the program. Acquisition planning includes all members of the IPT, to include PM, Engineering, Scientists, PCOs, Legal Counsel, etc.

Defense Acquisition University courses and learning modules to assist in Intellectual Property acquisitions are listed below. The courses are current as of the publication date of this appendix, please reference <https://www.dau.edu/blogs/dau-intellectual-property-ip-and-data-rights-resources> for additional offerings.

### **Courses/Learning Assets**

CLM 002, Intellectual Property (IP) Valuation  
CLE 068, Intellectual Property and Data Rights  
CLE 069, Technology Transfer  
CLE 019, Modular Open Systems Approach  
CLM 071, Introduction to Data Management  
CLM 072, Data Management Strategy Development  
CLM 073, Data Management Planning System  
CLM 075, Data Acquisition  
CLM 076, Data Markings  
CLM 077, Data Management Protection and Storage  
LOG 2150, Technical Data Management  
CACQ 008, Foundational IP Credential.  
CACQ 011: Foundational Software Acquisition Management Credential  
CON 0180: Data Rights

### **IP Strategy**

When developing the comprehensive IP strategy and the capability requirements for performance and sustainment, consider the following in respect to IP, data deliverables, and associated license rights (for additional information consult Army Directive 2018-26, Enabling Modernization Through the Management of Intellectual Property.):

1. Develop an IP strategy that accounts for both short-term and long-term needs, covering the full lifecycle of the system or service. The IP strategy should continuously be assessed (e.g., sustainment reviews (SR)) and updated to reflect current status (i.e. evolving technology, reduced program cost or schedule, etc.) and desired goals/objectives. At a minimum, customize IP strategies based on the common, shared, and unique characteristics of the system and its components: system architecture and interfaces: product support/sustainment strategy: organic industrial base strategy of the DoD Component concerned; whether the item can be found in the commercial market: and whether the standard commercial licensing terms meet DoD needs. (NOTE: These can be considered strengths during a tradeoff, but cannot be mandated.)
2. Determine the appropriate sustainment approach to use for the IP strategy. The strategy should focus on achieving greater competition and more affordable sustainment costs. Anticipate the impact of sustainment costs within program business objectives over the entire system or service lifecycle. (NOTE: This can be considered a strength during a tradeoff, but cannot be mandated.)
3. Determine what kind of data (e.g., form, fit, and function data), software, and associated license rights are required/desired for all stages of the acquisition life cycle, including operation, maintenance, installation, and training (OMIT); modernization; and sustainment. The IP strategy should be customized to meet specific sustainment needs of the program (i.e., data deliverable and any required computer software source code).
4. The Government should consider the following techniques for securing data/software and associated/corresponding license rights:
  - a. Consider including contract provisions providing for the transfer of a detailed data/software package with the corresponding license rights to the Government if the original contractor goes out of business or drops the particular item from production.
  - b. Consider including data escrow provisions (see DFARS PGI 227.7203-2(b)(2)(ii)(D)).
5. Describe the Modular Open System Approach (MOSA) objectives that drive modularity decisions to support the operational and lifecycle needs. Describe how IP, and related matters, necessary to support the program's use of modular open systems approaches, in accordance with 10 U.S.C. Sections §§ 3771-3775 and §§4401 - 4403, will be addressed. This includes providing guidance for how solicitations and contracts will:
  - a. Identify and require all major systems interfaces to be based on widely supported and consensus-based standards (if available and suitable), which are preferably non-proprietary.

- b. Include requirements to acquire the appropriate IP rights in such major systems interfaces.
  - c. Include appropriate requirements for other non-major systems interfaces (e.g., interfaces necessary for segregation and reintegration activities).
  - d. Include request for Government Purpose Rights, when appropriate, for Circuit Card Assemblies in support of organic industrial base (OIB) DSOR and DSOS capabilities.
6. Appropriately reflect the IP strategy in both the solicitation and the resultant contract. Contents of both documents should include the IP, data deliverables, and associated license rights necessary to accomplish program objectives.
7. Request that offerors propose their own sustainment transition plan (to transition sustainment from their organization to the Government or another contractor) as an evaluation factor (technical sub factor – Supportability and Maintenance).
8. The Government should only seek the IP, data deliverables, and associated license rights necessary to support the mission of the program. In some instances, where offerors are willing to provide the Government with additional license rights to technical data and software, such additional costs may not be cost effective. Having an evaluation factor in a competitive procurement environment may drive down the associated costs for broader technical data or software license rights.
9. Consult with a Government IP attorney on IP, data deliverables, and associated license rights. Statutes and regulations related to technical data, software, and associated rights are set forth in 10 USC § Chapter 275 (and DFARS 227.7102-1, DFARS 227.7103-1, DFARS 227.7202-1, and DFARS 227.7203-1). The statute and DFARS regulations should be read carefully before procuring any technical data or software. Ensure the Government receives sufficient rights in technical data and software to enable organic or competitively established sustainment of items.

#### IP Strategy Checklist

IP Strategy Checklist*	
Phases of Acquisition	Key IP Management and Acquisition Activities, Considerations, Resources
Pre-Solicitation	<ol style="list-style-type: none"> <li>1. Align the initial design studies to the major functional elements</li> <li>2. Establish a clear understanding of the IP, data deliverables, associated license rights requirements. If it is likely that an Offeror may propose IP that was not developed at private expense, the Contracting Officer should engage with DCAA to determine what assistance can be provided to verify funding source/existing data rights, specific to that requirement.</li> <li>3. Contracting Officer/Specialist serves as Business Adviser in development of acquisition documentation.</li> <li>4. PM and Contracting Officer/Specialist conduct market research, including through the Defense Innovation Marketplace</li> <li>5. Write an IP strategy for the system modules that align with Modular Open Systems Approach (MOSA): Technology developed all/part by USG Funding, get delivery of what you're going to pay for (in native</li> </ol>

	<p>format, if it seems too early or costly to reformat the data for DoD's usual standard) <b>(Guidance Intellectual Property Strategy - 2015 (IP Strategy Brochure_Final 2-10-15.pdf (dau.edu) and Army Implementation Guidance, Appendix C (requires CAC))</b></p> <ol style="list-style-type: none"> <li>6. Verify that the strategy includes an approach for the remainder of modules that can be competitively acquired under the Restricted-Proprietary Model: Technology developed entirely at private expense <b>(IP Strategy Brochure 2015 (IP Strategy Brochure_Final 2-10-15.pdf (dau.edu) and Army Implementation Guidance, Appendix C (requires CAC))</b></li> <li>7. Verify the IP strategy accounts for both short-term and long-term needs, covering the full life cycle of the system.</li> <li>8. Incorporate Modular Open Systems Approach (MOSA) considerations into Acquisition Strategy.</li> </ol>
<b>Solicitation</b>	<ol style="list-style-type: none"> <li>1. The solicitation should clearly and effectively communicate and prioritize IP goals.</li> <li>2. Be transparent in articulating intellectual property; data deliverables; associated license rights requirements; Government operation, maintenance, installation, and training (OMIT); modernization; and sustainment objectives.</li> <li>3. The Performance Work Statement (PWS)/Statement of Work (SOW) should identify the license rights and data deliverables (including OMIT data) required and be linked to CDRL(s). The offeror may need to provide costs/prices, if separately priced. <ol style="list-style-type: none"> <li>a. License Rights and data deliverables (including OMIT data) described under CDRLs should comprise a complete package (or as much as needed) of all technical data and computer software for enabling maintenance of an entire system.</li> </ol> </li> <li>4. Request that the offeror identify restrictions on license rights.</li> <li>5. Incorporate delivery requirements and require offerors to assert their specific restrictions on license rights.</li> <li>6. Required data or software must be a deliverable, assigned to a CLIN.</li> <li>7. Incorporate appropriate provisions and contract clauses.</li> <li>8. For commercial technologies, request information similar to that required in the DFARS listing and assertion requirements provision (DFARS 252.227-7017) and include CDRL requirements for copies of commercial and negotiated licenses in the solicitation.</li> <li>9. Request that offerors propose their own sustainment transition plans. Suggestion: Use sustainment transition plans as an evaluation factor.</li> <li>10. Use the deferred ordering and deferred delivery clauses (but don't overestimate its power!) Should not be used in place of proper acquisition planning. Acquisition planning for the data deliverables, and incorporate in the solicitation.</li> <li>11. Consider incorporating statement for trademark license rights in solicitations and contracts *Army Source Selection Supplement, Section H-2.3, Develop the Request for Proposal</li> <li>12. Consider adding in Section H – Special Contract Requirement language regarding background patent rights.</li> <li>13. Consider adding in Section H – Special Contract Requirement language regarding Modular Open Systems Approach (MOSA) – including interfaces, patent and data rights, and data deliverables.</li> <li>14. If the IP strategy includes recompeting a system, subsystem, or component, consider requesting the offeror's proposed terms and conditions for delivering a Technical Data Package (TDP) that grants rights to the TDP for the system/subsystem/component. Proposal shall clearly outline the terms and conditions, all associated costs,</li> </ol>

	<p>and any minimum quantity (if applicable), in addition to providing the Government with the capability to obtain an IP license from the date of notification of award. Government should be granted sufficient IP rights including technical data rights and background patent rights necessary to allow the Government to compete the design, potentially secure additional sources for the system/subsystem/component, and/or use submitted technical data on any other Government programs.</p> <p>15. Consider the use of escrow. A data escrow account is an account, held by a third-party or even a prime (provided the prime is not the owner of the data to be placed in escrow), which is populated by the offeror with designated technical data, computer software, and/or computer software documentation ("the escrow data") and will only be released to the Government under specified, mutually agreed to, conditions.</p>
<b>Evaluation</b>	<ol style="list-style-type: none"> <li>1. Evaluate IP, data deliverables, license rights, and MOSA in accordance with section M of the solicitation and the source selection plan. Negotiate, as needed, whether sole source or competitive.</li> <li>2. Evaluate the proposed assertions (as to the restrictions on license rights).</li> <li>3. With the assistance of a cognizant IP attorney, research to verify IP and data rights assertions made by each offeror. If there is reason to believe an offeror correctly asserted an item was developed exclusively at private expense, audit the offeror's records with the assistance of the Defense Contracting Audit Agency (DCAA). (NOTE: The Contracting Officer should engage with DCAA as early in the process in the procurement planning process as possible to determine DCAA's availability to assist.) See DFARS 252.227-7019 or DFARS 252.227-7037 for additional information.</li> <li>4. Evaluate the offeror's provided information for commercial technologies (similar to that required in the DFARS listing and assertion requirements provision (DFARS 252.227-7017)).</li> <li>5. Evaluate offeror's proposed terms and conditions for delivering a TDP and granting rights to the TDP for the system/subsystem/component, as requested in Section L, in accordance with the evaluation criteria stated in the RFP.</li> <li>6. Ensure specific up-front delivery requirements for technology being developed under the contract are met; determine if cost-effective/fair and reasonable.</li> <li>7. Evaluate and negotiate competitively-priced options for IP deliverables for which Army's "need" for the deliverable is dependent on future uncertain events or decisions – When it is not certain whether an up-front purchase is cost-effective/fair and reasonable</li> <li>8. Research to determine the cost of same or similar license rights or data deliverables (including data for OMIT). Research and understand any market trends specific to data and license rights that may directly impact cost. (This is typically necessary when license rights are a significant portion of the price and the evaluation will include a cost realism analysis or a complex price reasonableness analysis.)</li> <li>9. When applicable, in accordance with the stated evaluation criteria in the solicitation: <ol style="list-style-type: none"> <li>a. Determine whether the software developer/owner is identified.</li> <li>b. Determine whether the offeror wholly owns the rights necessary to make, use, sell, or offer for sale.</li> <li>c. Determine whether there is a third-party software developer/owner.</li> </ol> </li> </ol>



	<ul style="list-style-type: none"> <li>d. Determine whether offeror proposed third-party software is open source software.</li> <li>e. Confirm the offeror will ensure negotiated rights are passed down to subcontractors.</li> <li>f. Determine whether the offeror has the capability and/or willingness to deliver license rights for technical data and computer software necessary for depot level maintenance.</li> <li>g. Confirm whether the offeror's proposed special licenses meet the solicitation criteria and are reasonable.</li> </ul>
<b>Negotiations</b>	<ul style="list-style-type: none"> <li>1. Early in negotiation process, when competition exists, establish an environment of open communication and negotiations of prices/costs.</li> <li>2. Consider negotiating license rights and data deliverables (including data for OMIT) required (should be linked to CDRL(s)) and costs/prices, if separately priced.</li> <li>3. Consider negotiating to ensure a complete package (or as much as needed) of all technical data and computer software for enabling maintenance of an entire system is delivered, when appropriate.</li> <li>4. Contract Officer should discuss the proposed level of rights and proposed price/cost.</li> <li>5. Ensure requirements for license rights, and data deliverables – including data for OMIT (developed, delivered, or provided by subs of any tier) are understood and request inclusion of required/desired terms in contracts with subcontractors.</li> </ul>
<b>Award</b>	<ul style="list-style-type: none"> <li>1. Incorporate into contract all asserted license rights restrictions.</li> <li>2. Incorporate into contract all applicable IP clauses and provisions.</li> <li>3. Document (within contract) specific up-front delivery requirements for: 1) Technology being developed under the contract (i.e., you're already paying for it!); and 2) Known requirements for proprietary technology deliverables, when cost-effective/fair and reasonable.</li> <li>4. Ensure all data deliverables are assigned CLIN(s) and CDRL(s) and are traceable to the PWS/SOW</li> <li>5. Incorporate proposed product support/sustainment strategy in the final contract.</li> <li>6. If escrow account is used, ensure it is assigned a priced CLIN(s).</li> </ul>
<b>Post Award/ Administration</b>	<ul style="list-style-type: none"> <li>1. Make sure the award is clear on what will be delivered and delivery date.</li> <li>2. If there is a patent clause (usually in research and development contracts), ensure the invention disclosures are timely, patent applications are properly filed when appropriate, and the Government's rights are established. Establish follow-up procedures.</li> <li>3. Monitor to ensure the deliverable schedule is being met and the data quality is as required.</li> <li>4. Review the IP strategy as major development milestones are completed.</li> <li>5. Continuously, assess and update the IP strategy and ensure a life cycle consideration for competition is sustained within the costs of the program's business objective.</li> <li>6. Create a Program or PEO Repository to ensure that the data can be retrieved and [re] used when it is needed later (bonus: transfer to, and reuse by, other programs whenever possible).</li> <li>7. Technical/operational needs are the responsibility of the Government. Do not rely on industry to ensure Government requirements can be competitively replaced.</li> <li>8. Business/legal needs are the responsibility of the Government program office with support from appropriate contracting office and</li> </ul>

	<p>legal office (e.g., tracking Gov't investment to support challenging IP restrictions/assertions).</p> <ol style="list-style-type: none"> <li>9. Update as necessary any post-award changes to the list of asserted data rights restrictions.</li> <li>10. Monitor compliance of requirement to report inventions developed during contract performance.</li> <li>11. Conduct reviews to verify data is delivered and complies with contract requirements: 1) Does the data delivered match the technical/functional requirements identified in the contract; and 2) Asserted data rights markings (Do the markings match up with the list of assertions?).</li> <li>12. Assess Technical compliance (audit or Independent Verification &amp; Validation).</li> <li>13. Regularly audit deliverables for Restrictive Markings (recurring) conforming and justified.</li> <li>14. Invoke withhold payment clause (DFARS 252.227-7030, Technical Data-Withholding of Payment) for non-compliant technical data.</li> <li>15. Initiate a validation procedure when markings are not justified (i.e., do not accurately describe the Army's license right) Refer to DFARS 252.227-7019 and 252.227-7037.</li> <li>16. Follow procedures under DFARS 252.227-7013 and 252.227-7014 when markings are nonconforming (i.e., not a marking prescribed by the DFARS).</li> </ol>
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\*Adapted from: "Intellectual Property Acquisition and Licensing Checklist" DoD Brochure on Intellectual Property Strategy, Prepared by the Department of Defense Open Systems Architecture—Data Rights Team August 2014

## **Market Research**

Once the Government's requirements are sufficiently defined, market research in accordance with FAR Part 10, begins and is a coordinated effort by the PM or MATDEVs and the PCO. The market research technique utilized is at the discretion of the acquisition professionals. When conducting market research, consider the critical characteristics and needs of the requirement to include the following with respect to IP, data deliverables, and associated licensing rights:

1. Are there any hardware or software solutions that meet the requirement(s) that were developed using Government funding? If so, what?
2. Does Industry have any input to assist the Government in reaching the Government's objectives or meeting the Government's requirement(s)? If so, what?
3. Industry Standards
  - a. What are the usual terms in commercial transactions for the sale of the product or service you require?
  - b. Are the license and other intellectual property rights adequate for Government's needs?
  - c. Are there any proprietary processes or materials (e.g., trade secrets) that may limit future competition?
  - d. Do the commercial terms and conditions violate laws or policies applicable to Government contracting?

- Note: Rights related to commercial software are governed by the standard commercial software license agreement, rather than any DFARS clauses.
- e. Does the Government need/want to negotiate revisions to the standard commercial software license agreement in instances where the commercial software license agreement conflicts with Federal procurement law or does not meet the Government user's needs?
  - Note: In some instances, substantial revisions to the standard commercial software license agreement (e.g., additional software copies) may result in additional costs.

#### 4. Technical Data Delivery Format

- a. Contractors often do not have technical data in formats that DoD typically expects to receive. The Government should be willing to accept standard commercial data formats, to the maximum extent practicable.
- b. Competitive: What are industry standards for technical data deliverable format(s)?
- c. Sole Source: What is the contractor's usual deliverable format for technical data?

#### 5. Technology Maturity

- a. How much of the software and/or hardware is mature?
- b. How much of the software and/or hardware is still in development or testing?
- c. What is the overall Technology Readiness Level (TRL)?
- d. Software is typically not delivered 100 percent "bug" free. It may take several years to mature. The logistics product support/sustainment strategy should address software maintenance including "bug" fixes.

#### 6. Support and Sustainment

- a. Offerors typically provide software bug fix support, but length of support varies. The Government may consider bug fix support (including cost, length, and scope of such support) during source selection as a trade-off.
  - Are software bug fixes supported?
  - If so, how long are they supported?
- b. Offerors may provide software upgrades and cybersecurity updates. The Government may consider offeror provided software upgrades (including cost, length, and scope of such support)
  - Are software upgrades and cybersecurity updates provided at no additional cost?
  - If so, how long are they provided? What are the terms and conditions?
- c. Is there a plan to later modify deliverable hardware, data, or software?
- d. Will a data package be required?
- e. Will access to support and support-related technical information be obtained, for hardware and software, to cost-effectively maintain the system at each of the designated levels of maintenance and to foster competition for sources of support throughout the life-cycle.

- f. Will government purpose rights (GPR) to a Level 3 Technical Data Package enable 3D Modeling for hardware to avoid vendor lock and allow for hardware repairs within the organic industrial base (OIB)?

## 7. Logistics

- a. What is the approximate period of time required to prepare validated procedures addressing software and configuration file loading and to maintain the software baseline?
- b. What period of time is required to transition and set-up the necessary tools and test equipment for the Government to conduct maintenance on the software baseline?
- c. What is the approximate period of time required to train Government personnel on required hardware testing, troubleshooting, and repair procedures and procedures for maintaining the software baseline?

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### **E-2.2 Develop a Source Selection Plan (SSP)**

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When developing the SSP, consider the evaluation elements contained within the IP Strategy Checklist.

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### **E-2.3 Develop the Request for Proposals (RFP)**

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In accordance with FAR 15.203, an RFP is used in negotiated acquisitions to communicate the Government's requirement(s) to prospective offerors and to solicit proposals. When developing the RFP, consider the following:

1. The RFP should clearly and effectively communicate the Government's IP and data rights priorities. Incorporate delivery requirements and require offerors to assert their specific restrictions, if any.
2. Establish a clear understanding of the IP, data deliverables, and associated license rights requirements.
3. The required data or software must be a deliverable, assigned to a CLIN and associated with a CDRL.
4. Be transparent in articulating IP, data deliverables, and associated license rights requirements. Also, provide transparency for requirements related to data for operation, maintenance, installation, and training (OMIT); modernization; advanced/additive manufacturing; and sustainment objectives with industry.
5. Communicate early with industry. Provide details of the Army's intended program product support/sustainment strategy (including sustainment needs and broad categories of data and/or software required).

6. Determine whether an offeror has the capability to deliver license rights for technical data and computer software necessary for depot level maintenance.
7. Consistent with 10 U.S.C. §§ 3771-3775, the contractor or subcontractor is not required to sell or relinquish to the Government any additional rights in technical data the Government is not already entitled to as a condition of being responsive to a solicitation or as a condition of contract award. However, additional rights conveyed to the Government may be considered part of a source selection tradeoff.
8. Once the technical data and/or software required to complement the maintenance and supply support strategies has been identified, include solicitation provisions and contract clauses related to patent, data, and software license rights. Typical clauses that should be considered for inclusion are:

### **Federal Acquisition Regulation (FAR)**

FAR 52.227-1 Authorization and Consent

FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement

FAR 52.227-3 Patent Indemnity

52.227-5 Waiver of Indemnity

FAR 52.227-6 Royalty Information

52.227-7 Patents-Notice of Government Licensee

FAR 52.227-9 Refund of Royalties

52.227-10 Filing of Patent Applications-Classified Subject Matter

FAR 52.227-11 Patent Rights – Ownership By the Contractor

FAR 52.227-13 Patent Rights – Ownership By the Government

FAR 52.232-39 Unenforceability of Unauthorized Obligations

### **Defense Federal Acquisition Regulation Supplement (DFARS)**

DFARS 252.227-7013 Rights in Technical Data—Other Than Commercial Products and Commercial Services.

DFARS 252.227-7014 Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation.

DFARS 252.227-7015 Technical Data—Commercial Products and Commercial Services.

DFARS 252.227-7016 Rights in Bid or Proposal Information.

DFARS 252.227-7017 Identification and Assertion of Use, Release, or Disclosure Restrictions.

252.227-7018, Rights in Other Than Commercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program

DFARS 252.227-7019 Validation of Asserted Restrictions--Computer Software.

DFARS 252.227-7020 Rights in Special Works.

DFARS 252.227-7025 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

DFARS 252.227-7026 Deferred Delivery of Technical Data or Computer Software.

DFARS 252.227-7027 Deferred Ordering of Technical Data or Computer Software.  
DFARS 252.227-7028 Technical Data or Computer Software Previously Delivered to the Government.

DFARS 252.227-7030 Technical Data--Withholding of Payment.

DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data.

(NOTE: Regulations change over time and should be checked frequently for currency and content. Not all of the listed clauses above are appropriate together in any particular solicitation or contract. Other clauses may also be appropriate when there is development other than exclusively at private expense. Contract provision and FAR/DFARS clause selection should be modified to fit each effort. In addition to the standard acquisition attorney review, an IP attorney should be consulted prior to the release of any solicitation/contract award involving IP deliverables and associated license rights.)

9. Request that offerors propose their own sustainment transition plan and use it as an evaluation factor (technical sub factor – Supportability and Maintenance).
10. For trademark license rights and protection of Government Program names and model designators consult a Government IP or patent attorney for guidance.
11. Require offerors to submit computer software and data rights assertions of restrictions in a table consistent with DFARS 252.227-7013, DFARS 252.227-7014, or DFARS 252.227-7017.
12. Request that offerors propose all cost(s)/price(s) to acquire additional license and patent rights than the Government is entitled to and explain any limitations that may be imposed by the offeror. Include FAR 52.227-6 in solicitation if appropriate and certifies cost and pricing data is required. (Note: The offeror is required to identify/disclose any royalty cost(s)/price(s) for third-party patents proposed to be used in performance of the contract.)
13. Ensure the MOSA requirements are set forth in the PWS, SOW, or Statement of Objectives (SOO), (Section C) of RFP, for a proposed Open Systems Management Plan and incorporated in resulting contract.

# Chapter 3: EVALUATION AND DECISION PROCESS

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## E-3.1 Evaluation Activities

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### Proposal Evaluation

Evaluations shall either use separate technical/risk rating process in the DoD Source Selection Procedures (SSP), section 3.1.2.1, and applying the descriptions in the DoD SSP Table 2A Technical Rating Method; or the combined technical/risk rating process in the DoD Source Selection Procedures, section 3.1.2.2, and applying the descriptions in DoD SSP Table 3 Combined Technical/Risk Rating Method, consider all examples in DoD SSP Table 2A and considerations for application of risk evaluation applicable to the definitions in DoD SSP Table 2B.

Data rights cannot be a factor or subfactor. However, offerors may be granted one or more strengths related to data rights for a give factor or subfactor. Further, the Government cannot require the offeror to relinquish its data rights beyond Government's statutory entitlement. The Government may not assign a weakness or deficiency due to a lack of proposed data rights above the minimum statutory entitlement.

Strength Examples:

- 1) Delivering technical data with license rights that facilitate future competitive procurement;
- 2) Delivering items that are available in the commercial market that can be procured by other contractors in a future competitive procurement (even without providing detailed technical information on these commercially available items); and/or
- 3) Delivering a Product Support/Sustainment Strategy that includes Government purpose rights (licensing technical data to alternate contractors who will be able to participate in future competitive procurements).

### Evaluation Considerations

When assessing the proposed data rights, consider the following:

1. The Government is entitled to an "unlimited rights license" or an "unrestricted rights license" to form, fit, and function data; and data necessary for operation, maintenance, installation, and training, other than Detailed Manufacturing and Process Data (under DFARS 252.227-7013(b)(1) and DFARS 252.227-7015(b)(1)). Furthermore, the Government is entitled to an "unlimited rights" license for studies, analyses, and test data produced for the contract (when the testing was specified as an element of performance) that relate to non-commercial items, components, and processes. Thus, the Government should review and validate the offeror's data and software rights assertions, in coordination with the program's attorney advisor, to ensure that the offeror's proposal reflects at least the license rights to which the

Government is entitled. (Note: For more detailed information, refer to the Army Data and Rights Guide

[http://www.acq.osd.mil/dpap/cpic/cp/docs/Army\\_Data\\_and\\_Data\\_Rights\\_Guide\\_1st\\_Edition\\_4\\_Aug\\_2015.pdf](http://www.acq.osd.mil/dpap/cpic/cp/docs/Army_Data_and_Data_Rights_Guide_1st_Edition_4_Aug_2015.pdf))

2. Negotiate data rights while still in a competitive environment. These negotiations will likely require the Contracting Officer to open discussions unless the solicitation provides another methodology. Although data rights cannot be a factor or subfactor, discussions/negotiations can be opened to negotiate any element of a solicitation or proposal ( see sample language for Sections L&M to incorporate data rights as a possible strength in the evaluation). Note: Certain Associated License Rights will be granted by standard DFARS clauses. Additional Associated License Rights may be applicable negotiated Special License Agreement or commercial license agreement. However, the data delivery requirements must be specified, case-by-case, in each individual contract, and data deliverables must be clearly identified by CLINs and CDRLs that are traceable to the PWS. Deferring the discussion of data deliverables will likely put the Government at a disadvantage, however, it is an option (see DFARS 252.227-7027 Deferred Ordering of Technical Data or Computer Software). If there are no data deliverables, the Government cannot exercise its data rights. The data rights and data deliverables should be negotiated at the same time. The IP Strategy should continuously be updated to forecast future sustainment needs so Government can obtain competitive pricing for future activities.) The negotiated rights shall be passed down to the subcontractor(s).
3. Ensure the solicitation requires the proposal to include the supporting information necessary for the Government to validate contractor's ability to provide any proposed data rights. For example:
  - a. The offeror's proposal shall demonstrate the ability to grant license rights for technical data and computer software necessary for depot maintenance, if applicable.
  - b. Identify the software developer/owner. Determine if the offeror wholly owns the rights necessary to make, use, sell, or offer them for sale. Is there a third party software developer/owner?
  - c. Determine if the offeror proposed third-party and/or utilizes open source software. Will any of the third-party software be open source?
4. With the assistance of a cognizant IP attorney, the Government should conduct research to verify IP and data rights assertions made by the offeror. If the Government has reason to believe that the offeror incorrectly asserted that an item was developed exclusively at private expense, the Government may audit the offeror's accounts with the assistance of the Defense Contracting Audit Agency (DCAA). (NOTE: The Contracting Officer should engage with DCAA as early in the



process in the procurement planning process as possible to determine DCAA's availability to assist.)

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**E-3.2 Documentation of Initial Evaluation Results – *(No Supplemental Army Guidance)***

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**E-3.3 Award Without Discussions – *(No Supplemental Army Guidance)***

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**E-3.4 Competitive Range Decision – *(No Supplemental Army Guidance)***

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**E-3.5 Discussion Process – *(No Supplemental Army Guidance)***

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**E-3.6 Final Proposal Revisions – *(No Supplemental Army Guidance)***

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**E-3.7 Documentation of Final Evaluation Results – *(No Supplemental Army Guidance)***

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**E-3.8 Conduct and Document the Comparative Analysis – *(No Supplemental Army Guidance)***

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**E-3.9 Best-Value Decision – *(No Supplemental Army Guidance)***

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**E-3.10 Source Selection Decision Document – *(No Supplemental Army Guidance)***

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**E-3.11 Debriefings – See Appendix A of the AS3**

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**E-3.12 Integrating Proposal into the Contract – *(No Supplemental Army Guidance)***

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## CHAPTER 4: DOCUMENTATION REQUIREMENTS

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**E-4.1 Minimum Requirements** – *(No Supplemental Army Guidance)*

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**E-4.2 Electronic Source Selection** – *(No Supplemental Army Guidance)*

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## CHAPTER 5: DEFINITIONS

1. **Associated License Rights (formerly Data Rights).** Government's nonexclusive license **rights** in two categories of valuable intellectual property, "technical **data**" and "computer software" delivered by contractors under civilian agency and DoD contracts.
2. **Covered Government Support .** A contractor under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), which contractor—
  - a. is not affiliated with the prime or a first-tier subcontractor, program or effort, or with any direct competitor of such prime contractor or any tier subcontractor in furnishing end item or services of the type developed or produced on the program or effort; and
  - b. executes a contract with the Government agreeing to and acknowledging—
    - i. that proprietary or nonpublic technical data furnished will be accessed and used only for the purposes stated in that contract;
    - ii. that the covered Government support will enter into a non-disclosure agreement with the contractor regarding rights to the technical data;
    - iii. that the covered Government support will take all reasonable steps to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor program or effort for the period of time in which the Government is restricted from disclosing the technical data outside of the Government;
    - iv. that a breach of that contract by the covered Government support with regard to a third-party's ownership or rights in such technical data may subject the covered Government support contractor
      1. to criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and
      2. to civil actions for damages and other appropriate remedies by the or subcontractor technical data is affected by the breach; and
      3. that such technical data provided to the covered Government support under the authority of this section shall not be used by the covered Government support contractor against the third-party for Government or non-Government contracts. (10 U.S. Code § 3775- Definitions, paragraph (a))
3. **Computer Software (CS).** Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation. (DFARS 252.227-7014)

4. **Computer Software Documentation.** Owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software. (DFARS 252.227-7014)

5. **Copyright.** Rights in original works of authorship, fixed in any tangible medium of expression. Works of authorship include: literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works. Under U.S. law, registration is not necessary for copyright to exist. Computer software can sometimes be protected by copyright, as a literary work. Copyright does not cover names, ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries. (Implementation Guidance for Army Directive 2018-26, Enabling Modernization through Management of Intellectual Property)

6. **Depot-Level Maintenance and Repair.** Material maintenance or repair requiring the overhaul, upgrading, or rebuilding of parts, assemblies, or subassemblies, and the testing and reclamation of equipment as necessary, regardless of the source of funds for the maintenance or repair or the location at which the maintenance or repair is performed. (a) The term includes: (1) all aspects of software maintenance classified by the Department of Defense as of July 1, 1995, as depot-level maintenance and repair, and (2) interim support or contractor support (or any similar contractor support), intent that such support is for the performance of services described in the preceding sentence. (b) Exceptions. (1) The term does not include the procurement of major modifications or upgrades of weapon systems that are designed to improve program performance or the nuclear refueling or defueling of an aircraft carrier and any concurrent complex overhaul. A major upgrade program covered by this exception could continue to be performed by private or public sector activities. (2) The term also does not include the procurement of parts for safety modifications. However, the term does include the installation of parts for that purpose. (10 U.S.C. § 2460)

7. **Detailed Manufacturing or Process Data (DMPD).** Technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the contractor to produce an item or component or to perform a process. (DFARS Clause 252.227-7013)

8. **Form, Fit, and Function Data (FFF).** Technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items. (DFARS Clause 252.227-7013)

9. **Intellectual Property (IP).** A product of the human mind which is protected by law. It includes, but is not limited to, patents, inventions, know-how, designs, copyrights, works of authorship, trademarks, service marks, technical data, trade secrets, computer software, unsolicited inventive proposals, and technical know-how. The intangible rights in such

property are described as intellectual property rights. (AR 27-60 Intellectual Property)

**10. Intellectual Property (IP) Deliverables.** Products or services (including information products and services) that are required to be delivered or provided to the U.S. Government by contract or other legal instrument and that include or embody IP (e.g., technical data and computer software) (DoD Instruction 5010.44, Intellectual Property (IP) Acquisition and Licensing)

**11. Intellectual Property (IP) Rights.** The legal rights governing IP, including ownership as well as license or other authorizations to engage in activities with IP (e.g., make, use, sell, import, reproduce, distribute, modify, prepare derivative works, release, disclose, perform, or display IP). When the IP involves access to classified information, DoD Directive 5535.02, DoD Instruction 2000.03, and Volume 2 of DoD Manual 5220.22 may apply. (DoD Instruction 5010.44, Intellectual Property (IP) Acquisition and Licensing)

**12. Modular Open Systems Approach (MOSA).**

**Modular Open System Approach Requirement.** See 10 USC 4401 for further definitions. The term “modular open system approach” means, with respect to a major defense acquisition program, an integrated business and technical strategy that—

1. employs a modular design that uses modular system interfaces between major systems, major system components and modular systems;
2. is subjected to verification to ensure that relevant modular system interfaces-
  - a. comply with, if available and suitable, widely supported and consensus-based standards; or
  - b. are delivered pursuant to the requirements established in subsection (a)(2)(B) of section 804 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, including the delivery of-
    - i. software-defined interface syntax and properties, specifically governing how values are validly passed and received between major subsystems and components, in machine-readable format;
    - ii. a machine-readable definition of the relationship between the delivered interface and existing common standards or interfaces available in Department interface repositories; and
    - iii. documentation with functional descriptions of software-defined interfaces, conveying semantic meaning of interface elements, such as the function of a given interface field;
3. uses a system architecture that allows severable major system components and modular systems at the appropriate level to be incrementally added, removed, or replaced throughout the life cycle of a major system platform to afford opportunities for enhanced competition and innovation while yielding—

- a. significant cost savings or avoidance;
  - b. schedule reduction;
  - c. opportunities for technical upgrades;
  - d. increased interoperability, including system of systems interoperability and mission integration; or
  - e. other benefits during the sustainment phase of a major weapon system; and
4. complies with the technical data rights set forth in 10 USC 3771-3775

**13. Operation Maintenance Installation Training (OMIT). (There is no regulatory or statutory definition.) Recommend adding to PWS.**

OMIT is described in 10 USC 3771 as technical data that is necessary for operation, maintenance, installation, and training purposes, other than detailed manufacturing or process data. Data needed for OMIT can include technical data and computer software documentation pertaining to the system and associated equipment. It can be data necessary for providing field and sustainment level operators and maintainers the theory of operation; details on the equipment/software operation (including test and inspection procedures); details sufficient to affect maintenance (including removal, repair, replacement and the proper lubricants, tools, test equipment, etc. to be used in these operations); installation (for installing items, components, parts, etc. on a platform, assembly, component); and training (including instructors, operators and maintainers (field and sustainment level), packaging/preservation personnel, and logistics assistance representative.

**14. Patent.** In the United States, a patent is the grant of a property right by the United States Patent and Trademark Office (USPTO) to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement of one of those. The right conferred by the patent grant is the right to exclude others from making, using, offering for sale, or selling the invention in the United States or “importing” the invention into the United States. (Implementation Guidance for Army Directive 2018-26, Enabling Modernization through Management of Intellectual Property)

**15. Small Business Innovation Research (SBIR) Data Rights.** The Government’s rights during the SBIR data protection period to use, modify, reproduce, release, perform, display, or disclose technical data or computer software generated under a SBIR award as follows:

- a. Limited rights in such SBIR technical data; and
- b. Restricted rights in such SBIR computer software.
- c. DFARS 252.227-7018 - Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program

**16. Specifically/specially negotiated license rights.** The standard license rights granted to the Government under the appropriate contract clause (for commercial/non-commercial technical data and/or computer software) may be modified by mutual

agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in the appropriate contract clause (for commercial/non-commercial technical data and/or computer software). Any rights so negotiated shall be identified in a license agreement made part of this contract. (Implementation Guidance for Army Directive 2018-26, Enabling Modernization through Management of Intellectual Property)

17. **Technical Data.** Recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management information, or information incidental to contract administration. (DFARS 252.227-7013)

18. **Technical Data Package:** A technical description of an item adequate for supporting an acquisition, production, engineering, and logistics support. The description defines the required design configuration or performance requirements, and procedures required to ensure adequacy of item performance. It consists of applicable technical data such as models, engineering design data, associated lists, specifications, standards, performance requirements, quality assurance provisions, software documentation and packaging details. (MIL-STD-31000B)

19. **Trade Secret:** All forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if – (A) the owner thereof has taken reasonable measures to keep such information secret; and (B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information. (18 U.S.C. § 1839)

**Note:** *This is not a wholly inclusive list of definitions associated with IP, data deliverables, and associated license rights. The full definitions and other associated terms and definitions are located in referenced IP documentation, Federal Acquisition Regulation (FAR), and Department of Defense Federal Acquisition Regulation Supplement (DFARS).*

# CHAPTER 6: Laws, Regulations, and Policies

## 1. Laws

In accordance with Title 10, U.S.C. 2464(a)(1), “It is essential for the national defense that the Department of Defense maintain a core logistics capability that is Government-owned and Government-operated (including Government personnel and Government-owned and Government-operated equipment and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.”

To achieve this objective, program acquisitions must include the appropriate levels of IP, data deliverables, and associated license rights. The acquisition authority for licensing, management of IP, data deliverables and associated license rights required to maintain “ready and controlled” source of technical competencies and resources is under the authority of Title 10, U.S.C. §§ 3771-3775.

## 2. Regulations

The regulations for the acquisition of IP, data deliverables, and associated license rights are in set forth in FAR Part 27 (See DoD exclusion in FAR 27.400) – Patents, Data, and Copy Rights, and DFARS Part 227 – Patents, Data, and Copyrights.

## 3. Data Markings

The Government’s rights in non-commercial technical data shall be governed by DFARS 252.227-7013. The Government’s rights in non-commercial computer software and noncommercial computer software documentation shall be governed by DFARS 252.227-7014. The Government’s rights in Small Business Innovation Research (SBIR) technical data shall be governed by DFARS 252.227-7018. The Government’s rights in commercial technical data deliverables shall be governed by DFARS 252.227-7015. All non-commercial technical data deliverables shall be properly marked in accordance with the marking requirements set forth in DFARS 252.227-7013(f). Technical data deliverables with non-conforming restrictive markings shall be rejected and corrected by the Contractor, in accordance with DFARS 252.227-7013(h)(2) and DFARS 252.227-7014(h)(2), respectively.



## CHAPTER 7: References

- Federal Acquisition Regulation, FAR 27 – Patents, Data, and Copyrights
- Defense Acquisition Regulation Supplement Part 227 – Patents, Data, and Copyrights.
- Department of Defense Source Selection Procedures, August 2022
- DoD Understanding and Leveraging Data Rights in DoD Acquisitions, Better Buying Power, October 2014
- DoDI 5010.44, Intellectual Property (IP) Acquisitions and Licensing, October 16, 2019
- DoDI 5000.87, Operation of the Software Acquisition Pathway, October 2, 2020
- “A COR’s Guide to Intellectual Property”, Virtual Acquisition Office (VAO), November 2018 (available on PAM data rights page)
- Army Directive 2018-26, Enabling Modernization Through the Management of Intellectual Property, dated 7 December 2018
- Memorandum, Office of the Assistant Secretary of the Army, Acquisition, Logistics, and Technology (ASA ALT), 17 December 2020, subject: Change 1, Implementation Guidance for Army Directive 2018-26, (Enabling Modernization through Management of Intellectual Property)
- Army Data and Data Rights Guide, 1st Edition – August 2015
- Modular Open Systems Approach (MOSA) Implementation Guide, Version 1.1, 10 Jun 2020
- Lifecycle Sustainment Strategies for Acquisitions of Items Developed Exclusively at Private Expense, dated 6 Mar 2017, Army Materiel Command (available on PAM data rights page)
- A Guide to Data Item Descriptions, Contract Data Requirements Lists, and Standard Defense Acquisition Regulation Supplement Clauses, dated 6 Sep 2017, Army Materiel Command (available on PAM data rights page)
- Intellectual Property: Navigating Through Commercial Waters, October 15, 2001
- Army Regulation 27-60, Intellectual Property, 1 June 1993

## CHAPTER 8: License Rights

The table below identifies the license rights with permitted uses.

Rights Category	Applies to These Types of Data	Permitted Uses within the Government	Permitted Uses by Third Parties Outside the Government
<b>Unlimited Rights (UR)</b>	Non-Commercial Technical Data (TD) and Computer Software (CS)	All uses: no restrictions	
<b>Government Purpose Rights (GPR)</b>	Non-Commercial TD and CS	All uses: no restrictions	For “government purposes” only; no commercial use
<b>Limited Rights (LR)</b>	Non-Commercial TD only	Unlimited: except may not be used for manufacture	Emergency repair/overhaul
<b>Restricted Rights (RR)</b>	Non-commercial CS only	Only one computer at a time; minimum backup copies; modification	Emergency repair/overhaul; certain service/maintenance contracts
<b>Specially Negotiated License Rights (SNLR)</b>	Any/all TD and CS – including commercial TD and CS	As negotiated by the parties. However, must not be less than LR in non-commercial TD and must not be less than RR in non-commercial CS (consult with legal counsel as other limits apply)	
<b>Small Business Innovation Research (SBIR) Data Rights</b>	Non-Commercial TD and CS generated under a SBIR contract	The equivalent of UR in Operation, Maintenance, Installation, and Training (OMIT) and Form, Fit, and Function (FFF) data; the equivalent of RR in all CS	
<b>Commercial Technical Data (TD) License Rights</b>	TD related to commercial products (developed at private expense)	The equivalent of UR in OMIT and FFF data; the equivalent of LR in all other delivered TD	
<b>Commercial Computer Software (CS) Licenses</b>	Any commercial CS or CS documentation	As specified in the commercial license customarily offered to the public	

(Implementation Guidance for Army Directive 2018-26 Enabling Modernization through Management of Intellectual Property, Figure 2, page 12)

## CHAPTER 9: Templates – Sections L & M

<Green> = Instructions (Delete before release of solicitation)

<Blue> = Fill-ins (Remove brackets)

USE: This document provides several tailorable narratives for use in Section L and Section M (or equivalent). These narratives support competitive source selection solicitations for the acquisition of intellectual property, data deliverables and associated license rights. Section L communicates to offerors what they are to propose in response to the solicitation. Section M describes to offerors how their proposals will be evaluated in accordance with the solicitation.

One or more of the tailorable narratives can be included in a solicitation based on the requirement and desired evaluation criteria. If more than one tailorable narrative is selected for inclusion in a solicitation, careful review may be needed to ensure there are no overlapping or conflicting evaluation criteria included in the solicitation. **At a minimum, contracting officers are required to tailor the content of the narrative below to reflect the specific requirement both in terms of desired proposal format and detailed evaluation factors.**

Offerors may be granted one or more strengths for: 1) delivering technical data with license rights that facilitate future competitive procurement; 2) delivering items that are available in the commercial market that can be procured by other contractors in a future competitive procurement (even without providing detailed technical information on these commercially available items); and/or 3) delivering a Product Support/Sustainment Strategy that includes Government purpose rights (licensing technical data to alternate contractors who will be able to participate in future competitive procurements). **If this is applicable to your solicitation, state this in sections L&M.**

Offerors will not be given an unacceptable rating in the evaluation of the solicitation or be considered ineligible for contract award, based on the offeror not proposing broader license rights than the Government is entitled in accordance with applicable DFARS citations (DFARS 252.227-7013, DFARS 252.227-7014, or 252.227-7015).

### Notes:

- The Government may evaluate proposals on how well the offeror's Product Support/Sustainment Strategy facilitates the Government's objective to affordably sustain and compete procurement of end items and spare and/or repair parts.
- The Product Support/Sustainment Strategy proposal should document proposed and negotiated IP, data deliverables and associated license rights that will be priced as contract deliverable(s) under CLINs within Section B in the solicitation and final contract.
- If warranty is applicable, incorporate as a priced CLIN.

Sample Section L and Section M language can be found below. Remember, use only what is applicable and tailor the language, as required, for the respective requirement.

**Technical Volume:** Intellectual Property, Data Deliverables, and Associated License Rights

Section L

The offeror shall provide all required information and data requested to facilitate a thorough and complete Government evaluation. Offerors will not be given an unacceptable rating in the evaluation of the proposal or be considered ineligible for contract award, based on the offeror not proposing broader license rights than the Government is entitled in accordance with applicable DFARS citations (DFARS 252.227-7013, 252.227-7014, or 252.227-7015). Offerors' proposals shall provide sufficient information for the Government to determine whether or not strengths related to license rights may be applicable, see Section M.

Anything less than unlimited rights for noncommercial technology will require submission of documentation supporting funding stream for proposed technology.  
The offeror shall address the following in the proposal:

<Examples of factors and/or subfactors to be emphasized and addressed by the offeror are listed below.>

Section M

Offerors may be granted one or more strengths for: 1) delivering technical data with license rights that facilitate future competitive procurement; 2) delivering items that are available in the commercial market that can be procured by other contractors in a future competitive procurement (even without providing detailed technical information on these commercially available items); and/or 3) delivering a Product Support/Sustainment Strategy that includes Government purpose rights (licensing technical data to alternate contractors who will be able to participate in future competitive procurements).

The Government will evaluate how well the offeror's proposal demonstrates:

- 1) The offeror's strategy to assist the Government in the support of OMIT, modernization, and sustainment for the entire lifecycle of <Program Title> and facilitate competition; and
- 2) The offeror's strategy to assist the Government in establishing organic and/or third-party support no later than <enter deadline> after contract award (using the required technical data deliverables under this contract and organic sustainment resources).

<Examples of factors and/or subfactors to be evaluated are listed below.>

CDRLs .....	30
Configuration Control .....	31
Configuration Management .....	31
Cost Drivers .....	31
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Diminishing Manufacturing Source and Material Shortage (DMSMS) .....	32
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Hardware Sustainment Activities .....	33
License Rights (LR) .....	33
Logistics Support .....	35
Maintenance Support Concept .....	35
Modular Open Systems Approach (MOSA) (10 U.S. Code § 4401) .....	36
Operation, Maintenance, Training, and Installation .....	37
Operator and Maintainer Training .....	38
Organic Field Level Support Provisioning .....	39
Product Support/Sustainment Strategy .....	39
Quality Assurance .....	40
Risk Management .....	40
Software Sustainment Environment (SSE): please review Software Modernization information at Army Directive 2024-02 (Enabling Modern Software Development and Acquisition Practices) .....	41
Subcontractor Proposal .....	41
Test and Validation .....	41
Test, Troubleshooting, and Repair .....	42
Transition Strategy Plan .....	43
Warranty .....	43

## CDRLs

### Section L

<If applicable, include language instructing offerors to address CDRL requirements in the proposal.>

### Section M

The Government will evaluate the offeror's proposed approach to meeting requirements for CDRLs for <organic and/or third-party sustainment, based on the offeror's proposed Product Support/Sustainment Strategy>.

## **Configuration Control**

<Consult AR 700-127, Integrated Product Support, and DA PAM 700-127, Integrated Product Support Procedures >

### Section L

The offeror's proposal shall describe the configuration control board processes that enable the Government to identify, adjudicate, prioritize, and resolve issues/discrepancy reports and major critical defects related to procured software, hardware, firmware, and/or a combination thereof, as detailed in requirements and technical documentation in a timely manner <replace with more specific language as needed> and ultimately achieves a product that impacts acceptable mission functionality. <If applicable, address requirements for maintenance of the Technical Data Package (TDP) and Engineering Change Proposals (ECPs).>

### Section M

The Government will evaluate the proposal for how and the extent to which the offeror will ensure the Government's ability to identify, adjudicate, and prioritize issues/discrepancy reports for resolution in a timely fashion. This includes scope for shared roles and responsibilities in support of the test/certification and deployment release process/capability.

## **Configuration Management**

### Section L

The offeror's proposal shall describe the scope and effectiveness of the configuration control process and configuration management tools. The proposal shall include the degree of roles/responsibilities allocated to the Government and the role of the Government in the configuration management processes and decision making, including whether the Government will be included as a primary stakeholder in analyses, assessment, and/or implementation when the process will result in changes.

### Section M

The Government will evaluate the proposal for how and the extent to which the scope and effectiveness of the configuration control process and configuration management tools and the degree of roles/responsibilities are allocated to the Government, and the role of the Government in the configuration management processes and decision making, including whether the Government will be included as a primary stakeholder in analyses, assessment, and/or implementation when the process will result in changes.

## **Cost Drivers**

### Section L

The offeror's proposal shall identify supply and maintenance cost drivers that will contribute to reduced lifecycle sustainment costs and shall specify projected/estimated cost savings by <year, month, action, or other specified increment>.

#### Section M

The Government will evaluate the proposal for how and the extent to which it identifies the supply and maintenance cost drivers that will achieve reduced lifecycle sustainment costs.

### **Design Upgrade Approach**

#### Section L

The offeror's proposal shall describe the Government's ability to analyze, assess, and support the execution of component level updates/enhancements, conduct regression testing, perform cybersecurity test, and integrate baseline changes (for resolving major to minor fixes) that preserve supportability, functionality, and key requirements in a cost effective manner.

#### Section M

The Government will evaluate the proposal for how and the extent to which the Government has the ability to analyze, assess, and support the execution of component level updates/enhancements, regression testing, perform cybersecurity test, as well as integrate baseline changes (for resolving major to minor fixes) that preserves supportability, functionality, and key requirements in a cost effective manner.

### **Diminishing Manufacturing Source and Material Shortage (DMSMS)**

#### Section L

The offeror shall describe the efficiency and effectiveness of the proposed Diminishing Manufacturing Source and Material Shortage (DMSMS) approach. Specifically, the proposal should detail the roles and responsibilities of both the Contractor and the Government in the DMSMS process, including analyses, assessment, and implementation of changes.

The offeror's proposal shall clearly outline the respective roles and responsibilities of the Contractor and the Government in the DMSMS process. This includes how the Government is actively involved as a primary stakeholder during analyses, assessment, and/or implementation that result in changes.

#### Section M

The Government will evaluate the proposal for the efficiency and effectiveness of the proposed DMSMS approach and respective responsibilities of the Contractor and the Government.

## Field Support

### Section L

The offeror's proposal shall specify how the offeror will provide the Government with field level support. The offeror shall identify the hardware and software tools required to execute field level maintenance of Shop Replaceable Units (SRUs). The proposal shall identify considerations for these field level support activities to include roles and responsibilities allocated to offeror and government organizations.

### Section M

The Government will evaluate the proposal for how and the extent to which the proposed field level support will be provided, including common overarching hardware and software transition, quality assurance, training, and design.

## Hardware Sustainment Activities

### Section L

The offeror's proposal shall address the range, roles, and responsibilities afforded the Government to analyze, assess, support LRUs and SRUs, level updates/enhancements, regression test, perform cyber security test, as well as integrate baseline changes (i.e., for resolving major to minor fixes).

### Section M

The Government will evaluate the proposal for how and the extent to the Government is provided the range, roles, and responsibilities to analyze, assess, support LRUs and SRUs, level updates/enhancements, regression test, perform cybersecurity test, as well as integrate baseline changes (i.e. for resolving major to minor fixes).

## License Rights (LR)

<This section should be tailored to the specific solicitation. If applicable, consider providing a spreadsheet to offerors for submission of the requested/required information. Consider identifying which data automatically comes with specific rights for the Government. License rights should typically be included in the total evaluated price. Analysis of proposed prices must be addressed in the cost/price evaluation part of in [Section M](#).>

### Section L

The offeror shall submit a complete proposal of all data deliverables necessary to support OMIT; modernization; and sustainment; and future full and open competition. including a plan to mitigate hindrances to sustainment, for organic and/or third-party sustainment of <Program Title>

The proposal shall identify and describe the proposed license rights, or a statement that no license rights are proposed, and background patent rights that will be provided to the Government. The proposed license rights shall clearly outline all terms and conditions



required to grant license rights with clear definitions as to what conditions are required to activate the granting and maintenance of the license rights. The proposal shall identify how the proposed rights in [technical data deliverables and/or software deliverables](#) will [support](#) sustainment, for organic and/or third-party sustainment, and/or a plan to mitigate hindrances to sustainment, for organic and/or third-party sustainment of [Program Title](#).

The proposal must clearly cross reference all costs/prices to the Government listed in the cost/price volume, and include any minimum quantity required to be purchased by the Government, the cost/price to purchase the Technical Data Package (TDP) or rights in offeror's background patents, minimum time in months to acquire license and patent rights, and limitations that may be imposed. .

The license rights may be realized through a royalty, minimum units to be purchased, lump sum license fee, or alternative approach for the license rights. If the offeror elects to submit a lump sum fee for license rights, the offeror shall specify that a portion of the proposed lump sum price that is associated with the cost to the Government to obtain these rights to background IP.

The actual level of license rights, patent rights, and patents and/or patent application(s) covered by the licenses provided by the offeror will be listed or described and incorporated in [Section J](#) of the resultant contract.

It is important to note that an offeror's proposal will not be considered not to meet the requirements of the solicitation or be determined ineligible for contract award if the offeror does not sell or otherwise relinquish data license rights (related to privately developed items, components, and processes) to the Government (with the exception of the license rights provided under DFARS 252.227-7013, 252.227-7014, and 252.227-7015). However, strengths may be assigned to an offeror's proposal related to the aforementioned evaluation criteria related to the aforementioned competitive procurement goals. Therefore, it would be prudent for offerors to consider this when drafting a proposal. Furthermore, this solicitation and evaluation criteria are not intended to dissuade the use of commercial hardware components or software. Lastly, this solicitation does not require offerors to refrain from offering to use, or from using, items, components, or processes that were developed at private expense [See 10 USC 3771(a)(2)].

[Put in the pricing submission section:](#) The pricing shall be provided for each separate instance of data deliverables for which limited rights or background patent rights are claimed. The offeror shall provide a brief description of the methodology or rationale used in determining the value of license rights for each separate instance of data deliverables claimed. The offeror shall provide an itemized list of these costs/prices in the cost/price section or volume of the offeror's proposal.

If the offeror is proposing trademark license rights, and if additional costs are to be incurred by the Government, then the offeror shall provide an itemized list of these additional costs in the cost/pricing section and/or volume of the offeror's proposal.

Any royalty costs/prices for third-party patents for use in the contract shall be disclosed in accordance with FAR 52.227-6

#### Section M

The Government will evaluate the proposal to determine the extent to which the proposal identified all data deliverables necessary to support OMIT; modernization; and sustainment; and future full and open competition, and the extent to which the offeror identifies the license rights and background patent rights that will be provided to the Government. The Government will evaluate how the proposed rights in <technical data deliverables and/or software deliverables> will support sustainment, for organic and/or third-party sustainment, and/or the proposed plan to mitigate hindrances to sustainment, for organic and/or third-party sustainment of <Program Title>. The Government will evaluate the proposed license rights, or confirm that a statement that “no license rights are proposed” was included, and what background patent rights will be provided to the Government.

### **Logistics Support**

#### Section L

The proposal shall identify the logistics support cost drivers and describe how the offeror’s strategy will enable the Government to achieve reduction of sustainment costs.

The offeror shall identify the proposed maintenance and logistics support plan at the field and depot levels. In particular, the offeror’s proposal shall address organic or contractor logistics support with a specific recommended path for transition to fully organic and/or third-party support.

#### Section M

The Government will evaluate the proposal for how and the extent to which the offeror will ensure the Government has the ability to achieve reduction of sustainment costs based on proposed maintenance and support plan at field and depot levels for transition to organic and/or third-party support.

### **Maintenance Support Concept**

<In this section, it may be necessary to address whether the transition efforts are expected to be included in the proposed approach for Contractor Logistics Support (CLS).>

#### Section L

The offeror’s proposal shall include a proposed approach for Contractor Logistics Support (CLS), to be utilized until the organic and/or third-party sustainment capability is established, and the proposed maintenance and logistics support concept at the field and sustainment levels. Discussion of the support concept should clearly explain any resulting

reduction in lifecycle costs and logistics footprint as well as enhanced operational availability.

#### Section M

The Government will evaluate the proposal for how and the extent to which the proposed CLS maintenance and logistics support concept at the field and sustainment levels clearly demonstrates an optimal scenario of reduced lifecycle costs, reduced logistics footprint, and enhanced operational availability.

### **Modular Open Systems Approach (MOSA) (10 U.S. Code § 4401)**

#### Section L

The offeror's proposal shall clearly:

- Describe how a MOSA is to be used for the <Program Title> and differentiate between Major Systems Platform (MSPs), Major System Components (MSCs), and Modular System Interfaces (MSIs.).
- Differentiate and describe the MSI(s) and non-MSI interfaces.
- Describe the evolution of the MSCs that are anticipated to be added, removed, or replaced in subsequent increments.
- Identify additional MSCs that might be added in the future.
- Describe how IP and related issues, such as technical data deliverables and license rights necessary to support a MOSA, will be addressed.
- Describe how a MOSA will preclude the need for purchasing of licenses or Government Purpose Rights (GPR) by requiring the application of open, widely-used, consensus based standards <[e.g. Future Airborne Capability Environment (FACE™) and Sensor Open Systems Architecture (SOSA)]> in the solicitation.
- Describe the MSI(s) and where MSI(s) are in the system architecture. To the maximum extent practicable, ensure that MSI(s) incorporate commercial standards and other widely supported consensus based standards that are validated, published, and maintained by recognized standards organizations.
- Describe which MSI(s) are required for segregation and reintegration purposes.
- Describe the approach to systems integration and systems-level configuration management to ensure mission and information assurance.

#### Section M

The Government will evaluate the proposal for how and the extent to which the offeror's ability to address both business and technical needs in support of the Government's objective to achieve lifecycle goals, as stated in the <PWS>, for a product or family of products.

<Consult: Army Directive 2018-26, Enabling Modernization through Management of Intellectual Property, 7 December 2018; Change 1, Implementation Guidance for Army

Directive 2018-26, dated 17 December 2020; and DoDI 5010.44, Intellectual Property (IP) Acquisition and Licensing and Modular Open Systems Approach (MOSA) Implementation Guide, Version 1.1, 10 Jun 2020>

## **Operation, Maintenance, Training, and Installation**

<This section includes many possible options that may be applicable to a particular requirement. Contracting officers should scale this section to include only the portions relevant to the requirement and solicitation.>

### Section L

The offeror's proposal shall identify design-upgrade approach that will enable the Government to preserve supportability, maintainability, and operational availability. The proposal shall address the operations, training, and maintenance activities of the end item to include roles and responsibilities, system engineering activities, associated IP, data deliverables, and associated license rights required for Government to address repair and maintenance activities, technical manuals, training (both operator and maintainer), field level support, and provisioning.

The offeror shall propose the procedures, guidance, and instructions for the operation, handling, testing, utilization, familiarization, and functional use of the end item. Operation includes, but is not limited to all data to identify, catalog, stock, source, acquire, procure, replenish, package, handle, store, and transport.

The offeror shall identify data that will be delivered to the Government to conduct testing, troubleshooting, and/or repair activities. The offeror shall identify the tools required to execute field and depot level maintenance of LRUs and SRUs. The offeror's proposal shall identify considerations for these sustainment activities to include roles and responsibilities allocated to offeror and government organizations. The offeror shall identify those test equipment support requirements as applicable to the various stages of maintenance levels. The proposal shall identify associated documentation that will empower the Government's ability to verify the functions of the products developed under this contract.

The offeror shall address the following, which is not limited to preliminary timeline considerations, upgrade approach, technical training, and the identification of additional services and/or considerations necessary to establish an organic government and/or third-party capability.

The offeror shall identify the level of repair and associated field and depot level analysis for <Program Title> solution. The proposal shall also identify required replacement intervals and tools required.

The offeror shall propose all scheduled and unscheduled field-level maintenance, depot-level maintenance, and repair capabilities to maintain, inspect, test, service, adjust, troubleshoot, analyze, remove and/or replace, repair, install, disassemble, reassemble, and overhaul to maintain in, or restore to, a serviceable condition.

The offeror's proposal shall identify considerations and required plans for <Program Title> operator and maintainer training. Offeror shall provide a list of training materials (i.e., manuals, training plans, etc.) required equipment, and power requirements necessary for training.

The offeror's proposal shall indicate how it facilitates future competitive procurement of <Program Title> using technical data, software, and software documentation deliverables and associated license rights under this procurement.

If the offeror's proposal **does not** facilitate competitive procurement of <Program Title> the offeror's proposal shall identify all data deliverables needed to facilitate the competitive procurement; regardless of whether the offeror proposes only a subset of the data rights needed for competitive procurement. Additionally, the proposal shall identify any IP, data deliverables or licensing rights restrictions that will hinder future competition.

If the proposal **does** facilitate competitive procurement of <Program Title>, the offeror shall explain how its proposed competitive procurement strategy facilitates competitive procurement in instances where the Government will only be provided with "Limited Rights", "Restricted Rights", or other license restrictions to data deliverables related to <Program Title> sustainment (including license restrictions in commercial license agreements and third-party license agreements).

The offeror shall identify the proposed Diminishing Manufacturing Source and Material Shortage (DMSMS) and Obsolescence approach and respective responsibilities of the offeror and Government.

#### Section M

The Government will evaluate the proposal for a design-upgrade approach that will enable the Government to preserve supportability, maintainability, and operational availability. The proposal addresses the operations, training, and maintenance activities of the end item to include roles and responsibilities, system engineering activities, associated IP, data deliverables, and associated license rights required for Government to address repair and maintenance activities, technical manuals, training (both operator and maintainer), field level support, and provisioning.

The Government will evaluate the proposal to ensure it addresses procedures, guidance, and instructions for the operation, handling, testing, utilization, familiarization, and functional use of the end item.

### **Operator and Maintainer Training**

#### Section L

The offeror's proposal shall explain how the offeror will address the requirement <PWS Section XX.XX> for the Government to support platform training development and the availability of instructor and maintainer training and training package that addresses the <Program Title> as installed on individual platforms. The proposal shall clearly address the proposed level of Government accessibility to test benches, technical manuals, training manuals, documentation, etc. in order to conduct tests, swap out batteries, troubleshoot and/or debug the <Program Title>.

#### Section M

The Government will evaluate the proposal for how and the extent to which the Government has the ability to support platform training development, availability of instructor and maintainer training and training package that addresses the <Program Title> as installed on individual platforms, and the accessibility to test benches, technical manuals, training manuals, documentation, etc. in order to conduct tests, swap out batteries, troubleshoot and/or debug the <Program Title>.

### **Organic Field Level Support Provisioning**

#### Section L

The offeror shall identify how it will give the Government the ability to disseminate base software loads as well as updates to field/depot support assets for loading and provisioning, in accordance with PWS section <XX.XX>.

#### Section M

The Government will evaluate the proposal for how and the extent to which the offeror will ensure the Government's ability to disseminate base software loads as well as updates to field/depot support assets for loading and provisioning.

### **Product Support/Sustainment Strategy**

#### Section L

The offeror's proposal shall include a Product Support/Sustainment Strategy that ensures the <Program Title> deliverables remain functional, sustainable, upgradable, and affordable. The Product Support/Sustainment Strategy shall: 1) Identify technical data and software that facilitate future competitive procurement; 2) Identify and explain how the proposed level of associated license rights will facilitate future competitive procurements; 3) Provide list of items that are available in the commercial market that can be procured by other contractors in a future competitive procurement (even without providing detailed technical information on these commercially available items); 4) Propose the procedures for leveraging technology to meet government mission goals and improving the capability over the lifecycle of the system; 5) Include the level of authorization for licensing technical data/software to alternate contractors who will be able to participate in future competitive procurements; 6) Delineate the required software, hardware components and configuration



items; and 7) Identify those capabilities required for sustainment that are commercially available as well as non-commercial or modified commercial items.

#### Section M

The Government will evaluate the proposal for how and the extent to which the offeror will perform the following:

- (a) leveraging technology to meet mission goals and improve capability over the lifecycle of the hardware and software;
- (b) identifies license rights to facilitate future competitive procurement goals outlined in Section L;
- (c) delineating between software, software documentation, hardware components, and configuration items; and
- (d) identifying capabilities for sustainment that are commercially available as well as non-commercial or modified commercial items.

### **Quality Assurance**

#### Section L

The offeror shall identify how it will give the Government the ability to identify and replicate the verification processes ensuring the Quality Assurance of the Sustained Configuration Item.

#### Section M

The Government will evaluate the proposal for how and the extent to which the Government will be provided the ability to identify and replicate the verification processes ensuring the Quality Assurance of the Sustained Configuration Items.

### **Risk Management**

#### Section L

The offeror shall identify, based on the level of license rights proposed, risks the Government will have in the Operation, Maintenance, Installation, and Training (OMIT); modernization; and sustainment of <Program Title>. Including but not be limited to, the applicable necessary documentation, security implementation, and associated security activities. The offeror shall propose specific actions to mitigate/manage the risks identified. <DoDI 5200.39, Critical Program Information (CPI), and AR 70-77, Program Protection>

#### Section M

The Government will evaluate the proposal for the level of proposed license rights, and the risks the Government will incur in OMIT; modernization; and sustainment of <Program Title>. Scope of documentation, security implementation, and associated <If applicable, cyber> security activities. <List additional items as applicable.>

<Note: It may be necessary to clearly state whether organic support includes contractors.>

**Software Sustainment Environment (SSE): please review Software Modernization information at Army Directive 2024-02 (Enabling Modern Software Development and Acquisition Practices)**

Section L

The proposal shall specify the required technical data, software, and software documentation (identified within the Contract Data Requirements Lists (CDRLs)), and any additional required deliverables necessary to establish a Software Sustainment Environment (SSE). The SSE is the set of automated tools, firmware, devices, hardware, and documentation necessary to perform the software support effort. The automated tools may include but are not limited to: compilers; assemblers; linkers; loaders; operating system; debuggers; simulators; emulators; test tools; documentation tools; and database management systems. The required hardware and software components and configuration items (i.e., hardware for development environment, source code, binaries/libraries, build scripts, configuration management databases and defect tracking toolkits, loading/imaging support, etc.) for SSE shall be proposed. The proposal shall describe those capabilities required for the SSE that are commercially available as well as non-commercial or modified commercial items.

Section M

The Government will evaluate the proposal for how and the extent to which the offeror will provide the range, roles and responsibilities afforded the Government to analyze, assess, and support executing code updates/enhancement, regression test, perform cybersecurity test, as well as integrate baseline changes (i.e., for resolving major to minor fixes).

**Subcontractor Proposal**

Section L

<Standard subcontractor proposal instructions should be used in this section.>

Section M

The Government will evaluate the proposal for how and the extent to which the proposed subcontracting process facilitates the organic and/or third-party support for <software and/or hardware> Product Support/Sustainment Strategy.

**Test and Validation**

Section L



The offeror's proposal shall identify the technical data, software, and software documentation (i.e., test benches, training, documentation, etc.) that will be provided to the Government for conducting test and troubleshooting, and/or debugging activities. The proposal shall identify considerations for these sustainment activities to include roles and responsibilities allocated to offeror and government organizations. The proposal shall address support requirements for execution of Government Acceptance Testing (GAT), Independent Verification and Validation (IV&V), as well as interoperability test capabilities of product baselines. The offeror shall identify the hardware and software tools required to execute field and depot level maintenance of Line Replaceable Units (LRUs) and Shop Replaceable Units (SRUs). The proposal shall identify considerations for these sustainment activities to include roles and responsibilities allocated to offeror and government organizations. The proposal shall identify test equipment support requirements as applicable to the various stages of maintenance levels. Consistent with the offeror's Product Support/Sustainment Strategy, the proposal shall identify associated documentation that will empower Government's ability to verify the functions of software products and hardware developed under this contract. The proposal shall also identify associated documentation required for the Government to establish the ability to verify the quality assurance of the sustainable hardware and software configuration items.

#### Section M

The Government will evaluate the proposal for how and the extent to which the offeror will ensure the Government has the ability to engage in testing, troubleshooting, and/or debugging activities.

### **Test, Troubleshooting, and Repair**

#### Section L

The offeror shall provide a comprehensive rationale for all required support, test equipment, and repair procedures for the recommended maintenance levels. The proposed maintenance concept should address the following key elements:

- a. Diagnosis at Field Level: The proposed maintenance concept should include tools to diagnose Line Replaceable Unit (LRU) or Shop Replaceable Unit (SRU) failure at the field level with a minimum confidence level of <Insert Percentage> (recommended 90%).
- b. Test Measurement Diagnostic Equipment (TMDE) Preferred Items List: List any test/diagnostic tools that are listed in the Army's Test Measurement Diagnostic Equipment (TMDE) Activity Preferred Items List maintained by Product Director - TMDE.
- c. Emphasis on Prognostics: The proposed maintenance concept should emphasize prognostics, showcasing the offeror's strategy for predictive maintenance.

#### Section M

The Government will evaluate the proposal for how and the extent to which a comprehensive rationale is provided for all required support, test equipment, and repair

procedures for the recommended maintenance levels.

## Transition Strategy Plan

### Section L

The offeror shall propose a strategy to support the establishment of organic sustainment no later than <enter deadline> from contract award. A Transition Strategy Plan for establishing specified level of organic support shall be provided to include, but not limited to:

- 1) A schedule defining the sequence and timelines of events and activities required for facilitating Government sustainment capabilities;
- 2) Itemization of the IP, data deliverables, and associated license rights required for offeror's proposed level of organic or third-party support to include but not be limited to training, automated tools, firmware, devices, hardware, and documentation;
- 3) Identification of data deliverables items listed within the CDRLs that will be delivered to facilitate offeror's defined/specified level of organic and/or third-party sustainment; and
- 4) Documented procedures and processes for establishing training for/of organic and/or third-party support established within Government resources.

### Section M

The Government will evaluate the proposal for how and the extent to which the Transition Strategy Plan effectively establishes the proposed organic and/or third-party sustainment capability no later than <enter deadline> from contract award.

## Warranty

### Section L

The offeror shall provide a copy of the proposed warranty. <Incorporate specific warranty coverage required for respective acquisition. Include but not limited to duration from date of manufacture, receipt at location, etc. The associated cost/price shall be incorporated in the Cost/Price Section/Volume (Priced CLIN).>

The warranty shall at a minimum address the following elements by topic, and any additional element(s) shall be included without changing the order or numbering of the following elements: <For information regarding warranty, refer to the following resources: DoD Warranty Guide 2020; FAR 46.703; DFARS 246.708; PGI 246.710-70; and AR 700-13>.

- Scope
- Definitions
- Individual Warranty Coverage
- Systemic/Performance Warranty Coverage
- Commercial Warranties

- Warranty Procedures/Remedies
- Other Rights and Remedies
- Warranty Administration
- Warranty Status Reporting
- Exclusions
- Presumption of Failure Defect
- Contractor Obligations
- No Evidence of Failure (NEOF)/Re-Test OK (RTOK) Reductions
- Disputes
- The terms of the “Warranty” shall not cause a conflict or otherwise diminish the Government’s rights in any other clause, provision or term of the solicitation or any resultant contract.

#### Section M

The Government will evaluate the proposal’s terms, conditions, and coverage of the offeror’s proposed warranty and any associated risks. <may need to add narrative applicable to respective requirement>

The offeror's proposed warranty will be evaluated for compliance with solicitation requirements and the overall effectiveness in providing adequate coverage. The evaluation will consider, but is not limited to, the following elements:

- a. Scope: Clear and comprehensive coverage addressing the intended use and potential risks.
- b. Definitions: Clearly defined terms and conditions to avoid ambiguity.
- c. Individual Warranty Coverage: Specific coverage for individual components or items.
- d. Systemic/Performance Warranty Coverage: Coverage for the overall system or performance.
- e. Commercial Warranties: Compliance with commercial warranty practices, if applicable.
- f. Warranty Procedures/Remedies: Clearly defined procedures for reporting and addressing warranty issues.
- g. Other Rights and Remedies: Identification of any additional rights and remedies provided beyond the warranty.
- h. Warranty Administration: Efficient and effective administration of the warranty.
- i. Warranty Status Reporting: Timely and accurate reporting of warranty status.
- j. Exclusions: Clearly outlined exclusions from warranty coverage.
- k. Presumption of Failure Defect: Addressing the presumption of failure defect and related procedures.
- l. Contractor Obligations: Clearly defined obligations of the contractor regarding the warranty.
- m. No Evidence of Failure (NEOF)/Re-Test OK (RTOK) Reductions: Procedures for NEOF/RTOK reductions, if applicable.
- n. Disputes: Clear and unambiguous procedures for handling disputes related to the warranty.



# APPENDIX F

## Small Business Participation Commitment Document

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### Small Business Participation Commitment Document (SBPCD) (Sample Format)

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The SBPCD format is designed to streamline and bring uniformity to responses and evaluations for small business participation when required under FAR 15.304. The format is distinctly different than the small business subcontracting plan required for other than small businesses (FAR 52.219-9). Proposals addressing the extent of small business participation (SBPCDs) shall be submitted separately from small business subcontracting plans (DFARS 215.305(c)(i)(B)). A copy of the SBPCD is recommended to be provided in your instructions to offerors or as an attachment to the RFP.

**Other than small businesses** are required to complete a SBPCD which will be incorporated into the resulting award by reference or attachment as an enforceable contractual requirement. Offerors should propose the level of participation of small businesses (as a small business prime, joint venture, teaming arrangement, and/or small business subcontractors) in the performance of the acquisition relative to the objectives/goals set forth in the evaluation of this area.

**NOTE:** Proposals including WOSB, HUBZone, VOSB, and SDVOSB percentages must ensure those socio-economic category submissions are SBA Certified.

**(a)** Check the applicable size and categories for the **PRIME** Offeror only -- Check all applicable boxes:

☐ Other than Small Business

or

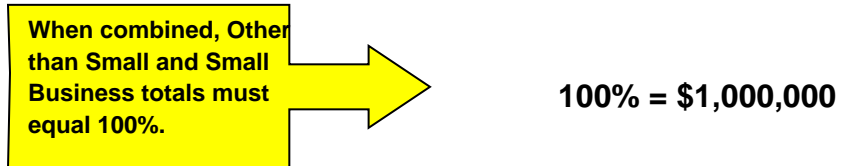
☐ Small Business Prime; also categorized as a  
☐ Small Disadvantaged Business (SDB)  
☐ Women-Owned Small Business (WOSB)  
☐ Historically Underutilized Zone (HUBZone) Small Business  
☐ Veteran Owned Small Business (VOSB)  
☐ Service-Disabled Veteran Owned Small Business (SDVOSB)

**(b)** Submit the total combined dollar value and percentage of work to be performed by both other than small and small businesses (include the percentage of work to be performed both by Prime, joint venture, teaming arrangement, and subcontractors):

**Example:** If the Prime proposes a price of \$1,000,000 (including all options), and small business(es) will provide \$250,000 in services/supplies as a prime, joint venture, teaming arrangement, or subcontractor, the % planned for small businesses is 25%; and 75% for other than small business, equaling 100%.

Total Percentage planned for Other than Small Business(es)      \_\_\_\_75\_% = \$ 750,000

Total Percentage planned for Small Business(es)      \_\_\_\_25\_% = \$ 250,000



**(c)** Please indicate the total percentage and dollar value of participation to be performed by each type of subcategory small business. The percentage of work performed by Small Businesses that qualify in multiple small business categories may be counted in each category:

**Example:** Victory Prop Mgt (WOSB and SDVOSB) performing 2%; and Williams Group (SDB, HUBZone and WOSB) performing 3%. Results equate to: SB 5%; SDB 3%; HUBZone 3%; WOSB 5%; SDVOSB 2%; VOSB 2%;). SDVOSBs are also VOSBs automatically; however VOSBs are not automatically SDVOSBs.

Small Disadvantaged Business	_____ %	\$ _____
HUBZone Small Business	_____ %	\$ _____
Women-Owned Small Business	_____ %	\$ _____
Service-Disabled Veteran Owned SB	_____ %	\$ _____
Veteran Owned Small Business	_____ %	\$ _____

**(d)** Identify the prime offeror and type of service/supply that the prime offeror will provide. Then list each of the intended subcontractors and principal supplies/services to be provided by that subcontractor. Provide the Commercial and Government Entity (CAGE) code for the prime and each intended subcontractor. Also, provide the anticipated NAICS codes(s) that the prime offeror believes best describes the product or services being acquired by its subcontracts with each intended subcontractor. Small business Primes and small business subcontractors that qualify as small businesses in multiple small business categories should be listed in each applicable small business category.

**Example:** If a Small Business qualifies as a WOSB and a SDVOSB, you can add them to each category below in which they qualify.

Name of Company Service/Service	Anticipated NAICS Code	Type of
------------------------------------	------------------------	---------

(Include CAGE Code) for Each Subcontractor (1)

Prime Offeror:	_____	_____	_____
Other than Small Business:	_____	_____	_____
Small Business:	_____	_____	_____
SDB:	_____	_____	_____
	_____	_____	_____
WOSB:	_____	_____	_____
	_____	_____	_____
HUBZone Small:	_____	_____	_____
	_____	_____	_____
VOSB:	_____	_____	_____
	_____	_____	_____
SDVOSB:	_____	_____	_____
	_____	_____	_____

**NOTE:** Pursuant to Sections 8(d) of the Small Business Act, a business is considered small for government procurements if it does not exceed the size standard for the NAICS code that the prime contractor believes best describes the product or services being acquired. In other words, the size of the prime's suppliers is determined by the applicable NAICS code of their joint venture, teaming partner, or subcontract, which may or may not be the same NAICS code as the one for your prime contract with the government.

**(e)** Describe the extent of commitment to use small businesses (e.g., what types of commitments, if any, are in place for this specific acquisition either – small business prime, written contract, verbal, enforceable, non-enforceable, joint venturing, mentor-protégé, etc.). Provide documentation regarding commitments to small business for this effort. Copies of such agreements should be provided as part of your SBPCD and will not count against the page limitation for this volume.

# APPENDIX G

## Online Reverse Auctions

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### G-1 Definition

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An online Reverse Auction (RA) is an internet-based (electronic commerce) acquisition tool that allows the government to procure goods and services from suppliers in a competitive environment in which sellers, anonymously, bid prices down until the auction is complete.

A reverse auction is simply the opposite of a traditional auction. In a traditional auction, the seller offers an item for sale and multiple potential buyers submit sequentially higher bids for the item. Conversely, in a reverse auction, there are multiple sellers of items that compete for the business of a single buyer. During this competition the sellers ultimately drive the price of the item down.

#### ***ONLINE REVERSE AUCTION TOOLS ARE BEST USED FOR:***



- ***Healthy price competition***
- ***A well-defined requirement***
- ***Bulk commodity type procurements (i.e., IT equipment, spare parts)***
- ***Procurements in which there is a well-defined supplier base***
- ***Procurements where the award evaluation criteria is not subject to interpretation (i.e., lowest price versus multiple criteria for tradeoffs and subjective judgments)***

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### G-2 Applicability to Best Value Acquisitions

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Online RAs are legal as long as the identity of the bidders is not disclosed. Online RA tools may be used as a pricing tool for LPTAs or tradeoff acquisitions. For example, an RA tool can be used as a pricing tool for a tradeoff acquisition after the completion of technical discussion. You may conduct a reverse auction to establish the offerors' final prices, provide these prices, along with the rest of the evaluation results, to the SSA for his/her use in selecting the proposal that represents the best value.

Potential benefits are reduced acquisition cycle time and increased competition that in due course drive prices down as the offerors have visibility of the other prices being proposed.



Additionally, the online RA process is inclusive, transparent, and immediately advantageous to both government and industry.

FAR Subpart 4.5 supports the use of electronic commerce whenever practical or cost-effective. Online RAs should be utilized when it is anticipated that this method will deliver more value than the use of other available procurement methods. Additionally, RAs are more advantageous to the government in reducing acquisition cycle time when the requirements are best suited for an RA environment.

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### **G-3 Process**

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Online RAs are conducted using a variety of procedures and automated tools. An agency may contract with an online auction service to conduct the reverse auction, or it may conduct the reverse auction itself using commercially available software.

In either case, the reverse auction must be conducted on a secure website, and you must clearly state in the RFP the ground rules for the auction, particularly when the bidding will start and stop.

Effective 29 August 2024, updated FAR language, as cited at FAR 17.802(c )(4) and FAR 17.802(d)(5)(iii) and in turn revised contract clause FAR 52.217-12 provides new guidance and awareness to offerors and reverse auction service providers regarding Government's access, use and disclosure requirements as well as the disposition instructions which contracting officers shall provide in solicitations and resulting awards.

# APPENDIX H

## Templates / Samples

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### H-1 Content Location

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Source Selection templates are located on the ODASA(P) Procurement.Army.Mil (PAM) Knowledge Management Portal, in the Army Templates and Guides Library:

<https://spcs3.kc.army.mil/asaalt/procurement/SitePages/NewTemplates.aspx>

## AFARS – APPENDIX BB

### MANAGEMENT CONTROL EVALUATION CHECKLISTS

*October 1, 2014*

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BB-200 Event Cycle 1: Management of Contracting Functions. ....	2
BB-201 Event Cycle 2: Presolicitation.....	6
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#### **Part 1 – General**

##### **BB-100 Function.**

The function covered by these management control evaluation checklists is contracting.

##### **BB-101 Purpose.**

This AFARS appendix establishes key internal controls for management of contracting functions and the method for evaluating the effectiveness of these controls. Key internal controls are those controls that must be implemented and sustained in daily operations to ensure organizational effectiveness and compliance with legal requirements. The use of internal controls is an integral component of an organization's management that provides reasonable assurance for the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with laws and regulations.

The purpose of this checklist is to assist Army contracting managers at all levels in evaluating the effectiveness of key internal controls for contracting functions performed throughout the Army contracting enterprise worldwide.

## **BB-102 Instructions.**

The evaluation of key internal controls should result in a specific determination of their effectiveness. Contracting managers shall use the checklist questions in appendix BB to test key controls of contracting functions through a combination of document analysis, direct observation, and random sampling. The annual statement of assurance and supporting documents shall include a corrective action plan for deficient answers to checklist questions. The contracting checklist in this appendix is not all-inclusive and each contracting activity should supplement the checklist with area-specific questions (e.g., major systems, etc.). Formal evaluations of key management controls must be conducted at least once every five years (Army Regulation 11-2).

## **BB-103 Additional Instructions for Contingency Contracting Functions Outside the Contiguous United States.**

Questions in this checklist should be used by office chiefs/directors who are deployed into a theater of operations and are supporting contingency missions. The term “contingency contracting” means contracting support provided in response to a declared contingency operation in accordance with 10 USC 101(a)(13) (see also FAR subpart 2.1, Definitions). The support may be provided in a mature or immature operational environment, and may be long term or short term. Office chiefs/directors shall use these questions to test internal controls for contingency contracting functions. Each office chief/director shall complete and submit to his/her respective senior contracting official (SCO) at the midpoint during the office chief/director’s tour. The SCO will provide feedback to the office chief/director relating to the effectiveness of key internal controls. Prior to redeployment, the office chief/director shall complete and submit a final checklist to the SCO. The final checklist will be retained in the continuity book to serve as a baseline for the next office chief/director. In addition, information obtained using the checklist will be addressed in the SCO’s annual statement of assurance as prescribed by Army Regulation 11-2.

## **Part 2 – Contracting Test Questions**

### **BB-200 Event Cycle 1: Management of Contracting Functions.**

#### ***Step 1: Contracting Activity Procedures and Functions.***

- a. Are mission and vision statements clear and accurate?
- b. Is the contracting office located at a level in the organization where undue influence will not be placed on contracting personnel (AFARS 5101.693(2)(iv))?
- c. Are there current published standard operating procedures that govern operational contracting?

- d. Are goals and metrics in place and routinely used to assess improvements in contracting functions?
- e. Is the contracting office currently in compliance with the paperless contracting mandate for electronic transaction of requirements handoff, solicitations, proposal receipt, evaluation, awards/modifications, and payment?
- f. Are procurement instrument identification number registers maintained and numbered in accordance with DFARS 204.7003?
- g. Are contracting officers distributing contracts to the applicable parties (e.g., contractor, requiring activity, transportation office, administration office, finance office, and payment office)?
- h. Does the contracting function receive notification of contracting (e.g., policy) changes, and, if so, implement the changes? Does the organization have a system in place for the distribution of policy alerts?
- i. Do contracting officers have the applicable contract action thresholds before leaving to conduct contingency contracting operations?
- j. Do contracting officers have the appropriate warrant to accomplish the contingency contracting mission?

***Step 2: Requiring Activity Coordination.***

- a. Does the contracting office establish and maintain open communications with the requiring activities, and stress the importance of developing collaborative working relationships with customers and contractors to ensure goals and objectives of the mission are met to the maximum extent practicable?
- b. Does the customer have an acquisition review board in place and if so, does the contracting officer participate in an advisory role?
- c. Are requiring activities advised of the lead times necessary to initiate and complete the contractual obligation of funds or contract action?
- d. Is economic purchase quantity data obtained and shared (when appropriate) with the cognizant inventory manager or with requiring activities (FAR 7.204)?
- e. Is teaming a routine practice in preparing requirements packages and program strategies?

- f. Are integrated product teams utilized to facilitate the decision making process whenever practical?
- g. Is a process in place to promote advanced acquisition planning? Does the mechanism involve all key stakeholders, to include installation leadership, requiring activity personnel, resource managers, and contracting personnel?
- h. Are requiring activities obtaining proper approvals (e.g., services contract approvals, contract or acquisition review board approvals, etc.) prior to sending the purchase request to the contracting office?

***Step 3: Office Automation.***

- a. Is there a single point of contact and alternate in the office for managing electronic business initiatives?
- b. Are procedures established regarding documentation and reporting problems with electronic business initiatives?
- c. Are processes for electronic versus paper storage of contract file documentation used consistently throughout the office?
- d. Are there office automation issues, which require command assistance or support?

***Step 4: Staffing, Facilities, and Training.***

- a. Is staffing in the contracting office adequate to support the mission without excessive use of overtime or the addition of temporary employees?
- b. Does the organization have a process in place for the recruitment and retention of employees with adequate skill levels?
- c. Is the contracting office working environment (i.e., office space, heating, cooling, lighting, noise levels, etc.) in accordance with space management regulations?
- d. Is the number and condition of office equipment (i.e., copiers, fax machines, computers, and class "A" telephone lines) adequate?
- e. Are individual development plans, job descriptions, and standards current and appropriate for the mission?
- f. Is training (i.e., both formal classroom training and informal on-the-job training) timely, adequate, and appropriate for the specific level of certification?

- g. If in an environment where there is frequent rotation of both civilian and military personnel, are processes in place to promote continuity of contract knowledge when contract specialists or contracting officers change?

***Step 5: Contracting Reports and Reviews.***

- a. Is there a process in place for conducting self-assessments to include procurement reviews, contract management reviews, and management control reviews?
- b. Are contract action reports (CARs) being prepared in a timely manner, verified, and submitted for each applicable contractual action via Federal Procurement Data System-Next Generation (FAR 4.6)?
- c. Are DD Forms 1547, Record of Weighted Guidelines Application, prepared in a timely manner, verified, and submitted as required (DFARS 215.404-70, DFARS 215-404-71, DFARS PGI 215.404-70, DFARS PGI 215.404-71 and DFARS PGI 215.406-3(a)(10)(B))?
- d. Are status reports on specified contract audit reports, required by DoD Directive 7640.2, prepared in a timely manner, verified, and submitted?
- e. Are recurring reports sent to higher headquarters in a timely manner?
- f. Does the organization maintain a list of reports that designates points of contact and internal due dates?

***Step 6: Socio-Economic Goals.***

- a. Does the contract file reflect the timely receipt, evaluation, and approval of required subcontracting plans (AFARS 5119.705-4 and AFARS Appendix DD)?
- b. If required, was a DD Form 2579 Small Business Coordination Record completed and incorporated into the contract file (DFARS 219.201(d)(10)(B))?
- c. Are the benefits of bundling contracts quantified and substantiated through market research (FAR 7.107, FAR 10.001, FAR 19.202-1(e)(1)(iii), and DFARS 207.170)?
- d. Are notifications of the intent to bundle published on the Government point of entry 30 days prior to the release of a solicitation or 30 days prior to placing an order without a solicitation (DFARS 205.205-70)?
- e. Are contracting officers making a reasonable effort to promote socio-economic goals by adding a socio-economic factor to the source selection process, as applicable?

- f. Are contracting officers following the guidance for promoting socio-economic goals, as provided by the SCO?

***Step 7: Standards of Conduct.***

- a. Is the required ethics training presented at least annually?
- b. Are designated employees completing annual OGE Form 450s?
- c. Are contractors made aware of their responsibility to maintain a suitable system of internal controls to avoid improper business practices (FAR 3.1002(b))?
- d. For potential or real organizational conflicts of interest, is there a written analysis, recommended course of action, or mitigation plan (FAR 9.5, FAR 37.102(g), 37.110, 37.2 and AFARS 5109.503)? Has legal counsel conducted a review of the organizational conflict of interest determination?

**BB-201 Event Cycle 2: Presolicitation.**

***Step 1: Acquisition Planning and Strategy.***

- a. Are acquisition plans developed when required (FAR 7.104 and DFARS 207.103)?
- b. Are acquisition plans approved by the appropriate official and do acquisition plans address the required areas (FAR 7.105, DFARS 207.1, DFARS PGI 207.106, and AFARS 5107.103-90)?
- c. Are evaluation factors established in accordance with regulations (FAR 12.602, FAR 13.106-1, FAR 14.503-1, FAR 15.304, 16.505(b)(1)(i)(E), 16.505(b)(1)(v)(A)(1), DFARS 215.304, DFARS 215.370, DFARS 215.370-2, DFARS 215.404-71-5, DFARS 216.505-70, and AFARS 5115.304)?
- d. Are acquisition strategies for services requirements approved by the appropriate official and do they address all required areas (AFARS 5137.590-3)?

***Step 2: Purchase Request and Review.***

- a. Are purchase requests adequately funded, signed, dated, approved by appropriate persons, and do they include adequate supporting documents?
- b. Do requirements documents (e.g., performance work statement, statement of work, specifications) comply with regulations for describing agency needs (FAR 11.002, FAR subpart 11.1, FAR 37.602 and DFARS 211.1)?



- c. Is market research adequate to support the selected acquisition approach (FAR 10.001, FAR 10.002 and DFARS 210.001)? When contracting for services see DFARS PGI 210.070.
- d. Has market research been conducted to determine if commercial items or non-developmental items are available to meet the Government's needs or could be modified to meet the Government's needs (FAR 10.002(b))?
- e. Does the independent Government cost estimate, if required, contain enough detail to verify the validity of the offeror's proposal, provide sufficient narrative and analytical detail to support preparation, include the preparer's signature (FAR 15.404.1(b)(2)(v), FAR 36.203, and AFARS 5107.9002)?
- f. Do blue prints and drawings, if required, appear reasonably accurate and complete, and can they be provided electronically?
- g. For Army-funded actions, has a service contract approval been submitted with General Officer/Senior Executive Service level approval certifying that the requirement contains no unauthorized personal services or inherently governmental functions (FAR 7.5, DFARS 207.5, and AFARS 5107.503)?
- h. If a contract, task or delivery order against a non-DoD contract is requested, does the requirements package include a certification for proper use of a non-DoD contract in accordance with DFARS 217.78 and AFARS 5117.7802?
- i. Are purchase requests for unauthorized commitments processed according to ratification procedures (FAR 1.602-3 and AFARS 5101.602-3-90)?
- j. Are there procedures in place for monitoring the age of purchase requests?
- k. If a performance based procurement, does the requirement incorporate a surveillance plan with measurable performance standards (FAR 37.603, FAR 37.604 and FAR 46.4)?
- l. Are determinations executed to support the selected contract type (FAR 12.207, FAR 16.601, FAR 16.301-3, DFARS 212.207, and DFARS 216.601)?
- m. Are salient characteristics provided when a "brand name or equal" requirement is requested (FAR 11.104)?

***Step 3: Competition Considerations.***

- a. If competition is restricted, was a justification and approval (J&A) properly prepared, executed and approved by the designated authority (FAR 6.302, FAR 6.303, FAR 6.304, FAR 13.106-1(b), FAR 13.501, DFARS 206.303, DFARS 206.304 and AFARS 5106.303)?
- b. Are orders under multiple delivery order/task order contracts that exceed \$3,000 issued in a manner that provides all awardees a fair opportunity to be considered? Are orders that exceed the simplified acquisition threshold placed on a competitive basis? If not, is a limited sources justification or justification for an exception to fair opportunity prepared and approved in accordance with FAR 8.405-6, and FAR 16.505(b)(2)?
- c. Are J&As executed and approved for brand name procurements (FAR 5.102(a)((6), FAR 8.405-6, FAR 11.104, and FAR 11.105)?
- d. Are J&As assigned a control number and maintained in a J&A log?

***Step 4: Solicitation Preparation.***

Do solicitations:

1. Conform to the uniform contract format (FAR 14.201-1 or FAR 15.204-1) or the commercial items contract format (FAR 12.303), as applicable?
2. Contain clauses that conform to the FAR or DFARS or have deviation approval (DFARS 201.402(2))?
3. Reflect consistency between the performance work statement, statement of objectives, statement of work, source selection plan, instructions to offerors and evaluation criteria (AFARS appendix AA, Army Source Selection Supplement, dated 21 December 2012)?
4. Clearly state in the instructions to offerors when it is the intent of the Government to award without discussions (FAR 15.306(a)(3) and AFARS appendix AA, Army Source Selection Supplement, dated 21 December 2012)?
5. Include evaluation criteria prescribed by Federal regulation, DoD, and Army guidance (DoD Source Selection Procedures, dated 4 Mar 2011, and Army Source Selection Supplement, dated 21 Dec 2012)?
6. Contain FAR clause 52.219-14 - Limitations on Subcontracting, as prescribed by FAR 19.508(e) and FAR 19.811-3(e)?

7. Contain FAR clause 52.219-9 - Small Business Subcontracting Plan, as prescribed by FAR 19.704 and FAR 19.708(b)?
8. With a long period of performance or a multiple-award indefinite-delivery indefinite-quantity contract, have decision points (i.e., on and off ramps) been incorporated to ensure that the Government has a qualified pool of contractors that will provide continuous service throughout the life of the contract (Defense Procurement and Acquisition Policy memorandum dated 18 February 2009, Subject: Review Criteria for Acquisition of Services)?
9. Contain FAR clause 52.222-50, Combating Trafficking in Persons, or Alternate I for contracts with performance outside the U.S. or by reference in FAR 52.212-5?
10. Contain the item unique identification clause (DFARS 252.211-7003, or its alternate) in all applicable contracts (DFARS 211.274-4)?
11. Receive peer reviews conducted appropriate to the value and complexity of the acquisition (DFARS 201.170, and AFARS 5101.170)?
12. Receive legal review prior to being published (AFARS 5101.602-2-90)?

***Step 5: Publicizing Contract Opportunities and Award Information.***

- a. Are solicitation notices publicized through the Government point of entry, or determination for exception executed (FAR 5.201, FAR 5.202, FAR 5.301, and AFARS 5104.502)?
- b. Are justifications and approvals for other than full an open competition posted with solicitations, as applicable (FAR 6.305, FAR 8.405-6(a)(2), and FAR 16.505(b)(2)(ii)(D)?
- c. When using competitive procedures, if a solicitation allowed fewer than 30 days for receipt of offers and resulted in only one offer, are contracting officers resoliciting requirements for an additional period of at least 30 days, except as provided in (DFARS 215.371-4, DFARS 215.371-5, and DFARS 205.203)?

**BB-202 Event Cycle 3: Source Selection/Evaluation, Negotiation, and Award.**

***Step 1: Source Selection and Evaluation.***

- a. Are source selection plans established in accordance with regulation (FAR 15.303(b)(2), DFARS 215.303(b)(2), DFARS PGI 215.303(b)(2), AFARS

5115.303(b)(2), DoD Source Selection Procedures (11 March 2011), and AFARS appendix AA, Army Source Selection Supplement (21 December 2012))?

- b. Are the source selection authority (SSA) and source selection organizations appropriately appointed given the level and complexity of the acquisition (FAR 15.303, AFARS 5115.303, DoD Source Selection Procedures (11 March 2011), and AFARS appendix AA, Army Source Selection Supplement (21 December 2012))?
- c. Are evaluation factors developed in accordance with Federal regulation, DoD and Army guidance (FAR 15.304, DFARS 215.304, AFARS 5115.304, DoD Source Selection Procedures (11 March 2011), and AFARS appendix AA, Army Source Selection Supplement (21 December 2012))?
- d. Is past performance being evaluated, or rationale for not evaluating past performance documented (FAR 15.304 (c)(3))?
- e. Is the price and quality of products or services being evaluated in all negotiated source selections (FAR 15.304(c)(1))?
- f. Are technical factors developed specifically for each acquisition, i.e., technical approach, management approach, experience, and personnel qualifications?
- g. Are source selection evaluations conducted in accordance with the source selection plan and the evaluation criteria specified in the solicitation (FAR 15.305, DFARS 215.305, AFARS 5115.305, DoD Source Selection Procedures (11 March 2011), and AFARS appendix AA, Army Source Selection Supplement (21 December 2012))?
- h. Are source selection decisions derived from the conduct of the source selections, fully documented, and does the source selection authority independently exercise prudent business judgment to arrive at a decision based on the best value to the Government consistent with the evaluation criteria stated in the solicitation (FAR 15.308 and AFARS 5115.308)?
- i. For cost type contracts, was a cost realism assessment performed (FAR 15.305(a)(1))?

***Step 2: Negotiation.***

- a. If discussions are held, is the competitive range determination substantiated and clearly documented (FAR 15.503(a)(1) and FAR 15.306(c)(3))?

- b. Do records support that discussions were meaningful and the requests for final proposal revisions adequately capture discussion issues (FAR 15.306(d)(3) and FAR 15.307(b))?
- c. Are pre-negotiation objectives clearly stated, approved at the appropriate level, and documented in the file (FAR 15.404-4, FAR 15.406-1, and AFARS 5115.406)?
- d. Are the results of negotiations documented (e.g. price negotiation memorandum) in sufficient detail and include the contracting officer's determination of fair and reasonable pricing (FAR 15.406-3(a), DFARS 215.406, and AFARS 5115.406)?
- e. Are certificates of current cost or pricing data obtained, or an appropriate exception utilized (FAR 15.406-2)?
- f. Is there evidence in the official contract files that contracting officers are making determinations that the proposed or agreed price is fair and reasonable (FAR 13.106-3(a) and FAR 15.406-3(a)(11))?

***Step 3: Award.***

- a. Is the System for Award Management (SAM) website ([www.sam.gov](http://www.sam.gov)) used to determine if a offeror is debarred or suspended after opening of bids or receipt of proposals (FAR 9.405(d)(1))? Is verification obtained from SAM prior to making an award (FAR 9.405(d)(4) and FAR 9.104-6)?
- b. Are appropriate verifications of the prospective contractors' registration in the SAM database completed prior to award of contracts (FAR 4.1103)?
- c. Are sufficient funds available and compliant with the bona fide needs statute (AFARS 5101.602-2(a) and 31 U.S. Code 1502(a))?
- d. Are responsibility determinations being conducted prior to award (FAR 9.4, FAR 9.105-1, and FAR 9.105-2)?
- e. Are Equal Employment Opportunity compliance approvals obtained prior to award (FAR 22.805)?
- f. If greater than \$6.5M, are congressional notifications submitted (FAR 5.303(a), DFARS 205.303, and AFARS 5105.303(a)(ii)(1))?
- g. Are CARs prepared, accurate and complete (FAR subpart 4.6)?

- h. For services procurements, are properly certified contracting officer's representative (COR) appointments executed before award (FAR 37.101, DFARS 201.602-2, and AFARS 5101.602-2-91)?
- i. Are contracting officers ensuring CORs have completed all mandatory training requirements and documenting qualifications prior to appointment (DFARS 201.602-2, DFARS PGI 201.602-2 and AFARS 5101.602-2-91)?
- j. Are performance-based requirements clearly defined? (FAR 37.6, DFARS 237.170-2 and AFARS 5137.590)
- k. Are quality assurance surveillance plans developed, and are clear, measurable performance standards incorporated into the contract (FAR 37.604, FAR 46.4 and DFARS 246.4)?
- l. Are notifications of award provided to unsuccessful offerors (FAR 15.503)?
- m. For small business set-aside competitions, are pre-award notices provided to unsuccessful offerors (FAR 15.503(a)(2))?
- n. For awards to large businesses, are subcontracting plans incorporated in contracts and do they include Electronic Subcontracting Reporting System requirements (FAR 19.702 and FAR 19.704)?
- o. Do official contract files contain evidence that the requirement for commercial software and related services, such as software maintenance, are acquired in accordance with the DoD Enterprise Software Initiative (DFARS 208.7402, and DFARS PGI 208.74)?
- p. Are peer reviews obtained as appropriate to the value and complexity of the acquisition (AFARS 5101.170)?
- q. Are legal reviews obtained prior to making award? (AFARS 5101.602-2-90 and as required by local policy)
- r. Are contract awards synopsisized through the Government point of entry (FAR 5.301)?
- s. Are steps taken to ensure that the notice of award is received in a timely manner, particularly where the successful offeror must "mobilize" subcontractors and equipment?

**BB-203 Event Cycle 4: Contract Administration.**

***Step 1: Documentation.***

- a. Is file documentation sufficient to constitute a complete history of the transaction (FAR 4.801)?
- b. Is there adequate documentation to support modification changes (FAR 4.803(26)(ii) and (iii))?

***Step 2: Functional Representatives' Responsibilities and Limitations.***

- a. Are qualified individuals selected as CORs (DFARS 201.602-2)?
- b. Do COR designations clearly indicate their authority and the limitations of that authority?
- c. Is there evidence in the official contract files that the contracting officer reviews (at least annually) the COR official files (AFARS 5101.602-2-91)?
- d. Is there evidence in the official contract file that the COR has summarized the contractor's performance in the Contractor Performance Assessment Reporting System annually? (AFARS 5153.303-1.2.d)?

***Step 3: Postaward Orientation Conferences.***

Is consideration given to the need for postaward orientation conferences to foster a mutual understanding of the contractual agreement and the responsibilities assigned (FAR 42.502)?

***Step 4: Contract Modifications.***

- a. Is legal counsel requested to make a legal sufficiency determination prior to issuing a supplemental or bilateral agreement, as applicable?
- b. Is a deviation approval requested when a clause other than a standard clause is to be incorporated into a supplemental agreement?
- c. Are modifications issued under the proper authority (FAR 43.102 and FAR 43.201)?
- d. Are change orders issued for work within the scope of the contract (FAR 43.2 and DFARS 243.2)?

***Step 5: Government Property Administration.***

- a. Are contractors required to publish a property control system describing the procedures and techniques to be used in managing Government property (unless the Government property administrator determines it unnecessary)?
- b. Is regulatory guidance followed to determine contractor liability should Government properties become lost, damaged, destroyed or unreasonably consumed (FAR 45.104)?
- c. Has it been determined to be in the best interest of the Government to provide additional Government property beyond that required under contract?
- d. If Government property is being provided to the contractor, does the contract contain specific identification of all Government property to be furnished, and are property administration records being maintained in the official contract file (FAR 45.201 and AFARS 5145.390)?
- e. If Government property is being provided to the contractor, has all property on the contract been properly reported, reutilized, and/or disposed of during the life of the contract and contract completion (FAR 45.6)?

***Step 6: Options.***

- a. Before exercising an option, do contracting officers execute a written determination that exercising the option is in the best interest of the Government (FAR 17.207 and DFARS 217.207)?
- b. Is there evidence in the official contract files that the contracting officer provided written notice to the contractor within the time period specified in the contract of the intent to exercise the option (FAR 17.207 and FAR 17.208(g))?

***Step 7: Funding.***

- a. For incrementally funded cost type contracts, are contractors notifying the Government in writing when they expected the costs will exceed 75% of the estimated contract amount (FAR 32.703-1(b), FAR 32.706-2(b), and FAR 52.232-22)?
- b. If the contracting officer initiated a contract action in advance of funds was the correct clause used (FAR 32.703-2, FAR 32.706-1, and FAR 52.232-18)?
- c. Are award fees being awarded commensurate with contractor performance over a range from satisfactory to excellent performance as identified in the award fee plan (FAR 16.401(e)(2) and (3))?



***Step 8: Quality Assurance.***

- a. Are nonconforming supplies or services offered to the Government rejected, except as provided in applicable regulations (FAR 46.407)?
- b. Is contractor performance monitored according to established surveillance plans?

***Step 9: Delinquency Actions and Terminations.***

- a. Do contracting officers take timely action to alleviate or resolve delinquencies (FAR 49.607)?
- b. Do contracting officers obtain legal counsel and technical advice prior to taking action when a default termination is being considered (FAR 49.402-3)?
- c. Are excess funds from terminated contracts deobligated by the responsible contracting officer (i.e., PCO, ACO or TCO) in a timely manner?
- d. Are negotiation settlements promptly scheduled and audit reviews and negotiations tracked to ensure prompt settlement of termination actions (FAR 49.101(d))?

***Step 10: Defense Contracting Audit Agency Audits on Cost Reimbursement Contracts.***

- a. Are determinations regarding the allowability of incurred costs on cost reimbursement contracts consistent with the factors to be considered in determining allowability (FAR 31 and DFARS 231)?
- b. Are final cost determinations that are inconsistent with the auditor's advice supported by a memorandum in the contract file describing the pertinent events and factors considered in reaching the decision?
- c. Are reimbursements due the Government after final audit promptly processed for collection?

***Step 11: Receiving Reports, Acceptance, Final Payment, Contract Completion, and Contractor Evaluation.***

- a. Are decisions to accept or reject supplies, or services performed, documented and distributed in a timely manner?
- b. Are all contractual claims and obligations satisfied prior to contract closeout and do contracting officers follow proper procedures in determining and processing claim(s) (FAR 33.2)?

- c. Are contract administration offices initiating administrative closeout of the contract after receiving evidence of its physical completion (FAR 4.804-5)?
- d. Is there evidence in the official contract file that the contracting officer prepared a contractor performance assessment report (FAR 42.1502, DFARS 242.1502, DoD Class Deviation 2012-O0017 and Deviation 2012-O0018, and AFARS 5142.1503)?

***Step 12: Other Contracting Officer Administrative Responsibilities.***

- a. Is there evidence in the official contract file that contracting officers have enforced the remedies under FAR clause 52.222-50 or by reference in FAR 52.212-5?
- b. Is there evidence in the official contract file that the contracting officer is ensuring that the contractor is performing in accordance with FAR 52.219-14? (FAR 19.811-3(e) and FAR 19.508(e))

**BB-204 Event Cycle 5: Special Acquisition Situations and Requirements.**

***Step 1: Simplified Acquisition Procedures.***

- a. Is a source list being maintained (FAR 13.102)?
- b. Are files reviewed to ensure that:
  - 1. Requirements are not split or manipulated to avoid exceeding the simplified acquisition threshold (FAR 13.003(c)(2))?
  - 2. Related items are consolidated when practical and advantageous (FAR 13.101(b))?
  - 3. Unpriced orders contain appropriate monetary limitations (FAR 13.302-2 (c))?
  - 4. Price reasonableness is adequately documented (FAR 13.106-3)?
- c. Are recurring orders evaluated at least annually to determine the appropriateness of establishing, updating, or canceling blanket purchase agreements (FAR 13.303-2 and FAR 13.303-6)?
- d. Are ordering officers':
  - 1. Appointments limited to those situations essential for the efficient operation of the contracting mission (AFARS 5101.602-2-92(b))?

2. Activities physically inspected or reviewed, at least once each year (AFARS 5101.602-2-90(c)(2))?
- e. For use of the Government commercial purchase card:
1. Are purchases in compliance with regulations, restrictions, and controls (FAR 13.301, DFARS 213.270, DFARS 213.301, AFARS 5113.201 and AFARS 5113.270-90)?
  2. Are procedures in place to ensure bills are paid promptly?
  3. Are purchase cards being utilized as a payment vehicle on contracts over the micro-purchase threshold, when appropriate?
  4. Are procedures in place to track Government property acquired with the Government purchase card?

***Step 2: Construction Requirements.***

- a. Are bid guarantee and bonding requirements in compliance with the guidance at FAR 28.101 and DFARS 228.102?
- b. Is a release of all claims or liens against the Government obtained prior to final payment (FAR 52.232-5)?

***Step 3: Job Order Contracting.***

- a. Do unit price book prices, including contractual changes to those prices, include direct material, direct labor, and equipment costs, but not indirect costs or profits?
- b. Are negotiated prices fair and reasonable for items that are not prepriced?

***Step 4: Architect-Engineers (AE) Requirements.***

- a. Are the qualifications data files on AE firms kept current, to include review and update at least once a year (FAR 36.603(d))?
- b. Are the required clauses included in AE contracts to protect the interests of the Government (FAR 36.609)?
- c. Are the reasons for recovering or not recovering costs from an AE firm whose design deficiencies contributed to a construction contract modification documented in writing and in the contract file (FAR 36.608)?

***Step 5: Services and Performance Based Contracting.***

- a. Are formal, measurable (i.e., in terms of quality, timeliness, quantity, etc.) performance standards and surveillance plans developed to monitor the services to be performed (FAR subparts 12.102(g)(1)(iv), FAR 37.503(a), FAR 37.601(b)(2), FAR 37.601(b)(3), FAR 37.603 and FAR 37.604)?
- b. Are contractor employee complaints regarding wage rates, overtime, and related matters under the Service Contract Act referred to the Department of Labor for investigation?
- c. Do service contracts have a written quality assurance surveillance plan in place that defines the work requiring oversight and explains how surveillance reviews will be documented?
- d. If a services requirement, does the customer provide a “Request for Civilian Hire or Services Contract Approval” with the purchase request? (For current form, see <http://www.asamra.army.mil/insourcing/>.)
- e. If the acquisition is a service, is an acquisition strategy prepared and approved in accordance with AFARS 5137.5?

***Step 6: Acquisition of Information Technology.***

Are the modular contracts for information technology awarded within 180 days after the solicitation is issued, and is delivery scheduled to occur within 18 months to the maximum extent practicable (FAR 39.103 (e))?

***Step 7: Major System Acquisitions.***

- a. Does the system acquisition objective promote innovation and full and open competition (FAR 34.002(a))?
- b. Is effective competition between alternative system concepts and sources sustained for as long as it is beneficial (FAR 34.002(b))?
- c. Are formal source selection procedures described in AFARS appendix AA: Army Source Selection Supplement being applied?

***Step 8: Research and Development Requirements.***

- a. Are work statements adequately tailored by technical and contracting personnel to obtain the desired degree of flexibility for contractor creativity and the objectives of research and development (FAR 35.005(a))?

- b. Are recommendations of technical personnel considered by the contracting officer prior to selection of a contract type to fit the research work required (FAR 35.006 (b))?
- c. Does the evaluation and award of research contracts consider the prohibition against obtaining capabilities that exceed those needed for successful performance (FAR 35.008(a))?
- d. Do those research contracts with educational institutions or nonprofit organizations requiring a named principal, investigator, or project leader, contain sufficient controls to ensure an adequate degree of involvement by the named individual (FAR 35.015(a)(1))?

***Step 9: Undefined Contract Actions (UCAs).***

- a. For UCAs, is there evidence in the official contract file that the contracting officer received written approval before issuance of the UCA and has the action been definitized within 180 days or as otherwise allowed by federal regulation (DFARS 217.7403, DFARS 217.7404-1, DFARS 217.7404-4, DFARS PGI 217.7404 and FAR 16.603-2)?
- b. Do definitization schedules contain all FAR 16.603-2(c) and DFARS 217.7404 requirements, a ceiling not-to-exceed price, and appropriate contract clauses (FAR 16.603-4, DFARS 216.603-4, and DFARS 217.7405)?

***Step 10: Financial and Cost Aspects of Other Transactions for Prototype Projects.***

- a. Are the terms and conditions of the “other transaction” clear, and do they protect the Government’s interests?
- b. When an “other transaction” has cost reimbursable features using payable milestones, does the “other transaction” address the procedures for adjusting the payable milestones based on actual expenditures?
- c. To ensure advance payments do not result under an “other transaction” with cost reimbursable features, does the “other transaction” require the contractor to submit a report of actual expenditures as a condition for milestone payment? Does the “other transaction” stipulate that the milestone payment will not exceed actual expenditures?
- d. When an “other transaction” has firm-fixed price characteristics with payable milestone provisions, are the payable milestone values commensurate with the estimated value of the milestone events?

- e. When an “other transaction” requires the submittal of technical, business or annual report, has the agreements officer considered whether these reports are important enough to warrant establishment of separate milestones, or if report requirements should be incorporated as part of a larger payable milestone?
- f. Does the “other transaction” require the delivery of technical reports to the Defense Technology Information Center, upon completion of the research and engineering project (DoD Instruction 3200.14)?
- g. If the contractor fails to comply with the terms of the “other transaction”, has the agreement administrator taken timely, appropriate action to remedy the situation?

***Step 11: Financial and Cost Aspects for Technology Investment Agreements (TIAs).*** (A TIA is defined as a class of assistance instruments that may be used to carry out basic, applied, and advanced research projects when it is appropriate to use assistance instruments, and the research is to be performed by for-profits or by consortia that include for-profit firms, particularly firms that have done business with the Government.)

- a. If a TIA provides for payment to be made based on payable milestones, are these payable milestones based on observable, technical progress?
- b. At the completion of each payable milestone or upon receipt of the quarterly business status report, has the agreements officer compared the total amount of project expenditures with the amount of payments for completed milestones? Has the agreements officer adjusted future payable milestones as needed to closely match payments to the recipient’s cash needs for the project?
- c. For TIAs which use payable milestones, has the agreements officer included a term or condition in the award document or otherwise required the recipient to maintain in an interest-bearing account any payable amounts received in advance of needs to disburse the funds for program purposes, unless one of the following conditions applies:
  - 1. The recipient receives less than \$120,000 in Federal awards per year;
  - 2. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on such cash advances; or
  - 3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources for the project.

- d. Has the agreements officer forwarded any annually earned interest received from a recipient under a TIA to the responsible payment office for return to the Department of the Treasury's miscellaneous receipts account?

**AFARS Appendix CC**  
**Department of the Army**  
**Procurement Management Review (PMR) Program and**  
**Army Contracting Enterprise Risk Management**  
**1 October 2024**



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## **PART 1 - INTRODUCTION**

### **CC-100 Purpose and Application**

This Appendix CC describes the Army Contracting Enterprise (ACE) risk management strategy and provides procedures to be used within the Army to establish and manage Army internal control assessments conducted via the Procurement Management Review (PMR) Program. The content in this appendix is consistent with the processes described in Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Enterprise Risk Management (ERM) and Internal Control, and Army Regulation (AR) 11-2, Managers' Internal Control Program (MICP). The functions covered in this appendix are applicable to all FAR-based and non-FAR-based Army acquisition functions. Specific guidance relating to the method and frequency of assessment for the Government-wide Purchase Card (GPC), Army Small Business Program, Other Transactions (OTs), and Assistance awards functions are located in the applicable guidance/policy documents for those functions. For additional information on the PMR Program, please reference the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) PMR Guidebook, located on the [PMR SharePoint](#).

### **CC-101 Definitions**

As used in this appendix—

“Answer” means a reply to a specific review question. Any “No” answer shall also include a “Deficiency” that helps to categorize why the response was “No”.

“Best Practice” means an innovative, novel, or otherwise noteworthy approach or practice used to comply with one or more internal controls.

“Checkpoint” means a moment during the corrective action process where organizations shall provide ODASA(P) with status updates at 90-day increments (i.e., calendar days).

“Contingency Contracting” means a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force in accordance with 10 USC 101(a)(13)(A) (see also FAR subpart 2.1). The support may be provided in a mature or immature operational environment and may be long term or short term.

“Contract Execution Review (CER)” means a contract review that can be conducted automated or manually. CER generally refers to an automated contract review (i.e., contract/order/modification) within a Review Event in the Virtual Contracting Enterprise (VCE) PMR Assistant module.

“Corrective Action” means the action taken by an organization to improve the findings associated with non-compliance. Corrective action is the activity of reacting to a process problem, improving it, and ensuring internal controls are in place to reduce the likelihood of reoccurrence.

“Corrective Action Plan (CAP)” means a report or document that provides an organization with systemic deficiencies to complete corrective action to strengthen an organization’s internal control environment for contract operations.

“Deficiency” means a categorization of why the question was answered with a “No”.

“Finding” means the explanation of why a particular question was deficient to warrant taking corrective action.

“Internal Controls”, also known as “Internal Management Controls”, means the rules, procedures, techniques, and devices employed by managers to ensure that what should occur in their daily operations does occur on a continuing basis. For the purposes of this appendix, internal controls include the policies in the FAR, DFARS, and AFARS, and the associated processes and procedures of the contracting activity’s acquisition instruction (see AFARS 5101.304-90).

“Key Internal Controls” means the internal controls that must be implemented and sustained in daily operations to ensure organizational effectiveness and compliance with legal requirements. The effectiveness of key internal controls is assessed through the PMR Program and other management review processes.

“Lesson Learned” means a noteworthy flaw in the design, implementation, or operational effectiveness of one or more internal controls.

“Toolkit” means a collection of questions that is managed for a Management Review or non-contract PMR.

“Question” means a specific review question included in a question set. For CERs, a question will be included in a review, based on specific question categorizations/filters (e.g., competitive/non-competitive, Modification type, Subject Matter Expert (SME) review). A question can have a “Yes/No” or “Yes/No/N/A” answer.

“Question Set” means a collection of questions that is managed by a PMR Administrator or SME and selected for use in Review Events. The Internal Control (IC) Question Set will be the default question set for all CERs. The IC Question Set and any supplemental question sets are managed within the VCE-PMR Assistant.

“Root Cause Analysis” means an inspection technique performed to identify all the contributing factors in a finding and determine the root cause for why it occurred. Effective analysis ensures the resources dedicated toward a corrective action have the greatest likelihood of success.

“Strategic Controls” means those controls that are directly linked to the ACE contracting strategic objectives. The primary focus of strategic controls is on operations (i.e., cost, schedule, and performance) objectives.

“Virtual Contracting Enterprise (VCE)” means a suite of web-based contracting tools used by its employees and their customers in the performance of their daily duties acquiring supplies and services for the Army.

“Self-Assessment” means any review other than an official PMR that internally assesses either organizational or individual compliance.

“Procurement Management Review (PMR)” means an official review that assesses the effectiveness of internal controls, key internal controls, and strategic controls to mitigate risks to the ACE strategic objectives.

“Risk” means the probable or potential adverse effects from inadequate internal controls that may result in the loss of government resources through fraud, error, or mismanagement.

“Risk Management” means a series of coordinated activities to direct and control challenges or threats to achieve an organization’s goals and objectives.

“Risk Tolerance” means the acceptable level of variance in performance relative to the achievement of objectives.

### **CC-102 Army Contracting Enterprise Strategic Objectives**

In accordance with FAR 1.102(b), the ACE defines its operations, reporting, and compliance strategic objectives for contracting as follows:

- (1) Operations objectives.
  - a. Satisfy the customer in terms of cost;
  - b. Satisfy the customer in terms of quality; and
  - c. Satisfy the customer in terms of timeliness.
- (2) Reporting objective. Conduct business with openness.
- (3) Compliance objectives.
  - a. Minimize administrative operating costs;
  - b. Conduct business with integrity and fairness; and

c. Fulfill public policy objectives.

### **CC-103 ACE Contracting Risk Management**

The ACE views internal control as a critical element for managing risk. The ACE manages risk to its strategic objectives and assesses the effectiveness of its internal controls, using Procurement Management Reviews, Peer Reviews, Independent Management Reviews, audits, training, self-assessments, and other management control activities. The use and periodic evaluation of key internal controls is an integral component of an organization's management that provides reasonable assurance of the effectiveness and efficiency of the organization. "Risk" means the probable or potential adverse effects from inadequate internal controls that may result in the loss of government resources through fraud, error, or mismanagement. Risk management is a series of coordinated activities to direct and control challenges or threats to achieving an organization's goals and objectives. Risk management on an enterprise-wide basis is an effective agency-wide approach to addressing the full spectrum of the organization's external and internal risks by understanding the combined impact of risks across the organization, rather than addressing risks only within a single component of the organization. While agencies cannot respond to all risks related to achieving strategic objectives and performance goals, they must identify, measure, and assess risks related to mission execution. ACE risk management reflects forward-looking management decisions and balancing risks and returns so the ACE enhances its value to the taxpayer and increases its ability to achieve its strategic objectives.

### **CC-104 ACE Contracting Risk Tolerance**

Risk tolerance is the acceptable level of variance in performance relative to the achievement of objectives. The ACE will tolerate a greater level of variance in performance in achieving reporting and compliance strategic objectives relative to the achievement of operations strategic objectives. However, variation in achievement of the non-operations strategic objectives is not tolerated when it negatively impacts the achievement of operations strategic objectives. This strategic guidance is intended to promote initiative and sound business judgment by the Acquisition Team in providing the best value product or service to meet the customer's needs.

## **PART 2 - PMR PROGRAM PHILOSOPHY AND POLICY**

### **CC-200 Philosophy**

The PMR Program is a crucial element of ACE contracting governance. Specifically, the PMR Program assesses the effectiveness of strategic controls, internal controls, and key internal controls to mitigate risks to the ACE contracting strategic objectives.

### **CC-201 Policy**

(a) The Army PMR Program will assess the effectiveness of internal controls at both the contracting activity level and on a strategic, enterprise-wide basis.

(b) The ODASA(P) is responsible for evaluating the effectiveness of strategic controls. Questions for strategic controls are designed to be qualitative in nature and to facilitate the identification of best practices and lessons learned. The ODASA(P) will conduct such assessments via ODASA(P)-led PMRs or will leverage other strategic management review processes. The effectiveness of strategic controls will be assessed via ODASA(P)-led strategic management reviews (Type 4 assessment) and the effectiveness of internal/key controls will be assessed, as required, by the ODASA(P), using Special Assistance Reviews or Assessments (Type 3 assessment). The Strategic Control Toolkit is an Excel-based document located on the [PMR SharePoint](#) and can be found within the Question Sets and Toolkits section under Manual Toolkits. The ODASA(P) may also leverage other question sets or toolkits, as required, for strategic management reviews.

(c) In addition to any command-authority internal control duties, each Head of Contracting Activity (HCA) is responsible for executing the procurement authority aspects of the contracting activity's MICP (see AR 11-2). Specifically, HCAs and Senior Contracting Officials (SCOs) shall assess the effectiveness of key internal controls (Type 2 assessment) and shall provide the results annually as part of the Summary Health Report (SHR). The Internal Control Question Set is located in the VCE-PMR Assistant module. All other PMR Question Sets and Toolkits are located on the [PMR SharePoint](#).

(d) The PMR Program will identify elevated risks to the achievement of contracting strategic objectives and compliance with acquisition policies and procurement regulations. The key internal controls, strategic control assessments, and other PMR Program outputs will be used to identify improvements to contracting operations.

## **PART 3 – PMR RESPONSIBILITIES**

### **CC-300 Assistant Secretary of the Army (Acquisition, Logistics, and Technology)**

#### **1. ASA(ALT)), Army Acquisition Executive (AAE), and Senior Procurement Executive (SPE)**

The ASA(ALT), as the AAE and the SPE, is responsible for all procurement and contracting functions across the Army to include, but not limited to, providing oversight of contracting functions through an enterprise wide PMR program.

#### **2. Deputy Assistant Secretary of the Army (Procurement) (DASA(P))**

The DASA(P) serves as the Department of the Army (DA) proponent for the oversight of the execution of an Army-wide PMR program on behalf of the SPE.

#### **3. Procurement In/Oversight Directorate (PI) (SAAL-PI)**

a. SAAL-PI is responsible for the effective administration and conduct of the AFARS Appendix CC and all PMR guidance.

b. The Director of SAAL-PI, on behalf of the DASA(P), shall:

- (1) Oversee the Army-wide PMR program.
- (2) Advocate coordination and resolution of issues at DA or higher levels for the field.
- (3) Coordinate, manage, communicate best practices, trends, and lessons learned.
- (4) Monitor and maintain a repository for the resulting CAPs resulting from PMRs.
- (5) Prepare the ACE Annual SHR.
- (6) Assign a PMR Program Lead to coordinate, manage, and oversee the Army-wide PMR program.

#### **4. PI Directorate PMR Program Lead**

a. The PI Directorate PMR Program Lead, under the direction of the Director of SAAL-PI, is responsible for managing all aspects of the PMR program and leading ODASA(P)-led and special assistant PMRs.

b. The PMR Program Lead shall:

- (1) Oversee Army-wide execution of the PMR program.
- (2) Be an advocate of the field for coordination and resolution of issues at DA or higher levels.
- (3) Lead the ACE PMR Advisory Board (AB).
- (4) Lead the Configuration Management Board (CMB).
- (5) Provide acquisition management advice to the ACE Senior Leaders.
- (6) Provide PMR guidance to HCAs, including guidance for ODASA(P) special interest reviews.
- (7) Analyze and assess the effectiveness and efficiency of Army contracting programs and operations.
- (8) Direct ODASA(P)-led PMRs of strategic controls or internal controls of special interest to the ODASA(P).
- (9) When not serving as the PMR Team Manager/Lead, designate a PMR Team Manager/Lead.
- (10) When serving as the PMR Team Manager/Lead, establish the PMR Team and execute all PMR Team Manager/Lead responsibilities, as applicable.
- (11) Develop, maintain, and update, as needed, a PMR volunteer list.

NOTE: Volunteer PMR team member(s) shall not be a member of the contracting office under review.

- (12) Communicate best practices and lessons learned identified to the ACE.

(13) Prepare and/or coordinate completion of the ACE Annual SHR.

## **5. HCA**

a. The HCA executes the Army PMR program, under the direction of the DASA(P), to ensure fulfillment of HCA responsibilities for assessing the effectiveness of procurement authority key internal controls, consistent with the policies and objectives of AFARS Appendix CC.

b. The HCA shall:

(1) Designate a senior representative from their staff to serve on the PMR AB to support the successful execution of the policies of AFARS Appendix CC.

(2) The AB representative and the CMB representative shall not be the same person.

(3) Designate a senior representative from their staff to serve on the CMB to support updates and revisions of the Army PMR Toolkits and Question Sets.

(4) Provide supplemental staff support, as required, to assist with ODASA(P)-led assessments of strategic controls and ODASA(P)-directed special interest reviews.

(5) Provide the schedule of reviews for the following Fiscal Year (FY) no later than 31 August of the current FY.

(6) Conduct PMRs on contracting activities, to include subordinate commands, at least once every three years (36 months).

(7) Request, manage, and oversee the CAP in response to PMR deficiencies.

(8) Identify and communicate best practices and lessons learned, gathered from management control activities, in the Contracting Activity's (CAs) annual SHR.

(9) Provide a SHR to the ODASA(P) no later than 31 October of the current FY-with information for the prior FY.

(10) Issue supplemental Command-level PMR guidance, including procedures for establishing additional guidance at lower/local levels, as needed.

## **6. SCO**

a. The SCO executes the PMR program, under the direction of the HCA, to ensure fulfillment of the HCA responsibilities for assessing the effectiveness of procurement-authority key internal controls, consistent with the policies and objectives of AFARS Appendix CC.

b. The SCO, as directed by the HCA, shall:

(1) Assess the effectiveness of internal/key internal controls of contracting activities, to include subordinate commands, at least once every three years (36 months).

(2) Request, manage, and oversee the CAP in response to PMR deficiencies.



## 7. PMR AB Members

a. PMR AB members serve as representatives for each respective organization. The PMR AB facilitates collaboration amongst the DA's major buying commands and the ODASA(P) by providing support and guidance for the development, implementation, standardization, and execution of the ACE PMR program.

b. PMR AB Members shall:

(1) Provide guidance for development of a standard PMR program across the ACE.

(2) Participate in, at a minimum, quarterly meetings to discuss problems, request assistance, and gather recommendations from other members.

(3) Share best practices, lessons learned, and innovative ideas across the ACE for implementation.

Note: Reference PMR AB Governance for additional information via the [PMR SharePoint](#).

## 8. PMR CMB Members

a. PMR CMB members serve as representatives for each respective organization. The CMB is tasked with providing guidance for the maintenance and development of the Army PMR Toolkits and Question Sets.

b. CMB members shall:

(1) Participate in monthly meetings and special meetings, as required.

(2) Recommend and/or review proposed changes, updates, or revisions to the PMR Question Sets and Toolkits.

(3) Communicate changes, updates, and revisions to the field offices.

(4) Relay critical information to senior leaders.

Note: Reference PMR CMB Governance for additional information via the [PMR SharePoint](#).

## 9. PMR Team Manager/Lead

a. The PMR Team Manager/Lead executes the PMR review process and is responsible for the overall PMR team management. This includes planning, conducting the review, and preparing or overseeing preparation of the PMR report. The PMR Team Manager/Lead is typically the same person, however local guidance may distinguish a separation of responsibility. In this instance, local guidance shall take precedence.

b. The PMR Team Manager/Lead shall:

(1) Establish the PMR Team.

(2) Develop, maintain, and update the PMR volunteer list.

- (3) Confirm availability of team members for the established time of each PMR.
- (4) Immediately contact replacements for those PMR team members who have schedule conflicts.
- (5) Issue a 90-day notice for the PMR to the site being reviewed.
- (6) Meet with senior representatives from the organization for the site being reviewed to ensure the organization understands what is expected of them and answer any questions.
- (7) Coordinate the organization's support requirements for the PMR team.
- (8) Volunteer PMR team member(s) are not currently a member of the respective contracting office under review or previously a member during the period covered by review.
- (9) Notify PMR team members of assigned area(s) of responsibility.
- (10) Conduct pre-PMR processes and training as required:
- (11) Introduce team members.
- (12) Provide the purpose of the PMR.
- (13) Discuss Business Rules (i.e., Ground Rules, site specific rules, and PMR team's daily working hours, if applicable).
- (14) Provide guidance on conducting and documenting the PMR.
- (15) Ensure that reviewers are cognizant of local contracting requirements and provided access to copies of all relevant local policies and procedures.
- (16) Identify team member SME capabilities.
- (17) Conduct an in-brief and an out-brief with PMR team members.
- (18) Facilitate regular (daily or weekly) meetings or exchanges to discuss systematic issues or new findings as the review progresses.
- (19) Coordinate logistics.
- (20) Request local policies & procedures from the organization. Note: guidance usually reflects dollar thresholds for review, peer reviews, pre-award reviews, and other local procedures.
- (21) Provide an in-brief and an out-brief to the SCO and Senior Leadership.
- (22) Adjudicate all lessons learned and best practices recommended for implementation across the ACE.

## **10. PMR Team Members**

- a. PMR team members perform assessments of assigned review elements, including participating in the planning, conducting the review, and preparing their input to the PMR report.

b. The PMR team members shall:

- (1) Be technically qualified and experienced to perform PMR reviews.
- (2) Have the knowledge, skills, and abilities to review assigned area, and have at least five years of hands-on experience as a Contract Specialist or Procurement Analyst.
- (3) Possess the experience in contracting relevant to the subject matter being reviewed.
- (4) Be capable of independently completing the required Question Set and/or Toolkit for the review.
- (5) Conduct all assigned cabinet reviews, document reviews, interviews (when required), or other required reviews in support of the PMR.
- (6) Obtain system access for the location of the PMR, if required.
- (7) Participate in all virtual or in-person meetings.
- (8) Document, provide, and brief findings, lessons learned, and best practices.
- (9) If serving as an SME for the review team, provide subject-matter-expertise in reviewing designated functional areas or special interest review elements during the PMR review process.
- (10) Assist PMR Team Manager/Lead, if requested, in reviewing PMR findings for consistency, accuracy, and completeness.

#### 11. Organizational CAP Representative

A representative from each Organization listed on the CAP Submission and Checkpoint Form. The Organizational CAP Representative receives the CAP from the CAP POC and is responsible for submission of the CAP to the PMR PAM SharePoint/Repository via the CAP Submission and Checkpoint Form on the [PMR SharePoint](#).

#### 12. CAP Point of Contact (POC)

A POC from the organization under review (typically the Subordinate Organization listed on the CAP Submission and Checkpoint Form). The CAP POC receives PMR results from the PMR Team Manager/Lead, creates the CAP, obtains CAP approval from the PMR Team Manager/Lead, and sends the approved CAP to the Organizational CAP Representative.

#### 13. **Deputy Assistant Secretary of the Army (Procurement)**

The DASA(P) is the DA proponent for the PMR Program supporting the SPE to provide oversight and evaluation of Army contracting, consistent with the enterprise risk management and internal control practices of OMB Circular A-123 and AR 11-2.

#### 14. **HCA**s

HCA's shall –

- (a) Assess the effectiveness of procurement-authority key internal controls, consistent with the

policies and objectives of this appendix; review contracting compliance with FAR, DFARS, AFARS, DA Policy, and Command Supplements, consistent with DA PMR objectives and ODASA(P) special interest areas.

(b) Designate representatives from their staff to interface with ODASA(P) to support the successful execution of the policies of this appendix.

1) Appoint, in writing, a primary and alternate representative to the PMR AB.

2) Delegable no lower than the designated PMR AB member, appoint, in writing, a primary and alternate representative to the PMR CMB.

3) Designated representatives cannot simultaneously hold the position of PMR AB member and CMB member.

(c) Provide supplemental staff support, as required, to conduct ODASA(P)-led assessments of strategic controls and ODASA(P)-directed special interest reviews.

(d) Identify and communicate best practices and lessons learned, gathered from management control activities, in the contracting activity's annual SHR.

## **PART 4 - PROCEDURES**

### **CC-400 Scheduling**

(a) At a minimum, HCAs or their SCOs will -

(1) Conduct PMRs on contracting activities, to include subordinate contracting offices, regardless of the level, at least once every three years (36 months).

(2) Provide the schedule of reviews no later than 31 August of the preceding FY to the ODASA(P) Procurement Insight/Oversight (PI) Directorate.

(b) Waivers.

(1) The DASA(P) may grant, in writing, a 12-month extension, to the 36-month time frame, on a one-time basis, when circumstances are justified.

(2) Waiver requests shall be submitted with the annual PMR schedule of reviews.

The DASA(P) may require, in writing, more frequent reviews of contracting activities as deemed necessary.

**CC-401 Types of Procurement Management Reviews (PMRs)**

(a) The PMR is a tiered program that includes the following types of assessments:

(1) Type 1: Reviews of Internal Controls (other than key internal controls) conducted by the Contracting Activity (CA) Management, as needed, using assessment methods in accordance with Command, CA, local or other applicable guidance.

(2) Type 2: Reviews of Key Internal Controls conducted by the HCAs and SCOs to Offices of the Directors of Contracting and other subordinate contracting offices, at least once every three years (36 months), using the Internal Control Question Set, and any supplemental question sets or toolkits.

(3) Type 3: Reviews of Internal/Key Internal Controls, conducted by the ODASA(P), as needed for special assistance reviews and assessments, on selected CAs and/or ACE-wide, using the applicable question set(s).

(4) Type 4: Reviews of Strategic Controls conducted by the ODASA(P), annually, using the Strategic Control Question Set for CAs across the ACE.

(b) Top-level information on review responsibility, method of assessment, frequency of assessment, and assessment instructions is provided in the table below.

Type	Control Type	Primary Responsibility for Control Assessment	Method of Assessment	Frequency of Control Assessment	Assessment Instructions
1	Internal Controls (Other than Key Controls)	Contracting Activity (CA) Management	Business clearance, legal review, local policy and compliance reviews and self-assessments	Action-by-Action IAW CA	CA
2	Key Internal Controls	HCA, SCOs	Internal Control Question Set *Contingency Contracting Toolkit (as applicable)	At least once every three years (36 months)	AFARS Appendix CC
		HCA	SCO Toolkit	Annually	AFARS Appendix CC
		Per applicable policy	GPC Toolkit	Per applicable policy	AFARS Appendix EE
		Per applicable policy	OSBP Toolkit	Per applicable policy	Per Army OSBP
		Per applicable policy	OT Question Set	Per applicable policy	Per ODASA(P)
		Per applicable policy	Assistance awards Question Set	Per applicable policy	Per ODASA(P)

Type	Control Type	Primary Responsibility for Control Assessment	Method of Assessment	Frequency of Control Assessment	Assessment Instructions
3	Key Internal Controls	ODASA(P)	Internal Control Question Set	As required/requested	AFARS Appendix CC
4	Strategic Controls	ODASA(P)	Strategic Controls Toolkit	Annually	AFARS Appendix CC

**\*Contingency Contracting Toolkit**

In conjunction with any PMR performed with contingency contracting efforts/missions, the HCA shall utilize the Contingency Contracting Toolkit, located on the [PMR SharePoint](#), to assess the key internal controls of their contingency contracting operations.

**CC-402 Preparation for Procurement Management Reviews**

(a) For ODASA(P)-led PMRs, the ODASA(P) will notify the contracting activity 90 days before a planned PMR. The contracting activity shall provide the following in advance: orientation data (such as vision and mission statements and standard operating procedures), logistical support, and copies of previous review reports and previous CAPs. The activity may identify special areas of emphasis and assistance after being notified of a planned PMR.

(b) All other PMRs should comply with the ODASA(P) PMR Guidebook. Commands should establish command/local procedures to supplement the ODASA(P) PMR Guidebook.

**CC-403 Results of Procurement Management Reviews**

Reports of PMR results will contain a risk assessment, analysis of issues, commendations, observations, findings, and recommendations as appropriate. PMR report findings must be specific and include sufficient information to enable root cause analysis. PMR recommendations must be based on supported findings and be actionable.

Timely PMR result reports shall be provided. At a minimum -

Reviewers shall submit the final PMR report to the reviewed activity within 30 business days of the out brief.

**CC-404 Corrective Action Plans**

(a) The purpose of the CAP is to strengthen internal controls by identifying and resolving organizational weaknesses and deficiencies. The CAP contains data such as a CAP summary, CAP with deficiency score, findings, root cause, along with the ability to track CAP status updates.

(b) A CAP is required when the contracting activity receives an overall PMR risk of non-compliance rating of “Medium (Yellow)” or “High (Red)”. Depending on the frequency of occurrence, the contracting activity shall take corrective action for findings and deficiencies related to Severity 2 and 3 questions.

(c) A CAP is not required when the contract activity receives an overall PMR risk of non-compliance rating of “Low (Green)”. While a CAP is not required, the contracting office under review shall still provide internal focus on items within the Internal Control (IC) Question Set receiving a “Medium (Yellow)” or “High (Red)” non-compliance rating within the Contract Execution Results Report. Note: A CAP may be required or requested under local Command guidance but is not required for ODASA(P) oversight.

CAPs shall be created and implemented by the contracting activity. At a minimum -

The contracting activity reviewed shall submit a CAP within 30 business days of Final PMR Report receipt.

The reviewed activity must complete corrective actions – if any – within the agreed timeframe, inform the PMR Team Lead of corrective actions taken, and request closure of the CAP.

For additional information on the CAP process, please reference the ODASA(P) PMR Guidebook, section 5, and the CAP Informational Guide, located on the [PMR SharePoint](#).

## **PART 5 – ACE ANNUAL SUMMARY HEALTH REPORT**

### **CC-500 Purpose**

The ACE annual SHR is designed to strategically assess the ACE’s collective risk management and internal control-related activities identify systemic issues, and to effectively evaluate the extent to which risks to the ACE strategic objectives have been mitigated. The goal of the process is to develop systematic evidence in order to support decision-making, understand how well policies and programs are working, and identify or promote possible changes that improve performance.

### **CC-501 HCA Responsibilities**

The HCA’s annual SHR is a key input to the ACE Annual SHR. HCAs shall provide to the PI Directorate an annual SHR for their organization, to include copies of all PMR reports and associated analyses of subordinate contracting offices, no later than 31 October, annually.

### **CC-502 ODASA(P) Responsibilities**

The ODASA(P) PI is responsible for preparing the annual ACE SHR no later than 31 January, annually. The inputs to the ACE SHR include the respective HCA’s annual SHR; the results of ODASA(P)-led assessments of strategic controls, and feedback from other Headquarters DA- level and Office of the Secretary of Defense (OSD) stakeholders. The content will describe major management challenges faced by the ACE, assess progress against ACE strategic objectives, and identify ways to improve performance.

# **AFARS – APPENDIX DD**

## **SUBCONTRACTING PLAN EVALUATION GUIDE**

*October 1, 2014*

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### **Part 1 – Introduction**

#### **DD-100 Purpose.**

The guide provides a methodology for uniform and consistent evaluation of subcontracting plans within the Army. It is designed to facilitate compliance with the mandates of 15 U.S.C. § 637(d) to increase opportunities for small and small disadvantaged businesses.

#### **DD-101 Applicability.**

In accordance with requirements of FAR 19.705-4, DFARS 219.705-4 and AFARS 5119.705-4, the contracting officer shall use this guide to review all subcontracting plans (except those for commercial items), including those submitted in response to the provisions in FAR 19.705-2(d) and (e). When the contract will require subcontracting plans, use the clauses designated by FAR 19.708(b)(1) and (2) and DFARS 219.708(b)(1)(A) in the solicitation. A copy of the completed evaluation shall be included in the contract file.

#### **DD-102 Goals.**



Contracting officers must place special emphasis on negotiating subcontracting goals that are realistic, challenging and attainable. The plan must express goals in terms of percentages of total planned subcontracting dollars and must be comparable to the dollar commitments in the small business participation plan. In accordance with FAR 19.705-4(d), the contracting officer must review enough evidence to determine that the:

1. Offeror can meet subcontracting plan goals;
2. Offeror's goals are consistent with their cost or pricing data or information other than cost or pricing data;
3. Offeror will honor the terms of subcontract agreements (i.e., timely payments of amounts owed, use of firms cited in proposal, etc.); and
4. Offeror's make or buy policy or program does not conflict with the proposed subcontracting plan and is in the Government's best interest.
5. Plan includes the contractor's commitment to adopt and comply with its requirements and goals for small business utilization.

#### **DD-103 Evaluation Rating.**

Either the contracting officer, the small business representative, or both, shall evaluate and rate the subcontracting plan as "acceptable" or "unacceptable," in the context of the particular procurement. For instance, in smaller dollar value contracts, or contracts for uniquely manufactured items, it might be impracticable or not cost effective for offerors to take the type of actions that might be appropriate in contracts for larger dollar values or commercial components. To receive an "Acceptable" rating, the contractor must satisfy all objectives in Part 2 and meet each statutory subcontracting plan requirement outlined in Part 3. Failure to receive a subcontracting plan rating of acceptable could jeopardize the offeror's selection for contract award. The contracting officer must document the decisions in the contract file.

#### **DD-104 Modification of Guide.**

Pursuant to AFARS 5101.403, only senior contracting officials may approve individual deviations to this evaluation guide. This approval authority may not be further delegated.

#### **DD-105 Use of Preaward Surveys.**

For contracts administered by the Defense Contract Management Agency, obtain information needed to assess contractor compliance with subcontracting plans in current and previous contracts by requesting a preaward survey in accordance with FAR 9.106, DFARS 209.106 and DFARS PGI 209.106.

## **Part 2 – Rating System**

### **DD-201 Acceptable Plans.**

Objective: The subcontracting plan meets all of the requirements outlined in Part 3. The offeror has provided details that demonstrate an acceptable approach to assisting, promoting and utilizing small businesses, small disadvantaged businesses, women-owned small businesses, historically underutilized business zone small businesses, veteran-owned small businesses, service disabled veteran-owned small businesses and, for Defense Research Programs, historically black colleges and universities and minority serving institutions. The offeror has demonstrated an ability to meet prior subcontracting plan goals and honor the terms of subcontract agreements. Offeror has outlined an approach utilizing mentor protégé firms, joint venture teams, or other partners. The subcontracting goals are realistic, challenging, and attainable. Clarifications and minor rework of the submission may be required to correct slight omissions that do not prejudice other offers.

### **DD-202 Unacceptable Plans.**

Objective: The subcontracting plan fails to meet a requirement outlined in Part 3. The offeror has not provided an acceptable approach to assisting, promoting, and utilizing small businesses. The offeror has a history of failing to honor subcontract agreements. The offeror did not discuss the establishment of mentor protégé relationships, teaming, or joint venture agreements with other firms. Ensure the proposed subcontracting goals are attainable in light of the contractor's past performance in meeting subcontracting goals. Proposed subcontracting goals reflect less than a good faith effort. Substantial rework of the document is required to correct omissions and establish realistic, challenging, and attainable goals. Failure to receive a rating of acceptable may jeopardize offeror's eligibility for contract award. See FAR 19.702(a)(1).

## **Part 3 – Subcontracting Plan Requirements**

### **DD-301 Requirements.**

If any of the following are answered "NO", the plan is not acceptable, and the offeror must revise it before contract award. Does the plan:

1. Contain a policy statement or evidence of internal guidance to company buyers that commits to complying with the Small Business Act (Public Law 99-661, Section 1207 and Public Law 100-180)?
2. Identify separate percentage goals for utilizing small businesses (including Alaska Native Corporations (ANCs) and Indian tribes), veteran-owned small businesses (VOSB), service-disabled veteran-owned small businesses (SDVOSB), historically underutilized business zone small businesses (HUBZone), small disadvantaged businesses (SDB), women-owned small

businesses (WOSB), and, for Defense Research Programs, historically black colleges and universities and minority serving institutions where applicable? Negotiated subcontracting goals must correlate with percentages of small business utilization identified in the contractor's small business participation plan, see FAR 15.304 and DFARS 215-304, and/or minimum targets identified in the solicitation or contract modification. FAR 19.704(a)(1)

3. Project the total dollars planned to be subcontracted and a separate statement of the total dollars planned to be subcontracted to small business (including ANCs and Indian tribes), VOSB, SDVOSB, HUBZone, SDB, and WOSB concerns? FAR 19.704(a)(2)

4. Describe the principal types of supplies and services to be subcontracted and identify the types planned for subcontracting to small business (including ANCs and Indian tribes), VOSB, SDVOSB, HUBZone, SDB and WOSB concerns?

5. Describe the method to be used to develop the subcontracting goals? FAR 19.704(a)(4)

6. Describe the method for identifying potential sources for solicitation purposes? FAR 19.704(a)(5)

7. State if the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with small business, VOSB, SDVOSB, HUBZone, SDB (including ANCs and Indian tribes), and WOSB concerns? FAR 19.704(a)(6)

8. Identify the name of the employee who will administer the offeror's subcontracting program and describe that person's duties? FAR 19.704(a)(7)

9. Provide an approach for ensuring that small businesses, VOSB, SDVOSB, HUBZone, SDB, (including ANCs and Indian tribes) and WOSB concerns will have an equitable opportunity to compete for subcontracts?

10. Require the offeror to include the clause at FAR 52.219-8, Utilization of Small Business Concerns in all subcontracts that offer further subcontracting opportunities and require all subcontractors (except small business concerns) that receive subcontracts over \$650,000 (\$1,500,000 for construction) to adopt a plan that complies with the requirements of the clause at FAR 52.219-9, Small Business Subcontracting Plan?

11. Provide assurances that the offeror will:

a. Cooperate in required studies or surveys;

b. Submit periodic reports so that the Government can determine the extent of offeror's compliance with the subcontracting plan;

c. Submit semi-annual Individual Subcontract Reports (ISRs) and/or Summary Subcontract Reports (SSR) in the Electronic Subcontracting Reporting System (eSRS) (<http://www.esrs.gov>) in accordance with FAR 52.219-9 or provide other ancillary reports as requested by the contracting officer or Army Small Business Office;

d. Ensure that its subcontractors with subcontracting plans agree to submit the ISRs and/or SSRs using the eSRS;

e. Provide its prime contract number and its DUNS number and the e-mail address of the Government or contractor employee responsible for acknowledging or rejecting the reports, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their reports; and

f. Require each subcontractor with a subcontracting plan to provide the prime contract number and its own DUNS number, and the e-mail address of the Government or contractor official responsible for acknowledging or rejecting the reports, to its subcontractors with subcontracting plans? FAR 19.704(10)

12. Describe the types of records that the contractor will maintain concerning procedures adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, VOSB, SDVOSB, HUBZone, SDB, and WOSB concerns and to award subcontracts to them? FAR 19.704(11)

13. Does plan, pursuant to FAR 19.704(11)(c), provide a separate goal for the basic contract and, if applicable, each option?

# **AFARS Appendix EE**

## **Department of the Army**

### **Government Purchase Card Operating Procedures**

**October 1, 2024**

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## **CHAPTER 1 - THE GOVERNMENT PURCHASE CARD PROGRAM**

### **1-1. Overview**

a. The Army Federal Acquisition Regulation Supplement (AFARS) Appendix EE provides policy guidance and procedures for the management of the Army Government Purchase Card (GPC) program. It implements and supplements sections of the Department of Defense (DoD) Government Charge Card Guidebook for Establishing and Managing Purchase, Travel, and Fuel Card Programs (hereinafter referred to as the DoD Charge Card Guidebook). In the event of a conflict between DoD policy and Army policy, DoD policy takes precedence. In the event of a conflict between Army policy and command policy, Army policy takes precedence over any less-restrictive command policy. These operating procedures neither supersede nor take precedence over more-restrictive Army command procedures. This document applies to all purchases utilizing Army-issued GPCs.

b. Refer recommended changes and questions about the AFARS Appendix EE to the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)). Submit requests for waivers through the chain of command. Compliance with the AFARS Appendix EE is mandatory.

c. The GPC program provides Army and supported organizations a simplified, streamlined method of purchasing and paying for supplies, services, construction projects, and contract payments. The program complies with Federal, DoD, and Army statutory and regulatory guidance, as well as the terms and conditions specified in the most current General Services Administration (GSA) SmartPay® 3 Master Contract. The primary benefit of the GPC Program is that the card-issuing banks provide a commercial purchase and payment service that replaces the paper-based, time-consuming purchase order process; reduces procurement lead time; provides transaction cost savings; reduces procurement office workload; provides refunds; and facilitates payment to include reductions in interest payments.

d. The AFARS Appendix EE provides the procedures to use within the Army, including Army National Guard (ARNG) and Air National Guard (ANG), to establish and manage the Army GPC program. Army activities may supplement (i.e., adopt more stringent internal control requirements than the requirements cited herein), but not change this policy. However, as these are risk-managed programs, activities should maintain a proper balance between the control environment and ease of use to ensure that the benefits of the card continue to accrue. These procedures establish Army-wide standards designed to provide all Army activities with a foundation upon which to build specific standard operating procedures governing their programs.

e. Nonappropriated Fund (NAF) activities implement policies and procedures governing the Army's Morale, Welfare, and Recreation programs and regulations for Nonappropriated Fund Instrumentalities (NAFI). Chaplaincy activities implement policies and procedures governing Army Chaplain Corps activities. Army NAFIs/entities must operate within the parameters of these procedures to include Public Health Command (PHC) NAFIs, Department of Defense Education Activities (DoDEA) NAFIs, and Army National Guard NAFIs. NAF activities will comply with the Department of Defense Policies and Procedures Governing Non-Appropriated Funds SmartPay® 3 Government-wide Commercial Purchase Card Use – SP3 Transition Memorandum #11. Non-appropriated funds (NAF)-funded GPCs issued under SmartPay3 must be properly segregated for oversight. All NAF GPC Cardholder (CH) accounts must be established under separate managing accounts (MAs). Commingling of appropriated and non-appropriated funded cards under a single MA is strictly prohibited.

### **1-2. GPC Uses**

The purchase card can be used in three ways, depending on the value of the transaction and the authority of the cardholder (CH). See Federal Acquisition Regulation (FAR) 13.301. Table 1-1 summarizes the three methods and provides descriptions and examples.

Table 1-1: GPC Methods and Uses

GPC Method	Description	Examples
<b>Procurement Mechanism</b>	To acquire and pay for goods and services by means other than the use of an existing contract.	Micro-purchases. See paragraphs a. and b. below.
<b>Ordering Mechanism</b>	To order and pay for goods and services under an existing contract only if authorized in the contract.	Orders placed against existing contracts. See paragraph c. below.
<b>Payment Mechanism</b>	To pay for goods and services when the Contractor agrees to accept contract payment(s) using the GPC card.	Contract invoice payments. Standard Form (SF) 182 training payments. See paragraphs d. and e. below.

The GPC is the preferred method of payment for the following:

- a. **Micro-purchases (Card/Cardless).** The GPC may be used to purchase fixed-price commercial supplies and services that do not require the CH to agree to any terms and conditions other than price and delivery. These purchases are limited to the applicable micro-purchase threshold (MPT).
- b. **Micro-purchases (Convenience Check).** Convenience checks may be used and set up under a separate billing official (BO) account to buy commercially available, fixed-price supplies and services to fulfill mission-essential requirements. All check purchases must be within the applicable convenience check MPT. A separate account must be issued for each convenience check account.
- c. **Orders Against Pre-Existing Contract Vehicles.** The GPC may be used to place task or delivery orders against pre-priced contract vehicles and agreements if authorized in the basic contract, basic ordering agreement, or blanket purchase agreement. (Appropriated fund CHs cannot purchase against nonappropriated fund contracts.)
- d. **Contract Payments.** The GPC may be used to make payments against funded contracts found to be advantageous to the Government when compared to other methods of payment, and the contractor accepts payment by the GPC. The contract should include the third-party payment clause identified in FAR 32.1108, Payment by Governmentwide Commercial Purchase Card; however, GPC contract payments may be made if the contractor agrees to accept the GPC as a method of payment.
- e. **Payment of Training Requirements on SF 182s.** The GPC may be used as the method of payment for commercial training requests using the SF 182, valued at or below \$25,000, in lieu of an employee reimbursement by miscellaneous payment in accordance with the procedures to directly pay the provider in DoD Financial Management Regulation (FMR) Volume 10, Chapter 12, Section 120323, and DoD Instruction (DoDI) 1400.25, Volume 410.

### 1-3. Information and Waiver Process

- a. Cardholders should direct GPC-related questions to their Agency/Organization Program Coordinator (A/OPC) (Level 4 A/OPC). If the A/OPC cannot resolve an issue, the A/OPC should direct the question to the Oversight Agency/Organization Program Coordinator (OA/OPC) (Level 3 A/OPC). If the OA/OPC cannot resolve the issue, the OA/OPC should consult the Component Program Manager (CPM) (Level 2 A/OPC) for guidance. GPC personnel should coordinate with their local legal counsel as necessary.

b. All waivers, exceptions, and deviations to the policies, procedures, and tools provided in AFARS Appendix EE must be submitted, in writing, through the major command acquisition chain of command to the ODASA(P) for approval. The CPM will retain copies of all approved waiver packages. In times of emergencies, a waiver approval may be obtained either through email or telephone call from the CPM with a follow up waiver request letter from the requesting command/activity. The letter must detail the reasons for the request and what adverse mission impact would occur if the waiver was not granted.

#### **1-4. Task Order and Period of Performance**

The Office of the Under Secretary of Defense (OUSD) for Acquisition and Sustainment, Defense Pricing, Contracting, and Acquisition Policy (DPCAP), United States (U.S.) Army, U.S. Department of the Air Force, and Defense agencies and activities awarded a Tailored Task Order #47QRAC18F0003 to U.S. Bank under GSA SmartPay® 3 Master Contract GS-36F-GA001. The period of performance began 30 November 2018 and runs through 29 November 2031 if all contract options are exercised. The total duration of the contract period of performance, including the base period and exercise of all three options and extension, is not to exceed 13 years and six months.

#### **1-5. GPC Authority**

a. GPC programs require procurement authority to operate and cannot be established or maintained unless procurement authority is granted in accordance with governing laws and regulations and delegated through a contracting activity identified in Defense Federal Acquisition Regulation Supplement (DFARS) Procedures, Guidance, and Information (PGI) 202.101 and the DoD Charge Card Guidebook. Contracting authority flows from authorities granted in Titles 10 and 41, United States Code (10 and 41 USC) from DoD to the Secretary of the Army to the Heads of Contracting Activities (HCAs). The HCA re-delegates contracting authority to local procurement offices. The Senior Contracting Official (SCO) or Chief of Contracting Office (CCO) may re-delegate their GPC procurement authority listed in Table 1-3 to OA/OPCs or A/OPCs for OA/OPCs and A/OPCs to appoint cardholders and convenience check account holders through the Delegation of Contracting Authority Letter produced in the Joint Appointment Module (JAM) within the [Procurement Integrated Enterprise Environment \(PIEE\)](#). See sections 1-8 and 5-1 for more information. Cardholders must countersign to acknowledge this responsibility.

b. The Joint Appointment Module (JAM), an application within PIEE, is the mandatory enterprise tool for appointing and delegating authority to GPC personnel.

c. Orientation and training are prerequisites to receiving GPC delegated authority via an appointment in JAM. Training requirements are listed in Chapter 4.

d. Generally, only a government employee can be a cardholder or billing official. National Guard traditional members and State employees should not be CHs or BOs. The following exceptions apply:

- 1) Foreign nationals may be appointed as CHs only if they are direct-hires working for the U.S. Government. However, commanders/directors should consider the potential consequences of appointing foreign nationals as CHs in countries where Status of Forces Agreements (SOFAs) or local laws do not subject the foreign national employee to the same pecuniary or general financial liability or disciplinary actions for charge card violation as U.S. citizens.
- 2) Junior Reserve Officer Training Corps (JROTC) instructors are members of the Armed Forces in accordance with USACC Regulation 145-2, section 4-2, and may be designated micro-purchase procurement authority as GPC cardholders. See FAR 1.603-3(b).

#### **1-6. Applicability**

a. These procedures apply to all GPC purchases with cards and convenience checks issued by the

Army. Non-Army tenant organizations issued Army GPCs or convenience checks by an Army contracting office are also subject to these procedures. All BOs, CHs, A/OPCs, Resource Managers (RMs), Logisticians, and other stakeholders participating in the Army GPC program are subject to these procedures, including any non-Army tenant organizations where the Army has contracting authority and oversight responsibilities (such as ANG units).

b. The ODASA(P) has overall responsibility for the Army GPC program. Each Army command, organization, or activity utilizing Army GPCs has the responsibility for the following actions:

- 1) Provide adequate resources and effective internal controls to ensure the appropriate management, operation, training, and oversight is in place to operate a local GPC program effectively and efficiently in compliance with Army policies and procedures.
- 2) Establish and maintain a command climate to prevent Army personnel or others from exercising undue influence over the actions of an A/OPC, BO or CH.
- 3) Take appropriate informal and formal disciplinary actions in the event of noncompliance, fraud, misuse and/or abuse. Disciplinary actions should be based on the severity and frequency of the infraction and can range from informal actions such as written or verbal counseling, to demotion, removal, loss of security clearance, or potential criminal prosecution.

### 1-7. Micro-purchase Thresholds (MPT)

The definition and current dollar values are located at [FAR 2.101\(b\)](#) and summarized in Table 1-2.

Table 1-2: DoD Micro-purchase Thresholds

DoD Micro-purchase Thresholds			
	Function	Threshold	Authority
1	Federal-Wide Open Market	\$10,000	FAR 2.101, FAR 13.2
2	Construction subject to 40 USC Chapter 31, subchapter IV, Davis-Bacon Wage Rate Requirements	\$2,000	FAR 2.101, FAR 13.2
3	Services subject to 41 USC Chapter 67, Service Contract Labor Standards	\$2,500	FAR 2.101, FAR 13.2
4	GPC Emergency-Type Operations (ETO) Inside U.S.	\$20,000	FAR 2.101, DFARS 213.270(c)(3) DFARS PGI 213.201
5	GPC ETO Outside U.S.	\$35,000	FAR 2.101, DFARS 213.270(c)(3) DFARS PGI 213.201
6	Federal-Wide Higher Education Open Market	\$10,000 or greater	Class Deviation 2018-O0018
7	GPC Convenience Checks (General – Unrelated to ETO and Other Emergency Uses)	\$5,000	P.L. 115-91, National Defense Authorization Act for Fiscal Year 2018, Sec. 806(b)
8	GPC Convenience Checks for ETO and Other Emergency Uses (Inside U.S.)	\$10,000	P.L. 115-91, National Defense Authorization Act for Fiscal Year 2018, Sec. 806(b)
9	GPC Convenience Checks for ETO and Other Emergency Uses (Outside U.S.)	\$17,500	P.L. 115-91, National Defense Authorization Act for Fiscal Year 2018, Sec. 806(b)

## 1-8. GPC Delegations of Authority and Appointment Letters

The different types of delegation of authority appointments identified in this section and Table 1-3 are available to CHs as needed. Each authority has unique policies, procedures, training, and oversight requirements. CHs must have the appropriate designation in their JAM appointment in order to use the corresponding purchasing authority. These appointments can only be granted to individuals who have completed training commensurate with their delegated authority.

Table 1-3: GPC Delegation of Authority and Limits

#	Authority Type	Delegation Authority	Delegation Not to Exceed Limit	Scope of Authority Limits
1	Micro-Purchase CH	FAR 1.603-3(b) FAR 13.201 DFARS 201.603-3(b)	\$10,000	Grants authority to make authorized GPC purchases valued below the MPT <b>using simplified acquisition procedures</b> . (See FAR 2.101 “micro-purchase” definition.)  CHs who only have this designation do <b>not</b> have the authority to place orders against any contract, including GSA federal supply schedule (FSS) orders using GSA Advantage and orders against FedMall contracts. CHs who will place orders against any contract also require the Contract Ordering Official CH designation in their appointment.
2	Micro-Purchase Convenience Check Writer	FAR 1.603-3(b) FAR 13.201 DFARS 201.603-3(b)	\$5,000	Grants authority to make authorized convenience check purchases valued below the MPT using simplified acquisition procedures. (See FAR 2.101 “micro-purchase” definition.)
3	Higher Education Micro-Purchase CH	FAR 1.603-3(b) FAR 13.201 DFARS 201.603-3(b) Class Deviation 2018-O0018	\$10,000 but HCA determination can result in higher value (unlimited)	Grants authority to make authorized open market micro-purchases using the GPC up to any applicable “Higher Education” MPT. (See MPT definition at FAR 2.101 & Class Deviation 2018-O0018.)  This authority is generally limited to \$10,000, but FAR 2.101 MPT definition allows for higher threshold after appropriate HCA determination.  Not for use to make payments against approved SF 182s.

#	Authority Type	Delegation Authority	Delegation Not to Exceed Limit	Scope of Authority Limits
4	Micro-Purchase ETO Cardholder and/or Check Writer	FAR 1.603-3(b) FAR 13.201 FAR 13.201(g) DFARS 201.603- 3(b)	<b>ETO CH:</b> \$20,000 Inside U.S. \$35,000 Outside U.S.  <b>ETO Checkwriter:</b> \$10,000 Inside U.S. \$17,500 Outside U.S.	Grants authority to make authorized open market micro-purchases using the GPC up to the applicable "Contingency" MPT. (See MPT definition at FAR 2.101.)  If intent to authorize CH to place orders against any contract, a Contract Ordering Official CH designation is also required.  ETO Checkwriter limits are one half of ETO MPTs.
5	Warranted ETO Contracting CH	FAR 1.603-3(a) FAR 2.101 MPT FAR 2.101 SAT DFARS 201.603-3(b) DFARS 213.301(3)	\$1,500,000 Outside the U.S.	Grants Contracting Officers supporting Contingency Operations and Humanitarian and Peacekeeping Operations authority to make authorized GPC purchases outside the U.S. as authorized in DFARS 213.301(3) for use outside the U.S. using simplified acquisition procedures up to the applicable Simplified Acquisition Threshold (SAT). (See FAR 2.101 definition of SAT.)  The GPC appointment letter may only be issued to individuals who have previously been issued an SF 1402 delegating them authority sufficient to serve as a Contingency Contracting Officer.
6	Contract Ordering Official CH  CHs who will place orders against any contract, including GSA FSS orders on GSA Advantage and FedMall contracts at any dollar level, require this designation.	FAR 1.603-3(a) FAR 8.4 FAR 13.301(b) FAR 13.301(c)(2)  AFARS 5113.202-90(c)  DPCAP JAM Role Descriptions Guide	Simplified Acquisition Threshold  \$250,000 for CHs that are trained contracting professionals in the contracting office (1102s)  \$25,000 for CHs outside a contracting office	Grants authority to place and pay for authorized GPC purchases against the following:  1) Orders from GSA federal supply schedule contracts.  2) Orders from FedMall contracts, Computer Hardware Enterprise Software and Solutions (CHESS) IDIQ contracts, Governmentwide acquisition, and multi- agency contracts.  3) Blanket purchase agreements.  4) Indefinite Delivery, Time-and-Material, or Labor-Hour contracts that have firm fixed prices and pre-arranged terms and conditions that were awarded by a warranted contracting officer (KO) who designated the CH, to place orders. The KO is responsible for performing oversight and reporting any concerns to the A/OPC.  Contract Ordering Official training must be completed before using this authority.  A/OPCs must ensure additional controls and oversight procedures are in place before granting this authority.

#	Authority Type	Delegation Authority	Delegation Not to Exceed Limit	Scope of Authority Limits
7	Overseas Simplified Acquisition CH	FAR 1.603-3(a) for > MPT FAR 1.603-3(b) for < MPT DFARS 213.301(2)	\$25,000	Grants authority to make authorized GPC purchases valued up to \$25,000 using simplified acquisition procedures when the CH is outside the U.S. for items/services to be used outside the U.S., and that comply with the requirements of DFARS 213.301(2).
8	Contract Payment Official CH	FAR 13.301(c)(3)	As specified in the delegation of authority letter and contract. Not to exceed the KO's warrant authority.	Grants authority to make contract payments when authorized by the contract terms and conditions.
9	Miscellaneous Payments Official CH (SF-182 Training Payments)	DoD Charge Card Guidebook DoD FMR Vol 10, Ch. 12, Sec 120323 DoDI 1400.25 Volume 410	\$25,000	Grants authority to make payments for commercial training requests using the SF 182, valued at or below \$25,000, in lieu of an employee reimbursement by miscellaneous payment in accordance with the procedures to directly pay the provider in DoD FMR Volume 10, Chapter 12, Section 120323, and DoDI 1400.25, Volume 410.
10	Inter/Intra-Governmental Payment Official CH	TFM Vol. I, Part 5, Ch 7000 DPCAP memo, "Guidance on the Implementation of Adjusted Government Charge Card CH Special Designation Thresholds," dated Oct 6, 2020	\$10,000	Grants authority to make inter/intra-governmental transactions (IGT) or payments to another Government entity in lieu of using a Military Interdepartmental Purchase Request (MIPR).  Includes payments to: <ul style="list-style-type: none"> <li>• DLA Document Services</li> <li>• Department of Agriculture offered training</li> <li>• FedMall GPC Requisitioning</li> <li>• GSA Global Supply requisitioning</li> </ul>

a. **Micro-Purchase Cardholder.** This authority allows CHs to use the GPC to buy commercially available, fixed-price supplies and services to fulfill mission-essential requirements. The maximum single transaction dollar limit for stand-alone purchases is the MPT as defined at FAR 2.101.

b. **Micro-Purchase Convenience Check Writer.** This authority allows CHs to use a GPC convenience check to buy commercially available, fixed-price supplies and services to fulfill mission-essential requirements. Since convenience checks expose the Government to greater risk, CHs must make every effort to use a GPC card before writing a check. CHs may only use this authority when use



of the GPC is not possible. All check purchases must be within the applicable convenience check MPT. DoD FMR Volume 10, Chapter 23 establishes the financial management policy for convenience check accounts.

c. **Micro-Purchase Emergency-Type Operations (ETO) CH and/or Check Writer.** This authority allows CHs to buy commercially available, fixed-price supplies and services to fulfill mission-essential requirements in direct support of a declared contingency or emergency event. The ETOs currently included in 41 USC 1903 are:

- 1) Contingency Operations as defined in FAR 2.101;
- 2) Operations to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States as addressed in FAR 18.001;
- 3) Operations in support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance as addressed in FAR 18.001; and
- 4) Operations to support response to an emergency or major disaster as defined in Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5121, implemented in FAR 26.2).

The group term “ETO” also includes humanitarian or peacekeeping operations (as defined in FAR 2.101). Currently, when supporting humanitarian or peacekeeping operations in accordance with FAR 2.101, the MPT does not increase, regardless of whether the humanitarian or peacekeeping operation is taking place inside or outside the United States; and the SAT can increase to \$500,000 upon determination by the HCA that the respective supplies or services directly support the humanitarian or peacekeeping operation. FAR 18.2 addresses Emergency Acquisition Flexibilities (EAFs). It is critical to verify whether increased EAFs have been authorized for the particular ETO being supported. If so, each HCA has the authority to authorize use of EAFs.

d. **Warranted Overseas ETO Cardholder.** This authority allows CHs to use the GPC in conjunction with their separately issued SF 1402 Certificate of Appointment to purchase supplies and services as prescribed in DFARS 213.301(3). Contracting officers may use this authority to make purchases up to the applicable simplified acquisition threshold in support of declared contingency or emergency events.

e. **Contract Ordering Official.** This authority allows CHs with the appropriate training to issue fixed-price orders against existing contracts (e.g., GSA FSS, BPAs, FedMall contracts, CHES contracts) to fulfill mission-essential requirements for supplies and services valued up to the Contract Ordering Official single purchase limit and to use the GPC to pay for these orders/purchases. When using this authority, CHs must 1) ensure they are authorized to place orders by the contract terms and conditions, 2) ensure the order will comply with all the contracts terms and conditions, and 3) follow all applicable ordering procedures. When ordering above the MPT, CH should obtain pricing from small business when small business can meet the requirements. The CH should obtain quotes from at least three sources. If restricting competition to fewer than three sources, the CH should document the circumstances in the purchase file. CHs with this designation will be referred to as “Ordering Officials” throughout this document. The [Army Ordering Officer Guide](#) standardizes procedures for selecting, appointing, and terminating ordering officers in accordance with AFARS 5101.602-2-92 and provides guidance for appointed individuals. This guide is to be utilized in conjunction with AFARS Appendix EE.

f. **Overseas Simplified Acquisition.** This authority allows CHs to make authorized GPC purchases up to a single purchase limit of \$25,000 when the CH is outside the U.S. for items/services to be used outside the U.S., and that comply with the requirements of DFARS 213.301(2). When ordering above the MPT, the CH should obtain quotes from at least three sources. If restricting consideration to fewer than three, document the circumstances in the purchase file.

g. **Contract Payment Official.** This authority allows CHs to use the GPC to make payments against contracts that have been signed by a Contracting Officer when the GPC is named as the payment method. The GPC may provide a streamlined way of paying for contracts when a contracting officer

determines the use of the GPC is in the best interest of the Government (AFARS 5113.202-90(d)).

h. **Miscellaneous Payments Official (SF 182 Training Payments).** This authority allows CHs to make payments for commercial training requests using the SF 182, valued at or below \$25,000 in accordance with the procedures to directly pay the provider in DoD FMR Volume 10, Chapter 12, Section 120323, and DoDI 1400.25, Volume 410a. The SF 182 or equivalent must be completed prior to the training. When provided by a non-Government source, the training must consist of a regularly scheduled, commercial-off-the-shelf (COTS) course, training conference, or instructional service that is available to the public and priced the same for everyone in the same category, e.g., price per student, course, program, service, or training space.

i. **Inter/Intra-Governmental Payment Official.** This authority allows CHs to make payments to another Federal Government entity in lieu of using a MIPR or Inter-Governmental Payment and Collection (IPAC) in accordance with the DoD FMR. This authority includes, but is not limited to, payments to DLA Document Services, U.S. Department of Agriculture (USDA)-offered training, GSA Global Supply, Commissary, and FedMall GPC requisitioning. (Purchases from State and Local governments are considered traditional open-market micro-purchases and therefore are covered by the applicable authority listed above.) Special requirements for this authority include the following:

- 1) The not-to-exceed value is dictated by TFM Volume 1, Part 5, Chapter 7000, Section 7055.20.
- 2) Federal Government entities must limit their credit card collections so that individual transactions are no more than \$10,000, which is the daily GPC credit limit for third-party purchases. The Treasury encourages use of IPAC for payments between Federal Agencies, debit cards, Automated Clearing House (ACH) debits/credits, and Fedwire transactions.
- 3) Card acceptance policies can be found in TFM Volume I, Part 5, Chapter 7000, which addresses limitations on credit card transactions.
- 4) IGTs exceeding \$10,000 must be made with an alternative payment method (e.g., IPAC for payments between Federal Agencies, debit cards, ACH debits/credits, and Fedwire transactions).

## CHAPTER 2 - PROGRAM ORGANIZATION, ROLES, AND RESPONSIBILITIES

The general roles and responsibilities of the participants in the purchase card program are presented in the following regulations:

- a. DoD Charge Card Guidebook
- b. AFARS Appendix EE and AFARS 5113.201
- c. Chapter 4500 of the Treasury Financial Manual
- d. Office of Management and Budget (OMB) Circular 123, Appendix B Revised, Chapters 4
- e. DoD FMR Vol. 5, Ch. 33 and Vol. 10, Ch. 23

### 2-1. Responsibilities and Governmental Functions

All GPC Program personnel will complete GPC-specific training prior to being appointed any GPC responsibilities. GPC personnel will keep their GPC training current to continue to hold GPC positions. Program personnel must protect the information derived from use of the GPC. All appointments must be made in JAM, an application within PIEE used by GPC participants to initiate, review, approve, maintain, and terminate GPC appointment and delegation letters. Paper copies of appointments are not required if appointments are issued using JAM. Government contractor employees will not be appointed as A/OPCs, BOs, or CHs, nor perform independent receipt of goods and services and will not be granted access to the card-issuing bank's electronic access system (EAS) or any of the business IT systems, but may be granted read-only access to the card-issuing bank's EAS upon Level 3 A/OPC approval.

### 2-2. Program Hierarchy Structure and Roles and Responsibilities

The GPC Program is founded on a six-tiered hierarchal reporting chain of command system identified in Figures 2-1 and 2-2. The formal names associated with specific roles within this hierarchy are often used interchangeably with the corresponding level of authority within the hierarchy. For instance, A/OPCs may be referred to as Level 4s, and the Army GPC CPM is often referred to as the Level 2. Table 2-1 describes the GPC roles in PIEE and JAM.

Figure 2-1: Hierarchy Chart

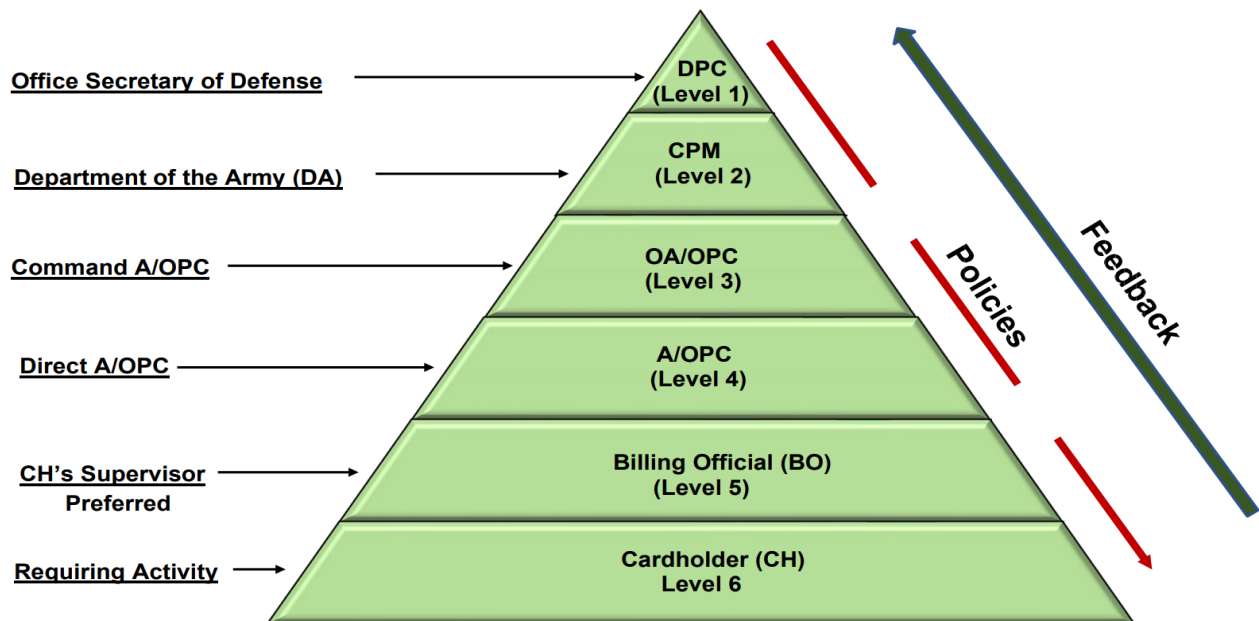


Figure 2-2: Hierarchy Structure

Army Level/Hierarchy GPC Program Structure		
Level 1 A/OPC	DoD	<ul style="list-style-type: none"> <li>DPCAP manages the DoD GPC Program</li> </ul>
Level 2 A/OPC (CPM)	ASA(ALT) DASA(P)	<ul style="list-style-type: none"> <li>The DASA(P) appoints the CPM (Level 2 A/OPC) to administer the Army GPC Program.</li> </ul>
Level 3 OA/OPC	Army Command (ACOM) or equivalent	<ul style="list-style-type: none"> <li>ACOM or equivalent organization must possess HCA authority.</li> <li>SCO appoints the Level 3 A/OPC.</li> <li>SCO may delegate this appointment further. The SCO's management responsibility for the GPC program may be delegated to the CCO.</li> <li>Level 3 A/OPC reports to the Level 2 A/OPC as required.</li> </ul>
Level 4 A/OPC	Installation or equivalent	<ul style="list-style-type: none"> <li>SCO or equivalent appoints the Level 4 A/OPC. SCO may delegate this authority to the CCO or equivalent. Level 4 A/OPC reports to the Level 3 A/OPC as required.</li> </ul>
Level 5	Billing Official and Alternate	<ul style="list-style-type: none"> <li>CCO appoints the BO. This authority may be delegated to the Level 4 A/OPC.</li> <li>BO is also a certifying officer.</li> <li>BO monitors and approves CH purchases and certifies billing statements.</li> </ul>
Level 6	Cardholder	<ul style="list-style-type: none"> <li>CH is the individual issued the GPC or convenience checks.</li> <li>Level 4 A/OPC appoints the CH (when CCO delegates the authority to A/OPC).</li> <li>CH must acknowledge authority and duties by signing appointment letter in JAM.</li> </ul>

Table 2-1: JAM GPC Roles

#	GPC JAM and PEE Roles	Who Submits Request	Additional Guidance Information	JAM Appointment Issued	How Is the Process Initiated?
1	GPC DoD Program Management Office (PMO)	DPCAP (Contracting eBusiness) The PEE Hierarchy Level 1.	None	None	PMO representative registers for PEE access and requests role.
2	Component Program Manager (CPM)	The PEE Hierarchy Level 2.	None	CPM appointment letter	CPM registers for PEE access and requests role.
3	GPC Delegating/ Appointing Authority (DAA)	Individual(s) (other than the A/OPC or OA/OPC with delegating authority) who have retained or been delegated authority to electronically sign GPC Delegation of Procurement Authority and GPC Appointment Letters (e.g., the Director of Contracts or SCO).	Servicing Agency A/OPCs should direct any individual at a "Requesting Agency" who has been delegated authority to sign delegation and appointment letters to request this role during PEE registration. These individuals must have been issued an SF 1402 authorizing them to	None	DAA may register for PEE access and request role or complete actions using only tokenized emails.

#	GPC JAM and PEE Roles	Who Submits Request	Additional Guidance Information	JAM Appointment Issued	How Is the Process Initiated?
			further delegate procurement authority.		
4	OA/OPC With Delegating Authority	Primary and Alternate A/OPCs with responsibility for managing / overseeing other A/OPCs.	None	OA/OPC Appointment Letter	OA/OPC registers for PEE access and requests role.
5	OA/OPC Without Delegating Authority	Primary and Alternate A/OPCs with responsibility for managing / overseeing other A/OPCs.	None	OA/OPC Appointment Letter	OA/OPC registers for PEE access and requests role.
6	A/OPC With Delegating Authority	Primary and alternate A/OPCs responsible for day-to-day management and oversight of CH and managing accounts.	None	A/OPC Appointment Letter	A/OPC registers for PEE access and requests role.
7	A/OPC Without Delegating Authority	Primary and alternate A/OPCs responsible for day-to-day management and oversight of CH and managing accounts.	None	A/OPC Appointment Letter	A/OPC registers for PEE access and requests role.
8	Approving/Billing Official (A/BO)	Program officials responsible for reviewing and approving GPC managing account (MA) billing statements (GPC bank invoices) and transaction supporting data for compliance with applicable acquisition policies.	None	A/BO Appointment Letter	OA/OPC or A/OPC nominates A/BO using JAM. A/BO responds to JAM-generated email direction to register for PEE access. When A/BO uses the identical email entered during nomination, the role request and required DoDAACs are pre-populated.
9	Certifying Officer	Program officials responsible for reviewing GPC MA billing statements in accordance with DoD FMR requirements and <b>certifying</b> statements (GPC bank invoices) for payment.	Certifying Officer responsibilities are addressed in DoD FMR Volume 10, Chapter 23 (230406) and DAU CLG 006.  Certifying Officer appointments are made in accordance with	DD Form 577 Certifying Officer Appointment	OA/OPC, A/OPC or DD 577 Appointing Authority (AA) nominates Certifying Officer using JAM. Certifying Officer responds to JAM-generated email direction to register for PEE access. When Certifying Officer uses the identical email

#	GPC JAM and PEE Roles	Who Submits Request	Additional Guidance Information	JAM Appointment Issued	How Is the Process Initiated?
			DoD FMR Vol. 5, Chapter 5.		entered during nomination, the role request and required DoDAACs are pre-populated.
10	Cardholder (CH)	Individuals who have been issued GPC CH accounts.	Includes carded, cardless, and convenience check accounts.  10 types of "Special Use" CH delegations are available.  2 of the 10 CH delegations are equivalent to issuance of a SF 1402 Certificate of Appointment.	GPC CH Appointment Letter	OA/OPC or A/OPC nominates CH using JAM. CH responds to JAM-generated email direction to register for PEE access.  When CH uses the identical email entered during nomination, the role request and required DoDAACs are pre-populated.
11	Component Resource Manager (CRM)	The Comptroller/FM for the Component.	None	None	CRM registers for PEE access and requests role. (Note 5)
12	Oversight RM	Individuals responsible for approving RM access to PEE; they can also perform all RM functions.	None	None	Oversight RM registers for PEE access and requests role.
13	Resource Manager (RM)	Provides appropriate GPC account funding, enters associated lines of accounting (LOAs) into applicable systems, and works with the A/OPC to establish spending limits tied directly to funding allocated for each managing and CH account.	None	None	RM registers for PEE access and requests role.
14	Supervisor	Supervisors of individuals with PEE roles.	Supervisor information is available to JAM from the data the individual enters during their PEE registration.  Future PEE releases are planned to connect to DEERS for	None	Not Required  PEE users identify their supervisor in their PEE account profile.

#	GPC JAM and PIEE Roles	Who Submits Request	Additional Guidance Information	JAM Appointment Issued	How Is the Process Initiated?
			supervisory information.		
15	DD577 View Only	<p>Individuals in paying offices (e.g., DFAS) who need to view DD Form 577 appointments.</p> <p>Other individuals who require access to view DD Form 577s.</p> <p>May be granted to contractor personnel.</p>	None	None	Registers for PIEE access and requests "DD 577 View Only User" role.
16	DD577 Appointing Authority	Individuals authorized by Component-level Financial Management procedures to sign DD Form 577 Certifying Officer appointments in accordance with FMR Vol 5, Ch 5.	None	None	Registers for PIEE access and requests "DD 577 Appointing Authority" role.
17	GPC Help Administrator (HAM)	Individuals providing help desk support to GPC program officials.	May be granted to contractor personnel.	None	Registers for PIEE access and requests "GPC Help Administrator" role.
18	GPC Auditor	Individuals granted access to PIEE GPC functionality for purposes of reviewing the GPC program	<p>GPC Auditor is required to load a scanned copy of audit letter during PIEE registration process. Each request must specify the purpose, scope of the review, define the access required, and state the desired access period (start and end dates).</p> <p>Access requests must be approved by the CPM.</p>	None	Self-Initiate.

### **2-3. Component Program Manager (Level 2 A/OPC) Duties and Responsibilities**

- a. Administer the Army GPC Program.
- b. Establish policies and guidelines.
- c. Design and maintain hierarchies and approve subordinate Level 3 A/OPCs.
- d. Interface with the DPCAP GPC program office on performance issues.
- e. Ensure effective Army GPC surveillance (e.g., Procurement Management Reviews (PMRs)).
- f. Liaison with Army organizations, the servicing bank, DPCAP, GSA, and other federal agencies.
- g. Manage and implement technical and system enhancements.
- h. Develop, test, and deploy GPC hardware/software/networking systems enhancements.
- i. Review and submit monthly, semi-annual, and annual reports as required.
- j. Implement trends, best practices, increase rebates, and lower costs to improve the program.
- k. Participate in meetings, events, training events, and panel discussions representing the Army.
- l. Communicate DoD and Army GPC policy/procedure updates and surveillance/audit findings.
- m. Address systemic program deficiencies and discrepancies.

### **2-4. Primary and Alternate Level 3 A/OPC Duties and Responsibilities**

- a. Implement, administer, and monitor the ACOM GPC program subject to DoD and Army policies.
- b. Serve as a liaison with all GPC Program stakeholders (e.g., HQDA, DPCAP, GSA, AAA, Bank).
- c. Review and submit monthly and semi-annual IOD reports.
- d. Inform Level 2 A/OPC of GPC program trends and issues as they arise.
- e. Provide program support to ACOM and installation Level 4 A/OPCs.
- f. Establish and implement ACOM-specific policy and guidelines.
- g. Develop/implement program internal control requirements and surveillance plan.
- h. Participate in GPC program meetings and events.
- i. Suspend accounts and administer corrective actions for non-compliance.
- j. Ensure all Level 4 A/OPCs meet education, training, and certification requirements.
- k. Track training for Level 4 A/OPCs in PIEE/JAM.
- l. Ensure all Level 4 A/OPCs hold appointment letters in PIEE/JAM.
- m. Lead implementation of GPC systems at the Command level.
- n. Coordinate GPC program changes with CPM (e.g., hierarchy changes, Level 3 appointments).
- o. Respond to data calls in a timely manner and with concise, current data.
- p. Oversee Level 4 A/OPC program controls, including managing account reviews and IOD reviews.
- q. Manage agent numbers and periodically assess the ongoing need for agent numbers.
- r. Manage enterprise data mining processes per DPCAP policy and procedures.
- s. Maintain managing accounts to meet mission needs.
- t. Communicate policy updates, procedure changes, and other information to Level 4 A/OPCs.
- u. Process and retain waivers, exceptions and deviations.
- v. Review and submit weekly, monthly, quarterly and annual reports as required.
- w. Seek out trends and best practices to improve the Program.
- x. Implement innovative means to increase rebates, lower administrative costs and merchant prices.
- y. Proactively address and resolve emails at the lowest level.
- z. Resolve deficiencies and discrepancies impacting program effectiveness and efficiencies.
- aa. Perform PMRs every three years.

### **2-5. Primary and Alternate Level 4 A/OPC Duties and Responsibilities**

- a. Manage the day-to-day operation of the GPC program at an installation/organization.
- b. Assist CHs and BOs in fulfilling their responsibilities.
- c. Serve as the liaison between the Level 3 A/OPC and the installation/organization GPC personnel.
- d. Liaison between the financial/contracting communities as it applies to the GPC payment process.
- e. Serve as the installation/organization point of contact for bank-related matters.
- f. Provide business advice to supporting organizations, CHs, BOs, and small business specialists.



- g. Participate in meetings. Communicate Army policy updates and internal review findings.
- h. Assist the Level 3 to increase rebates and lower administrative and merchant costs.
- i. Ensure the proper disposition of rebate checks.
- j. Ensure GPC Program personnel are properly trained and appointed.
- k. Maintain currency in training to perform their respective duties.
- l. Establish and maintain a manual or electronic file for each BO and CH per retention rules.
- m. Establish, maintain, and terminate CH and BO accounts within the servicing bank's EAS.
- n. Ensure that all managing accounts have a primary and alternate BO.
- o. Evaluate the effectiveness of each BO's ability to review, approve and reconcile transactions.
- p. Ensure timely reconciliation of all CH and BO accounts at the end of the billing cycle.
- q. Coordinate with RMs to ensure timely certification and payment.
- r. Confirm completion of required initial and refresher training for all CHs and BOs.
- s. Maintain training records within PIEE and JAM.
- t. Coordinate with the Accountable Property Officer (APO).
- u. Provide training to CHs on property accountability procedures.
- v. Nominate and appoint CHs and BOs within PIEE and JAM.
- w. Maintain and terminate appointment letters in JAM.
- x. Maintain program oversight through IOD, annual management assessment, and bank reports.
- y. Complete all assigned IOD cases, monthly reviews, and semi-annual reviews per policy timelines.
- z. Address program deficiencies and discrepancies identified in IOD.
- aa. Annually assess each CH's continuing need to maintain an account.
- bb. Close unused accounts as appropriate.
- cc. Request justification in writing from BOs when accounts with little activity must remain open.
- dd. Perform Level 4 Annual Assessment using the Annual Assessment Checklist.
- ee. Develop and implement local GPC procedures.
- ff. Inform CHs of prohibited items and services.
- gg. Monitor bank transaction reports to identify potential improper use of the GPC.
- hh. Take corrective action to address any suspected legal or policy violations.
- ii. In the event of unauthorized card activity or fraud, set the single purchase limit to \$1.
- jj. Monitor bank transaction declination reports to identify potential fraud activity.
- kk. Review transactions of newly appointed CHs within four months of appointment.
- ll. Reduce managing accounts as appropriate to meet mission needs.
- mm. Process requests for user identifications in the servicing bank's EAS.
- nn. Screen any accounts which have not been used within six months and take appropriate action.
- oo. Utilize the Semi-Annual Report to brief management.
- pp. Process and retain waivers, exceptions, and deviations.
- qq. Ensure lost/stolen cards are immediately reported.
- rr. Temporarily suspend any account over 30 calendar days past due.
- ss. Suspend entire Level 4 organization accounts for any account over 120 days past due.
- tt. Review and submit reports as required.
- uu. Analyze trends to improve the Program.
- vv. Assist BOs and CHs with reports as necessary.
- ww. Activate, deactivate/terminate, and maintain (adjust limits, etc.) CH and BO accounts.
- xx. Identify, monitor, and resolve any terminated accounts with outstanding credits.
- yy. Ensure appropriate separation of duties and span of control ratios are maintained.
- zz. Proactively address automated email notifications (e.g., IOD cases or delinquencies).
- aaa. Address deficiencies and discrepancies impacting program effectiveness or efficiencies.

## **2-6. Primary and Alternate Level 5 - Billing Official Duties and Responsibilities**

- a. Review and reconcile CH statements against receipts and documentation.
- b. If a CH is absent, approve CH's statement within the required timeframe.
- c. Certify billing statements electronically within 5 business days of the end of the billing cycle.
- d. Forward official invoice to DFAS for manually paid accounts within 15 days of receipt.
- e. Verify payments to be legal, proper, necessary, and correct per Government rules and regulations.
- f. Complete all assigned IOD data mining cases in a timely manner.

- g. Ensure CHs upload all transaction documentation in the servicing bank's EAS.
- h. Report questionable transactions to the Level 4 A/OPC and/or appropriate authorities for review.
- i. Resolve any questionable purchases with the CH and A/OPC.
- j. Recommend in writing GPC credit limits to the RM and Level 4 A/OPC, for CHs under BO account.
- k. Coordinate with the bank to resolve payment issues.
- l. Identify and communicate billing discrepancies to the bank's transaction dispute point of contact.
- m. Send a report to the A/OPC detailing the circumstances of any lost, stolen or compromised cards.
- n. Ensure designation of the proper line of accounting.
- o. Ensure an Alternate BO is appointed.
- p. Notify the Level 4 A/OPC promptly to close any CH accounts no longer needed.
- q. Notify the Level 4 A/OPC to terminate or reassign the BO account prior to departure/reassignment.
- r. Serve as the point of contact for GPC compliance inspections/audits/reviews.
- s. Support A/OPC surveillance reviews.
- t. Complete any corrective actions identified after each audit or A/OPC review.
- u. Establish/recommend CH and BO credit limits to the A/OPC based on historical use.
- v. Ensure spending limits are held to the minimum amount necessary to meet mission requirements.
- w. Ensure spending limits are not exceeded.
- x. Verify appropriate and sufficient funds are available prior to CH purchases.
- y. Ensure all transactions are for valid, official Government requirements.
- z. Provide written approval or disapproval of purchase requests to the CH.
- aa. Ensure sources are rotated when possible.
- bb. Ensure CHs are not splitting requirements to avoid exceeding the MPT.
- cc. Review and ensure supporting documentation is loaded in the bank's EAS prior to certification.
- dd. Register for electronic data notifications within the bank's EAS for automated email alerts.
- ee. Ensure convenience check data is maintained.
- ff. Ensure Internal Revenue Service (IRS) Form 1099 has been completed and reported for convenience checks.
- gg. Ensure sales taxes are not paid (as appropriate).
- hh. Immediately notify A/OPC upon discovery of suspected unauthorized purchases.
- ii. Notify the A/OPC when CH or BO personnel changes occur.
- jj. Immediately notify of lost or stolen cards.

## **2-7. Level 6 - Cardholder Duties and Responsibilities**

- a. CH authority is limited to the threshold indicated on their delegation of authority in JAM.
- b. Use GPC to make authorized purchases within the limits of their delegation of authority in JAM.
- c. Screen all purchase requests upon receipt.
- d. Verify that the requested items meet a legitimate government need.
- e. Notify the BO of unusual or questionable purchase requests.
- f. Check requirements for their availability from the mandatory Government sources.
- g. Make purchases in accordance with FAR Part 8 required sources of supplies and services.
- h. Rotate merchants when practicable.

- i. Allocate transactions to the proper line of accounting.
- j. Obtain BO approval prior to purchase. Obtain all required pre-purchase approvals.
- k. Track receipt/acceptance of purchased goods or services.
- l. Track partial shipments to ensure they are received within the dispute window.
- m. Track any transactions for items not yet received.
- n. Collect, maintain and upload the required purchase documentation in the servicing bank's EAS.
- o. Match orders and review and reconcile monthly statement.
- p. Register to receive the bank's Electronic Data Notifications (automated email alerts).
- q. Resolve unauthorized, erroneous, or questionable transactions with merchants.
- r. Dispute questionable transactions.
- s. Dispute items not received in one billing cycle when reconciling the next billing cycle.
- t. Dispute unresolved billing errors (e.g., supplies not received by the next billing statement).
- u. Dispute transactions when receipt and acceptance of goods or services cannot be verified.
- v. Dispute items the merchant fails to replace, modify, or repair by the allotted time.
- w. Resolve any invalid transactions with the merchant.
- x. Track all disputes to completion.
- y. Confirm with the merchant the items ordered are in transit and track the transactions to completion.
- z. Maintain physical security of the GPC and convenience checks to avoid unauthorized use.
- aa. Do not release the account number to entities other than a merchant processing a transaction.
- bb. Do not authorize merchants to store the card number.
- cc. Notify the bank of a lost, stolen, or compromised GPC within one business day.
- dd. Maintain the bank's EAS purchase log, which is located under Transaction Management.
- ee. Reconcile all transactions and upload all supporting documentation in the bank's EAS.
- ff. Approve the account statement within 3 business days of the cycle end date.
- gg. Maintain a manual purchase log if the electronic purchase log in the bank's EAS is not accessible.
- hh. Ensure the Accountable Property Officer (APO) has screened the purchase request.
- ii. Upload all receipts for the APO to review electronically in the servicing bank's EAS.
- jj. After items arrive, provide receipts to the supporting APO within five business days.
- kk. Notify the BO when you are not available to approve the CH statement.
- ll. Provide all records and purchase file documentation to the BO upon departure or reassignment.
- mm. Maintain a separation of duties of making purchases and receiving the goods/services.
- nn. Forward requirements exceeding the MPT to the contracting office for purchase.
- oo. Verify and document receipt/acceptance of goods or services.
- pp. Checkwriters - Maintain convenience check data.
- qq. Checkwriters - Report IRS Form 1099 data to DFAS.

## **2-8. GPC Support Function Duties**

- a. Resource Manager GPC Support Function Duties.
  - 1) Fund GPC purchases and provide a system of positive funds control.
  - 2) Assist the Level 4 A/OPC in establishing and maintaining BO and CH accounts.
  - 3) Assign default and alternate lines of accounting as appropriate.
  - 4) Ensure obligations are posted prior to invoicing for non-Electronic Data Interchange (EDI) accounts.
  - 5) Assist with resolving accounts that are in a delinquent status and provide payment information when requested.
  - 6) Assist the Level 4 A/OPC with the surveillance of assigned accounts.
  - 7) Monitor General Fund Enterprise Business System (GFEBS) and Defense Enterprise Accounting Management System (DEAMS) daily to identify account payment issues, prevent and resolve GPC payment delinquencies, correct Intermediate Document (IDOC) errors, and provide payment information upon request.
  - 8) Provide guidance and training to installation RMs, BOs, and CHs on GFEBS/DEAMS processes.
  - 9) Provide appropriate funding for the accounts and enter associated lines of accounting into

- applicable systems.
- 10) Establish spending limits that are tied directly to funding allocated for each billing and CH account.
- b. Organizational PIEE Government Administrator Manager (GAM) GPC Function Duties.
- 1) Administer Location Codes.
  - 2) Look up group names and GAM information.
  - 3) View and edit user profile information.
  - 4) Activate (add) and deactivate users.
  - 5) Reset user passwords.
  - 6) Reset certificates.
- c. Defense Finance and Accounting Service (DFAS) Support Function Duties.
- 1) Provide tax reporting guidance to checkwriters. See Chapter 10-3.
  - 2) Confirm the DD Form 577 for certifying officials.
  - 3) Process EDI transaction sets 821, Obligation Files; and 810, invoice files, and notify the responsible installation or activity when the corresponding files are not received.
  - 4) Notify the installation/activity, within one day, of rejects and interest penalties assessed to individual accounts.
  - 5) Process requests for manual payments, e.g., bank system rejects and non-EDI accounts.
  - 6) Assist in resolving GPC payment issues.
- d. Senior Contracting Official (SCO), or equivalent Duties.
- 1) The SCO or equivalent is responsible for the operation and execution of their GPC Program in compliance with this document and the policies and procedures issued from the ODASA(P).
  - 2) Develop internal management controls to operate, manage, provide oversight, and maintain the integrity of the local GPC Program.
  - 3) Ensure adequate checks and balances are in place to manage local GPC programs.
  - 4) Ensure CHs are not subjected to undue influence in performing their duties and responsibilities.
  - 5) Ensure separation of duties. Individuals designated as A/OPCs will not be simultaneously designated as BOs or CHs. Individuals designated as BOs will not be a CH on the same managing account.
  - 6) Manage span of control appropriately. Primary and alternate A/OPCs will not be responsible for more than 250 GPC accounts. An additional A/OPC must be appointed whenever the combined number of CH and managing accounts exceed the 250:1 ratio. The number of CH accounts assigned to a primary BO will not be more than seven (7:1). Additional BOs must be assigned by the organization whenever the number of CH accounts exceed the 7:1 ratio.
  - 7) Ensure that A/OPCs have the necessary resources to accomplish program oversight.
  - 8) Delegate appointing authority when needed. The HCA may retain the authority to appoint A/OPCs or delegate this authority to the SCO or equivalent. The SCO may further delegate this authority in writing as necessary and ensure all appointments are executed through JAM.
- e. Accountable Property Officer (APO) GPC Support Function Duties.
- 1) Assist the A/OPC in reviewing card accounts to ensure that property accountability procedures are being followed.
  - 2) Ensure property control and accountability procedures are developed and disseminated to all personnel who are entrusted with the acquisition of Army property and equipment.
  - 3) Comply with accountability procedures in Army Regulation (AR) 710-4 and AR 735-5.
  - 4) Record in property systems any sensitive and pilferable property purchased.
  - 5) Determine the accounting requirements for the GPC purchased property, such as nonexpendable or controlled (requires property to be accounted for on property book records),

- 6) durable (requires control when issued to the user) and expendable (no requirement to account for on property book records).
- 7) Pre-approve all Army purchase request forms (or similar local forms) for applicable items.
- 8) Require CH to provide copy of receipt/invoice along with proof of independent receipt/acceptance within 5 days of receipt of accountable item.
- 9) Determine if an exception applies for the purchase of training, services, or consumable supplies (e.g., office supplies, batteries).
- f. Audit Agencies.
- 1) Auditors are authorized data access to retrieve GPC data within the GPC EAS systems. Specific roles are established in all GPC EAS systems when granted access for a limited amount of time.
  - 2) GPC Auditor should load a scanned copy of the audit letter during the PIEE registration process. Each request must specify the purpose, scope of the review, define the access required, and state the desired access period (start and end dates). Access requests must be approved by the CPM.
  - 3) Assist Army leaders in assessing and mitigating GPC risk by providing solutions through independent internal auditing services.
  - 4) Ensure the ODASA(P) has an opportunity to participate in a proactive audit planning process, which is responsive to GPC management and acquisition needs.

## **2-9. Management of the GPC Program**

a. The ODASA(P) has overall responsibility for the management of the Army GPC program. The ODASA(P) appoints a CPM, also known as the Level 2 A/OPC, to manage the Army GPC program. The SCO, or in activities that do not have a SCO, the CCO or equivalent, designates, at a minimum, one Level 3 OA/OPC and an alternate Level 3 OA/OPC who, once appointed in JAM, is dedicated to the management of the GPC Program within their agency/organization. The SCO or CCO may further delegate in writing the authority to appoint the Level 3 and 4 A/OPCs in accordance with Army policy. Level 3 A/OPCs with authority to delegate procurement authority must have the corresponding appointment letter in JAM to appoint Level 4 A/OPCs. Level 4 A/OPCs may appoint CHs and billing officials in JAM if they are given the authority to delegate procurement authority and have the corresponding appointment letter in JAM. Certifying officers must be appointed by the organization's designated DD 577 appointing authority in JAM.

b. The Level 3 OA/OPC duties and responsibilities at Army major command headquarters typically warrant a grade (or equivalent thereof) of GS-14, preferably in the contracting career field. Exceptions may apply. The Level 3 A/OPC duties and responsibilities for non-headquarter commands typically warrant a grade of GS-12 to GS-14, preferably in the contracting career field, but exceptions may apply if approved by the SCO or CCO.

c. The Level 4 A/OPC duties and responsibilities typically warrant a grade (or equivalent thereof) of GS-11 to GS-12 in any career field (e.g., 1101, 1105, or 343) if they meet the knowledge, skills, and abilities listed below. Exceptions may apply. The grade should reflect the corresponding complexity of their duties and responsibilities. The A/OPC will be designated by the appropriate contracting official to be responsible for the management, administration, and day-to-day operation of the GPC program at the activity. Written delegations are required in JAM, and each A/OPC will be granted the appropriate system access (e.g., JAM, bank EAS) associated with their role.

d. Level 3 and 4 A/OPCs must complete the training requirements detailed in Chapter 4. Only individuals who possess the following knowledge, skills, and abilities may be appointed as Level 3 and 4 A/OPCs for the GPC Program:

- 1) Understanding of the relevant GPC policies, procedures, and commercial contracting

practices.

- 2) Understanding of the relevant procurement laws and regulations.
- 3) Understanding of what constitutes an authorized purchase transaction.
- 4) Understanding of procurement methods and standards.
- 5) Ability to communicate, organize, and manage tasks effectively.
- 6) Basic analytical and computer skills.
- 7) Ability to summarize data, prepare reports and write effectively using proper grammar, punctuation, and tone.
- 8) Ability to analyze, research, and provide concise recommendations to the chain of command on required actions to anticipate, prevent, or correct problems in business processes that are supported by the GPC.

e. The Government Charge Card Abuse and Prevention Act of 2012 requires all Executive Branch agencies to establish and maintain safeguards and internal controls to prevent waste, fraud, and abuse of purchase cards. Internal controls are tools to help program and financial managers achieve results and safeguard the integrity of their programs. Effective internal controls provide reasonable assurance that significant risks or weaknesses adversely impacting the agency's ability to meet its objectives are prevented, minimized, or are detected in a timely manner. The Level 3 and Level 4 A/OPC will notify the BO or CH of any action taken due to a BO's or CH's non-compliance with Army policies and procedures.

f. Level 3 and Level 4 A/OPCs have the authority to apply internal controls such as suspending or cancelling BO or CH accounts; lowering credit limits; adding or deleting Merchant Category Codes (MCC); and initiating additional controls as necessary to comply with GPC policies and procedures.

g. Results of legal reviews are not sufficient justification for CHs to proceed with a particular purchase. If a CH or BO is unsure if they can proceed with a questionable purchase, they should contact the Level 4 A/OPC for guidance and confirm authority prior to making the purchase.

h. Army agencies and organizations must provide adequate resources dedicated to the GPC program within their agency/organization to ensure successful management of the program. Adequate GPC resources refer to an agency's efficient and effective deployment of assets (e.g., span of control, personnel, training, funding, facilities, and deployment of knowledge and skills) as needed to comply with the policies, procedures, laws, and regulations governing the GPC Program. Adequate resources must be deployed to reasonably ensure that programs achieve their intended results; resources are used consistently with agency mission; programs and resources are protected from fraud, waste, and mismanagement; laws and regulations are followed; and reliable and timely information is obtained, maintained, and reported for decision-making.

i. The local contracting office must coordinate with the local personnel office to ensure procedures are established requiring all individuals to coordinate with the Level 4 A/OPC when they out-process from the Army command or activity.

## **2-10. Separation of Duties**

a. Separation of duties is an internal control activity intended to provide checks and balances to the GPC process and to prevent or minimize innocent errors or intentional fraud occurring without detection. This internal control ensures that no single individual has control over multiple phases of a purchase card transaction. To protect the integrity of the procurement process, no one person is responsible for an entire purchase card transaction. OMB standards for internal controls require that key duties and responsibilities be divided or segregated among individuals to ensure they do not exceed or abuse their assigned authority. See OMB Circular A-123, Appendix B Revised, paragraph 4.3. To the greatest extent possible, GPC duties will be assigned to different individuals within the GPC hierarchical structure. As stated in the DoD FMR, "separation of duties precludes errors or attempts at fraud or embezzlement from going undetected. Internal controls generally require a four-way separation of the contracting, receiving/[accepting], voucher certification, and disbursing functions."

b. Key GPC duties include making purchases and/or payments (CHs); verifying purchases and/or payments are proper (BOs, Certifying Officers, and FSOs); certifying invoices for payment (BOs, Certifying Officers, and FSOs); certifying availability of funds (Financial RMs); receiving and accepting supplies and services, including independent receipt and acceptance (acceptors); disbursing funds (Disbursing Office); and conducting policy, review, and audit functions (A/OPCs and Property Book Officers). For example:

- 1) BOs will not be CHs under their own MAs.
- 2) RMs will not be CHs or BOs with responsibility for executing their own funds.
- 3) Accountable Property Officers or their equivalents will not be CHs with authority to purchase accountable items (this does not apply to Property Book Hand Receipt Holders).
- 4) Purchases of accountable (e.g., pilferable) property, and self-generated purchases, will have acceptance performed by someone other than the CH, BO, and Certifying Officer.
- 5) CAC-enabled systems will generate a conflict-of-interest report to depict instances where assigned roles do not conform to DoD policy.
- 6) Authorization roles will be assigned to a user's profile, with each profile allowing only that individual the ability to perform specific tasks in the system.

b. If resource constraints prevent assignment of the key duties to different individuals, as set forth in paragraph a. above, the activity must request a waiver through the Level 4 A/OPC and the CCO to the Level 3 A/OPC for approval. Air National Guard Resource Advisors (RAs) do not certify funds and are therefore able to serve as a CH or an Approving Official without needing a separation of duties waiver.

c. Notwithstanding the above-described waiver process, certain key duties must not be assigned to the same individual. In no case will the same individual be both the CH and BO for a GPC account. In no case will the Accountable Property Officer or A/OPC (primary or alternate) also be a CH, BO or contracting officer making contract payments with a GPC or executing GPC purchases. A CH who is a hand receipt holder should not purchase property for their own use. The servicing bank provides the functionality to generate a report identifying potential conflicts of interest in GPC program duties.

## **2-11. Span of Control**

a. Span of control refers to the extent of oversight and review responsibilities placed on a single A/OPC, BO, or CH. An appropriate span of control must efficiently and effectively allow the A/OPC, BO, or CH to provide reasonable assurance they can effectively perform their responsibilities regardless of the number of accounts assigned. The assigned span of control must factor in the monitoring and oversight responsibilities to include the use of MasterCard's Insights on Demand (IOD) data mining and review process. To ensure GPC program participants have sufficient time to complete required reviews, GPC programs will abide by established span-of-control limits. The following span-of-control internal controls have been established for the Army GPC Program:

- 1) The number of CH accounts (not individual cardholders) assigned to a primary BO will not exceed seven.
- 2) An individual may not be assigned more than three CH accounts.
- 3) An A/OPC will not be responsible for more than 250 GPC accounts (card accounts and MAs combined). This ratio will be reevaluated biennially.
- 4) Primary A/OPC vacancies must be filled in a timely manner to prevent excessively burdening Alternate A/OPCs over an extended time.
- 5) The CPM has authority to approve deviation from the ratios in 1) through 3) above on a case-by-case basis provided the organization establishes sufficient local oversight and compensating controls. Deviation approval is a CPM responsibility and cannot be delegated.
- 6) For the ratios in 1) through 3) above, compensating controls include, at a minimum, briefing the HA on the deviation(s) and any related ramifications, during all subsequent Semi-annual Head of Activity Review (SAHAR) briefing(s) in which the deviation(s) remain in place.

- 7) For the ratio in item 2) above, as the SAHAR does not report on the number of CH accounts assigned to an individual, other compensating controls would need to be in place for any deviation(s) the CPM approves. Any deviations must be reported to the HA through the SAHAR process and annotated in the Notes section of the SAHAR report.
- 8) When Army policy authorizes use of the GPC for more complex transactions (e.g., by Ordering Officials), the Army should institute more stringent span-of-control ratios as appropriate.

b. A/OPCs should use PIII/JAM or the card-issuing bank's EAS to provide appropriate management notification and reports on various spans of control. All Common Access Card (CAC)-enabled systems supporting or using GPC data should utilize functions to define and manage all hierarchies assigned within the system—not just the GPC organizational hierarchy.

c. An individual may not be assigned more than one CH account for each special designation in their appointment. Assignment of roles includes effective from/to dates. This includes personnel assignment to an A/OPC, BO, or CH, as well as the relationships of the BO to the A/OPC and the CH to the BO. Management oversight reports should be defined to report personnel, position, and relationship assignments.

d. The card-issuing bank's EAS report on span of control based on user ID cannot be used as an irrefutable source to support span-of-control limits, since an individual may have more than one bank user ID. A/OPCs must track all roles an individual has been provisioned/assigned using their unique CAC public-key infrastructure or other unique identifier that may be implemented by the Under Secretary of Defense for Personnel and Readiness.

e. The Army standard for span of control for a Level 4 A/OPC is 250 BO and CH accounts per Level 4 A/OPC. This total includes both the BO and CH accounts added together. Span of control updates are deemed necessary due to changing program dynamics and increased oversight burdens placed on GPC oversight personnel over time. As the micro-purchase threshold has increased multiple times over the years, additional oversight has been required by GPC personnel as the average dollar value and the types and complexity of the GPC supplies and services being purchased has increased.

f. The total number of transactions, as well as the number of assigned card accounts, must be considered when determining an acceptable card account to BO ratio. When the number of accounts or workload complexity/administration assigned to a Level 4 A/OPC exceeds the Army standard, the SCO/CCO must ensure adequate resources are made available to allow the A/OPC to successfully perform their duties. When the span of control exceeds the Army standard and the CCO elects not to provide additional resources, the CCO must submit a waiver request in writing to the CPM for approval. The waiver request must include the rationale and justification upon which the CCO has based the determination (e.g., span of control is satisfactory to perform required program administration and surveillance). The Level 3 A/OPC must retain a copy of this documentation.

g. The Level 4 A/OPC determines whether the BO to CH ratio is acceptable upon issuance of a GPC, during the A/OPC's annual assessment of their GPC program, or as needed. There must be a reasonable expectation that the BO can complete a thorough review of all transactions and certify the invoice within five business days of its receipt. When the ratio for CH accounts to BO exceeds the Army standard, the BO should lower the number of card accounts or request a waiver to policy. The Level 4 A/OPC will document all cases where the CH to BO ratio exceeds the Army standard. The waiver to policy request must address the unique conditions that affect the process and show, with a high degree of certainty, that the BO can be expected to comply with the review and certification procedures. The waiver is approved at the below levels and maintained by the approver with copies furnished to the BO:

- 1) 8–10 card accounts. Routed through the Level 4 A/OPC to the CCO.
- 2) 11–19 card accounts. Routed through the A/OPCs (Level 4 and Level 3) to the SCO.
- 3) 20 or more card accounts. Routed through the A/OPCs (Level 4 and Level 3) to the Level 2.



## CHAPTER 3 - GPC ELECTRONIC SYSTEMS

### 3-1. System Requirements

All bank and Government systems used in support of GPC accounts will include the following internal controls:

- 1) Systems access security,
- 2) Systems administration integrity,
- 3) Data exchange security, and
- 4) Functional responsibility controls.

a. **Systems Access Security.** Appropriate safeguards will be in place to control access to systems. All DoD systems will utilize CAC login for user authentication. Electronic systems used to support the DoD GPC Program must limit access to various functions to only individuals with appropriate authority. DoD GPC personnel are required to use the PIEE SSO capability to log into the card-issuing bank's EAS, unless granted a waiver by DPCAP.

b. **Systems Administration Integrity.** Changes to existing interfaces, or creation of new interfaces, must be approved by DPCAP in advance of planning and implementation. [DFARS 204.73](#) provides information on basic requirements that all DoD system contractors must meet. All DoD systems that support the GPC will be documented in accordance with the requirements of [DoDI 5000.75](#) (for internal DoD systems) and [DFARS 204.73](#) for contractor systems.

c. **Data Exchange Security.** Transmission of all electronic account data will be processed through secure lines of communication. DPCAP requires that any interface used to send files via file transfer must utilize GEX. DPCAP-approved interfaces that leverage an application program interface to make system-to-system calls are exempt from utilizing GEX as an intermediary. "EDI" refers to the automated process for receiving electronic transactions, obligations, invoice, receiving, and other records from a card-issuing bank via GEX to the accounting, ERP, DFAS, or other system. To ensure funding confirmation and reconciliation information integrity, original transactions/invoices will be maintained and cannot be altered. Cardholders will not be able to alter their statements of account once they approve them unless a BO returns a statement to a CH for corrections. Billing officials and Certifying Officers will not be able to alter billing statements (invoices) once they are certified.

d. **Invoice Integrity.** An electronic certification process will be used to ensure that the official (i.e., original, unaltered) electronic invoice is traceable from the card-issuing bank through the certification and entitlement processes and retained in a government record. The BO will ensure any corrections or additions to the original invoice (e.g., reallocations to different funding lines) are proper and the payment totals have not changed. Altering a voucher that is already certified invalidates the original certification. Known or suspected fraudulent transactions not initiated by the authorized CH will be reported as external fraud directly to the card-issuing bank. When external fraud is properly reported to the bank, the current card account must be closed and a new account issued. The BO and A/OPC must be notified immediately, and the CH will comply with the bank's external fraud reporting procedures.

e. **Functional Responsibility Controls.** Systems must be able to segregate role-based capabilities and limit access to these functions to individuals with appropriate authority. The systems must be able to identify who made any data/file content changes in the end-to-end GPC process. Management oversight reports will be available to report on individual personnel roles and responsibilities.

### 3-2. Procurement Integrated Enterprise Environment (PIEE)

a. [PIEE](#) is the primary enterprise procure-to-pay (P2P) application for DoD and its supporting agencies. PIEE is a procurement portfolio capability that uses a Common Access Card (CAC) enabled single-sign-on capability to grant access to system modules (e.g., Electronic Document Access and Joint

Appointment Module (JAM)) hosted both internal and external to that environment. Army mandates 100% use of PIEE single-sign-on.

b. A/OPCs nominate cardholders and billing officials and track nominations and workflows within PIEE. [GPC one-pagers](#) are an excellent resource on how to perform actions within PIEE modules.

c. Government Administrator Managers (GAMs) must activate roles in PIEE as part of the GPC appointment process. See section 2-8.b. for additional GAM duties.

### 3-3. Joint Appointment Module (JAM)

a. JAM is the PIEE module used to initiate, review, approve, store, and terminate required delegations of procurement authority and/or appointments. JAM GPC appointments result in issuance of GPC Delegation and/or Appointment letters and DD Form 577 Appointment/Termination Record (commonly referred to as a Certifying Officer Appointment). Personnel delegated the proper authority role identified in Table 3-1 can terminate the following appointments in PIEE and JAM.

Table 3-1: Roles and Termination Capability

Appointments						
Roles for your Organization/Activity	A/BO	CH	Certifying Officer	A/OPC	OA/OPC	CPM
GPC Help Administrator Manager (HAM) can terminate	X	X	X	X	X	X
OA/OPC can terminate	X	X		X		
A/OPC can terminate	X	X				
DD577 Appointing Authority (AA) can terminate			X			
GPC Delegating/Appointing Authority (DAA) can terminate	X	X	X	X	X	X

b. JAM is an application within PIEE that is mandated by DoD for use by GPC program participants. The Army is not required to issue or retain paper copies of appointments issued using JAM. The [DPCAP Joint Appointment Module \(JAM\) GPC Role Descriptions Guide](#) provides tables that identify GPC JAM roles and special designation authority types.

c. JAM is mandated as the enterprise tool for appointing and delegating authority to GPC personnel. JAM is the PIEE module used to initiate, review, approve, store, and terminate required delegations of procurement authority and/or appointments. Electronic delegation of authority and/or appointment letters must be granted for GPC program participants as indicated in the [JAM GPC Role Descriptions](#), which also identifies CH delegation limits associated with each SD. Program participant nomination, registration, and appointment processes are described in the [GPC Program One-Pagers](#).

d. **Tracking Training in JAM.** PIEE includes capabilities to track and report training course completion, issue automatic training reminders for recurring requirements, and systemically promote compliance with requirements to complete training prior to appointment issuance. To promote compliance with training requirements, JAM system validations prohibit appointment of individuals who, if required for their roles, have not completed CLG 0010 and CLG 006. A system interface has been deployed to automatically record completion of all required and recommended DAU courses. When tracking training in JAM, GPC Program PIEE users are not required to manually load electronic copies

of training certificates for courses that automatically were recorded via the DAU/PIEE system interface (i.e., DAU is listed as the “Source”). Data is displayed in the JAM application and available through EDA Advance Reporting with DAU listed as “DAU,” as the source is directly from the system of record. Because DAU is the primary source for validating course completion, when training completion is recorded via the DAU interface, the trainee is not required to provide a copy (electronic or paper) to GPC program management, thereby reducing paperwork, improving auditability, and ensuring proper record retention. PIEE additionally includes the capability for GPC program participants to manually record completion of non-DAU training and provide/maintain an electronic copy of training certificates, which are then available to program managers and auditors as necessary. DoD GPC One-Pagers [3OP010 - Uploading Training Certificates to PIEE/JAM](#) and [3OP038 - Tracking Training in PIEE](#), provide details on these capabilities.

### **3-4. U.S. Bank Access Online (AXOL)**

U.S. Bank AXOL is the Army GPC servicing bank’s electronic access system (EAS) in which GPC account maintenance, transaction management, and order management take place. AXOL gives program administrators the security, functionality, reliability, and convenience they need to manage and report on all their GPC programs with a single tool. Cardholders and billing officials can track orders and transactions daily as purchases post transaction data in AXOL and upload supporting documentation to ensure timely approval and certification of monthly statements. Appointed CHs, BOs, and A/OPCs must sign in from the PIEE homepage to access the servicing bank’s EAS.

### **3-5. MasterCard Insights on Demand (IOD)**

IOD is the SmartPay®3 data mining (DM) tool used to adjudicate transaction cases and perform oversight functions. This tool has replaced the PCOLS Data Mining and the Program Audit Tool. IOD provides the capabilities to identify unusual spending patterns, monitor transactions for potential misuse, fraud, waste, and abuse, and flag these cases for review. Billing officials and A/OPCs must use this tool to review and adjudicate system-generated cases, initiate cases, and meet all baseline data mining requirements. IOD is an artificial intelligence DM platform that automatically analyzes DoD’s GPC data to identify high-risk transactions. IOD facilitates transaction reviews and enables documentation of any findings identified and corrective actions taken.

### **3-6. Global Exchange Service (GEX)**

GEX is the DoD enterprise capability that provides secure messaging, mediation, and routing services along with system monitoring, data audit trails, and performance scalability across diverse communities of interest. Routing and transformation methods range from simple file transfers to web services communications; they are secure, reliable, and dynamic, reducing the cost and schedule to enable systems to be interoperable. GEX delivers mass volumes of EDI transactions with guaranteed delivery and end-to-end accountability, mitigating integration risk.

### **3-7. Total System Services Payment Solutions (TSYS)**

TSYS is a federally registered service mark of Total System Services LLC. TSYS is a provider of seamless, secure, and innovative solutions to card issuers. TSYS provides payment, processing, merchant, and related payment services to financial and nonfinancial institutions.

### **3-8. Enterprise Resource Planning (ERP)**

ERP systems are large commercial-off-the-shelf platforms that are designed to contain the primary components of the business operations of an agency. Implementing ERP systems allows agencies to manage business functions as an integrated solution.

### 3-9. Federal Procurement Data System – Next Generation (FPDS-NG)

a. Army procedures must ensure compliance with FPDS reporting requirements of [FAR 4.6](#), [DFARS 204.6](#), and [DFARS PGI 204.606](#). Open-market micro-purchases made with the GPC and valued less than the MPT are not reported to FPDS. See [FAR 4.606\(c\)](#) for a list of additional actions not reported.

b. **Contract Payments.** Any contract or order where the GPC is used solely as the method of payment will be reported to FPDS individually regardless of dollar value.

c. **Open Market.** Open-market actions (i.e., order not under a federal contract or agreement) purchased and paid for using the GPC will not be reported to FPDS, except in accordance with FAR 4.606(a)(2). As a reminder, the GPC may only be used for open market actions when the value of the action is under or equal to the micro-purchase threshold as defined in FAR 2.101.

d. **Contract Orders.** Contracting offices will ensure all orders made by Contract Ordering Official CHs are reported to FPDS, regardless of value, no less frequently than monthly as required in DFARS PGI 204.606. For order actions under federally awarded contracts (e.g., schedules, governmentwide acquisition contracts, indefinite delivery contracts), blanket purchase agreements, and basic ordering agreements:

- 1) Report all actions purchased and paid for using the GPC to FPDS.
- 2) Report all actions valued \$25,000 or more individually; express reporting processes will not be used.
- 3) Report the actions valued less than \$25,000 in the following descending order of preference:
  - i. Individually, not using express reporting procedures.
  - ii. Using express reporting procedures that compile all actions monthly under the identified existing contract/agreement (such as a specific schedule) and vendor.
  - iii. Using express reporting procedures that compile all actions monthly without specifically identifying the existing contract/agreement and vendor. Only use this alternative when the first two choices are determined to be overly burdensome by the HCA. When used, identify the vendor using the generic Unique Entity ID (UEI) number for either domestic or foreign GPC consolidated reporting. See GPC one-pager, [Unique Entity Identifiers for GPC Reporting to FPDS](#).

e. Contracting offices are not required to separately report to FPDS orders placed on FedMall.

f. [FAR 4.606\(a\)\(2\)](#) states the GSA Office of Charge Card Management will provide the GPC data at a minimum annually, and GSA will incorporate that data into FPDS for reports. This does not result in duplicative FPDS reporting of GPC transactions, as GSA has confirmed it reports only high-level data (i.e., total numbers of transactions and dollars) outside the FPDS database. FPDS-NG access, training, and instruction manuals are available on FPDS.gov.

### 3-10. Wide Area Workflow (WAWF)

a. WAWF is an application in the PIEE eBusiness Suite used by contractors to invoice and by Government officials to accept and certify for goods and services. Contractors must submit contract invoices electronically, mandated by Public Law: Section 1008 of the NDAA of FY 2001. DFARS Clause 252.232-7003 (DFARS 232.7004) requires electronic invoicing and electronic supporting documentation. WAWF allows vendors to submit and track invoices and allows the Army to receive and accept those invoices over the Web, enabling the Army to process those invoices in a real-time, paperless environment. See paragraph 15-6 for more information.

b. **GPC Use of WAWF.** When the GPC is used as the method of payment on a contract, the

contractor must create a receiving report in WAWF. The Government acceptor must then accept the receiving report in WAWF.

c. WAWF users must register in [PIEE](#) and request the corresponding role. The contractor will request the "Vendor" role, and the Government acceptor will request the "Acceptor" role. Refer to the "Registration" link on the PIEE home page and the Help button for details on registering in WAWF. For more information, contact [DFAS Customer Service](#): 1-800-756-4571. See [PIEE web-based training](#) for more information on the WAWF module.

### **3-11. Procurement.army.mil (PAM) Portal**

a. The ODASA(P)'s interactive Knowledge Management portal, Procurement.army.mil (PAM), serves as an official Army-wide source for acquisition policy, templates, learning tools, and certified training. PAM provides Army contracting procedures and updates to critical programs and systems, including instant access to Army GPC policies, standard business processes and operating procedures. PAM's GPC page is <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/GPC.aspx>.

b. A/OPCs, CHs, and BOs should use the PAM portal to access current GPC documents, samples, and processes as described throughout this AFARS Appendix EE. Available documents on PAM include, but are not limited to, the following:

- 1) AFARS Appendix EE
- 2) Army Ordering Officer Guide
- 3) Army Purchase Request and Approval (PR&A) Sample Template
- 4) [Procurement Management Review \(PMR\) Process](#)
- 5) GPC PMR Toolkit memo, slides, and information
- 6) Ammunition Process and Waiver Request
- 7) Refund Process
- 8) Level 4 A/OPC Annual Management Assessment
- 9) Army Master GPC training slides
- 10) Section 889 Representation form
- 11) Army SAHAR Instructions
- 12) Lodging in Kind (LIK) / Subsistence in Kind (SIK) SOP

## CHAPTER 4 - GPC TRAINING REQUIREMENTS

### 4-1. Mandatory Training

- a. Prior to assuming their duties, program personnel will complete the GPC training appropriate to their GPC role. The training requirements for CHs and BOs trained at a previous duty station may be abbreviated or waived, in writing, as determined by the A/OPC. Proof of training must be documented and retained by the A/OPC. The local command may require additional mandatory training to satisfy their training or operational needs.
- b. PIEEE/JAM is the mandatory electronic system for documenting and retaining training records. PIEEE includes capabilities to track and report training course completion, issue automatic training reminders for recurring requirements, and systemically promote compliance with requirements to complete training prior to appointment issuance. JAM system validations prohibit appointment of individuals who, if required for their roles, have not completed CLG 0010 and CLG 006. PIEEE/JAM automatically records completion of all required and recommended DAU courses. When tracking training in JAM, users are not required to manually load electronic copies (e.g., PDFs) of training certificates for courses that automatically were recorded via the DAU/PIEEE system interface (i.e., DAU is listed as the "Source").
- c. PIEEE includes the capability for GPC program participants to manually record completion of non-DAU training and provide/maintain an electronic copy of training certificates. DoD GPC One-Pagers 3OP010, Uploading Training Certificates to PIEEE/JAM, and 3OP038, Tracking Training in PIEEE, provide details on these training capabilities.
- d. Level 4 A/OPCs, in coordination with the appropriate subject matter experts, will provide in-person initial GPC training for all new BOs and CHs prior to using the GPC. Each Level 4 A/OPC is responsible for providing training to CHs and BOs utilizing the Army Master Training slides and GPC program location-specific slides. Training methods can be classroom, virtual or electronic.
- e. Resource Managers should assist the A/OPC in developing or providing training on funding document maintenance, Anti-Deficiency Act, and the certification and payment process.
- f. Small Business Specialists should assist the A/OPC in developing or providing training on FAR 19, Small Business procedures and achieving small business goals.
- g. Hazardous Materials Management Process Team should assist the A/OPC in developing or providing training on the procurement, maintenance, and disposal of hazardous materials.
- h. GPC training requirements are listed in Tables 4-1 and 4-2. Table 4-1 lists all mandatory training which must be completed prior to issuance of an appointment letter and/or establishment of a GPC account. Table 4-2 lists all recommended training as necessary to carry out GPC duties. Proof of training must be documented and retained by the A/OPC. CHs, BOs, and A/OPCs are required to complete mandated initial and refresher training. U.S. Bank's Access Online web-based training is optional. The initial in-person GPC training provided by the Level 4 A/OPC will cover training on the use of U.S. Bank's Access Online system (e.g., initiating and resolving disputes, reconciling and approving statements, certifying invoices, and uploading supporting documentation).
- i. **Refresher Training.** As required in DoD FMR Volume 5, Chapter 5, Paragraph 050304, appointed Certifying Officers (CO) must complete an approved Certifying Officer Legislation training course before their appointment and as refresher training annually. All A/OPCs, BOs, and CHs must complete refresher training every two years. The local command may require refresher training more frequently to satisfy their training or operational needs. See [DPCAP's Purchase Cards - Training page](#) for GPC Program One-Pagers, "quick start guides" that address various GPC policies and systems, and other resources.

j. By signing the appointment letter in JAM, CHs and BOs confirm that they have received the initial GPC program training and understand their roles and responsibilities and the penalties associated with misuse of the card.

k. Attendance at the annual GSA SmartPay Conference is mandatory for all Level 3 and 4 A/OPCs, as funding permits. Attendance is mandatory for all Level 3 and 4 A/OPCs if the GSA SmartPay Conference is held virtually.

Table 4-1: Mandatory Training for A/OPCs, BOs, CHs, and Certifying Officials (COs)

Mandatory Training				
Course Name	Course Number	Role Level	Frequency	Course Offeror/ Hyperlink
DoD Government-wide Commercial Purchase Card Overview	CLG 0010	All	Initial/ Biennial	DAU <a href="#">CLG 0010 DoD Governmentwide Commercial Purchase Card</a>
CO Legislation Training for GPC Payments	CLG 006	BOs and COs	Annual	DAU <a href="#">CLG 006 Certifying Officer Legislation Training</a>
Overview of Acquisition Ethics	ACQ 0030	All	Initial	DAU <a href="#">ACQ 0030 Overview of Acquisition Ethics</a>
Insights On Demand (IOD) A/BO Case Management Course	Web-based Training within AXOL	A/BOs	Initial ( <i>not required prior to issuance of a managing account</i> )	<i>Available in U.S. Bank</i>
Insights on Demand (IOD) A/OPC Case Management Modules	Web-based Training within AXOL	A/OPCs	Initial ( <i>not required prior to appointment</i> )	<i>Available in U.S. Bank</i>
Army AbilityOne Refresher GPC Training	Online	CHs	Annual	Army and AbilityOne
Army Initial GPC Training (includes 889)	In Person	All	Initial/ Refresher	Army
SOP Ordering Official Training	Online	A/OPCs A/BOs CHs <b>spending &gt; MPT</b>	Initial	Command Specific



## 4-2. Recommended Training

CHs, BOs, and A/OPCs are encouraged to take additional training identified in Table 4-2 and [DPCAP Purchase Cards - Training](#).

Table 4-2: Recommended Training for A/OPCs, BOs, CHs, and Certifying Officials (COs)

Recommended Training				
Course Name	Course Number	Role Level	Frequency	Course Offeror/ Hyperlink
GSA SmartPay Purchase Training for Program Coordinators	A/OPC Training - Purchase	A/OPCs	Initial	GSA <a href="#">GSA SmartPay Purchase Training for Program Coordinators (A/OPCs)</a>
Certifying Officer Training for GPC Payments	CLG 006	A/OPCs	Initial	<a href="#">DAU</a>
Contracting for the Rest of Us	CLC 011	CHs/A/BOs (not in a Contracting Office)	Initial	<a href="#">DAU</a>
DoD Sustainable Procurement Program	CLC 046	All	Initial	<a href="#">DAU</a>
DAU AbilityOne Training	CLM 023	All	Initial	<a href="#">DAU</a>
Procurement Fraud Indicators	CLM 049	All	Initial	<a href="#">DAU</a>
Micro-purchases and Section 508 Requirements	Online	CHs	Initial	GSA <a href="#">Accessibility Training   Section508</a>
GSA SmartPay Purchase Training for Account Holders and Approving Officials	Purchase Card Training for Account Holders & A/BO	CHs/A/BOs	Initial	GSA <a href="#">GSA SmartPay Online Training</a>



## CHAPTER 5 - ESTABLISHING AND MAINTAINING A GPC ACCOUNT

### 5-1. Nomination, Selection, and Appointment of Cardholders and Billing Officials

a. Nomination, selection, and appointment of BOs and CHs are in accordance with DoD Charge Card Guidebook Chapters A.1.1 and A.3. A/OPCs must receive written and signed approval from the BO/CH's supervisory chain of command before initiating their appointment process. BOs should be in the supervisory chain of command of the CH.

b. Army BOs will receive both Approving/Billing Official and Certifying Officer appointments. Army BOs both approve and certify statements during the certification process. Approving Officials (AOs) follow pay and confirm procedures and are not appointed as Certifying Officers, e.g., Air Force AOs under the Army program.

c. GPC Delegation of Authority and appointment letters will clearly state the duties of the program participant, any dollar limit of the procurement authority (when applicable), and any limitations on the scope of authority to be exercised other than those contained in applicable law or regulation. All delegates/appointees must countersign their letters electronically in JAM to acknowledge they understand and concur with their GPC program responsibilities prior to establishing any accounts in the bank's EAS.

d. A/OPCs will maintain and monitor all delegations, appointments letters, and training certificates electronically in JAM in accordance with section 6-13. If electronic versions are available, the Level 4 A/OPC is not required to maintain a hard copy. Audit agencies can request access to PIEE modules when required. Ensure military and civilian out-processing checklists include a mandatory A/OPC sign-off for BOs and CHs.

e. **Receiving a GPC.** Standard practice is to have the card mailed to the CH's work address in accordance with the GSA SmartPay®3 contract. Using a CH's home address may be a fraud indicator and should not be a normal practice. Whether the card is mailed to the CH's primary work address or an alternate address, the CH must maintain the physical security of the card. Examples of alternate address uses include, but are not limited to, the following:

- 1) When an A/OPC wants all cards mailed to the A/OPC's work address, and then the A/OPC provides each card to the new CH's work location.
- 2) When the A/OPC feels it is more reliable to have the card mailed to the A/OPC's work address and then sent by express mail to a CH's work address overseas.
- 3) When the organization has a policy that all cards will be sent to the work address of the responsible BO, who will then deliver each card to the CH in person or to the CH's work address.
- 4) When the CH will not be at the work location (duty station) for an extended period (COVID-19 stay-at-home orders would be one such example), the CH's home address could be used. If the CH's home address is used for card delivery, a note or memorandum for record must be added to the account notes stating why the home address was used.

Table 5-1: Delegations and Appointments for each Program Role

Role	Delegation of Procurement Authority Letter Required	GPC Appointment Letter Required	DD Form 577 Required
Level 1	No	Yes	No
Level 2 Component Program Manager	No	Yes	No
Level 3 A/OPC <b>with</b> Authority to Delegate Procurement Authority	Yes	Yes	No
Level 3 A/OPC <b>without</b> Authority to Delegate Procurement Authority	No	Yes	No
Level 4 A/OPC <b>with</b> Authority to Delegate Procurement Authority	Yes	Yes	No
Level 4 A/OPC <b>without</b> Authority to Delegate Procurement Authority	No	Yes	No
Resource Managers (All Levels)	No	No	No
Billing Officials who are Certifying Officers	No	Yes	Yes
Certifying Officers	No	No	Yes
Pay and Confirm Officials (Departmental Accountable Official (DAO))	No	Yes	No
Cardholders	Yes	Yes	No

## 5-2. Account Establishment

a. GPCs are issued only as mission requirements dictate. Only DoD civilian employees or members of the Armed Forces may be issued a GPC or be appointed a BO. GPCs may not be issued to contractor personnel, except as provided in paragraph 1-5d. Junior Reserve Officer Training Corps (JROTC) instructors, Outside Continental United States (OCONUS) local national employees of the Army, and host Government direct-hires for OCONUS agencies/organizations whose salaries are reimbursed by the Army or DoD tenant organizations, are not considered DoD contractors, and may be designated as CHs and BOs. Traditional National Guard members and State employees are prohibited from being appointed as a CH, BO or A/OPC. The following types of purchases require a separate card account dedicated solely for that purpose:

- 1) Contract Payments
- 2) Official Representation Funds (ORF)
- 3) Ammunition
- 4) Gift Fund (for donated or proffered monies)
- 5) Lodging in Kind (LIK) and Subsistence in Kind (SIK)

b. **Card Account Limits.** Each card account has a single purchase limit and a cycle or monthly limit. In most cases, the single purchase limit is the micro-purchase threshold. The cycle limit is determined by the anticipated spending needs of the cardholder.

c. **Managing Account Limits.** Each managing account has a cycle limit and a credit limit. The cycle limit is the sum of the monthly limits of all cardholders under the managing account. The credit limit is three times the managing account's cycle limit.

d. **Establishing Credit Limits.** A/OPCs and RMs must jointly establish appropriate spending limits, and MCC access tailored to each CH account and MA based on historical buying patterns/trends, with consideration given to future mission needs. Budgetary limits may equal but not exceed the limits established in the CH appointment letter issued in JAM. The bank's EAS will maintain single purchase and monthly spending limits and can restrict purchases to particular MCCs. These limits may be initially established based on the CH's delegation authority and adjusted to meet budgetary constraints. The procurement authority in the letter of delegation may never exceed what is authorized by the FAR/DFARS (e.g., a CH with delegated authority of \$10,000 is still limited to \$2,500 when purchasing services subject to Service Contract Labor Standards (41 USC Chapter 67)). The A/OPC will review individual CH spending limits each year and coordinate with the BO and RM in the event adjustment of spending limits as projected for the upcoming year is required. A/OPCs must update the appointment in JAM before increasing credit limits in the EAS. The A/OPC and the RM may make changes to the purchase limits to meet mission requirements within the CH's authority.

### 5-3. Account Maintenance

The Level 4 A/OPC is required to maintain current BO and CH account information. Account maintenance may include the following:

- 1) Updating user information (e.g., name, email address, office address).
- 2) Adjusting single purchase limits.
- 3) Adding and removing merchant category code filters.
- 4) Updating BO access to applicable bank hierarchy.

### 5-4. Account Termination

a. Only cardholders with a continuing need to use the GPC will retain their card and appointment. At least 60 calendar days prior to reassignment, separation, or retirement, the CH or BO should notify the A/OPC of their change in status and begin to transition their duties and files over to another appointed organization representative. The BO must advise the Level 4 A/OPC when a CH no longer has a continuing need to use the card or when the CH transfers to other duties or organizations, retires, or leaves Government service.

b. The Level 4 A/OPC will terminate the CH's or BO's appointment in JAM, close the account in the servicing bank, and remove the User ID. The physical card must be destroyed. When a CH account is terminated or closed, the CH will surrender the GPC and submit the account documentation to the BO.

c. When a BO vacates their assignment, and a new BO is assigned, all CH accounts remain active under the existing managing account. The departing BO must reconcile their account within US Bank and with Financial Management prior to vacating their GPC roles and responsibilities. CH accounts will be suspended anytime there is no an Alternate BO or BO assigned to the managing account.

d. Military and civilian out-processing checklists must include a mandatory A/OPC sign-off for BOs and CHs.

## 5-5. Liability of Cardholders and Billing Officials

a. Individuals responsible for purchase card violations (e.g., abuse, delinquency, internal fraud, or misuse) are subject to administrative and disciplinary action. Pecuniary liability may apply when there is an erroneous (illegal, improper, or incorrect) payment. Commanders may take corrective action, impose disciplinary action (including removal for serious or repeated infractions), and take other administrative actions for GPC infractions. If a potential GPC violation is discovered, GPC personnel will ensure the violation is appropriately investigated.

b. Cardholders and billing officials are designated as accountable officials per DoD FMR Volume 5, Chapter 5, paragraph 1.1.2. Certifying Officers (i.e., billing officials) may be held pecuniary liable under USC Title 10, Subtitle A, Part IV, Chap 165, Sec 2773a for an illegal, improper, or incorrect payment.

c. Cardholders who make unauthorized purchases or allow others to use the card may be held liable for the total dollar amount of unauthorized purchases made in connection with the misuse or negligence. Cardholders may also be held pecuniary liable for any payment certified based on false or negligent information they provided to the Certifying Officer.

d. **Command/SCO Oversight.** The Command/SCO must establish and maintain a command climate to prevent undue influence over the actions of a cardholder. The Command/SCO will establish local policies and procedures identifying informal and formal disciplinary actions to be taken in the event of noncompliance, fraud, misuse, and abuse. Disciplinary actions should be based on the severity and frequency of the infraction and can range from informal actions (such as written or verbal counseling) to demotion, removal, or potential criminal prosecution.

e. **Investigation Required.** Commands must be notified when evidence of fraud or other criminal activity is identified. Evidence of deliberate abuse will be referred to the CH's and/or BO's command for appropriate action. The investigation must provide the Army employee or military member with an opportunity to rebut the presumed liability.

## 5-6. Card Suspension Policy

a. Level 3 and 4 A/OPCs have the authority to suspend BO and CH accounts due to non-compliance with GPC policies and procedures.

b. **Automatic Suspensions.** Requests for suspension exemptions for BO accounts with operational emergencies may be granted on a case-by-case basis. Exemption requests must be submitted in writing from the Level 4 A/OPC to the Level 3. In accordance with DoD business practices, U.S. Bank will automatically suspend BO accounts under the following conditions:

- 1) BO's account goes over 60 days past due (90 days after the billing date). The managing account and all card accounts under it are suspended until the delinquent payment has posted.
- 2) BO's account goes over 180 days past due (210 days after the billing date). All managing accounts assigned under the Level 4 agent are suspended until delinquent payment has posted. The delinquent managing account is permanently closed (T9).
- 3) BO's account has more than 20 open card and/or checking accounts. The managing account is suspended unless a waiver has been approved by the Army Level 2 A/OPC.
- 4) Before reopening a closed account due to a delinquent payment, the Level 3 and/or 4 A/OPC will document that U.S. Bank received full payment. Only the Army Level 2 may reopen suspended accounts prior to payment being received by U.S. Bank. Accounts will be closed permanently if more than two suspensions occur within a 12-month period. Only the Army Level 2 A/OPC may approve waivers to this policy.

## 5-7. Card Security

a. CHs are responsible for properly using and safeguarding their GPC. CHs must take appropriate precautions comparable to those taken to secure personal checks, credit cards, or cash. CHs must maintain the physical security of the card to prevent compromise. The card should never be surrendered, except when the account is going to be cancelled. Additionally, the account number should not be released to anyone other than the vendor processing the transaction.

b. **Lost or stolen cards.** The CH must promptly report lost, stolen, or compromised cards to the issuing bank, BO, and Level 4 A/OPC. The servicing bank will immediately block the account from accepting additional charges.

c. Only the designated CH has authority to make purchases with their GPC. The card is not to be used as a company card (e.g., during a CH's absence, someone other than the CH borrows the card to make a purchase). Use of a GPC by multiple persons is prohibited.

## CHAPTER 6 - OPERATIONAL GUIDANCE AND PROCEDURES

### 6-1. Procurement Transactions

a. Purchases below the MPT are exempt from the Competition in Contracting Act, Buy American Act, Economy Act, Service Contract Labor Standards Act, Wage Rates Requirements Act, and the Small Business Set-Aside Program. Nothing in this chapter exempts a cardholder from using the proper contracting channels when making purchases exceeding the MPT.

b. Requiring activities must perform acquisition planning to identify procurement needs; consider strategic sourcing vehicles (e.g., BPAs, CHES, GSA); and initiate procurement actions with sufficient lead time to buy appropriate products at the right price from the right suppliers in a timely manner. Requirements and logistics personnel should avoid issuing requirements on an urgent basis or with unrealistic delivery or performance schedules, since it generally restricts competition and increases prices. Ordering from existing contracts (e.g., BPAs, CHES, or GSA FSS) can only be done by an appointed ordering official, including purchases below the MPT.

c. Purchase requirements exceeding the MPTs, or delegations of authority established in Tables 1-2 and 1-3 must be referred to a contracting office. Splitting requirements into smaller parts to avoid formal contracting procedures, competition requirements, or to keep spending limitations under the MPT is prohibited. The GPC may be used for non-personal recurring services performed at regular intervals up to the MPT. Recurring service requirements estimated to exceed the MPT per FY must be directed to the contracting office. There is no single source that states contracts must be put in place for a recurring supply requirement costing \$10k or less per 12-month period. The contracting office will determine if recurring supplies should be placed on a contract or BPA.

d. Cardholders must use the mandatory sources identified in Chapter 9 before deciding to use commercial sources. GPC micro-purchases should be distributed equitably among qualified suppliers, with special consideration paid to supporting the installation AbilityOne Base Supply Center, and local, small, and small disadvantaged businesses.

e. Cardholders are responsible for procuring green products and services under the Green Procurement Program as prescribed by Executive Order 13834 and by DoD and Army policies. Green procurement applies to the purchase of recovered materials, energy and water efficient products, alternative fuels and fuel efficiency, bio-based products, non-ozone depleting substances, environmentally preferable products and services, and toxic and hazardous chemicals. The following are mandatory Green Procurement purchases: paper, toner, office products, office recycle containers, and office trash cans. The following are the only exceptions to purchasing green products and services: the pricing is considered unreasonable; item/service does not meet reasonable standards; or item/service will not meet the time frame needed. Exceptions must be documented. Recommended sources for green products are AbilityOne, FedMall, and GSA Advantage.

f. **OCONUS Units.** For the use of the GPC outside the U.S., CHs must follow policy in accordance with DFARS 213.301(2). To ensure the CH does not exceed \$25,000 for OCONUS purchases, the total purchase price must include the currency conversion rate prior to making the purchase. If a CH makes a purchase from an OCONUS location for use OCONUS and the vendor location is CONUS, this would be considered a reach-back purchase and the MPT for a reach-back purchase is \$10,000. Any reach-back purchase over \$10,000 is subject to simplified acquisition procedures and should be sent to the contracting office for action.

g. For purchases made in the Contiguous United States (CONUS) for use overseas, the CH must contact their local Director of Logistics Traffic Management Office for assistance regarding transportation and packaging requirements and/or instructions prior to contacting the vendor. CHs must ensure the final price includes all costs associated with the mode of transportation and packaging selected to the

destination country, customs import duties, and any other charges that may accrue. See DoD Directive 4500.54-E, DoD Foreign Clearance Program for compliance with host nation customs requirements.

h. **OCONUS Value-Added Tax (VAT) Forms.** The cost of the VAT can be charged on the GPC. Cardholders must contact their A/OPC for local guidance and procedures involving the use of the VAT form. To obtain a copy of the form, CHs may contact the local Morale, Welfare and Recreation (MWR) office.

i. **Terms and Conditions.** Neither cardholders nor billing officials have the authority to approve or sign written vendor terms and conditions. Cardholders will consult their A/OPC, contracting office, and/or local legal office for additional guidance.

j. **Convenience Check Accounts.** The management controls, procedures, and restrictions included in this regulation also apply to the use of convenience checking accounts. Convenience checks are an alternative only when the GPC is not feasible and the activity has evaluated all alternatives and determined the checks as the most advantageous. Before a check is issued, the requiring organization must document their effort to find a merchant that accepts the GPC. Convenience checks must not be used for more than one half of the MPT per Public Law 115-91. Checkwriters who write checks over the convenience check MPT (see Table 1-2) will have their convenience check account terminated. See Chapter 10.

## 6-2. GPC Purchasing Process

Cardholders should follow the steps in Table 6-1 when purchasing items or services within the MPT.

Table 6-1: Cardholder Micro-purchase Steps

Step	Action	Details
1	Receiver must screen Army Purchase Request and Approval (PR&A) or equivalent from requiring activity.	Ensure PR&A identifies a legitimate government need; market research performed; any recommended vendors; and consideration of required sources.
2	Verify appropriate procurement method. If GPC is not the appropriate method, return the request to the requiring activity with the recommendation on the proper procurement method to be used.	Consider funding type and funding amount. Confirm whether the requested item/service is authorized to buy with GPC. Confirm that the purchase is within the CH's delegation of authority.
3	Determine the appropriate vendor.	Check mandatory sources first. See Chapter 9. If no mandatory source exists, screen the requirement from recommended Government sources and commercial platforms/sources. Rotate commercial sources.
4	Review the quote. Inform the vendor that the purchase is tax exempt.	Confirm whether the supplies/services description meets the minimum customer needs and is readily available. Check quote for sales tax; if identified, ask vendor to remove tax. Review quote for terms and conditions. Provide Government shipping details.

Step	Action	Details
5	Confirm if the vendor is 889 compliant.	Use the GSA Easy Search Tool, 889 Bot, Sam.gov, or a vendor's signed 889 form. If vendor is not registered in SAM.gov, ask vendor to complete an 889 form. If vendor is not 889 compliant, find another vendor.
6	Verify all required approvals prior to the purchase.	The BO must approve the request in writing. The BO will verify funding availability prior to approval. Other approvals may be required depending on the purchase (e.g., APO, legal, ITAS).
7	Place the order.	Make purchase over phone, in person, internet, or email. Only the CH is authorized to make the purchase.
8	Update the Purchase Log.	Match the transaction and complete all required fields (e.g., 889 Designation) in the bank's EAS.
9	Obtain independent receipt and acceptance. Give receipt to the APO when applicable.	Ensure that a government employee (not the CH or BO) confirms receipt of items/services in writing. Provide a copy of the receipt to the APO within 5 business days, when applicable.
10	Upload supporting documentation into the bank's EAS.	Attach the supporting documents identified in 6-2.g. below.
11	Resolve any problems. If unable to resolve with vendor, submit a dispute in the bank's EAS.	Contact vendor directly to resolve minor issues, such as shipping costs or sales tax. Dispute transactions when appropriate. Ensure disputes are exercised no later than <b>45 calendar days</b> after the transaction's posting.

a. Personnel requiring supplies/services must provide written requests to the CH. Upon receipt of a purchase request, the CH should identify if the requirement can be made within the scope of the GPC program. Cardholders must ensure the requirement is a legitimate government need and determine if the requirement can be met within their credit limits.

b. The BO must verify availability of funds at the time of each purchase. No Government employee may create or authorize an obligation in excess of available funds or in advance of appropriations.

c. Only the CH is authorized to make the purchase - no exceptions. CHs cannot re-delegate their authority. Purchases can be made in person or by telephone, internet, or email. Cardholders must maintain card security throughout the buying process. Invoices must be in English.

d. **Shipping.** CHs are unauthorized to ship to personal residences or other commercial addresses without approval from Level 3 A/OPC. For OCONUS purchases, CHs should coordinate with their local logistics office to determine whether commercial shipment is available for purchases outside the U.S. If it is not, ensure the vendor is provided with the necessary information to allow the purchase to enter the Defense Transportation System (DTS), which requires that the shipment has a Military Shipping Label (MSL) that includes a Transportation Control Number, Final Destination (in country) address and DoD Activity Address Code (DoDAAC), Priority, Required Delivery Date, and Transportation Accounting Code.

e. **Precautions to Avoid Frustrated Freight.** A supplier shipment that becomes "frustrated" is, at a minimum, delayed along the transportation chain and will not move until all problems are resolved. Many times, the shipment never reaches the intended recipient. When using a GPC to purchase items with delivery to a destination outside the United States, two methods of transportation generally are



available: commercial door-to-door and the DTS. If commercial shipping is not used, a purchaser must coordinate with his/her transportation service support office (e.g., Installation Transportation Office, Transportation Management Office, or Supply Support Activity) before ordering the item. The Component ordering the item with a GPC is responsible for ensuring the shipper (i.e., vendor) is provided the completed MSL to place on the cargo before it arrives at a DoD facility for movement in DTS. Shipments entering the DTS require additional funding and shipping, marking, and packaging instructions. Prior to shipment of hazardous material, the shipper is required to certify shipment to the final destination by attaching a certification certificate/document on the package in accordance with International Air Transport Association or International Maritime Dangerous Goods code, etc. Using only the stateside DTS military transit port or intermediate point without including the final destination DoDAAC in-country will cause a shipment to become frustrated.

f. **Thirty-Day Delivery.** Cardholders generally should seek vendors that have the required inventory supply (or labor capacity, for services) to enable delivery of the purchase within 30 calendar days while also meeting the requirements at a fair and reasonable price. Delivery timeframes in excess of 30 days may cause problems such as tracking purchases against monthly billing cycle limits and shipping items charged to a closed account.

g. **Purchase File Documentation.** Collection and retention of GPC documentation in centralized, electronic records is mandated to support Federal-Government-wide paperless initiatives; ensure information is available to support program operations and oversight functions; and fulfill record retention requirements. Per DoD FMR Volume 10, Chapter 23, Paragraph 230307, CHs must document and upload transaction supporting documentation for each and every purchase and its associated transaction using the servicing bank's EAS, Transaction Management - Attachment function. CHs must upload documentation throughout the billing cycle to assist BOs, A/OPCs, and auditors in completing transaction reviews per DoD SmartPay® 3 Transition Memorandum #6. CHs will attach documents for each billing cycle before approving their statement. BOs should review the transaction documentation prior to certifying the managing account. Records retention requirements are addressed in the [DoD FMR](#). The [DoD FMR](#) requires that the CH include acceptance documentation for every purchase. Required file documentation includes but is not limited to the following:

- 1) Army Purchase Request & Approval (PR&A) or equivalent\*
- 2) 889 Representation\*
- 3) Invoice and/or itemized receipt
- 4) Proof of independent receipt and acceptance
- 5) Other approvals, when applicable (e.g., legal, ITAS, Statement of Non-Availability (SONA))
- 6) Local agency requirements

\* For individual slot training payments, CHs must upload the SF 182 or equivalent in lieu of items 1) and 2) above. CHs must redact any personally identifiable information (PII) before uploading.

h. The Accountable Property Officer (APO) determines if the goods purchased will be placed on APO records in accordance with AR 710-4. Cardholders are required to provide receipts of accountable goods to the APO within 5 business days of obtaining the receipt.

i. **Independent Receipt and Acceptance.** CHs must obtain proof of independent receipt and acceptance for all purchases. The CH will ensure receipt and acceptance is properly performed and confirmed through documentation by a government employee other than the purchasing CH. The individual verifying receipt may be the CH's supervisor or other designated individual, as appropriate. CHs must upload the documentation in the servicing bank's EAS. Shipping items to a home or alternative work address requires approval documentation from the Level 3 A/OPC in the purchase file. The BO verifies the existence of receipt and acceptance documentation during reconciliation of the billing statement. Acceptable documentation includes (but is not limited to) the following:

- 1) Signed invoice, packing slip or equivalent. In addition to the signature, the receiver should include the date of receipt, printed name, telephone number, and office symbol or address.

- 2) PR&A signed by the receiver.
- 3) Email confirmation from the receiver.
- 4) WAWF Purchase Card Receiving Report.

j. **File Retention.** If the complete file documentation is uploaded in the bank's EAS, CHs are not required to maintain a duplicate hardcopy or electronic file. The servicing bank will retain all uploaded files for the required timeframe. BOs are responsible for ensuring that CHs upload documentation. BOs must retain existing hardcopy files for six years in accordance with FAR Part 4 that are not uploaded into the bank's EAS.

k. **Cybersecurity.** The Army GPC community must be aware of cybersecurity risks when making purchases using the GPC. Some of the key cyber supply-chain risks include:

- 1) Services provided by vendors and other third parties (e.g., heating, ventilation, and air conditioning services, IT software engineering services, or anyone with access to the physical or virtual network).
- 2) Poor information security practices and/or compromised software or hardware procured from suppliers.

Purchases of hardware, software, telecommunications equipment, video surveillance equipment, and related services from certain vendors are prohibited. The [FY 2018 NDAA](#), Sections 1634(A) and (B) (see FAR 4.2002 and 13.201(i)) implemented a supply/service ban that prohibits the use of hardware, software, and services of Kaspersky Lab and its related entities by the Federal Government. The [FY 2019 NDAA Section 889](#) implemented broader bans as described in section 6-3.

### 6-3. National Defense Authorization Act Section 889 Representation

a. Effective August 13, 2020, FAR Case 2018-017 amends the FAR to implement section 889(a)(1)(B) of the John S. McCain NDAA for Fiscal Year 2019 which prohibits Federal agencies from purchasing products or services from entities that use covered equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, regardless of whether that usage is in performance of work under Federal contract. [DPCAP 889 Memorandum dated September 9, 2020](#) requires recording of specific 889 designations in the bank's EAS for **all** GPC transactions. [DPCAP GPC Memorandum dated June 29, 2022](#) provides further guidance on completing the required fields. CHs must record 889 Designation information in the bank's EAS.

b. **889 Representation.** Federal law requires CHs to obtain a current 889 representation for each transaction and to include the representation with their transaction documentation. The representation contains the language from FAR 52.204-26, Covered Telecommunications Equipment or Services-Representation. CHs may obtain the vendor's 889 representation by using one of the following methods:

- 1) Search for vendor on the 889 GSA Easy Search Tool: <https://889.smartpay.gsa.gov/>.
- 2) Use the robotic process automation (RPA) tool to search SAM.gov. Send an email to [info@section889request.com](mailto:info@section889request.com) with the vendor's Unique Entity ID (UEI) or Cage code in the subject line. Do not include any text in the body of the email. The RPA will return an email with the vendor's FAR 52.204-26 language, if applicable.
- 3) Log into the [System for Award Management \(SAM.gov\) website](#). Locate the vendor's entity registration and review FAR 52.204-26, under Reps and Certs.
- 4) Use the vendor's completed 889 representation form. The form must be dated and signed. Completed forms are valid for 1 year after date of signature unless the vendor updates their systems at which time the vendor will need to fill out a new 889 form.

c. The requirement to obtain an 889 representation does not apply under the following conditions:

- 1) Contract payments. When the GPC is used as a method of payment against a contract, the Contracting Officer is responsible for ensuring compliance prior to award.

- 2) Inter/intra-governmental payments.
- 3) SF 182 individual training payments.
- 4) Fraudulent (external) transactions.
- 5) Fees (e.g., convenience check fees).
- 6) Refunds and transaction credits/discounts.

d. Pursuant to DoD policy, bank EAS entries must indicate how the vendor's 889 representation was obtained. For 100% of transactions, CH must enter appropriate 889 designation in the bank's EAS. CHs must enter one of the allowable codes in Table 6-2 in the following locations in the bank's EAS, as applicable:

- 1) CHs creating manual orders will use the "889 Designation" field in Order Management.
- 2) CHs receiving editable eOrders will use the "889 Designation" field in Order Management.
- 3) CHs receiving non-editable eOrders will use the "889 Designation" field in the Custom Fields tab in Transaction Management.

BOs must check for bank EAS entries when reconciling. BOs and A/OPCs must monitor 889 compliance during DM case dispositions and should use the "Cyber Security Non-Compliance" finding for cases without an 889 bank EAS entry once CI 193 is implemented.

Table 6-2: DoD Allowable Purchase Log Entries

Text to Enter in the 889 Designation Field	Applicability
889 Merchant Rep	Merchant provided the required 889 representation at FAR 52.204-26(c)(2) or equivalent with a "does not" response; the CH relied upon the representation to make the purchase.
889 ODNI	Merchant provided the required 889 representation at FAR 52.204-26(c)(2) or equivalent with a "does" response, but it has been determined the required supplies/services are covered by an ODNI waiver granted in accordance with FAR 4.2104 (e.g., the transaction is for supplies/services included in a Product Service Code (PSC)-based waiver); the CH relied upon the waiver to make the purchase.
889 Exception	Merchant has provided the required 889 representation at FAR 52.204-26(c)(2) with a "does" response, but in conjunction with the supporting contracting office, a FAR 52.204-25(c) exception applies; the CH relied upon the exception to make the purchase. Written approval from the supporting contracting office must be included with the transaction supporting data.
889 Payment	CH was not required to obtain the required 889 representation at FAR 52.204-26(c)(2) because the GPC was used only as a method of payment. Examples include the following payments: contract payments; intra/inter-governmental payments; and SF 182 commercial training payments.
889 Non-Compliant	CH purchased supplies/services without obtaining the required 889 representation at FAR 52.204-26, that were not covered by an ODNI waiver, an Executive Agency waiver, or a FAR authorized exception. The purchase was NOT in compliance with GPC policy.

Text to Enter in the 889 Designation Field	Applicability
Fraudulent (external) Transactions	CH should select when transaction is believed to be a fraudulent purchase.
Disputed Transactions	CH should select when disputing the transaction.
Fees (e.g., Convenience Check)	CH should select when transaction is for fees.
Refunds & Trans Credits/Discounts	CH should select when transaction is for refunds and transaction credits and discounts.
Memo for Record approved by A/OPC	For other A/OPC-approved scenarios, CHs should prepare a short MFR documenting the situation and include it with the transaction supporting data in the bank's EAS or as otherwise directed in Component GPC record retention instructions.

#### 6-4. Third Party Payment Requirements

a. **Use of Third-Party Payment Processors.** In no instance are CHs authorized to establish an account when using a third-party payment processor, as doing so could require acceptance of or agreement to terms and conditions or result in commitment of funds that have not been legally allocated for purchases. Transactions using third-party payment processors are considered high risk, as all available transaction data may not be completely passed to the issuing bank (which can adversely affect reporting, reconciliation, and oversight, including data mining (detection of improper card use)), and may adversely affect transaction dispute terms and processes, among other considerations. When selecting merchants to fulfill requirements, CHs will use the following procedures:

- 1) Minimize use of third-party payment processors to the maximum extent practicable.
- 2) Ask if the merchant would require use of a third-party payment processor, if there is any doubt regarding merchant use of one.
- 3) If it is still found necessary to purchase from a merchant requiring a third-party payment processor, CHs and BOs must ensure adequate supporting documentation clearly showing there was a detailed review of the purchase, and that purchase from a merchant requiring use of a third-party payment processor was unavoidable.

b. GPC oversight personnel and CHs should be aware that in accordance with [GSA Smart Bulletin #023](#), third-party payment policy does not apply to e-commerce platforms or brick-and-mortar merchants that do not accept payment using third-party payment processors.

#### 6-5. Tax-Exempt Status

a. GSA SmartPay GPC accounts are centrally billed accounts (CBAs) and, as such, should be exempt from state taxes. See the [GSA SmartPay website](#) for state-specific information and forms. Cardholders can download a copy of the specific State letter to present to a vendor when the vendor is requesting a tax-exempt certificate.

b. GSA also provides tax exemption best practices for GPC accounts under the heading "Purchase Account" on the linked webpage. Additional information about State sales taxes and CH best practices may be found in [GSA Smart Bulletin #020](#).

c. For purchases within the U.S., CHs are responsible for notifying vendors of the tax exemption and ensuring no sales tax is included in their purchase, except where applicable. Cardholders must inform the merchant that the purchase is for official U.S. Government purposes and, therefore, is not subject to state or local sales tax. A/OPCs may request embossing of the statement “U.S. GOVT TAX EXEMPT” when ordering a GPC.

d. **Exceptions.** Some states (e.g., Hawaii, Illinois) levy a General Excise Tax (GET) on businesses selling tangible personal property which is allowed to be passed on to the Federal Government. Arizona levies a Transaction Privilege Tax (TPT). CHs are required to pay the GET and TPT when applied to a GPC purchase.

Table 6-3: Tax Exemptions

Federal Government Tax Exemption Information	
Tax Exempt	Not Tax Exempt
Sales Tax	Certain federal and state excise taxes (e.g., Hawaii and Illinois)
Federal communications excise tax (FAR 29.203)	Tax on labor for work that is performed in that state, e.g., New Mexico Gross Receipts Tax (NMGRT).
Federal highway vehicle users' tax (FAR 29.203)	Commissary surcharges, because they are federally mandated.
	Foreign taxes on overseas purchases, unless foreign tax and Status of Forces Agreement (SOFA) will specify.
	Fuel purchases
	Arizona Transaction Privilege Tax

## 6-6. Surcharges

a. Surcharges are fees that a retailer adds to the cost of a purchase when a customer uses a credit card. As a result of the settlement between a class of retailers and the brands on January 27, 2013, merchants in the U.S. and U.S. Territories are permitted to impose a surcharge on cardholders when a credit card is used. Not all merchants impose a surcharge, and some states (e.g., Colorado, Connecticut, Florida, Maine, Massachusetts, New York, Oklahoma, Texas, and Utah) prohibit merchant surcharges. Cardholders who receive a surcharge in any of the above-mentioned states should report the merchant to the proper State authority.

b. Cardholders are required to be notified in advance if a merchant will impose a surcharge. Merchants must also include the surcharge fee on all receipts. Surcharges are allowable up to 4%. The limits vary by brand and by merchant discount rate. See [GSA SmartPay Bulletin #017](#). If a merchant is imposing a surcharge, the CH may consider choosing another merchant that offers the same or similar item(s) to avoid paying the surcharge.

## 6-7. Purchase Request and Approval Sample Template

Requiring activities will use the Army’s standard Purchase Request and Approval (PR&A) sample template or a substantially similar document when submitting purchase requests to CHs. Cardholders will process and route the document for signature prior to making a purchase. A purchase request

document will not be used for individual training (SF 182), MIPR, contract payments, and delivery orders/purchase orders. This document must be approved prior to purchase and uploaded into the bank's EAS once the transaction posts.

## **6-8. Accountable Property**

a. Personnel entrusted with the acquisition of Government property are responsible for its proper custody, safekeeping, and accountability in accordance with AR 710-4 (e.g., computer equipment, software, televisions, and large purchases). ANG will follow property accountability procedures outlined in Department of the Air Force Instruction (DAFI) 64-117. Accountable property includes (1) Government property purchased or otherwise obtained, having a unit acquisition cost of \$5,000 or more; (2) property of any value that is controlled or managed at the item level; (3) leased items of any value; (4) assets that are sensitive or classified; and (5) other items as specified by Army property instructions. Examples include pilferable property subject to theft, property hazardous to public health, small arms, property designated as heritage assets, IT property, and Government-furnished property (GFP).

### **b. GPC Accountable Property Procedures.**

- 1) CH will ensure that the Accountable Property Officer (APO) reviews each purchase request form or the applicable financial system prior to making the purchase.
- 2) CH will provide purchase receipt to APO within 5 days of obtaining the receipt.
- 3) When performing monitoring and oversight reviews, APOs must assess whether CHs provided the GPC receipts to the APO.
- 4) When applicable, contract payment CHs must review and comply with WAWF Invoicing, Receipt, Acceptance and Property Transfer module in accordance with DFARS 232.7002, 232.7003, and 252.232-7003. See DoD Charge Card Guidebook Section A.4.4.1.

c. **Exemptions.** Consumable items, services, and SF 182 training payments do not require APO approval. A consumable item is any item that loses its identity or is consumed in use (e.g., office supplies, paper, and batteries).

## **6-9. Payments of Monthly Invoices**

a. **Payment Delinquency Monitoring.** A/OPCs must track managing account certification after the end of the billing cycle and confirm whether the payments processed. A/OPCs can use the Managing Account Approval Status and Certification and Payment Report reports to identify accounts that have not been certified. The servicing bank may send reports of delinquencies and potential past due accounts. A/OPCs can also use the Past Due report in the bank's EAS to identify delinquent accounts. Past due notices (delinquencies over 30 days) must be handled immediately. GPC stakeholders must work together to research and correct any delinquency immediately. Delinquencies that are 60 days past due should be suspended. The Army goal is to pay all accounts on time. The Army maintains a zero tolerance for any percentage of receivables over 180 days past due.

b. The A/OPC will monitor account certifications and may suspend any account that is not certified within 5 business days. If the A/OPC suspends an account, once the account is certified, the A/OPC may reinstate the account. If the bank suspends an account, once the account is certified and paid, the account is automatically reinstated. The request to reinstate a suspended account due to non-certification, must include an explanation of the delay in certification and a plan to avoid future delays. If the account has been suspended for late certification more than once, any request to reinstate the account must come from the activity responsible for the account.

c. The Certifying Officer's minimum qualifications and eligibility are discussed in DoD FMR Volume 5, Chapter 33. Certifying Officers are responsible for the accuracy of payments, including designation of the proper appropriation(s) or other funds certified to the paying office and disbursing officer. To certify GPC invoices for payment by DFAS, the BO must be appointed as and accept the responsibilities of a



Certifying Officer using the DD Form 577 generated in JAM. The BO certifies the statement as the Certifying Officer, and the RM certifies the funding in GFEBS/other.

d. **Cardholder Statement Reconciliation and Certification.** The Army certifies invoices for payment after all purchased items have been confirmed. This procedure is called "Confirm and Pay." Any transactions that cannot be reconciled and approved for payment, will not be approved in the bank's EAS by the BO. ANG and certain other Army accounts supporting the Air Force certify invoices for payment following the "Pay and Confirm" model. Cardholders must match and approve transactions throughout the month to ensure accuracy and identify and resolve any funding errors. If a charged amount is incorrect, the CH must contact the vendor to resolve the discrepancy and may dispute the transaction, if necessary. Cardholders must also upload transaction documentation throughout the month to ensure BO visibility of purchase information. If the statement is correct at the end of the billing cycle, the CH must approve the statement within three business days of the billing cycle end date. For Army agencies that do not utilize the bank's EAS for monthly certification, per the DoD FMR, Vol 10 Chapter 23, Figure 23-2, the CH must complete a monthly certification statement as part of their reconciliation process.

e. Cardholders are responsible for reconciling the charges appearing on each statement for their GPC with receipts, purchase log, and other supporting documentation. Reconciling a card account involves the following key actions:

- 1) Review the transactions on the statement from the card-issuing bank and match them to the purchase log. Note: Transaction review and invoice obligation will be completed in only one system (i.e., either the bank EAS or another waiver-approved automated system, but never both). Component policy and procedures will designate the automated system in which CHs will perform review and obligation.
- 2) Reconcile/reallocate/dispute transactions, as appropriate. For each transaction posted to the statement, reallocate, if appropriate, from the default to an alternate LOA and approve or dispute each charge as appropriate.
- 3) Approve the statement.
- 4) Upload supporting documentation in the bank's EAS.
- 5) If the CH does not reconcile and approve the statement within 15 days after the close of the billing cycle, the CH is locked out of the file and the BO is required to perform the CH reconciliation/approval role. After a BO certifies a statement on the bank's EAS, the transaction file is locked and no further changes to the invoice are permitted.

f. **Billing Official Certification.** Reconciling and certifying a managing account involves the following key actions:

- 1) Review transactions to ensure they are legal, proper, correct, and mission essential.
- 2) Ensure all supporting documentation is obtained and correct. Billing officials should review the uploaded transaction documentation in AXOL to confirm all transactions are reconciled and approved for payment, receipt is verified, and all supporting documentation is loaded in the bank's EAS prior to certification.
- 3) Ensure CH reviews have been completed properly.
- 4) Ensure receipt of all accountable property has been properly documented.
- 5) Final-approve their CHs' transactions and certify the billing statement within five business days of the billing cycle end date.
- 6) For improper purchases (including unauthorized charges made by a properly appointed CH or GPC transactions intended for Government use but not permitted by law, regulation, or Component policy, such as splitting purchases), the Government is liable to pay; however, action may be taken against the CH.
- 7) If BOs find a questionable or fraudulent transaction, they should contact their A/OPC and follow the guidance in section 6-10.

g. **Processing Credits.** The [DoD FMR](#) is the authoritative source of guidance related to application

of credits. As stated in the FMR, transaction credits are funds sent back to DoD from the contracted bank resulting from returned items, billing errors, overpayments, duplicate payments, or erroneous payments. The [GSA SP3 Master Contract](#) defines "credit" as "any transaction that reduces the amount due to the agency/organization or account holder." Transaction credits must be credited to the original appropriation from which they were disbursed. Transaction credits will be posted as credits against CH statements, using the default LOA at the CH statement level, and should be reallocated as appropriate if the default LOA did not incur the original expenditure. For GFEBS funded accounts, transaction credits will be posted to the original eOrder that the debit was posted to. If the original eOrder is not available, a credit eOrder with the same LOA will be created for the credit to be matched to. In the case where a closed account carries a credit balance, the amount will be sent via check or using ACH to an installation account predetermined by the A/OPC. Checks will be addressed to "U.S. Treasury." The A/OPC will work with his/her RM in identifying an account and determining how the credit will be distributed across LOAs as warranted. The BO will send the check and LOA(s) to the supporting accounting office with a request to deposit.

## 6-10. Disputes, Defective Items and Fraudulent Transactions

a. **Disputes.** Cardholders must protect the Army's interest by initiating disputes when applicable. Failure to do so may result in administrative or disciplinary action. Transaction errors, such as duplicate billing, non-receipt or cancellation of supplies or services, returned supplies, invoice amount discrepancies, transaction paid by other means (e.g., split payments w/another organization), must be handled initially between the CH and the merchant. If the merchant is unwilling to accommodate a resolution, the CH will file a dispute in the bank's EAS. If a dispute is resolved in favor of the CH, a credit will be placed on the CH's statement. If the dispute is resolved in favor of the merchant, a letter will be sent to the CH explaining the decision and, since the charge was already paid, no further action will be taken. The steps below outline the process for disputing a charge:

- 1) Attempt to resolve any issue directly with the merchant prior to initiating a dispute.
- 2) Document all available information and attempts to correct the dispute. This information will become part of the supporting documentation.
- 3) Initiate the dispute in the bank's EAS (only after failing to resolve the issue with the merchant) as early as possible, but within 45 days from the posted date of the transaction.
- 4) Respond to any bank requests for additional information.

b. **Defective Items.** If items or services purchased are faulty or defective, the CH will obtain a replacement or repair of the item or re-performance of the service as soon as possible. If the merchant refuses to credit, replace, repair the faulty item, or re-perform the service to satisfaction, the CH will dispute the transaction.

c. **Fraud.** If the CH discovers fraudulent transactions (e.g., use of a lost or stolen card) on the statement, the CH will immediately contact the bank's Customer Service Department. The CH should also notify his A/OPC and BO of any fraudulent activity. If fraudulent activity is confirmed (which means a third party has gained access to the account), the bank will terminate the account and replace it with a new account number. All account information will transfer to the new account and the CH will continue to work with the servicing bank to resolve the fraudulent transactions.

d. Only the CH or BO can approve, dispute, or reallocate purchase card transactions. The servicing bank is responsible to ensure adequate controls are in place within their EAS to preclude anyone other than the BO from accessing, making changes, and certifying the monthly billing statement.

## 6-11. Non-Disputable Charges

a. **Card Misuse by Cardholder.** Charges that involve misuse or abuse by the CH are not disputable with the servicing bank. If the transaction was processed in accordance with established controls (e.g., within the purchase limits, not from a merchant with a blocked Merchant Category Code, then the bank



has fulfilled its responsibilities under the contract, and the Government is obligated to make payment for the transaction. The Government will take appropriate action, as prescribed in Chapter 11, Disciplinary actions, to seek restitution because of the improper misuse or abuse.

b. **Sales Tax.** If a charge involves sales tax erroneously invoiced by the merchant, the amount of the tax cannot be disputed with the bank. The CH should try to obtain a credit from the merchant. If a credit is not obtained, the CH should inform and request assistance from the A/OPC. The CH should seek restitution via the guidance provided by the [GSA SmartPay Tax Exemption website](#). The CH should document the file accordingly.

c. **Shipping Costs.** If a charge involves shipping costs erroneously invoiced by the merchant, the amount of the erroneous shipping costs cannot be disputed. The CH should try to obtain a credit for the transportation costs from the merchant. If a credit is not obtained, the CH should inform and request assistance from the servicing bank. The CH should document the file accordingly.

d. **Convenience Checks.** There is no convenience check dispute process within the bank. Any concerns with a purchase made by check must be resolved directly with the merchant. The checkwriter is responsible for securing restitution and/or credit for disputed purchases. The checkwriter will notify the A/OPC and request assistance to resolve disputes if necessary. Each organization is responsible for checks written on the account, unless it is determined fraudulent activity is involved.

e. **Third-party Payments.** If a dispute with a merchant involves a third-party payer (e.g., Google Pay, PayPal), the dispute is not with the third-party payer, but with the merchant. The bank has no privity to the transaction, and the CH must resolve the dispute with the merchant and/or the credit card company.

## 6-12. Rejected Payments

a. BOs must review LOAs selected by the CH as part of the review, reconciliation, and certification process. Payments are generally rejected because of missing or incorrect LOAs. The Army's financial management system will also reject missing or incorrect LOAs, requiring the finance office to make corrections or complete a manual payment in the system. When this happens, the A/OPC will notify the BO when a payment has been rejected in the system. The BO must immediately contact their RM for assistance in obligating funds in the system and processing the manual payment. For GFEBS-funded accounts, follow the GFEBS manual payment process.

### b. Steps for processing manual payments for non-GFEBS-funded accounts.

- 1) Print the managing account statement from the servicing bank's EAS (located under Account Information).
- 2) Download the Statement Signature Page and certify the statement with a pen and ink signature.
- 3) The BO may obtain the document control number for each transaction by running the Standard Document Number report from the bank's EAS (located under Custom Reports).
- 4) After the document control number is applied, the BO must forward the request for commitment, obligation, and expense to the appropriate resource manager along with a copy of the certified GPC bank statement.
- 5) The resource manager must input the requirement to the financial management system within two business days of receipt.

## 6-13. File Retention

a. GPC transaction documentation must be retained for six years in accordance with FAR 4.805. Billing officials are responsible for ensuring that record retention requirements are met. GPC transactions with foreign military sales (FMS) funding must follow the retention guidance in DoD FMR Volume 15, Chapter 6, and ensure the FMS documents are retained for 10 years from the date of final

case closure.

b. **Uploading Supporting Documentation.** CHs must upload all transaction supporting documentation in the bank's EAS. The uploaded documentation is the CH's official purchase file. If the complete file is uploaded in the EAS, CHs do not need to maintain a duplicate hardcopy or electronic file. For purchases that do not have uploaded documentation, the CH or BO must retain the corresponding hardcopy or electronic files for six years.

c. **Corrective Action.** When documentation is not retained in accordance with the GPC file retention policy, A/OPCs must evaluate the CH/BO's record retention processes and develop corrective action plans with target completion dates to prevent recurrence.

d. **Storage, Handling, and Contract files (FAR 4.805)**

- 1) Procedures for the handling, storing, and disposing of contract files must be in accordance with the National Archives and Records Administration (NARA) General Records Schedule 1.1, Financial Management and Reporting Records.
- 2) The Financial Management and Reporting Records can be found at <http://www.archives.gov/records-mgmt/grs.html>.
- 3) Procedures must consider documents held in all types of media, including microfilm and various electronic media.
- 4) The Army may change the original medium to facilitate storage if the requirements of the FAR 4.8, law, and other regulations are satisfied.
- 5) The process used to create and store records must record and reproduce the original document, including signatures and other written and graphic images completely, accurately, and clearly.
- 6) Data transfer, storage, and retrieval procedures must protect the original data from alteration. Unless law or other regulations require signed originals to be kept, they may be destroyed after the responsible agency official verifies that record copies on alternate media and copies reproduced from the record copy are accurate, complete, and clear representations of the originals.

e. Original disbursing office records, along with CH supporting documents in electronic format, negate the need for the CH to store duplicate hardcopy documents.

f. Electronic record storage requires adequate controls to ensure the digital images accurately represent the corresponding paper documentation and to detect changes to an original digital image. In addition, electronic storage must be in a centrally managed location that has an established backup process.

g. See 6-2.g. for GPC transaction documentation and disbursing office records. For additional examples of documents classified as disbursing office records, see DoD FMR Volume 5, Chapter 15, 150803.

h. Receipts are considered supporting documents for the certified billing statement. Original receipts are preferred; however, printed electronic forms or copies of an itemized receipt are acceptable. The receipt must be legible and indicate vendor's name and address, date of the purchase, and paid by credit card or zero amount due. Goods must be itemized/detailed with the item description, quantity, price, and extended price. The BO maintains these records electronically. The CH and BO may rely on the servicing bank's EAS for supporting documentation. Original records are considered Government property and may not be removed from Government control by the BO for any reason.

i. **Appointment Letters.** Delegation of authority letters and GPC appointment letters, executed by both the appointer and the appointee, will be retained in PIEE/JAM for six years after the delegation has been terminated through personnel action such as the appointee's separation, retirement, or transfer.

j. A/OPCs must retain any paper-based or email requests relating to new account issuance and maintenance for six years after the date of account issuance or update.

k. Data residing in the bank's EAS is maintained by the bank for six years. Reports may be retrieved from the bank's EAS for the previous two years. Reports covering data for periods beyond the previous two years are available from the bank upon request.

## 6-14. Services

a. The GPC may be used to purchase non-personal services up to the applicable MPT, whether recurring or non-recurring. If recurring, the requirement is the total estimated cost per fiscal year. Recurring services estimated to exceed the MPT per fiscal year will be acquired through the contracting office. Recurring services are performed at regular intervals and have a demand that can be accurately predicted on a yearly basis. Non-recurring services involve one-time, unpredictable, or occasional requirements, and may be purchased with the GPC up to the MPT whenever a requirement occurs.

b. When a CH receives a request to purchase services, it is crucial to identify if the services are subject to the Service Contract Labor Standards (SCLS) and determine the applicable MPT.

c. **Services Subject to Service Contract Labor Standards.** Examples include services performed by carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, and other laborers. Other examples include court reporters, administrative assistants, engineering technicians, and paralegals. To determine whether a service is subject to SCLS, CHs and A/OPCs can search the Service Contract Act wage determinations in SAM.gov to locate a list of applicable occupations for a specified state and county.

d. **Services Not Subject to Service Contract Labor Standards.** The following services are not subject to SCLS:

- 1) **Professional Services.** Examples include services performed by architects, engineers, professors, chemists, lawyers, doctors of medicine or dentistry, and software engineers. These services may include office work related to operations, teaching, practice of law or medicine, and skilled services such as computer services, sales, and business management. The primary duty must be the performance of work by persons requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor. If unsure, CHs and A/OPCs can search the Service Contract Act wage determinations in SAM.gov to confirm whether the type of worker is on the list for the applicable location.
- 2) **Statutory Exemptions from SCLS Coverage.** These services include the following:
  - (a) Construction, alteration, or repair, including painting, and decorating, of public buildings or public works (These services are covered by the Davis-Bacon Act.)
  - (b) Transporting freight or personnel where published tariff rates are in effect
  - (c) Furnishing services by radio, telephone, telegraph, or cable companies subject to the Communications Act of 1934
  - (d) Public utility service
  - (e) U.S. Postal Service
  - (f) Services performed outside the U.S. (except in territories administered by the U.S., as defined in the Act)
- 3) **Regulatory Exemptions from SCLS Coverage.** These services include the following:
  - (a) Shipping by common carrier, when the Government packs the item for a company to pick up and ship (e.g., UPS or FedEx)
  - (b) Maintenance, calibration, or repair of the following types of equipment:
    - (1) Automated data processing equipment

- (2) Scientific equipment and medical apparatus or equipment if the application of micro-electronic circuitry or other technology of at least similar sophistication is an essential element
- (3) Office/business machines not otherwise exempt if such services are performed by the manufacturer or supplier of the equipment
- 4) **Commercially Exempt.** The below services are exempt when the following criteria apply: The service is offered and sold regularly, furnished at "market" or "catalog" prices, and provided by merchant employee spending a small portion of available hours for Government services.
  - (a) Maintenance and servicing of motorized vehicles owned by Federal agencies
  - (b) Lodging, meals, and space in hotels/motels for conferences
  - (c) Real estate services
  - (d) Transportation on regularly scheduled routes
  - (e) Relocation services
  - (f) Maintenance, calibration, repair, and/or installation services for all types of equipment obtained from manufacturer or supplier of the equipment under a sole source contract.

#### **6-15. Deployed to an OCONUS Area of Responsibility (AOR)**

- a. The Deploying Activity will identify CHs and BOs that will be using the GPC while in a deployed status OCONUS. It is preferred to use existing Cardholders if available.
- b. Deployed situations may include humanitarian and contingency operations, training exercises, and/or TDY that involves use of the card to make mission-related purchases while OCONUS.
- c. The OCONUS AOR will determine whether the deploying CH will either 1) use their existing card or 2) receive a new card for use within the OCONUS AOR. The deploying CH's home station contracting office will coordinate with the contracting office and A/OPC of the deployment AOR for instructions. If deploying CHs receive new OCONUS cards, their existing card accounts will be suspended or terminated. If GPCs are authorized while deployed, the local RM must make appropriate adjustments to the LOAs, and additional information must be entered in the servicing bank's EAS if needed. The BO must notify the A/OPC in writing if GPCs are authorized while deployed. OCONUS GPCs will be managed to meet the program requirements of the issuing agency.
- d. **Card Deployment Steps:**
  - 1) Cardholder receives OCONUS orders/assignment.
  - 2) Deploying Activity determines which CHs will need to make purchases OCONUS and notifies the billing official(s).
  - 3) Billing official informs home station A/OPC.
  - 4) Home station A/OPC coordinates with OCONUS AOR to determine if CH will retain current card or receive new card at the AOR.
    - a) **Retain current card.** CONUS home station A/OPC will provide support and oversight.
    - b) **Receive new card.** OCONUS contracting office will provide support and oversight. Home station A/OPC suspends or terminates former card.
  - 5) Resource manager adjusts LOAs on the card account to be used OCONUS if needed.
  - 6) Supporting A/OPC provides training to the deploying CH and billing official on use of \$25,000 Overseas Simplified Acquisition authority and/or Emergency Type Operation (ETO) training.

## **6-16. Official Representation Funds (ORF)**

- a. The GPC is the preferred method of payment for ORF expenditures when the infrastructure supports GPC usage. A separate GPC account should be established to ensure accountability and transparency of ORF expenditures. Commands must adhere to all requirements of DoDI 7250.13 and Army instructions. Cardholders and authorizing officials should verify the availability of ORF funds before making purchases for properly authorized functions.
- b. Official Representation Funds may be used to extend official courtesies to authorized guests of the U.S., DoD, and the Department of the Army. Cardholders may use the GPC to make ORF purchases and must comply with the policy and instructions in AR 37-47.
- c. Cardholders making ORF purchases must have a designated card solely for this purpose. A/OPCs must request third line embossing of "ORF" when creating the card account.

## **6-17. Cable, Utilities, and Telecommunications Services (CUTS)**

The GPC is the preferred payment method for CUTS contracts pursuant to FAR 13.301(c)(3) and FAR 32.1108. Energy and services under this authorization are defined as water, steam, sewage, electricity, natural gas and propane gas, heating oil, cable television, and cell and landline telecommunications expenses. Contracting officers or contract payment CHs appointed in JAM are authorized to make contract payments. See FAR 32.1108.

## **6-18. Freedom of Information Act (FOIA) Requests**

- a. Local A/OPCs will respond to FOIA requests made at the installation, base, or activity level, from the appropriate FOIA offices, for the organizational addresses and telephone numbers of CHs. FOIA requests will only be released as required by the Freedom of Information Act, 5 USC 552, and 29 Jun 2006 DoD Memorandum "FOIA Policy on Release of Credit Card Data."
- b. In response to FOIA requests submitted by the public for transaction-related GPC data, only the following specific data is authorized for release:
  - 1) Merchant Category Code
  - 2) Transaction amount
  - 3) Merchant name
  - 4) Merchant city, state, ZIP code, and phone number
  - 5) Transaction date
- c. When the servicing bank is needed to provide transaction data to comply with FOIA requests from the public, the servicing bank charges a \$350 fee to the party requesting the data to be paid prior to the search. In instances where search results in no data or limited data, the servicing bank does not refund the charge, since they have performed the data search and provided the results. If the party desires another search, a new fee of \$350 is required.

## CHAPTER 7 – REFUNDS

### 7-1. Refunds Overview

a. The servicing bank will provide the CPM a summary report of refunds broken down by quarter, Level 3 hierarchy, and Level 2 fund centers. The report is due 30 calendar days after the quarter ends. The servicing bank will provide training and assistance to the CPM and Level 3 A/OPCs in recalculating the Army refunds as required by DPCAP and the GSA SmartPay® 3 Contract. The servicing bank, in coordination with the CPM, will annually review refunds such as merchant credits, uncashed checks, and other miscellaneous refunds (foreign currency exchange fee) to ensure the Army receives all refunds due (both CONUS and OCONUS).

b. Any refunds or credits due to the Army may be received in a manner agreed to between the Army and the servicing bank (e.g., ACH, checks).

c. The Army will coordinate with DFAS quarterly regarding collected and outstanding refunds.

d. If DFAS does not receive the DD 1131 within 30 calendar days of the servicing bank's refund email notification, HQDA ASA/ALT (SAAR-ZR) will collect the outstanding refunds. If the refunds are not collected within 60 calendar days, DFAS will forward the refunds to Treasury account 21R3210.

### 7-2. Refund References

a. **References.**

- 1) DoD Charge Card Guidebook, Paragraph A.4.9
- 2) OMB Circular A-123 Appendix B, Paragraph 7
- 3) Public Law 110-116, Section 8067
- 4) DoD FMR Volume 10 Ch. 23 Section 230207 and Vol. 10 Ch. 2 Section 020206 and 020302

b. **DoD Charge Card Guidebook Paragraph A.4.9.1. Application of Refunds.** Pursuant to permanent authority enacted in the Fiscal Year 2008 DoD Appropriation Act, P.L. 110-116, Section 8067 and DoD FMR Vol. 10 Ch. 23 Section 230207 and Vol. 10 Ch. 2 Section 020206 and 020302, refunds attributable to the use of the GPC may be credited to operation and maintenance (O&M), or research, development, test and evaluation (RDT&E) current accounts when the refunds are received. Refunds may be applied at the Army or CH level, depending on Army policy and the issuing bank task order. See DoD FMR Vol. 10 Ch. 23 Section 230207 and Vol. 10 Ch. 2 Section 020206 and 020302.

c. **OMB Circular A-123 Appendix B Paragraph 7.5.** Unless specific authority exists allowing refunds to be used for other purposes, refunds must be returned to the appropriation or account from which they were expended and can be used for any legitimate purchase by the appropriation or account to which they were returned, or as otherwise authorized by statute.

d. **Transaction Credits.** Transaction credits, which are funds sent back to DoD from the contracted bank resulting from returned items, billing errors, overpayments, duplicate payments, or erroneous payments, must be credited to the original appropriation from which they were disbursed.

e. Vendors and contractors offer discounts, and banks issue various government purchase cards that provide refunds to encourage early payment of their receivables. The Army will take advantage of the discount and refund offers only when it is economically justified and advantageous to the Army. The Army will follow the supporting guidelines for taking discounts and refunds found in Title 5 of the Code of Federal Regulations (CFR) 1315, FAR 32.906(e), and OMB Circular A 123, Appendix B, Chapter 7.

### 7-3. Refund Process

The process and procedure used to distribute refunds to the Army from the servicing bank is detailed in the Army Refund SOP located on the [GPC PAM website](#).

#### **7-4. Refund Distribution**

a. Refunds, also referred to as rebates, will be distributed by the servicing bank via ACH (electronic funds transfer) to DFAS approximately 25 days after the quarter end (Jan 25, Apr 25, Jul 25, Oct 25) and may be distributed/allocated at the discretion of each Army Major command. Refunds must be utilized in the fiscal year when the refund was received.

b. The servicing bank will notify the GFEBS Level 2 Fund Center RM POCs by email with an attached spreadsheet providing the total ACH amount of their Level 2 Fund Center refund. POCs must be identified by the Level 2 Fund Center G8/Comptroller. DFAS will be provided a spreadsheet which contains the refund amounts for each Level 2 Fund Center.

c. Level 2 Fund Centers must decide whether the refund will be processed at their level or delegated to Level 3/4 Fund Centers, understanding it is their responsibility to monitor all refunds and the subsequent clearing. Execution requires entering FB65 in GFEBS and submitting Cash Collection Voucher (DD1131) to DFAS-IN by the Level 2 RM POC within 30 days of the servicing bank's refund email notification. The Major commands will make the determination as to how the refund will be dispersed within their command (e.g., keep refunds at HQ or major RM or disseminate to subordinate activities). GFEBS-SA to use Level 3 Headquarter Fund Centers to claim refund and distribute, if desired, using Journal Voucher (JV) entry correction, t-code FV50, which requires JV Workflow Approval.

d. Detailed reporting by the servicing bank Total Business Relationship (TBR) hierarchy will be provided to each GFEBS Level 2 Fund Center RM POC as well as the normal distribution process.

e. DFAS will process the refund in ADS 5570 using the GFEBS FB65 document number and summary LOA information provided on the DD 1131, so collection is received via DCAS interface.

#### **7-5. Uncollected Refunds**

Refunds not collected within 30 calendar days of the servicing bank's refund email notification will be collected by HQDA ASA/ALT and the commands will no longer have access to the refunds for that quarter. This step provides the Army access to the refunds vice the refunds being forwarded to Treasury due to non-collection.

## 7-6. Commands not Utilizing GFEBS or DFAS for Refund Processing

The commands/activities listed below do not use GFEBS or DFAS for refund processing. The commands/activities listed in Table 7-1 will follow procedures developed between the servicing bank and their finance office.

Table 7-1: Commands/Activities Not Utilizing GFEBS/DFAS for Refund Processing

Funds Center Name	Distribution Method
Army NAF	ACH
Army USACE	ACH
Air National Guard	ACH
Army Working Capital Fund - ACC	ACH
DOT&E, Center for Countermeasures (Agent #1743)	ACH
Army- Tuition (Agent #1511) (Check disbursement)	Check



## CHAPTER 8 - EDUCATION, TRAINING AND TUITION ASSISTANCE

### 8-1. Training, Education and Professional Development (TE&PD) Services

#### a. References.

- 1) **5 USC 41.** This law establishes the Government Employees Training Act and provides authority to reimburse employees for necessary training expenses.
- 2) **DoD FMR Volume 10, Chapter 12, "Miscellaneous Payments."** This chapter authorizes miscellaneous payments for military and civilian tuition and training.
- 3) **DoDI 1400.25, Volume 410.** This volume outlines the conditions for using the GPC to purchase TE&PD services from non-government sources.
- 4) **DoD Guidebook for Miscellaneous Payments.**
- 5) **FAR Part 13.**
- 6) **AFARS 5113.270-90(g).**
- 7) **AR 350-1, Army Training and Leader Development.**

b. Cardholders may use the GPC to pay for necessary training expenses, including training courses; training conferences; library and laboratory services; purchase or rental of books, materials, and supplies; and other services or facilities directly related to employee training. The training may be provided by government or non-government sources. If a non-government source provides the training, the training must be commercial-off-the shelf (COTS) to purchase with the GPC.

c. **SF 182.** The Standard Form (SF) 182, Authorization, Agreement, and Certification of Training, is DoD's authorized and required training obligating document. Each student should complete an SF 182 or equivalent. Organizations must not identify multiple individuals under Section A – Trainee Information (i.e., no bulk SF 182s). The SF 182 is used to approve training or education courses, conventions, conferences, symposiums, meetings, workshops, and other events if the primary reason for the activity is to train or develop the attendee to meet mission needs. The SF 182 may not be used to procure general supplies, training equipment, or non-training services. See OPM.gov for the current version of the SF 182.

d. **Total Employee Development.** The Total Employee Development (TED) system is an approved electronic equivalent to the SF 182. The CH may generate the TED Credit Card Purchase Report instead of the SF 182. See link to TED website: <https://ted.army.mil/>.

e. Training requirements generally fall under one of the below three categories. Each category has corresponding limits and available procurement methods. See sections 8-2, 8-3, and 8-4 for specific guidance on each category.

- 1) Individual slots in existing COTS course.
- 2) Entire COTS course (group training).
- 3) Tailored training.

### 8-2. Individual Slots in Existing COTS Course

a. Cardholders may use the GPC to pay for individual student(s) to attend a COTS course, training conference or training event when the session/event already exists. All applicable event details (e.g., date, time, location) are known and advertised to the public. The cardholder is paying for slot(s) in the existing session or event. For example, the CH registers a student for a session in which the date and location are advertised on the vendor's website.

b. Per DoDI 1400.25, Vol. 410, the maximum limit for training authorized by use of a single SF 182 is \$25,000 per transaction. Paying for individual slot(s) in an existing course is not a FAR-based transaction. As such, the MPT does not apply to these transactions.

c. Each slot may be considered its own transaction, even when paid together. Each student must have an approved SF 182 or equivalent. Each slot must be below \$25,000. Cardholders may pay each slot as a separate transaction or may combine the slots into a single transaction for the total amount.

d. Cardholders will use the GPC as the method of payment for commercial training requests using the SF 182, only when:

- 1) SF 182 or equivalent is granted to individual employees; and
- 2) The individual employees will attend a regularly scheduled, off-the-shelf course that is available to the public and priced the same for everyone in the same category (e.g., priced per student, course, program, service, or training space) and requires no tailoring; and
- 3) The GPC is being used to pay the training provider directly instead of reimbursing the employee by miscellaneous payment as authorized in the DoD FMR and DoDI 1400.25, Volume 410; and
- 4) The requirement is valued at or below \$25,000.

e. To purchase training using the SF 182, the CH will have the Miscellaneous Payments Official Cardholder (SF-182 Training Payments) designation in their appointment letter in JAM.

f. Agent authority is used to pay vendors directly for training approved on an SF 182 or equivalent that would otherwise be reimbursed to an individual. For example, an employee obtains approval and registers for a class that is open to the public. A cardholder pays the vendor directly, thus eliminating any need to reimburse the employee (DoD FMR Volume 10, Chapter 12, Section 120323).

g. **File Documentation.** Cardholders must redact PII (e.g., social security number) before uploading documents in the bank's EAS. Cardholders will include the following documentation in their purchase file:

- 1) Signed SF 182 or equivalent.
- 2) Invoice and/or receipt.
- 3) Proof of class completion (e.g., signed Section F of SF 182, training certificate, sign-in roster, TED Credit Card Purchase report).

### 8-3. Entire COTS Course (Group Training)

a. Cardholders may use the GPC to purchase an entire COTS course. In this category, the CH is coordinating with the vendor to schedule and pay for a group training session. For example, the CH is scheduling and purchasing a leadership course for up to 30 students.

b. Group training is a FAR-based transaction and service subject to the MPT (not subject to SCLS). See FAR Part 2.101, Definition of a Micro Purchase. Requirements exceeding the MPT must be directed to the supporting contracting office for action.

c. To purchase a group training session, CHs will have one of the below designations in their appointment letter, as applicable:

- 1) **Micro-Purchase Cardholder.** The course is priced below the applicable MPT and does not require the CH to agree to terms and conditions other than price and delivery.
- 2) **Contract Ordering Official Cardholder.** The course is available under established contracts (e.g., FSS, indefinite-delivery contracts, BPAs) that do not require the CH to agree to terms and conditions other than price and delivery. Cardholders may order a training course up to their delegated limit for this authority (\$25K or \$250K maximum). See Table 1-3 and paragraph 1-8.e.

d. **File Documentation.** Cardholders will include the following documentation in their purchase file:

- 1) Army Purchase Request & Approval (PR&A) or equivalent.
- 2) Invoice and/or receipt.
- 3) 889 Representation.

- 4) Proof of class completion (e.g., training certificates, sign-in roster, Section V of PR&A, TED Credit Card Purchase report).

e. **SF 182.** The purchase of an entire group session is subject to the MPT even if each student has an SF 182. The fact that each student has an SF 182 does not mean the CH is paying for individual slots.

f. The following examples illustrate the proper application of the MPT for group training. See 8-6 for additional examples.

- 1) **Example 1.** A CH is buying a Myers-Briggs seminar for 35 employees at a total cost of \$9,500. The GPC may be used as both the procurement and payment mechanism because total cost is below the MPT.
- 2) **Example 2.** An organization is requesting a 3-day retirement course for 150 participants held at the installation. The total cost is \$30,000. The organization cannot divide the total cost by 150 to arrive at a price per student (\$200) and pay for 150 separate slots. The MPT must be applied to the aggregate cost, i.e., \$30,000. Because the total cost exceeds the MPT, the GPC cannot be used as the purchasing method. The request must be procured by a contract action. If desired, GPC may be used as the payment mechanism on the contract.

#### 8-4. Tailored Training

a. This category describes training in which the vendor is making the course content and/or materials to be specific to the requesting agency. Tailored training typically requires a detailed Statement of Work (SOW) and review/acceptance of deliverable. The following are indicators of tailored training:

- 1) Creating a new training course.
- 2) Changing the content of an existing course to make it agency-specific.
- 3) Adding terms and conditions to a regularly scheduled, COTS training event.

b. If the Government has a need for tailored training or tailored training materials, the requirement must be forwarded to the contracting office for procurement. (See DoDI 1400.25, Volume 410.) The GPC may be used as the payment method on the awarded contract; see paragraphs 1-2.d. and 1-8.g. Cardholders cannot use the GPC as the procurement method.

c. **Non-Tailored.** Setting a date and time for a COTS class and/or offering a COTS class on the installation is not considered tailored. Cardholders may use the GPC to purchase a course which was initially developed for the organization/agency but is now being offered as a COTS course.

#### 8-5. Subscriptions for Training Access

a. Subscriptions for access to on-demand training (e.g., training platform, portal, or website) are FAR-based transactions and subject to the MPT. The MPT applies to the dollar value of the total cost of the subscription. Subscription services for groups or organizations typically set a threshold or limit to the number of employees who can access training services via the subscription for the flat subscription cost; the costs are not pro-rated or adjusted by the number of actual employees that actually access the training. Subscriptions should be in the name of the agency.

b. **Example.** A CH is buying a subscription to a training vendor's on-demand training site for a cost of \$9,000 per year. Up to 300 employees can access on-demand training under the subscription and the cost is not pro-rated based on actual use. The CH may use the GPC to purchase the subscription because it falls within the \$10,000 MPT. If the cost per year is \$11,000, the requirement must be forwarded to contracting for action.

#### 8-6. Training Purchase Examples

The following examples demonstrate how to apply the above guidance in purchasing situations:

a. **Situation 1.** Five individuals each have an approved SF 182 authorizing them to attend in-person leadership training. The cost of the training is \$6,000 per student (seat). The training will take place off the installation. The details of the training session, including date and location, are advertised on the vendor's website.

**Resolution.** The CH may use the GPC because he/she is paying for individual slots in an existing COTS course. Even though the total price is \$30,000, the CH may use the GPC because each student's slot is within the \$25,000 SF 182 payment limit. The training institution should invoice \$6,000 for each approved student.

b. **Situation 2.** Three individuals each have an approved SF 182 authorizing them to attend conflict resolution training. The cost of the training is \$2,000 per student (seat). The training is to be held virtually and is open to the public. The date of the class is advertised on the vendor's website.

**Resolution.** The CH may use the GPC because he/she is paying for individual slots in an existing COTS course. The cost per slot is within the \$25,000 SF 182 payment limit. The training institution may either invoice per student (three \$2,000 transactions) or per total cost (one \$6,000 transaction).

c. **Situation 3.** The requiring activity is requesting a COTS training course for 15 students for a total cost of \$8,000. The course description is listed on the vendor's website. The activity is asking the vendor to teach the course on the installation at a particular date and time.

**Resolution.** The CH may use the GPC because the total purchase cost is within the applicable services MPT. The activity is purchasing an entire COTS course (group training), which is considered a service and a FAR-based action. Because training is considered a professional service, the applicable purchase limit is \$10,000. Cardholders authorized to make micro-purchases can make the purchase if the vendor does not require agreement to terms and conditions other than price and delivery. Alternately, if the course is available on an existing contract or BPA, a CH with Contract Ordering Official authority could make the purchase.

d. **Situation 4.** The requiring activity is seeking to procure a virtual COTS retirement training course for up to 30 individuals. The estimated total cost of the retirement training is \$12,000.

**Resolution.** The CH cannot purchase with the GPC because the total cost exceeds the applicable services MPT. The activity is purchasing an entire COTS course (group training), which is considered a service and a FAR-based action. Because training is considered a professional service, the applicable purchase limit is \$10,000. The CH should direct the request to the contracting office for action. Alternately, if the course is available on an existing contract or BPA, a CH with Contract Ordering Official authority could make the purchase.

e. **Situation 5.** The requiring activity is seeking a vendor to provide specialized training on an Army vehicle. The government has outlined the course requirements in a statement of work, and the vendor is creating a new course according to the government's request.

**Resolution.** The CH cannot purchase with the GPC because the course is considered tailored training. The CH must send the request to the contracting office for action. If desired, the GPC may be used as the method of payment on the awarded contract.

## **8-7. Use of the GPC for Tuition Assistance**

a. **Military Tuition Assistance.** Cardholders may use the GPC as the payment method for military tuition assistance invoices. DD Form 2171, Request for Tuition Assistance (TA), provides financial assistance for voluntary off-duty education programs in support of soldiers' professional and personal

self-development. Advance payments are authorized under the TA Program in accordance with AR 621-5. All course enrollments must be approved prior to start of class. Soldiers must request TA through the [ArmyIgnitED website](#), prior to the course start date or before the school's late registration period.

b. **Air National Guard Tuition Assistance.** ANG TA funds are requested by the student using an AF Form 1227, Authority for Tuition Assistance - Education Services Program. The AF Form 1227 must be used as an approval document, which equates to a commitment, but not as an obligation document. Only AF Form 1227s generated in the Air Force Virtual Education Center (AFVEC) will be utilized for TA payments.

c. **Academic Degree Training.** Academic degree training is training or education with the stated objective of obtaining an academic degree from an accredited college or university. The academic degree **must** be related to the performance of the employee's official duties and part of a planned, systematic, and coordinated program of professional development, endorsed by the Army that supports organizational goals and results and the results are measurable in terms of individual and organization performance. See AR 350-1, section 4-17, for requirements and limitations.

d. Cardholders may use the GPC to pay for academic degree training approved by the appropriate authority indicated in AR 350-1. Academic degree training requests, regardless of funding source (career program or command), require approval by the Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)). This does not apply to employees in Army-sponsored Intern or Fellows programs. Employees must not circumvent the academic degree training approval and funding process by submitting requests for the approval of individual college courses, annotating that such training is not part of an academic degree training program.

#### **8-8. Repayment of Training Expenses**

a. Commanders at all levels must ensure that the Government's interests are protected when an employee fails to complete training for which the Army pays all or part of the training expenses. If a government employee attends a training event prior to receiving official approval, to include a fund citation, the employee may be responsible for all associated training costs.

b. **Government Training.** If an employee fails to complete training, commands will take appropriate action IAW AR 350-1. If failure to complete the course is beyond the employee's control (such as illness or recall by proper authority), no action will be taken.

c. **Non-Government Training.** If an activity pays for training only when the training is completed or requires the employee to share the training costs, the activity will fully inform the employee in advance. In some cases, this information may be included in the continued service agreement. If an employee fails to complete training, commands will take appropriate action IAW AR 350-1. If failure to complete the course is beyond the employee's control (such as illness or recall by proper authority), no action will be taken.

## CHAPTER 9 - REQUIRED SOURCES OF SUPPLIES AND SERVICES

### 9-1. Required Sources

a. Cardholders must purchase in accordance with the priorities set forth in [FAR Part 8](#), along with use of mandatory sources (i.e., inventories of the requiring agency, excess from other agencies, FPI supplies on the [Procurement List](#) maintained by AbilityOne, wholesale supply sources, services on the [Procurement List](#) maintained by AbilityOne, and other mandatory sources as specified in [FAR 8.003](#)) or optional sources (i.e., FSS; Governmentwide acquisition contracts; multi-agency contracts; any other procurement instruments intended for use by multiple agencies, including BPAs under FSS contracts; FPI; and commercial sources (including educational and nonprofit institutions) in the open market).

b. **Coordinated Acquisition Assignments.** Requiring activities must obtain the assigned supplies listed in [DFARS PGI 208.7006](#) from the Component responsible to supply the commodity through use of a MIPR as prescribed in [DFARS 208.7002](#) and [DFARS PGI 208.7004](#). Examples of assigned commodities include flags/pennants, badges/insignia, tents, weapons, ammunition, and explosives.

Table 9-1: FAR Part 8 - Required Sources of Supplies and Services

Regulatory Reference	Supplies and Services
<b>FAR 8.002</b>  <b>Priorities for Use of Mandatory Sources</b>	<p><b>Supplies</b></p> <ol style="list-style-type: none"> <li>1. Inventories of the requiring agency</li> <li>2. Excess from other agencies</li> <li>3. Federal Prison Industries (UNICOR)</li> <li>4. AbilityOne – products on Procurement List</li> <li>5. Wholesale supply sources, such as stock programs of GSA, DLA, and military inventory control points</li> </ol> <p><b>Services</b></p> <p>Services on the Procurement List - by the Committee for Purchase from People Who Are Blind or Severely Disabled</p> <p>Note: Sources other than those listed above may be used as prescribed in 41 CFR 101-26.301 and in an unusual and compelling urgency as prescribed in 6.302-2 and in 41 CFR 101-25.101-5.</p>
<b>FAR Part 8.003</b>  <b>Use of Other Mandatory Sources</b>	<ol style="list-style-type: none"> <li>1. Public utility services (See FAR 41.)</li> <li>2. Printing and related supplies (See FAR 8.8.)</li> <li>3. Leased motor vehicles (See FAR 8.11.)</li> <li>4. Strategic, critical materials (e.g., metals, ores) from inventories exceeding Defense National Stockpile requirements.</li> </ol>
<b>FAR Part 8.004</b>  <b>Use of Other Sources</b>	<p>Agencies are encouraged to consider satisfying requirements from the non-mandatory sources listed in paragraph (a) of this section before considering the non-mandatory source listed in paragraph (b). See 7.105(b) and part 19 regarding consideration of small businesses and socioeconomic programs.</p> <p>(a)</p> <p>(1) <b>Supplies.</b> FSS, Governmentwide acquisition contracts, multi-agency contracts, and other procurement instruments intended for use by multiple agencies, including BPAs under FSS contracts (e.g., FSSI BPAs).</p> <p>(2) <b>Services.</b> Agencies are encouraged to consider Federal Prison Industries, Inc., as well as the sources listed in paragraph (a)(1) of this section.</p> <p>(b) <b>Commercial open market sources</b> (to include commercial platforms).</p>

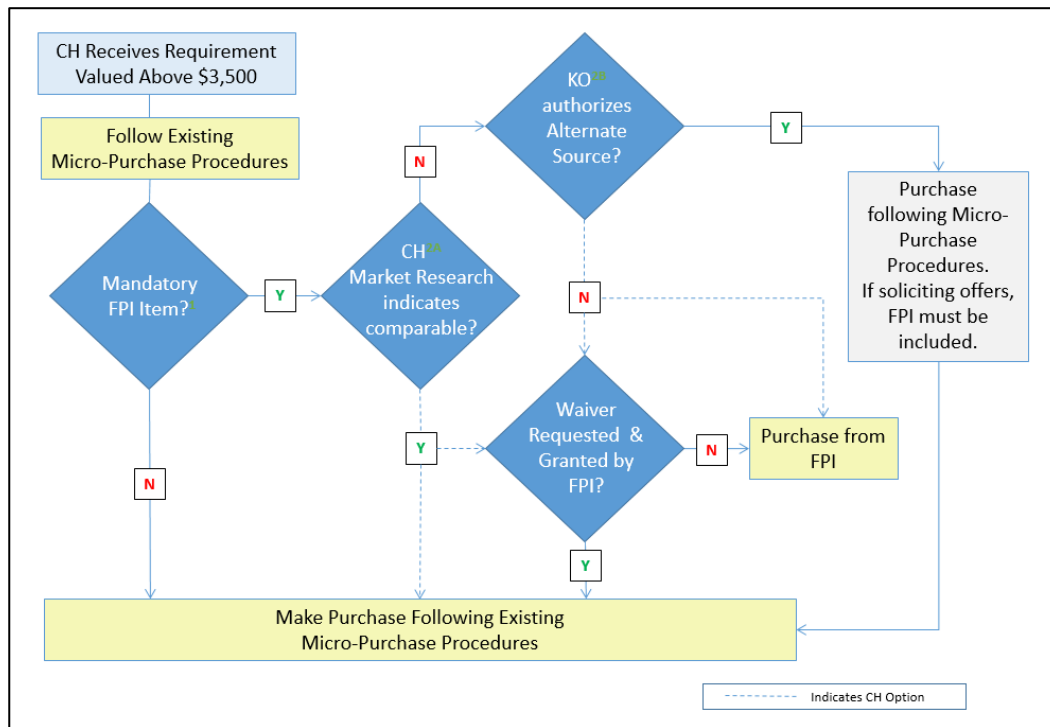
Table 9-2: Mandatory Sources for Certain Commodities

Commodity	Examples	Mandatory Source	Specific Instructions
Office Furniture	Tables, file cabinets, furniture systems (cubicle dividers), industrial shelving	<a href="#">UNICOR/ Federal Prison Industries</a>	Consider UNICOR for any FPI schedule items above <b>\$3,500</b> . See paragraph 9-2.
Office Supplies	Printer toner, copy paper, pens, pencils, staplers, staples, self-stick pads, file folders	Local AbilityOne Base Supply Store (BSC) if available, or through the sources located at <a href="#">AbilityOne</a>	Shop local/installation AbilityOne BSCs first, if applicable. See paragraph 9-3.
Information Technology	Computers, software, video-teleconferencing equipment, peripherals, IT services	<a href="#">Computer Hardware, Enterprise Software and Solutions (CHESS)</a>	Mandatory for all IT purchases, unless you obtain a SoNA. See paragraph 9-4.
Cellular Services	Cellular phones, wireless tablets, wireless service	<a href="#">Navy Spiral 4 Contracts</a>	See paragraph 9-5.
Print Devices and Services	Printers, copiers, scanners. Maintenance and repairs. Banners, decals, manuals.	<a href="#">DLA Document Services</a>	See paragraph 9-6 for details and exemptions.
Heraldry	Official flags, guidons, streamers	<a href="#">Clothing and Heraldry PSID</a>	See para 9-7 and AR 840-10.

## 9-2. UNICOR/Federal Prison Industries

a. Cardholders must comply with FAR Part 8 FPI requirements for items estimated between \$3,500.01 and the MPT. FAR 8.6 describes the procedures for acquisition from FPI/UNICOR. Additional information about FPI/UNICOR is available at UNICOR's website. Cardholders may request a waiver from FPI/UNICOR (FAR 8.604). The Army will process any waiver requests in accordance with the [UNICOR Waiver Process](#). For supply purchases priced above \$3,500, follow the steps in Figure 9-1 to determine whether the purchase must be made from FPI/UNICOR.

Figure 9-1: FPI Purchasing Decision Framework



b. When following priorities for use of mandatory sources, if FPI (also referenced by the trade name UNICOR) and AbilityOne participating nonprofit agencies produce identical supplies or services, FPI is the higher priority for supplies and AbilityOne is the higher priority for services ([FAR 8.002](#) and [FAR 8.603](#)).

c. Purchase from FPI/UNICOR is not mandatory, and a waiver is not required, if any of the following exceptions from FAR 8.605 apply:

- 1) The contracting officer makes a unilateral determination (on a case-by-case basis) that the FPI/UNICOR item of supply is not comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery (FAR 8.602(a)(1)); and the item is acquired in accordance with FAR 8.602(a)(4). Cardholders should work with their supporting contracting office to make this determination.
- 2) Public exigency requires immediate delivery or performance.
- 3) Suitable used or excess supplies are available.
- 4) The supplies are acquired and used outside the United States.
- 5) The supplies are priced at or below \$3,500.
- 6) The items FPI/UNICOR offers are being purchased exclusively on a competitive (non-mandatory) basis, as identified in the UNICOR Schedule.
- 7) Services are being purchased.
- 8) FPI/UNICOR is not a mandatory supplier for the supply being purchased. See the UNICOR Alphabetical Schedule of Products and Services to determine whether a requirement is available from FPI/UNICOR.
- 9) FPI/UNICOR's share of the DoD Market for a mandatory item in an FSC is greater than 5 percent. See the list at [Purchases from Federal Prison Industries; Updated List of Federal Supply Classification Codes to be Completed](#).

### 9-3. AbilityOne



a. Cardholders may purchase AbilityOne [Procurement List](#) supplies directly from AbilityOne or from one of their authorized distributors to satisfy the mandatory requirement. CHs should first shop at their respective local AbilityOne® Base Supply Center (BSC), where such stores exist. AbilityOne profits are maximized for purchases made directly from AbilityOne, such as a BSC or an AbilityOne online catalog. The AbilityOne producing agency sells the supply at a set price (fair market value). The distributor can sell the supply at varying prices but is not allowed to sell below the fair market value.

b. If FPI/UNICOR and AbilityOne participating nonprofit agencies produce identical supplies or services, FPI/UNICOR is the higher priority for supplies and AbilityOne is the higher priority for services (FAR 8.603 and 8.002). Unlike FPI/UNICOR procedures, AbilityOne purchasing procedures are applicable to all purchases regardless of dollar value and do not allow contracting officers to authorize purchase from an alternate source. If the requirement can be fulfilled with an AbilityOne product on the [Procurement List](#), the CH must purchase from FPI/UNICOR unless they receive a waiver from FPI/UNICOR allowing them to purchase from AbilityOne.

c. Cardholders may request a waiver from AbilityOne following the procedures at [AbilityOne's Policy 51.541](#). Before AbilityOne approves any waiver request, it can (1) review product information to ensure the alternate product is essentially the same as the AbilityOne product, and (2) offer a price match.

d. AbilityOne purchasing procedures do not allow contracting officers to authorize purchase from an alternate source. Prices of items on the [Procurement List](#) are fair market prices as established by AbilityOne (FAR 8.707). Purchase at these established prices is mandated without further consideration of prices available from the private sector.

e. For units in Germany, Italy and the United Kingdom, the preferred use policy for office supplies is through the [Joint Office Supply Europe program \(JOSE\)](#). For information on JOSE, cardholders may contact their A/OPC or view the [JOSE Preferred Use Policy for Office Supplies memorandum](#).

#### **9-4. Computer Hardware, Enterprise Software and Solutions (CHESS)**

a. [CHESS](#) is the mandatory source for all purchases of commercial-off-the-shelf software, desktops, notebook computers, video teleconferencing equipment, and other commercial Information Technology (IT) equipment (e.g., routers, servers, peripherals, regardless of dollar value). CHESS is the mandatory source for all Army IT purchases, except for the Air National Guard, which is exempt from the CHESS requirement and must purchase IT through [Air Force Advantage / GSA-2GIT](#) to retain IT compatibility. Per AFARS 5108.7403, before procuring commercial software outside of the CHESS contracts, the contracting officer or contract ordering official CH must ensure that the requiring activity obtains a waiver. Any IT hardware or software purchase made outside of CHESS requires a Statement of Non-availability (SoNA). See AFARS 5139.101-90(a) and AR 25-1.

b. All desktops and notebooks must be purchased during one of the Consolidated Buy ordering periods that occur three times annually (Oct/Jan, Feb/May, and Jun/Sep). Consolidated Buy exception memos are prepared by the requiring activity and are approved by an O6/GS-15 (or equivalent) within the requiring activity and must remain a part of the transaction document file. An exception memo example is available at [CHESS Exception Request](#).

c. IT hardware or software purchases require an Army Deputy Chief of Staff (DCS), G-6 approved Information Technology Approval System (ITAS) Memorandum. CHs must include the ITAS Approval Memorandum in the transaction file along with all other supporting documentation. Supporting documentation must include documentation submitted with the ITAS approval request such as a CHESS SoNA. The CHESS website provides information concerning ITAS approvals. CHs may also consult their local command for guidance. The ITAS Approval website is located at <https://cprobe.army.mil/enterprise-portal/web/itas/home>.

d. Any IT hardware or software purchase made outside of CHESS requires a SoNA. A SoNA is a notice that a particular product is not currently available through a CHESS contract. It is not a waiver to

purchase, nor does it authorize use on the Army network. For detailed instructions on SoNA requirements and how to obtain a SoNA, see [CHES SONA](#).

### 9-5. U.S. Navy's Spiral 4 Contracts

The U.S. Navy's Spiral 4 contracts are mandatory for cellular phone, wireless devices, and wireless service purchases. CHs must have the Contract Ordering Official special designation in their appointment letter to place orders against the Navy's Spiral 4 contracts from any listed vendor (AT&T, Hughes Network, MetTel, Real Mobile, T-Mobile, Verizon, and WidePoint). All purchases must comply with the Spiral 4 – Mandatory Ordering Guide. Orders may not exceed one year and are only authorized in CONUS due to task order limitations with the GPC. See [https://my.navsup.navy.mil/apps/ops\\$ncmpo.home](https://my.navsup.navy.mil/apps/ops$ncmpo.home).

### 9-6. DLA Document Services

Cardholders will purchase print devices and services from the Defense Logistics Agency (DLA). This requirement applies to Unclassified and Secret-level printing devices (e.g., self-service office copiers and multi-functional devices, desktop and stand-alone printers, and scanners) purchased or leased with federal funds appropriated to the Army. This guidance per DoDI 5330.03 1.1(b) does not apply to document services for the National Guard and Reserve organizations or Army-wide departmental printing and Army Headquarters printing by the U.S. Army Print and Media Distribution Center, except as mutually agreed by the cognizant DoD Component and DLA.

a. This requirement also applies to the following services:

- 1) Maintenance of installed Government-owned or DLA-leased printing devices to include repairs.
- 2) Printing, scanning, and document conversion (e.g., banners, decals, technical manuals), except for products managed by the Army Print and Media Distribution Center (APMDC) such as Army-wide publications.

b. Cardholders must procure all printing requirements that cannot be produced in-house using their respective organizational printers from [DLA Document Services](#). See DoDI 5330.03, Single Manager of DoD Document Services, and Army CIO memorandum, "Army Procurement or Lease of Printing Devices and Services," dated 17 November 2023. For CHs within the Washington DC metropolitan area, additional mandatory printing requirements are located here: <https://armypubs.army.mil/Printing/printing.aspx>.

c. DLA will provide an exception to policy (ETP) memo if the product is unavailable. ITAS approval is required prior to the procurement of IT, including printing devices and services. The requesting activity will attach the ETP memo to the ITAS procurement request.

d. GPC purchases from DLA Document Services are considered IGT and are subject to the IGT payment limit of \$10,000. If transactions do not meet the DLA Document Services criteria, activities will use other funding vehicles (e.g., DD Form 448, MIPR, DD Form 282, DoD Printing Requisition/Order).

e. **Exemptions.** Products exempt from this policy include items that are funded or procured with non-Army funding and manufacturing equipment such as 3-D printers. Also, the following organizations are exempt from the requirement to buy print devices and services from DLA:

- 1) US Army National Guard (ARNG) and US Army Reserve (USAR)
- 2) Army-wide departmental printing and Army Headquarters printing services provided by the U.S. Army Print and Media Distribution Center (APMDC)
- 3) Army intelligence printers and services acquired under the National Intelligence Program (NIP) or the Military Intelligence Program (MIP)

## 9-7. Clothing & Heraldry.

Flags, guidons, and streamers described in AR 840-10 will be requisitioned from the U.S. Army Tank-Automotive and Armaments Command, Clothing and Heraldry Office, Product Support Integration Directorate, unless otherwise indicated. Stocked items are available on FedMall. Stocked items include, but are not limited to, national flags and general officer protocol flags. The Clothing & Heraldry Office does not provide stocked items. Requiring activities will submit requests for flags, guidons, and streamers at the following website: <https://heraldry.army.mil/>.

## 9-8. Non-Mandatory Sources of Supply

a. In accordance with FAR 8.004, CHs should consider use of non-mandatory sources such as FSS contracts/BPAs (e.g., GSA Advantage); Governmentwide acquisition contracts; multi-Component contracts (e.g., DoD FedMall contracts), and commercial sources in the open market (including educational and nonprofit institutions).

b. When purchasing against a BPA, CHs will ensure the requirements of FAR 13.303-5 are met. When purchasing against an indefinite-delivery, indefinite-quantity contract, CHs will follow the ordering procedures as specified by the contracting officer and FAR Part 16. When purchasing against a FSS contract, CHs will follow the ordering procedures at FAR 8.405. CHs will attempt to distribute FSS orders among contractors that can meet the Army's need in accordance with FAR 8.405-1(b).

c. **Small Businesses.** In accordance with FAR 19.203, the requirement to set aside acquisitions for small businesses does not apply to purchases valued at or below the MPT. However, in accordance with FAR 19.201, CHs should consider small businesses and socioeconomic programs to the maximum extent practicable when using the GPC for purchases at or below the MPT.

d. **General Services Administration (GSA) Programs.** GSA maintains the Federal Supply Schedule program, also known as the GSA Schedules Program or the Multiple Award Schedule Program. GSA offers an online shopping service called GSA Advantage! through which CHs may place orders against Schedules. CHs may also use GSA Advantage! to place orders through GSA's Global Supply System, a GSA wholesale supply source, formerly known as "GSA Stock" or the "Customer Supply Center." GSA Advantage! enables CHs to search specific information (e.g., national stock number, part number, common name), review delivery options, place orders directly with Schedule contractors, and pay for orders using the GPC. CHs may place orders up to the MPT with any FSS contractor that can meet the agency's needs. Although not required to solicit from a specific number of schedule contractors, ordering activities should attempt to distribute orders among contractors. Federal Strategic Sourcing Initiative (FSSI) agreements are accessible at FSSI. Cardholders must consider GSA's commercial platforms before using commercial sources.

e. **FedMall.** FedMall is a Government e-commerce acquisition platform which may be used for procuring supplies beyond those listed in Section 8-1. CHs who use FedMall are required to register for a FedMall account. To register, CHs will need to know their DoDAAC or their Activity Address Code (AAC). If FedMall does not recognize the CH's DoDAAC or AAC, CHs should contact their A/OPC to request the contracting office's Procurement DoDAAC for registration. FedMall is accessible through the CH's PIEE account via the FedMall icon.

f. **Commercial Sources.** Before buying from a commercial source, CHs must review applicable mandatory sources and non-mandatory Government sources. See Tables 9-1 and 9-2. Cardholders should rotate commercial sources. Cardholders may purchase from a commercial source if the requested supplies or services are unavailable from the applicable mandatory source provided they obtain the appropriate waivers.

## 9-9. Sustainable Procurement

a. Cardholders are required to comply with Federal Government environmental quality (i.e., “green”) policies when acquiring supplies or services with the GPC. See GSA’s [Green Procurement Compilation](#) for the current lists of designated products, product sources, and other relevant information. The DoD Green Procurement Program:

- 1) Requires that sustainable supplies and services be considered as the first choice for all procurements,
- 2) Assigns responsibility to virtually every DoD employee, including CHs, and
- 3) Requires implementation at the organizational level where initial purchasing requirements are defined.

b. The Environmental Protection Agency (EPA) and USDA oversee the designated product programs, which designate products that can be made with recycled or bio-based content and place them on the mandatory list for Federal purchasers. Some examples of mandatory items include the following:

- 1) Paper (including copy paper, computer paper, envelopes, index cards, folders).
- 2) Toner cartridges.
- 3) Office supplies (such as binders, clipboards, and plastic desktop accessories).
- 4) Office recycling containers.
- 5) Office trash cans.
- 6) Toilet paper.
- 7) Trash bags.

c. [DoDI 4105.72, Section 1.2.b](#) requires DoD to give preference to the procurement of sustainable supplies and services using or supplying sustainable supplies unless certain conditions exist. Cardholders are encouraged to document if one or more of the following issues prevents purchase of mandatory green supplies and services:

- 1) The price of the supply/service is unreasonable.
- 2) The supply/service will not meet reasonable performance standards.
- 3) Availability does not meet the requirement timeframe.
- 4) An exception is provided by statute.

d. DAU course [CLG 046, DoD Sustainable Procurement Program](#) provides training on a comprehensive strategy for implementing environmentally preferred practices while sustaining the overall mission.

## 9-10. Commercial Platforms

a. An e-marketplace platform is an online platform where CHs can evaluate and order products via a portal operated by a vendor: the portal provider. The e-marketplace platforms can offer portal provider products and/or third-party vendor products. Portal providers and third-party vendors are generally responsible for fulfilling orders for their respective products. The e-marketplace model encourages robust competition not only at the platform level by offering millions of products across thousands of suppliers, but also at the product level, with multiple suppliers competing to sell a given product.

b. [GSA's Commercial Platforms program](#) (also known as GSA's e-commerce platforms) provides a managed channel for open-market purchases through select commercial online platforms. Training is provided for use of these platforms via the platform provider.

c. Third-party payment processor policy does not apply to e-commerce platforms or brick-and-mortar merchants that do not accept payment using third-party payment processors. In the e-commerce space, this includes, at a minimum, those in GSA's Commercial Platforms program, and AmazonBusiness.com.

If a platform changes their payment practices and begins allowing use of third-party payment processors, the Army will validate each applicable e-commerce platform continues to disallow use of third-party payment processors. This revalidation will occur at least semi-annually, to include notifying GPC oversight personnel and CHs whether the applicable e-commerce platform does not/continues not to accept payment using third party payment processors.

d. **E-Marketplace Platform Method of Payment.** The GPC is the only authorized method of payment for purchases placed on the e-marketplace platforms. Cardholders are not allowed to use any other forms of payment, including third-party payment processors (e.g., PayPal, Venmo, Google Wallet, WePay) or payments using any form of cryptocurrency.

e. **Compliance with AbilityOne.** Mandatory sources such as AbilityOne are effectively represented and promoted in this program. Rather than simply state that e-marketplaces are required to “block and sub” the commercial item for the AbilityOne item, GSA requires platform providers to prevent the sale of a commercial item which is “essentially the same” as an item on the AbilityOne Procurement List. In addition, GSA requires platform providers to ensure the vendors selling AbilityOne products are, in fact, authorized distributors.

f. **Data Visibility.** Identifying leakage through the commercial platforms will allow the Army the ability to identify purchases that could be going to AbilityOne distributors, small business suppliers, excluded entities, or spend outside of strategic or mandatory-use agency contracts. This data then allows the Army to take the necessary action to appropriately manage this spend. Spend data is available to the Army through on-demand reports and dashboards, allowing the Army to see line-level spend from all e-marketplace platforms. Cardholders also have real-time, account level access to their purchasing data through the e-marketplace platforms for purchase card reconciliation and spend analysis.

## CHAPTER 10 - CONVENIENCE CHECKS

### 10-1. Policy and Use

a. Convenience checks provide activities with the flexibility to issue checks for payment of supplies and services to support mission needs when the vendor doesn't accept payment by GPC. The Army does not receive refunds or retain dispute rights on convenience check purchases. The authority to maintain a convenience check account will be justified on an individual basis. The number of convenience check accounts per installation must be kept to a minimum. Convenience check accounts are available only to organizations that maintain active GPC accounts in good standing.

b. Convenience checks must not be used to avoid the normal GPC payment process. Before a check is issued, the paying agency must make every effort to use the GPC, including making maximum efforts to find and use merchants that accept the GPC. Before writing a convenience check, the checkwriter must obtain an IRS Form W-9 to ensure possession of all information required for tax form issuance.

c. DFAS recommends not writing checks to foreign vendors. When writing a check to a foreign vendor, an IRS Form W-8 is required before payment. To determine which W-8 form is used, see IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. To determine if tax withholding and tax deposits to the IRS are required, see IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities and/or IRS Publication 901, U.S. Tax Treaties.

d. If a U.S. vendor refuses to provide their TIN and it is a tax reportable payment, the checkwriter will choose another vendor.

e. **Restrictions.**

- 1) Checkwriters must not use checks for employee reimbursements, cash advances, cash awards, travel-related transportation payments, or meals.
- 2) Convenience check purchases must not require detailed specifications or an inspection report.
- 3) Convenience checks should not be used for recurring payments.
- 4) Convenience checks must not be used as a method of payment against existing contract instruments.
- 5) Checks will not be issued as an "exchange-for-cash" vehicle to establish cash funds. If merchants issue credits or refunds by cash or check, the funds must be immediately credited to the account against which the purchase was originally made.
- 6) The same purchase prohibitions that apply to the GPC apply to convenience checks.

f. **Micro-purchase Threshold.** The MPT for convenience checks is half the open market and contingency MPT per Section 806 of Public Law 115-91. See Table 1-2. Splitting payments across multiple checks is prohibited if the total requirement will exceed the applicable convenience check MPT. Checkwriters may use checks for purchases in support of declared contingency events up to the applicable convenience check MPT.

g. **Processing Fee.** Convenience checks must be written for the exact payment amount. The payment amount for a check does not include the servicing bank's administrative processing fee. The check processing fee is added by the servicing bank during processing of the transaction, and the addition of the processing fee is not considered a split requirement. Checkwriters should ensure that the total funds obligated include both the payment amount and the processing fee. The convenience check MPT is for the payment amount of the good or service, which does not include the processing fee (e.g., a check may be written up to \$5,000; the processing fee is accounted for separately and is charged separately on the billing statement).

h. **Security and Oversight.** Convenience checks are negotiable instruments and must be stored in a locked container, such as a safe or locking filing cabinet. Checks must be accounted for appropriately to

prevent loss, theft, or potential forgery. Review convenience check accounts annually. Accounts with checks written above the allowable limit will be subject to suspension or termination. Commands with oversight responsibility will consider cancellation of convenience check privileges of cardholders who improperly use convenience checks (e.g., exceeding the convenience check limit).

i. Convenience checks are pre-numbered, and their use is controlled with a separate convenience check purchase log for each account. Check purchases are reconciled just as other GPC transactions, as part of the monthly statement billing cycle in the servicing bank's EAS. Retain copies of voided checks in the bank's EAS as part of the file documentation.

j. **Disputes.** The normal GPC dispute process is not applicable to convenience checks. Concerns over a check purchase must be resolved directly with the merchant. The checkwriter is responsible for securing credits or resolving problems with the merchant. Each organization is responsible for all checks written on an account, unless it is determined fraud is involved. In some cases, payments can be stopped on a convenience check that has been written if the check has not yet been posted to an account. To stop payment on a check, the checkwriter must call the servicing bank's customer service department to receive instructions on processing the action.

## **10-2. Establishing a Convenience Check Account**

a. Convenience check accounts are dedicated accounts and must be maintained separately from the GPC account. Cardholders may have both a regular GPC account and a separate convenience check account. Payee information on the convenience check must be **written legibly**. Convenience checks are not to be used for recurring payments.

b. Any U.S. Government employee, military or civilian, including local national employees, may be selected for appointment as a checkwriter. Traditional part-time National Guard members cannot be checkwriters. Contractors working for the Army cannot be checkwriters.

c. Requests to establish convenience check accounts must be justified in writing by the organization and forwarded to the Level 4 A/OPC. Required information must consist of the following:

- 1) Justification for the account
- 2) Types of vendors to receive checks
- 3) Estimated dollar amount of checks to be written within a 12-month period
- 4) Single and monthly purchase limits
- 5) Checkwriter's complete name, office name, address, email, phone/fax number

d. Checkwriters must be appointed in PIII/JAM with the "Micro-Purchase Convenience Check Writer" designation. The checkwriter is the only person who has the authority to issue and sign checks.

## **10-3. Convenience Check Reporting (IRS Form 1099)**

a. The DFAS Tax Office is responsible for DoD compliance with 1099 reporting requirements.

DFAS provides the convenience check payment data to the applicable A/OPC and checkwriter for determining the tax reporting requirements and completion of specifically identified data not available to, or captured by, the contracted bank. The checkwriter is responsible for ensuring the completion and return of the data to DFAS.

b. The Army is required to file a Form 1099-MISC for payments to vendors or individuals totaling more than \$600 in a tax year.

c. 1099 reporting involves the collection of Personally Identifiable Information (i.e., Taxpayer Identification Number and Social Security Number) and must be safeguarded with appropriate oversight controls in accordance with the Privacy Act.

d. IRS Form 1099 must be issued to check recipients for certain payment types. (See [IRS Instructions for Form 1099 - MISC](#) for more detail regarding payment types that are not reportable to DFAS.) Convenience check data must be reported to the IRS as income to the check recipients.

e. **Tax Reporting.** The DFAS Tax Office emails convenience check purchasing data monthly to the checkwriters for verification. The email contains a spreadsheet, instructions, and the suspense date for return. Upon receipt of the spreadsheet, checkwriters must update the required columns and email the spreadsheet to the following mailbox, [dfas.cco-checks@mail.mil](mailto:dfas.cco-checks@mail.mil), within five business days upon receipt. This data is used to process IRS 1099-MISC forms. The BO is responsible to monitor the checkwriter's compliance. Instructions for submitting convenience check 1099 tax reporting information are available on the [DFAS DoD Government Convenience Checks website](#).

Checkwriters will obtain the vendor information and W-9 required for tax reporting before paying the vendor, as stated in DoD 7000-14R FMR 26 Volume 10, Chapter 6, 060209. The checkwriter is responsible for tax reporting for the convenience checks they issue and for obtaining a signed IRS Form W9, Request for Taxpayer Identification Number and Certification.

f. DFAS ESS Tax Office will perform the following actions:

- 1) Provide monthly spreadsheets containing the servicing bank's universe of convenience check payment data to A/OPCs, BOs, and checkwriters for completion of additional information.
- 2) Provide tax reporting guidance to checkwriters.
- 3) Aggregate the payment data to determine tax form issuance and issue tax forms to check recipients.
- 4) Electronically report the payment data to the IRS.
- 5) Provide report to A/OPCs, BOs, and checkwriters of data that resulted in tax form issuance.
- 6) Provide customer service to tax form recipients.
- 7) Issue corrected tax forms.

g. A/OPCs, Billing Officials, and Checkwriters will perform the following actions:

- 1) Supplement the payment data with the necessary reporting data, annotate payment as reportable or not reportable, and return spreadsheets to tax office.
- 2) Maintain and update points of contact in the U.S. Bank account.
- 3) Maintain final summarized spreadsheet provided by DFAS and copies of the check registers for audit purposes.
- 4) Have a signed W-9 from vendors on file.
- 5) Ensure that spreadsheets are completed correctly and returned by deadline.

h. The checkwriter must complete the following fields in the DFAS spreadsheet:

- 1) **Payment Description.** Define the purpose of the payment to the vendor.
- 2) **Yes or No Reportable Transaction.** Indicate whether vendor and payment type are tax reportable. "Yes" is reportable. "No" is not reportable.
- 3) For all tax reportable payments, complete the following fields:
  - (a) Vendor's Taxpayer Identification Number: SSN, EIN, ITIN
  - (b) Vendor's Name and Doing Business As Name
  - (c) Vendor's Current mailing address
  - (d) Vendor's City
  - (e) Vendor's State
  - (f) Vendor's Zip Code
  - (g) Vendor's Country
  - (h) Indicate the payment amount in **one** of the following fields, as applicable:
    - (1) Check paid for Rents, Rentals, Leases
    - (2) Check paid for Royalties
    - (3) Check paid to individual for medical research



- (4) Check Paid for Medical/Dental Services
- (5) Check paid to a vendor or individual not Government employee
- (6) Check paid for Attorney Fees

#### **10-4. Annual Convenience Check Review**

a. Commands with convenience check oversight responsibility will conduct an annual review of each convenience check account. All checks written in support of a declared ETO must be reviewed within 60 days after completion of the disaster response. This review will include the following:

- 1) Sample of convenience check transactions.
- 2) Review of all supporting documentation.
- 3) Review of all convenience checks written to individuals.

b. Report suspected violations to appropriate management and investigative authorities. A/OPCs will include in the SAHAR Report a count of convenience check accounts not audited within the past 12 months.

#### **10-5. Convenience Check Resources**

- a. DFAS ESS Tax Office: [dfas.dscc.jih.mbx.cco-esolutions-gpc@mail.mil](mailto:dfas.dscc.jih.mbx.cco-esolutions-gpc@mail.mil)
- b. [What is and is not Reportable on IRS Form 1099](#)
- c. [DoD Guidebook for Miscellaneous Payments](#)
- d. [Identifying Public or Private Colleges and Universities](#)
- e. [IRS Exempt Organization Types](#)
- f. [Tax Exempt Organization Search](#)
- g. [26 USC 501 - Exemption from tax on corporations, certain trusts, etc.](#)

## **CHAPTER 11 - MANAGEMENT CONTROLS AND PROGRAM OVERSIGHT**

### **11-1. Internal Controls**

a. Effective internal controls are essential to reducing the risk inherent in the Army GPC Program and maintaining its integrity and accountability. Internal controls are necessary to ensure the achievement of organizational objectives; operational effectiveness and efficiency; reliable financial reporting; and compliance with laws, regulations, and policies. The Army has established a series of automated and manual internal controls and oversight procedures designed to identify and mitigate risk, document the effectiveness of controls, and provide data to effectively target corrective actions where and when needed.

b. A key portion of the automated oversight process, the SAHAR, provides the HCA/SCO with a high-level summary of the scope, internal control effectiveness, level of risk, and corrective actions implemented or required across the Army GPC program. One of the major strengths of these controls and procedures is the aggressive inclusion of automation applied to control points, data-mining, and reporting that enforce laws, regulation, and policy, reducing the administrative cost of effective oversight.

c. Automation is incorporated in the control/oversight/reporting process through several integrated applications sharing data throughout the entire process, from automated identity verification and supervisor approval in PIEE, to training reports from DAU to PIEE, to JAM appointments with purchase limitations communicated to the card-issuing bank for account establishment, to transaction information data-mined in IOD, and automated reporting across the entire scope of the process. This extensive automation increases the efficiency, accuracy, auditability, and reliability of the oversight process and the integrity and safety of the GPC Program.

d. GPC management officials are responsible for establishing a process of internal controls that (1) provides reasonable assurance that the GPC program is used efficiently, effectively, and legally to help manage the program and reduce violations; and (2) complies with applicable laws and regulations. Management should periodically review their GPC program's internal controls and avail themselves of the Monthly A/OPC Review and SAHAR reports, along with any other reports, to ensure the internal controls covered in specified reports are being followed and GPC program participants are performing responsibly.

### **11-2. Three-Pronged Oversight Review Process**

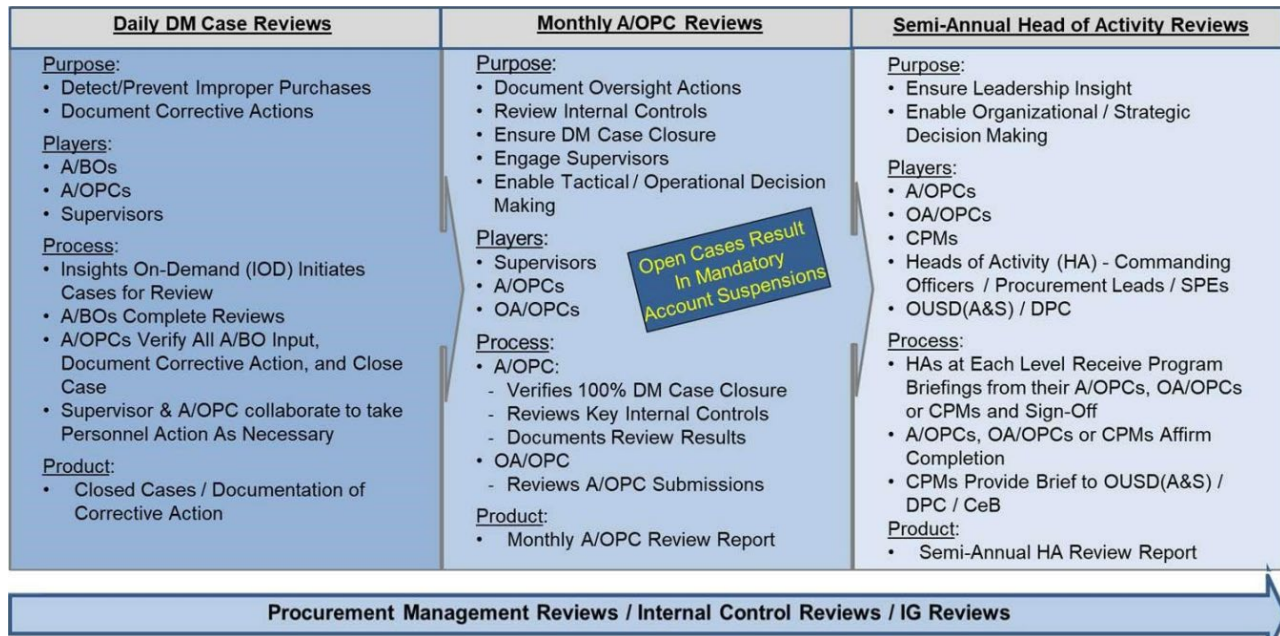
a. Surveillance and oversight of the GPC program are a shared responsibility. All stakeholders in the program, including requiring offices, RMs, logistics, contracting, and local audit and oversight organizations, are responsible for ensuring that the GPC is used in the proper manner and only authorized and necessary official purchases are made. Organizations should develop and follow a monitoring and oversight plan that establishes frequencies, methods, participation, etc.

b. Oversight is conducted to:

- 1) Validate and promote compliance with existing internal controls;
- 2) Identify, report, and resolve systemic material program weaknesses; and
- 3) Measure the effectiveness of internal controls.

c. To improve auditability of GPC program oversight and realize the cost and other benefits of using the commercially available SP3 technology, DoD uses the integrated three-pronged, system-enabled review cycle depicted in Figure 11-1.

Figure 11-1: Three-Pronged Oversight Review Cycle



d. The three-pronged review cycle supplements existing GPC operational transaction management and account reconciliation and review processes, including:

- 1) Cardholder-obtained purchasing approvals (e.g., BO pre-purchase approval, special item approval, availability of appropriate and sufficient funds);
- 2) Cardholder matching and approval of orders to transactions and monthly statement approval;
- 3) Billing official monthly certification of the managing account billing statement;
- 4) Resource manager funds certification;
- 5) A/OPC ongoing oversight and policy compliance efforts; and
- 6) Disbursing office funds validation and disbursement processing.

The cycle also supplements and informs both the periodic reviews of Army contracting offices (e.g., Army PMRs or DCMA-led PMRs) conducted to assess the effectiveness of the contracting function, and the GPC governance processes conducted to evaluate and improve the effectiveness of GPC internal controls.

e. **Data analytics.** Data analytics is the application of electronic tools (software and/or systems) for automated data sorting, filtering and mining techniques using self-learning algorithms to search GPC transaction data in order to identify patterns, trends, risks, opportunities and other information. A/OPCs should use data analytics tools to assist them in the management and oversight of their GPC program.

f. The Army uses preventive, detective, and directive controls to monitor the GPC program.

- 1) Preventive controls are designed to discourage errors or irregularities from occurring (e.g., processing a transaction only after it has been properly approved by the appropriate personnel).
- 2) Detective controls are designed to find errors or irregularities after they have occurred (e.g., IOD data mining, approving statements, and reconciling monthly invoices).
- 3) Directive controls are designed to encourage a desirable event (e.g., written policies and procedures to assist in compliance and the accomplishment of the goals and objectives of the GPC program).

g. The HCA/SCO and A/OPCs are responsible for adhering to the requirements specified in OMB Circular A-123, Management's Responsibility for Internal Control. The HCA/SCO and A/OPCs are also responsible for adhering to the requirements specified in 10 USC 4754 (as modified by Public Law 112-194, Government Charge Card Abuse Prevention Act of 2012). These statutory requirements mandate the following actions (list not comprehensive):

- 1) Using effective systems, techniques, and technologies to prevent or identify improper purchases.
- 2) Invalidating GPCs from each employee who ceases to be employed by the Government or separates from Military Service.
- 3) Taking steps to recover the cost of any illegal, improper, or erroneous purchases made with a purchase card or convenience check made by an employee or member of the armed forces, including, as necessary, through salary offsets.
- 4) Taking appropriate adverse personnel actions or imposing other punishments when employees of the Army violate regulations governing the use and control of purchase cards and convenience checks or who are negligent or engage in misuse, abuse, or fraud with respect to a purchase card, including removal in appropriate cases. Violations of such regulations by a person subject to 10 USC Chapter 47, the Uniform Code of Military Justice (UCMJ), is punishable as a violation of section 892 of article 92 of the UCMJ.
- 5) Requiring the Army Audit Agency to conduct periodic audits or reviews of GPC programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and report the result to the Director of the OMB and Congress.
- 6) A/OPCs must provide monitoring, oversight, training, and administration of all BOs and CHs. Supervisors and BOs are responsible for the monitoring and oversight of BOs and CHs under their purview.

h. To minimize losses to the Army, the program must have an expectation of high integrity and ethical behavior from all participants, and sufficient staff to perform the following functions:

- 1) Conduct periodic risk assessments to identify fraud, waste, and abuse and establish specific controls to reasonably ensure that losses from these risks are minimized, to include data mining.
- 2) Conduct proper training and complete reporting and data analysis to ensure personnel have the skills and information needed to be effective in their positions.
- 3) Conduct detailed, effective management and oversight.
- 4) Implement corrective actions when cardholder management is non-compliant with Army policies and procedures.

i. DPCAP will rely on the signed Semi-Annual HA data provided by CPMs to accomplish DoD GPC reporting required by OMB. DPCAP updates visual trending of statistical and violation information to identify trends in GPC use and variances and shares this information with the Army during the GPC CPM Monthly Calls.

j. The GPC Integrated Solutions Team (IST) is DoD's GPC governance body. IST membership consists of a GPC Governance Board composed of representatives from DPCAP, Army, Navy, Air Force, other Defense agencies, and supported by the bank team. The bank team consists of U.S. Bank (card-issuing bank), MasterCard (card association), and Oversight Systems (data mining vendor). The IST typically meets semi-annually to achieve the following:

- 1) Review trends and changes in the GPC industry and the DoD GPC Program.
- 2) Identify and approve any necessary adjustments to the bank team's electronic capabilities, DoD's GPC enterprise tools, and/or DoD GPC policies.
- 3) Identify and approve changes to the DM rules and system parameter settings.
- 4) Bring efficiencies to the Program by adjusting the business rules/parameters based on transaction risk.
- 5) Review trends and changes in the GPC industry and the DoD GPC Program.

- 6) Identify any necessary adjustments to the bank team's electronic capabilities, DoD's GPC enterprise tools, and/or DoD GPC policies.
- 7) Identify and approving changes to the Data Mining rules.
- 8) Review relevant data mining case information and recommendations provided by the bank team (e.g., percentage of data mining cases created for review; frequency with which each rule is triggered and associated DM case disposition, and information about the findings, determinations, and corrective actions identified) and results of the Semi-Annual HA process to inform its decision making.

### 11-3. Insights on Demand

a. Insights on Demand (IOD) is the SmartPay®3 data mining (DM) tool used to monitor purchasing activity and perform oversight functions. IOD provides the capabilities to identify high-risk transactions and unusual spending patterns; scan purchasing activity for misuse, fraud, waste, and abuse; and flag transactions for review. Instructions on how to navigate and perform functions in IOD are in the servicing bank's IOD user guides and in the [Defense Pricing, Contracting and Acquisition Policy - Contracting eBusiness website](#).

b. GPC program officials must use IOD to perform the following actions:

- 1) Document Daily DM Case Reviews (includes BO DM Case Questionnaires and A/OPC DM Case Questionnaires), Monthly A/OPC Reviews (includes Monthly A/OPC Check List and Monthly A/OPC Review Report) and Semi-Annual Head of Activity (HA) Reviews (includes Semi-Annual HA Review Report).
- 2) Review all BO completed DM case reviews, and document any finding, determination, or corrective action taken by completing the A/OPC DM Case Questionnaire. Failure to complete required reviews in a timely manner may result in account suspensions.
- 3) Initiate and complete reviews of cases for each finding and disciplinary category determination they independently identify (i.e., not flagged by IOD).

c. **IOD Terminology.** IOD provides specific terminology in its reference document, "IOD Case and Review Status Definitions and Workflow," as well as when referring to the various levels of A/OPCs.

- 1) "CPM" refers to the Component Program Manager or Level 2 A/OPC.
- 2) "O AOPC" refers to the Oversight A/OPC or Level 3 A/OPC.
- 3) "AOPC" refers to the Level 4 A/OPC.

### 11-4. Data Mining Case Review and Closure

a. **DM Case Management.** Oversight Systems' IOD DM capability evaluates each transaction against a set of tiered business rules to identify high-risk transactions. Tier 1 rules are mandatory and applicable to all DoD purchase cards. Tier 2 rules are mandatory rules that can be tailored as necessary at the local level. DM cases can be system-generated or manually generated. The system generates a DM case whenever a business rule is broken. GPC program officials are required to manually create cases for each finding and disciplinary category determination they independently identify during their reviews. Each case is adjudicated to determine if the transaction is to be classified under one of five disciplinary categories standardized in compliance with the DPCAP memo "Final Governmentwide Commercial Purchase Card Disciplinary Category Definitions Guidance," January 27, 2020. Disputes are also categorized as determinations.

b. **Tier 2 Tailoring.** Tier 2 business rules are tailorable to meet the Army's organizational needs. Tailoring must be consistent with requirements in the DoD Charge Card Guidebook. As part of the SAHAR process, HAs are required to validate that any Tier 2 Tailoring of DM business rules are implemented appropriately. For more information, refer to GPC one-pager 3OP034, "Tier 2 Tailoring in Insights on Demand (IOD)" on the DPCAP GPC website. To properly manage program risk for these

potentially high-risk transactions, IOD automatically selects a random sample of 1% of these Tier 2 “auto closed” cases and assigns them for adjudication (“1% Random Reopen”). The IST reviews Tier 2 Tailoring data sets and trends and considers methodology changes based on its findings.

**c. Case Assignment and Review Process.**

- 1) IOD flags a transaction for review, generates a case, and assigns it to the primary BO.
- 2) The BO reviews the CH’s file documentation per section 6-2.g. The BO then locates the case in IOD and inputs requested data.
- 3) After the BO submits their review, IOD assigns the case to the Level 4 A/OPC. The Level 4 A/OPC reviews the CH’s file documentation, inputs comments about the purchase, identifies the applicable finding, and closes the case. The comments should provide information about the transaction and a detailed explanation of any findings. For administrative findings, the comments must state what documents or signatures were missing.

Tables 11-1 and 11-2 summarize the available options for Findings, Determinations, and Corrective Actions in IOD.

Table 11-1. GPC IOD Findings and Determinations

Findings	Determinations
<ul style="list-style-type: none"> <li>• Not for Government Use (Personal Use)</li> <li>• Unauthorized Use</li> <li>• Prohibited Item</li> <li>• Split Purchase to Circumvent Authorized Limit</li> <li>• Exceeds Authorized Limits</li> <li>• Exceeds Minimum Mission Need</li> <li>• Failure to Screen/Use Required Sources when Applicable</li> <li>• Separation of Duties <b>Not</b> Performed</li> <li>• Sustainable (Green) Procurement Procedures <b>Not</b> Followed</li> <li>• Incomplete Purchase Records</li> </ul>	<p>Disciplinary Categories Involving Violations:</p> <ul style="list-style-type: none"> <li>• Potential Internal Fraud (Malicious Intent)</li> <li>• Abuse (Intentional)</li> <li>• Misuse (Unintentional)</li> </ul> <p>Disciplinary Category Involving No Violation:</p> <ul style="list-style-type: none"> <li>• Administrative Discrepancy (Unintentional)</li> <li>• External Fraud</li> </ul>
<ul style="list-style-type: none"> <li>• No Findings Identified (Case Closed)</li> </ul>	<ul style="list-style-type: none"> <li>• No Disciplinary Category Determination Necessary (Case Closed)</li> </ul>

Table 11-2. GPC IOD Corrective Actions Taken/Planned

Corrective Actions Taken/Planned
<ul style="list-style-type: none"> <li>• Elevate to investigative agency</li> <li>• Elevate through chain of command</li> <li>• Suspend or remove employee from program</li> <li>• Reimbursement to program</li> <li>• Formal supervisory counseling</li> <li>• Card suspended or canceled</li> <li>• Refresher training</li> <li>• Informal counseling</li> <li>• Resolve administrative discrepancy</li> <li>• Report as external fraud</li> <li>• Request vendor credit/dispute the transaction</li> </ul>

d. **Case Review Timeframe.** Cases must be resolved within 30 calendar days of the billing cycle end date.

- 1) Billing officials must complete their review of assigned IOD cases within 15 calendar days of the billing cycle end date. A/OPCs may suspend the managing account if IOD cases are not reviewed within 15 days.
- 2) Level 4 A/OPCs must close cases within 30 calendar days of the billing cycle end date. Level 3 A/OPCs may notify the Level 4 A/OPC's chain of command if cases are not closed within the required timeframe.
- 3) A/OPCs may add stricter controls regarding the timeline for completing IOD cases.

e. At their discretion, A/OPCs may flag additional transactions for review within IOD. Billing officials are required to review these additional cases as part of the normal case review process and timeline.

Table 11-3: Daily Data Mining Case Review Cycle

Action	DM Case Review Cycle Milestones	Compliance Mechanism
IOD assigns cases daily for review	Throughout the billing cycle	Not applicable
Billing officials complete their review of assigned cases	Billing officials <b>should</b> complete reviews throughout the billing cycle to promote timely resolution (e.g., transaction dispute, CH retraining). Billing officials <b>must</b> complete reviews within <b>15 calendar days</b> of the billing cycle end date.  Note: Any case the A/OPC refers to the BO for additional review may require action through day 30.	A/OPCs may suspend managing accounts with open cases 15 days after billing cycle end date.
A/OPCs review and close assigned cases	A/OPCs <b>must</b> complete reviews within <b>30 calendar days</b> of the billing cycle end date.  Note: Any case the OA/OPC refers to the BO for additional review may require action through day 30.	OA/OPCs must suspend managing accounts with open cases 30 days after the billing cycle end date.

## 11-5. Monthly A/OPC Reviews

A/OPCs and CPMs must complete monthly reviews within IOD to promote and measure compliance with internal controls and provide reasonable assurance of the effectiveness of these controls to mitigate program risk. A/OPCs and CPMs are required to complete monthly reviews each billing cycle. IOD automatically assigns and generates monthly reviews, which become available for completion once all transactions for that agent and billing cycle have been closed. Monthly reviews are considered complete only if 100 percent of all cases selected during the billing cycle have been closed.

a. **A/OPC Monthly Review.** Level 4 A/OPCs must complete this review once all BOs have completed all cases assigned to them. A/OPCs are required to initiate and conduct a Monthly A/OPC Review at the end of each billing cycle. To complete the A/OPC Monthly Review, you must generate the Monthly A/OPC Review Report to assess the key internal controls. Within 30 days of the cycle end date, A/OPCs must complete the following actions:

- 1) Validate all DM cases (except those in a deployed or exempt status) are closed.



- 2) Generate the Monthly A/OPC Review Report in IOD and assess the key internal controls included on the report. Key GPC program controls are calculated and displayed in the Monthly A/OPC Review Report generated by the DM tool. See the [Monthly A/OPC Review Report Guide](#), which addresses data sources, calculation methodologies, and report format.
- 3) Perform a summary assessment that includes 100 percent of all transactions not flagged by the DM tool to (1) ensure awareness of purchasing activity within their hierarchy and (2) identify purchasing and behavior patterns not otherwise identified by the DM tool (e.g., patterns that span multiple card accounts and/or MAs) or that may otherwise require A/OPC action. Access Online Transaction Detail reports are available for performing these reviews.
- 4) Ensure a DM case is created for each Finding and Determination they independently identify (i.e., not flagged by the DM tool).
- 5) Document completion of the review by completing and certifying the A/OPC Monthly Checklist. Upload the Monthly A/OPC Review Report in the Messages tab of the A/OPC Monthly Review. If a Level 4 A/OPC has multiple agents, they can run one report for all agents and upload it to the top-listed level.

b. **OA/OPC Monthly Review.** Level 3 A/OPCs must complete this review once all Level 4 A/OPCs assigned to them have completed their monthly reviews. The Level 3 A/OPC reviews the internal controls summary for their program and concurs with the findings, determinations, and any corrective actions planned or taken. Level 3 A/OPCs are also required to spot-check the monthly reviews conducted by their Level 4 A/OPCs. Level 3 A/OPCs will complete monthly reviews within 10 calendar days of their Level 4 A/OPCs' completion.

c. **CPM Monthly Review.** CPMs (Level 2 A/OPCs) must complete this review once all Level 3 A/OPCs assigned to them have completed their monthly reviews.

d. If the monthly review cannot be completed (i.e., is deferred) using the DM tool because the BO and/or A/OPC and their alternates are deployed or exempt and have insufficient access to the application, the OA/OPC may then mark the case "Closed – Not Reviewed" in the DM tool and approve completion of the monthly review cycle. The BO and/or A/OPC will complete the monthly review manually and then update the audit tool upon completion of the deployment.

Table 11-4: Monthly A/OPC Review Cycle Dates

Action	Review Cycle Milestones	Compliance Mechanism
Level 4 A/OPC completes the A/OPC Monthly Review in IOD	Cycle End Date + 30 days	Not applicable
Level 3 A/OPC completes the OA/OPC Monthly Review in IOD	Cycle End Date + 40 days	OA/OPCs may suspend appropriate account(s) at 30 days if cases and Monthly Reviews are not complete.
CPM completes the CPM Monthly review in IOD	Cycle End Date + 55 days	CPM suspends appropriate account(s) at 55 days if cases and Monthly Reviews are not complete.

## 11-6. Semi-Annual A/OPC Reviews

a. A/OPCs and CPMs must complete semi-annual reviews within IOD to ensure adherence to internal controls, facilitate senior management's awareness of their program's health, and promote the interdisciplinary communication necessary for successful GPC program operations. Semi-annual reviews will be performed in IOD after the end of the March and September billing cycles. They are a consolidation of the previous six monthly reviews (20 March to 19 September and 20 September to 19 March each year).



b. **A/OPC Semi-Annual Review.** Level 4 A/OPCs must complete this review once all six prior monthly reviews have been completed. The A/OPC reviews the internal controls summary and inputs requested data for all applicable agents.

c. **OA/OPC Semi-Annual Review.** Level 3 A/OPCs must complete this review once all Level 4 A/OPCs assigned to them have completed their semi-annual reviews. The Level 3 A/OPC reviews the internal controls summary for their program, concurs with the findings, determinations, and any corrective actions planned or taken, and affirms that they have briefed results to the HA.

d. **CPM Semi-Annual Review.** CPMs (Level 2 A/OPCs) must complete this review once all Level 3 A/OPCs assigned to them have completed their semi-annual reviews.

e. **Semi-Annual Head of the Activity Briefing and Report.** The SAHAR report provides HCAs and/or SCOs with a high-level GPC monitoring and oversight summary across their respective GPC program. A/OPCs at each level are required to brief their HCA and/or SCO and obtain their signature on the report, prior to submission to the ODASA(P). See [Army GPC SAHAR Instructions](#). Additional resources are available to support the oversight process, including the [SAHAR Report Field Descriptions Guide](#), [IOD A/OPC Monthly/SAHAR Report Line Item Validation Using Access Online](#), and the [Semi-Annual Head of Activity Review Template](#).

f. In the event errors are identified, A/OPCs, OA/OPCs, and CPMs should annotate corrections and explain the error(s) encountered in the Notes field of the report (or associated attachments) to help determine whether a system issue requires resolution. The Notes field will also be used to address issues and explain any exceptional circumstances (positive and negative), so they are retained and available for future reference. A/OPCs must attach an electronic copy of the signed report, including all notes and associated documentation, in the Messages tab of the Semi-Annual Checklists in IOD.

g. A/OPCs and CPMs must perform the following actions:

- 1) Generate the Semi-Annual HA Review Report in IOD. Include the following in the Notes section for all agents under review: summary assessment of findings and determinations, span of control, purchasing and behavior patterns not identified by IOD, appropriate attestations, and any SAHAR issues or data errors.
- 2) Brief semi-annual review results to their HCA/SCO and summarize program strengths and concerns. Conduct the briefing before completing the semi-annual review in IOD.
- 3) Certify completion by submitting the semi-annual review in IOD.
- 4) Obtain the HCA/SCO's signature on the report.
- 5) Upload the signed report in the Messages tab of the Semi-Annual Review Checklist in IOD. Organizations with multiple levels will upload the report in the first numbered hierarchy.

Table 11-5: Timeframe for IOD Monthly and Semi-annual Reviews

Monthly Review Completion Timeframe	
Role	Days after Cycle End Date
A/OPC (Level 4)	30
OA/OPC (Level 3)	40
CPM (Level 2)	55
Semi-annual Review Completion Timeframe	
Role	Completion Date
A/OPC (Level 4)	15 May / 15 November
OA/OPC (Level 3)	15 June / 15 December
CPM (Level 2)	15 July / 15 January

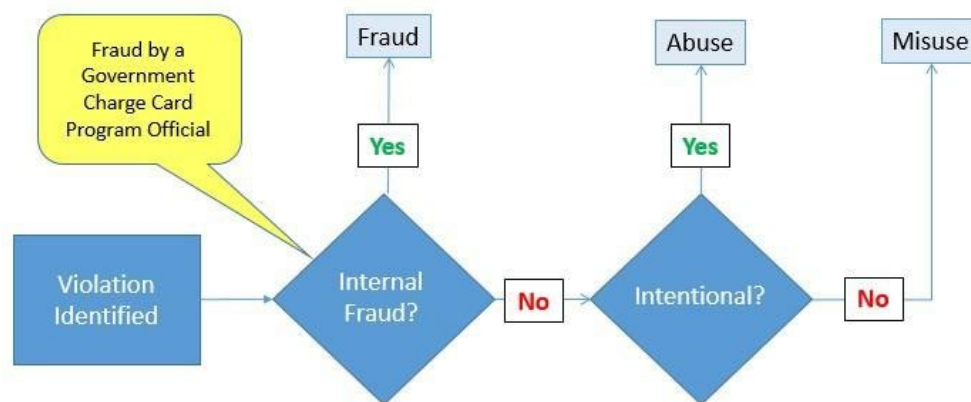
h. **IOD Reports.** A/OPCs can run various reports based upon their role in IOD. These reports assist the A/OPC in identifying GPC program trends, strengths, and weaknesses, and will be monitored and used in conjunction with conducting GPC annual surveillance.

## 11-7. Disciplinary Requirements and Categories of GPC Violations

a. The Disciplinary Category Definitions Policy has been established to foster consistency across DoD. These definitions are defined in and required by the [OMB Circular A-123](#) to ensure accurate and complete reporting. All the disciplinary categories are reportable to DPCAP. The first four (abuse, internal fraud, misuse, and delinquency) are violations. The latter two (administrative discrepancy and external fraud), while disciplinary categories, are not violations.

b. Of the categories of defined DoD GPC violations, abuse and internal fraud are considered more serious than the other categories, as they are intentional in nature. Misuse is considered unintentional. Intent is not applicable to infrequent delinquencies, as the determination of such violations is strictly quantitative (i.e., all undisputed account balances that are unpaid for more than 61 days past the statement date). Figure 11-2 depicts the decision framework to be used when determining which violation category is applicable.

Figure 11-2. Violation Category Decision Framework



NOTE: Excludes Delinquency

## 11-8. Fraud Overview

Fraud can be defined as a deception deliberately practiced with the motive of securing unfair or unlawful gain. Fraud can be an attempt to cheat the Federal Government and corrupt its CHs by using GPC accounts for transactions not part of official Government business. Fraud can come in many disguises, such as false emails, mail, or phone calls. The following are the three primary categories of fraud:

- 1) **Non-cardholder Fraud.** Examples: Lost or stolen card, account takeover, and identity theft.
- 2) **Cardholder Fraud.** Examples: Kickbacks, falsified transactions, and false statements.
- 3) **Merchant Fraud.** Examples: False transactions, intentional mischarges, bribes, and gratuities.

## 11-9. Non-Cardholder Fraud

a. Non-cardholder fraud involves the use of the card account or CH data by an unauthorized person. Non-cardholder fraud is investigated by special units within the servicing bank. Any information acquired

relating to non-cardholder fraud should be reported. The risk of non-cardholder fraud is higher in the following situations:

- 1) **Account/Card never received.** A new or replacement card has been mailed to the CH but was not received. This may be due to a third-party interception. In this case, the account should be cancelled, and new card issued.
- 2) **Lost or Stolen Account/Card.** If the CH reports the account as lost or stolen, the account will be cancelled and new one issued. Reporting the account as lost or stolen does not relieve the Federal Government for payment for any transactions that were made by the account holder prior to losing it.
- 3) **Altered or counterfeit cards.** This occurs when third parties obtain account information and used that information to make purchases with an altered or counterfeit card. If the bank recognizes a fraudulent pattern of use at the time of authorization, the bank will validate the use of the account with the CH and/or suspend the account.
- 4) **Account takeover/ Identity theft.** In this case, the account holder's identity has been compromised and a third party has requested a new account by providing confidential information about the account holder. Any CH who believes that he or she may have been subject to identity theft should contact the bank's customer-service department. Once a determination is made that an account has been compromised, investigation is the responsibility of the bank. Unless a government employee is determined to be involved in the fraud, the agency generally does not participate in the investigation. The account will be closed, and a replacement account opened.

b. **If Non-Cardholder Fraud Occurs.** If fraud is detected on the account, the CH must immediately report the incident to the following: BO, A/OPC and servicing bank. The servicing bank will block and/or terminate the account. If necessary, the bank will then issue a new card with a new account number. Also, the bank will mail a "Statement of Fraud" letter to the cardholder, which must be completed and returned promptly. Sometimes, unauthorized transactions will appear on the billing statement, even though the account was reported lost or stolen. Cardholders should report all unauthorized transactions by calling the bank's customer service telephone number.

c. **Non-Cardholder Fraud Methods.** Some of the different methods of fraud include the following:

- 1) **Counterfeit Accounts.** To make fake cards, criminals use the newest technology to "skim" information contained on magnetic stripes of cards and also to pass security features (such as holograms).
- 2) **Lost or Stolen Accounts.** Physical cards are stolen from a workplace, gym or unattended vehicle.
- 3) **Card Not Present.** Internet fraud occurs whenever account information is stolen and used to make online purchases. Merchant asks for the CVC code (located on the back of the card) to help prevent this type of fraud.
- 4) **Phishing.** Phishing occurs whenever a CH receives a fake email directing him or her to enter sensitive personal information on a phony website. The false website enables the criminal to steal information from the account holder.
- 5) **Non-Receipt.** This type of fraud occurs whenever new or replacement cards are mailed and then stolen while in transit.
- 6) **Identity Theft.** A criminal applies for an account using another person's identity and information.

d. **Detecting Non-Cardholder Fraud.** One of the first signs that an individual is a victim of fraud is at least one "mystery expense" showing up in the monthly statement. To help detect fraud, cardholders should review their statement by performing the following actions:

- 1) Look for transactions you do not recall making.
- 2) Check for unknown vendors.
- 3) Search for account withdrawals you do not remember making.

e. **Avoiding Non-Cardholder Fraud.** Cardholders should use the following practices to avoid fraud:

- 1) Secure account number and information.
- 2) Safeguard your personal identification number (PIN). Do not write it down; memorize it. Do not share your PIN.
- 3) Monitor your card during transactions. When the card is returned, check to make sure it is yours.
- 4) Immediately report lost or stolen accounts and/or any questionable charges.
- 5) Sign the back of a new card as soon as you receive it. If you do not receive a replacement card before the expiration date of the older card, contact the bank.
- 6) Destroy unwanted or expired cards. Shred or secure monthly statements and receipts.
- 7) Electronically verify charges appearing on your monthly statement.
- 8) Unless you initiated the purchase, never give your account information over the telephone, through the mail, or on the internet.
- 9) Consistently check your account for accuracy of personal and billing information. Notify the bank if your personal information and/or address needs updating.
- 10) Never let a telemarketer or salesperson pressure you into agreeing to a deal.
- 11) Be aware of common scams and contact your A/OPC and the bank for unusual situations.
- 12) Inform your A/OPC if you won't be using your card for an extended time. The A/OPC will temporarily suspend the card or reduce the single purchase limit to \$1.

#### **11-10. Cardholder Fraud and Merchant Fraud**

a. **Cardholder Fraud, Misuse and Abuse.** This type of fraud occurs when a cardholder uses their account to transact business that is not sanctioned, not authorized, not in one's official Government capacity, not for the purpose for which the card was issued, and/or not as part of official Government business. Intentional use of a GPC account for other than official Government business constitutes abuse, and depending on the situation, may constitute fraud.

b. **Consequences of Cardholder Fraud.** Cardholders have a responsibility to use the account to procure supplies and services at the direction of the Army under official purchase authorization. If a CH abuses the GPC or participates in fraud, the Army may cancel the purchase account and take appropriate disciplinary action against the CH. In the case of account abuse, any participating employee may be held personally liable to the Federal Government for the amount of any unauthorized transaction. Depending on the facts involved, an employee may be subject to fine or imprisonment for action relating to purchase account abuse and fraud. There are guidelines and procedures for disciplinary action to be taken against individuals for the improper, fraudulent, or abusive use of the purchase account. Purchase account abuse/fraud may have the following potential consequences:

- 1) Counseling
- 2) Cancellation of card account
- 3) Notation in employee performance evaluation
- 4) Reprimand
- 5) Suspension of employment
- 6) Termination of employment
- 7) Criminal prosecution

c. **If Cardholder Fraud Occurs.** If an A/OPC suspects that a BO or CH has committed fraud, the A/OPC should first contact the individual's command. The A/OPC may file a complaint with the Army Inspector General. Investigations are initiated upon receipt of a complaint or other information that gives a reasonable account of the wrongful or fraudulent act. The DoD hotline phone number is 800-424-9098 to report fraud. A/OPCs should be as specific as possible when reporting fraud. The following information should be provided:

- 1) Employee's full name

- 2) Rank or pay grade
- 3) Duty station
- 4) Specific suspected fraudulent act or wrongdoing
- 5) Specific dates and times
- 6) Specific location of where the suspected fraudulent act occurred
- 7) How the individual completed the alleged fraudulent act

d. **Merchant Fraud.** This type of fraud is committed by the merchant. Merchant fraud can occur either with or without the CH's knowledge or consent. Rotating sources may help prevent this type of fraud. Billing errors, such as duplicate charges, are not considered merchant fraud. Examples include:

- 1) A vendor intentionally charges for items not delivered/services not performed.
- 2) A vendor offers bribes and gratuities to a government employee in exchange for gaining purchasing activity.

## 11-11. Reporting and Monitoring for Fraud

a. **Reports for Identifying and Preventing Fraud.** A/OPCs should use the following reports to identify potential card misuse and fraud and to prevent fraud from occurring:

- 1) **Declined Transaction Authorizations Report.** This report identifies cardholders who have attempted to use an account to buy an item for which they are not authorized, that exceeds their single purchase limit, that exceeds their monthly purchase limit, or from a merchant that falls under a blocked MCC.
- 2) **Transaction Detail Report.** This report identifies the date, merchant, reason code, dollar amount, and status of each dispute filed by CH. BOs and A/OPCs should track and follow up on disputes to determine their outcomes. Cardholders should attempt to resolve disputes directly with merchants prior to filing a disputes report. If a merchant is consistently appearing on the disputes report, the A/OPC should determine whether the merchant may have billing issues, quality issues, or is attempting to commit fraud by submitting false transactions.
- 3) **Unusual Spending Activity Report.** This report identifies transactions that may warrant further review.
- 4) **Account Status Change Report.** This report lists accounts with a change status of lost/stolen, closed, or reopened accounts. This status may either be an indicator that the CH needs to secure the account or that the CH is attempting to disguise misuse or fraudulent activity by denying the charges.

b. **Reporting Fraud.** All identified instances of suspected fraud or abuse must be reported. Various channels of reporting include the Chain of Command, the A/OPC, the command's procurement fraud advisor (Staff/Command Judge Advocate), the servicing Criminal Investigation Division office, internal review organizations, and Inspector Generals at all levels. Notify the CH's commander or second-line supervisor, as appropriate, and security manager when a Defense criminal investigative organization or Defense organizational element responsible for investigating potential misconduct involving the GPC initiates an investigation into allegations of charge card violations. Whenever possible, this notification should take place within 72 hours of the initiation. See DoD Charge Card Guidebook A.1.11.

## 11-12. Violation and Disciplinary Categories

a. **Identifying the Violation.** DoD's [GPC Disciplinary Category Definitions Guidance](#) is a helpful resource when identifying the type of violation.

b. A/OPCs should be alert to the following indicators of possible fraud, waste, or abuse:

- 1) Repetitive buys from the same merchant
- 2) Lack of documentation for a purchase

- 3) Failure to safeguard cards and account numbers
- 4) CH or BO authorizing the use of their cards by others
- 5) Inadequate oversight by BOs and agencies
- 6) Payments made for items not received
- 7) Split purchases to avoid spending limitations
- 8) Lack of accounting for items requiring accountability
- 9) Payment delinquencies incurring interest penalties
- 10) Approval of a CH's statement of account by someone other than the CH or BO
- 11) Unauthorized purchases
- 12) CHs returning merchandise for cash or store credit vs. having credits issued back to the GPC

c. **Taking Corrective Action.** When an A/OPC discovers a violation of GPC policies, the A/OPC must take corrective action. The course of action will vary depending on the intentionality and severity of the infraction. A/OPCs should take one or more of the following corrective actions:

- 1) Document the purchase violation in IOD and the purchase file.
- 2) Require involved parties to attend training.
- 3) Inform the involved parties' supervisor or commander.
- 4) Suspend CH or BO account.
- 5) Terminate CH or BO appointment and account.

d. **Continual or Severe Violations.** Continual violation of GPC procedures by a CH or BO will result in termination of GPC privileges. A/OPCs will document the violation and action taken in their files for that particular CH/BO. A/OPCs will refer evidence of deliberate abuse to the CH and/or BO's supervisor, Commander, or SCO for appropriate action in accordance with the Uniform Code of Military Justice or civilian disciplinary rules. A/OPCs will refer evidence of internal fraud or other criminal activity to the Commander or SCO.

e. Any misuse of the GPC is subject to criminal, civil, Uniform Code of Military Justice, administrative, and disciplinary actions as appropriate. See below Table 11-6 for details. The Offenses and Penalties table in AR 690-752 is intended for use as a guide for selecting an appropriate penalty for infractions committed by civilian employees as it may not effectively address all situations. This table does not substitute for independent supervisory judgment and does not dictate penalties. A supervisor may choose the severity of action ranging from no penalty, informal disciplinary actions, to the maximum penalty of removal.

Table 11-6: Offenses and Penalties Guidance

Offense for Misuse of Government Charge Card	First Offense	Second Offense	Third Offense
Misuse of Government Travel Charge Card or Purchase Charge Card (for example, use for unauthorized personal expenses, failure to pay charge card bill in a timely manner, failure to properly safeguard the card or failure to use card for required expenses arising from official travel. Use of the Travel Charge Card at establishments or for purposes that are inconsistent with the official business of DoD, the Army, or applicable regulations).	Written reprimand to removal	5-day suspension to removal	10-day suspension to removal
Unauthorized use, failure to appropriately control or safeguard the use of a Government Purchase Card as a card holder or approving official responsible for use or oversight of the purchase card.	Written reprimand to removal	14-day suspension to removal	Removal

## CHAPTER 12 – EMERGENCY TYPE OPERATIONS

### 12-1. Emergency-Type Operations

a. DPCAP adopted use of the group term Emergency-Type Operations (ETOs) in contingency contracting and GPC policy. The ETOs currently included in 41 USC 1903 are the following:

- 1) Contingency Operations as defined in FAR 2.101;
- 2) Operations to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States as addressed in FAR 18.001;
- 3) Operations in support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance as addressed in FAR 18.001; and
- 4) Operations to support response to an emergency or major disaster as defined in Section 102 of the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) (42 USC 5121, implemented in FAR Subpart 26.2).

The term ETO also includes humanitarian or peacekeeping operations as defined in FAR 2.101. Currently, when supporting humanitarian or peacekeeping operations, the MPT does not increase, regardless of whether the humanitarian or peacekeeping operation is taking place inside or outside the United States; and the SAT can increase to \$500,000 upon determination by the HCA that the respective supplies or services directly support the humanitarian or peacekeeping operation.

b. FAR 18.2 addresses Emergency Acquisition Flexibilities (EAFs). It is critical to verify whether increased EAFs have been authorized for the particular ETO being supported. If so, each HCA has the authority to authorize use of EAFs. The primary EAF related to use of the GPC is the increased threshold defined in paragraph (3) of the “Micro-Purchase Threshold” definition at FAR 2.101. EAFs will be used only for the duration of the ETO by those who have been authorized to support the effort. Upon conclusion of the ETO authority, use of EAFs will cease and purchasing limits will return to previous levels. EAFs must be used solely for transactions that have a clear and direct relationship with the ETO and that appropriate internal controls are established and maintained to support and track use of the increased flexibilities.

### 12-2. Increased Thresholds and Acquisition Flexibilities for ETOs

a. For the EAFs to apply, ETOs require either (1) formal designation or declaration to have been made or (2) certain requirements to have been met. Policy on the use of EAFs can be found in the DPCAP memorandum, “[Emergency Acquisition Flexibilities – Special Emergency Procurement Authority and Head of the Contracting Activity Delegating Authority](#)” dated October 2, 2020, and the [Defense Contingency Contracting Handbook](#). For additional information about the types of operations considered ETOs, including the officials authorized to designate or declare them or make the determination, see FAR 2.101, DFARS 213.301, and DFARS 218.2.

b. The thresholds cited below will take effect when authorized by the cognizant HCA. It is important to note that DFARS 218.270 authorizes the HCA to make certain acquisition determinations on behalf of the Agency Head. Table 12-1 shows the increased MPTs in support of ETOs (excluding humanitarian and peacekeeping operations) (see DFARS PGI 213.201). Cardholders located inside the United States are prohibited from using the \$35,000 MPT unless specifically authorized by statute.



Table 12-1. GPC MPT Values for ETOs (excluding Humanitarian and Peacekeeping Operations)

Supplies		
Government Purchaser's Physical Location		Authorized MPT
Inside United States		\$20,000
Outside United States		\$35,000
Services		
Government Purchaser's Physical Location	Place of Performance	Authorized MPT
Inside United States	Inside or Outside United States	\$20,000
Outside United States	Inside United States	\$20,000
Outside United States	Outside United States	\$35,000

### 12-3. Required Internal Controls for ETOs

a. In anticipation of ETOs, the Army will identify, train, and appoint individuals in JAM with the Micro-Purchase ETO CH and/or Check Writer, or Warranted Overseas ETO CH, designation. Monthly and single transaction limits should be raised when ETOs are being supported. There will be no blanket increase of these CH authorities.

b. The HCA determines whether an event/mission is considered an ETO. The requiring activity identifies each transaction that is in support of an ETO in the PR&A. The BO approves the request and confirms whether it is in support of a particular ETO and therefore allowable under the related regulation. The CH will identify the transaction as "In support of an ETO" in the bank's EAS.

c. All open-market transactions (i.e., those not placed under existing contracts) that exceed the increased MPTs must be performed by a Contracting Officer. All ETOs conducted in accordance with DFARS 213.201(g) can be undertaken only by a Contracting Officer.

d. **Follow-up Reviews.** Contracting commands must designate officials (e.g., Level 3 or 4 A/OPC) to conduct follow-up reviews of transactions in support of each ETO. These follow-up reviews should take place as soon as practicable, but no later than 60 days after any given transaction. The officials will evaluate whether the transaction demonstrated the following:

- 1) Consistent with Army policies and procedures and otherwise reasonable and appropriate,
- 2) Provided the maximum practicable opportunity for small business participation under the circumstances, and
- 3) Appropriately documented by the CH.

### 12-4. Personnel Responsibilities for ETOs

#### a. HCA Responsibilities

- 1) HCAs have the delegated authority to authorize most EAFs. No notification from DPCAP is necessary for HCAs to implement these flexibilities. See DPCAP memorandum "[Emergency Acquisition Flexibilities – Special Emergency Procurement Authority and Head of the Contracting Activity Delegated Authority](#)," dated October 2, 2020, for guidance on how to determine if it is appropriate to authorize the use of EAFs.



- 2) To meet the requirements of the FAR 2.101 micro-purchase definition, ensure guidance directs CHs to retain ETO determinations to use elevated acquisition thresholds in their purchase file.
- 3) Ensure compliance with the required ETO internal controls.
- 4) Ensure guidance requires supplemental oversight for all accounts with elevated spending limits.

**b. A/OPC Responsibilities**

- 1) Distribute policy and guidance with respect to use of the GPC for each ETO.
- 2) Manage delegations of procurement authority for designated ETO card accounts.
- 3) Raise monthly and single transaction limits only when ETOs are being supported. There will be no blanket increase of these CH authorities.
- 4) Comply with DoD Purchase Log Information policy to ensure the identification and capture of all ETO GPC purchases (transactions and dollars).
- 5) Develop and implement a supplemental oversight program for all accounts with elevated spending limits.
- 6) Perform IOD case reviews for all ETO transactions above \$10,000.

**c. RM Responsibilities**

- 1) Develop unique LOAs (alternate or default) as required, to be used only when GPC purchases are made in support of each ETO.
- 2) Assist in identifying and tracking all ETO transactions.
- 3) Notify the A/OPC of fund availability.
- 4) Update CH limits (e.g., cycle limits) as needed.

**d. Billing Official Responsibilities**

- 1) Verify proper documentation is recorded and maintained for ETO transactions.
- 2) Ensure CH compliance with all statutory and regulatory guidance regarding ETOs.
- 3) Confirm CHs properly identify and record ETO transactions in the bank's EAS.
- 4) Ensure CHs use the correct LOA, as required, for ETO transactions.
- 5) Ensure ETO convenience checks do not exceed either the MPT authorized for convenience checks or the CH's authorized single purchase and other account spending limits. Verify the vendor was unable to accept the GPC.
- 6) Ensure all open-market transactions (i.e., those not placed under existing contracts) that exceed the increased MPTs are performed by a Contracting Officer. All ETO efforts conducted in accordance with FAR 13.201(g) can be undertaken only by a Contracting Officer.

**e. CH and Convenience Check Account Holder Responsibilities**

- 1) Identify all ETO transactions in the bank's EAS.
- 2) Ensure the requiring activity's PR&A details how the transaction supports the ETO.
- 3) Ensure each GPC transaction is charged to the LOA specifically established for that ETO.
- 4) Ensure convenience checks remain a purchase instrument of last resort.

## **12-5. ETO-Specific Training**

It is strongly recommended that CHs who are not in the contracting career field and will be making ETO purchases over an extended period complete DAU courses [CON 8300V](#), Joint Contingency Contracting Course, and [CLC 114](#), Contingency Contracting Officer Refresher.

## **12-6. Deploying Cardholders**

a. Commands should identify GPC personnel with pre-positioned GPC accounts in advance of need. These cardholders will have a card with an initial spending limit of \$1 until an emergency acquisition flexibility is declared and purchase limits are increased. Upon declaration of an emergency as defined in DFARS 213.201(a), the contracting office will ensure contracting officer warrants and/or delegations of authority are modified to reflect applicable procurement limits. All deployable cardholders will receive contingency GPC training.

b. When functional control of the deployed card account shifts to the gaining contracting command within the AOR, home station-issued GPCs may continue to be used unless prohibited by either the home station or the gaining command.

c. When the cardholder deploys, the limits can be raised by the A/OPC and RM in the bank's EAS. The limits should be raised to a realistic level based on the expected purchase volume for that operation. Upon the cardholder's return to home base, the spending limits should be lowered to the previous level.

## CHAPTER 13 - MANAGEMENT REVIEWS

Pursuant to 10 USC § 4754(b)(14-15), the purchase card program is subject to periodic audits by the DoD Inspector General and the Military Services' audit agencies to determine whether the program complies with agency policy. See Table 13-1 for the Army monitoring and oversight review schedule.

Table 13-1: Monitoring and Oversight

Description	Frequency
CH Approval of the Billing Cycle Statement	Monthly
BO Certification of the Billing Cycle Statement	Monthly
IOD Data Mining Adjudication and Reporting	Tables 11-3, 11-4, 11-5
Level 4 Annual Assessment	Annually
Level 3 PMR of the Level 4	Every 3 Years
Level 2 PMR of the Level 3	Every 3 Years
Random/Special PMRs	As necessary
Customer Feedback	As received
Semi-Annual Head of Activity Report	Every 6 Months

### 13-1. Level 4 A/OPC Annual Management Assessment

- a. In addition to IOD monthly and semi-annual reviews, the Level 4 A/OPC must perform an annual assessment of their GPC program. This assessment will assist Level 4 A/OPCs in evaluating their GPC program's internal controls and overall compliance with the GPC program's objectives, policies, procedures, and best practices.
- b. Reports of reviews will provide information to each management level, identifying systemic weaknesses within their organization.
- c. The Level 4 A/OPC must complete the Level 4 A/OPC Annual Management Assessment template annually. The template and instructions are located at <https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/GPC.aspx>. One assessment must be completed for each Level 4 A/OPC. Upon completion, the Level 4 A/OPC will provide the assessment to the Level 3 A/OPC. The Level 3 and 4 A/OPCs will take corrective action as needed and retain a copy for three years.

### 13-2. Level 3 Procurement Management Review

Level 3 A/OPCs will periodically conduct PMRs on their Level 4 A/OPCs per the guidance contained in AFARS Appendix CC. The primary focus areas of this PMR are assessing compliance with policies and procedures, program management, monitoring and oversight, and training.

### 13-3. PMR Reviews

- a. When conducting a PMR, the reviewer will perform the following tasks:
  - 1) Utilize the GPC PMR Toolkit located in PCF.
  - 2) Identify patterns of noncompliance, determine the magnitude of the deficiencies, and seek the root causes of problem areas.

- 3) Pursue systemic issues.
- 4) Teach systems, processes, and procedures, and spread innovative ideas.
- 5) Identify responsibilities for corrective action.
- 6) Train those inspected and, as appropriate, those conducting the reviews.
- 7) Brief leadership on results.
- 8) Make recommendations when appropriate.
- 9) Verify the implementation of those recommendations.

#### **13-4. Army GPC PMR Process**

a. The Department of the Army, through the ODASA(P), will establish, execute, and provide oversight of a tiered GPC PMR program reviewing each contracting activity every three years to achieve the following:

- 1) Assess, analyze, and communicate the health of Army contracting to senior Army leadership.
- 2) Ensure management oversight and control of contracting related issues.
- 3) Ensure compliance with Federal, Defense, and Army acquisition regulations and policies.
- 4) Provide best practices for the Army to enhance the procurement process.

**b. Purpose and Objectives of PMRs.**

- 1) Foster good stewardship of resources.
- 2) Improve processes.
- 3) Evaluate and strengthen internal controls.
- 4) Assess and reduce risk.
- 5) Ensure that agencies establish and maintain internal controls to provide reasonable assurance the goals and objectives of the purchase card program are being met, and safeguards against fraudulent, improper, and abusive purchases are adequate.
- 6) Assess program results.
- 7) Communicate results so systemic problems can be identified and addressed.
- 8) Implement Corrective Action Plans.
- 9) Improve the performance and accountability of the GPC program.

c. **Preparation for GPC PMRs.** Reviewers should notify the activity being reviewed 30 days before planned GPC PMR visits. The activity will provide the following in advance: metrics, bank reports and IOD data mining reports, completed GPC toolkit, specified statistics, copies of previous reviews/corrective action plans, procurement authority, and training materials. Additionally, the activity may request additional areas of emphasis and assistance during the GPC PMR.

**d. Results of Procurement Management Reviews.**

- 1) The GPC Toolkit in PCF contains a Business Intelligence Report which should be used to communicate the results of the PMR. Reports of GPC PMR results will contain a risk assessment, analysis of issues, commendations, observations, findings, and recommendations as appropriate. Report findings must be specific and include sufficient information to enable root cause analysis. GPC PMR recommendations must be based on supported findings and be actionable.
- 2) The GPC contracting activity reviewed will submit a Corrective Action Plan (CAP) within 30 business days of report receipt. The reviewed activity must complete corrective actions - if any - within the agreed timeframe, inform the GPC PMR Team Lead of corrective actions taken, and request closure of the CAP.

**e. Annual Summary Health Report.**

- 1) HCAs will provide to the ODASA(P), an Annual Summary Health Report for their organization

- to include copies of all GPC PMR reports and associated analyses of subordinate contracting offices GPC reviews no later than 31 October each year.
- 2) The ODASA(P) will provide an Annual Summary Health Report to DASA(P) that presents a holistic assessment of Army GPC contracting no later than 31 January each year.

### **13-5. Customer Feedback**

a. GPC personnel are expected to establish and maintain professional communication with all stakeholders to establish good working relationships and customer satisfaction. The A/OPC, BO, or CH will acknowledge valid customer feedback and investigate as appropriate. Customer feedback must be in writing detailing the nature of the issue and forwarded to the A/OPC, BO, or CH. Customer feedback may be obtained from the results of formal customer satisfaction surveys.

b. Customer feedback may be treated as a method of review. In this case, the Army takes feedback from the requiring activities on the quality of the GPC service provided to include services provided by the GPC servicing bank. The quality of the services provided is based on the following factors:

- 1) Quality
- 2) Completeness
- 3) Responsiveness and timeliness of customer service
- 4) Business relationship, i.e., professional behavior and overall business-like concern for the interests of the customer
- 5) GPC systems reliability
- 6) Cost savings
- 7) Efficiency and effectiveness

## CHAPTER 14 - PROHIBITED AND RESTRICTED PURCHASES

a. Cardholders must contact their A/OPC or other local authority (e.g., legal advisor, HCA, or resource manager) before making purchases that seem questionable or have the appearance of being inappropriate. When buying questionable items or services, CHs must include approval documentation in the purchase file.

b. All exceptions must be on a per transaction basis after consultation with the A/OPC, legal counsel, HCA, SCO, CCO, or resource manager. Multiple requests for the same exception must be approved by the Level 3 or 4 A/OPC responsible for issuing the GPC accounts. There may be exceptions to the guidance in this section. For example, the armed escort of prisoners may be a legitimate use of the GPC even though “escort services” qualify as a prohibited transaction. CHs must include the results of their consultations and determination to use the GPC with their transaction supporting data.

### 14-1. Authorized Purchases

a. An authorized purchase satisfies a current mission-related need at a fair and reasonable price that meets all legal and regulatory requirements. It meets the following five criteria:

- 1) **Lawful.** Purchase is funded and authorized by law or regulation, and the requested item/service fits the appropriation which is being used. See 48 CFR 13.301(a) and 31 USC 1301(a).
- 2) **Legitimate Government Need.** Request is for official purposes and not for the personal benefit of a government employee.
- 3) **Bona Fide Need (Current Year Appropriation).** Request is for the need of the current year of the appropriation. This rule does not prevent maintaining a legitimate inventory at reasonable and historical levels. See 31 USC 1502.
- 4) **Minimum Needs of the Government.** Request should not exceed what is truly required. See FAR 11.103(c)(1).
- 5) **Fair and Reasonable Price.** Price charged is fair to both parties, considering the quality and timeliness of performance and delivery. Micro-purchases may be awarded without seeking competitive quotes if the CH or BO considers the price to be reasonable. Cardholders should obtain multiple quotes if they suspect that the price is not reasonable or if buying a supply/service for which no comparable pricing is readily available. See FAR 13.203(a)(3).

b. **Funding.** Funds must be committed and obligated prior to purchase. BOs must ensure that sufficient funds are obligated within the financial system before providing approval to the CH to make the purchase. CHs must screen the purchase request to verify the BO has approved the requirement to make the purchase. For CHs who use GFEBS, a purchase request with sufficient funding must have L4 approval before the card is swiped.

c. **Contract Payments.** If a valid procurement requirement has resulted in the award of a government contract, the GPC may be used as a method of payment against the contract, even if the acquisition would otherwise be for a GPC prohibited item.

## **14-2. Unauthorized Commitments and Ratification**

a. An unauthorized commitment (UAC) is defined by FAR 1.602-3(a) as “an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.” See AFARS 5101.602-3-90. The only individuals who can bind the Government are warranted contracting officers, ordering officials, and cardholders acting within the limits of their delegated authority. The primary factor in determining whether a purchase is considered a UAC is contracting authority. CHs have this authority from their appointment letter. When an individual without contracting authority initiates a purchase, it is considered a UAC. The designated CH is the only person authorized to make purchases with a GPC.

b. Payment for goods or services accepted for an UAC may be made only through the ratification process. Payment cannot be made unless a Contracting Officer has awarded a contract or an authorized GPC holder acting within his or her delegation of authority has ordered the item(s).

### **c. Examples of Unauthorized Commitments.**

- 1) The Army receives services/supplies in which a properly executed funding document and an authorized procurement method (e.g., contract, BPA, or GPC) was not established prior to the Government ordering the services/supplies.
- 2) Someone other than the CH contacts a vendor and asks them to provide supplies or perform work, without the CH's knowledge and without prior approval of the billing official.
- 3) An individual without contracting authority orders supplies or services.
- 4) CH orders supplies or services exceeding their procurement authority.
- 5) A vendor mistakes a request for information as an order, ships the item, the receiver does not realize it is an improper order and accepts the item rather than rejecting and returning the item.
- 6) A contractor continues to perform a service contract or provide leased/rented equipment after the expiration date of the contract. This situation frequently occurs on yearly services/maintenance/lease-type contracts for which there is a continuing need.
- 7) An individual makes a commitment for continuation of services over and above the original scope and dollar amount, or delivery of supplies under an expired contract, purchase order, or delivery order.
- 8) An individual makes a commitment which exceeds the call order limit on a BPA.
- 9) A person who does not have delegated authority makes a commitment under a BPA.

### **d. Common Reasons for UACs.**

- 1) Failure to plan procurement needs far enough in advance to utilize normal contracting procedures.
- 2) Encountering emergency program requirements and not believing there is enough time to go through normal procurement procedures.
- 3) Failure to expeditiously review, approve, and transmit procurement requests to the Procurement Office.
- 4) Failure to perform extensive market research before taking an action.
- 5) Government officials not understanding the parameters of their actual authority or lack thereof.
- 6) Government official not understanding that agreeing to an option presented by a contractor could be an unauthorized action if it creates more work or expense.

e. **Ratification Process.** AFARS 5101.602-3-90 outlines the Army process for ratifying an unauthorized commitment. The Government accepts liability through ratification. When an A/OPC identifies a potential unauthorized commitment, the A/OPC must contact the local contracting office to initiate the ratification process.

f. **Payment of Properly Ratified Claims with the GPC.** After the UAC is ratified, the payment of the ratified claim may be made through an appropriate contract action (e.g., award of a contract, modification to a contract, purchase order, GPC). After ratification, the GPC may be used to satisfy the commitment if the amount of payment is within the cardholder's authority. If the outstanding charges have already been paid in error with the GPC prior to the discovery of the UAC, the UAC is being processed for ratification only and the supporting documentation is loaded in the bank's EAS.

### 14-3. Prohibited Transactions

The following list identifies supplies and services that are prohibited from purchase with the GPC.

- a. **Aircraft fuel and oil.** The Air card is the appropriate procurement method.
- b. **Auto Insurance for Government-owned vehicles.**
- c. **Bail and Bond Payments.**
- d. **Betting, casino gaming chips, and off-track betting.**
- e. **Cash advances, including money orders and travelers' checks.**
- f. **Court costs, alimony, and child support.**
- g. **Dating and escort services.**
- h. **Equal Employment Opportunity (EEO) settlements.**
- i. **Equipment, Systems, and Services Using Covered Telecommunications Equipment or Services as a Substantial Component or Critical Technology.** FAR 13.201(j)(1) prohibits use of the GPC to "procure, obtain, or extend or renew a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system, unless an exception applies or a waiver is granted."
- j. **Fines.** Use of the GPC to settle a commercial or governmental fine is generally prohibited.
- k. **Foreign currency.**
- l. **Gift Certificates and Gift Cards.** Buying gift certificates and cards is generally prohibited. Gift certificates and gift cards are considered cash advances and must not be purchased with the GPC, even to obtain items from merchants that do not accept the GPC. As with cash and near-cash, gift certificates and gift cards are prohibited because they are easily misappropriated, and the award of gift certificates or gift cards requires the submission of 1099 reports in accordance with IRS regulations. The Army is required to file a form 1099-MISC for payments to individuals totaling more than \$600 in a tax year.
- m. **Perfluorooctane Sulfonate (PFOS) or Perfluorooctanoic Acid (PFOA) Containing Items.** Cardholders must not procure any covered items that contain PFOS or PFOA. Covered items include (1) nonstick cookware or cooking utensils for use in galleys or dining facilities; and (2) upholstered furniture, carpets, and rugs that have been treated with stain-resistant coatings.
- n. **Personal use Purchases.**
- o. **Pharmaceuticals.** Pharmaceuticals must be purchased through the DLA supply system.
- p. **Repair of leased GSA vehicles.** The fleet card is the appropriate method for these repairs.
- q. **Salaries and Wages.**
- r. **Savings bonds.**
- s. **Supplies or Services from military personnel or civilian employees** (e.g., when Government employees are acting as vendors).
- t. **Taxes.** Use of the GPC for personal tax payments is prohibited because personal expenses cannot be charged to the GPC. As a Federal Government entity, DoD is exempt from paying most taxes to any other Federal, State, or local authority. (Some states, like New Mexico, levy taxes the Federal Government must pay.) For more information, see the GSA State Tax Exemption Information



for Government Charge Cards.

u. **Tax on Certain Foreign Procurements.** CHs will not use the GPC as a method of payment or purchase when a contract instrument contains FAR Clause 52.229-12, unless DFARS Clause 252.229-7014 is also present. In certain circumstances, the Government must withhold a two percent excise tax on foreign payments to vendors to comply with the FAR and IRS regulations. The GPC does not provide a method to accomplish this withholding. As a result, the GPC is prohibited from being used.

v. **Telecommunication Systems.** Use of the GPC to purchase major telecommunication systems, such as Federal Telecommunications System or Defense Switched Network (DSN) systems, is prohibited. A contract vehicle is required because such purchases include special terms and conditions. DFARS 239.74 governs DoD's acquisition of telecommunications.

w. **TikTok.** In accordance with FAR 13.201(k), the prohibition in FAR 4.2202 on use of a ByteDance covered application ("TikTok") applies to purchases at or below the MPT where the performance of the contract may require the presence or use of a covered application (e.g., where social media advertising services might be part of the procurement), unless an exception is granted.

x. **Video Surveillance Cameras.**

y. **Wire transfers.**

#### 14-4. Restricted Transactions

The following list identifies supplies and services that are generally prohibited from purchase. Under the following conditions, the below items are allowable to purchase with the GPC.

a. **Advance Payments.** Advance payments are generally prohibited unless authorized by a specific appropriation or other law. See 31 USC 3324. Exceptions include but are not limited to subscriptions or training based on an SF 182, Authorization, Agreement, Certification of Training. Advance payments are authorized for Tuition Assistance in accordance with AR 621-5. Limitations on advance payments do not apply to advance payments authorized by law for subscriptions or publications. Advance payment is authorized in 31 USC 3324(d)(2) for "charges for a publication printed or recorded in any way for the auditory or visual use of the agency." CHs must place subscription orders in the name of an organization or a position title (e.g., Building Manager or Director, XXX Division) rather than in the name of an individual employee. CHs must retain the renewal notice or a statement that reflects the beginning and ending date of the subscription service.

b. **Business Cards.** Commercial printing of business cards is prohibited. Cardholders may use the GPC to order business cards from AbilityOne and National Industries for the Blind.

c. **Bottled Water.** Bottled water is generally prohibited. Cardholders may use the GPC to buy water when potable drinking water is not available on the premises or when the drinking water currently provided or available on the premises is harmful if consumed. Cardholders must obtain approval from their legal advisor prior to purchase and include approval documentation in the purchase file. (B-247871, B-324781, B-310502, and B-318588)

d. **Coins.** Cardholders may use the GPC to buy coins in accordance with the specified policy in HQDA memo, Policy for the Procurement and Presentation of Coins, dated 14 December 2016.

e. **Commercial Unmanned Aerial Systems.** Use of the GPC to purchase commercial unmanned aerial systems (e.g., "drones") is prohibited in the DPCAP 15 August 2018 memorandum titled "Government-Wide Commercial Purchase Card Prohibited Purchases." See DPCAP 1 March 2019 memo titled "Limited Exception to the General Government Wide Commercial Purchase Card Unmanned Aerial Systems Purchasing Prohibition."

f. **Conference Registration Fees.**

- 1) **Local In-person Training Conference.** Cardholders should use the GPC to pay the registration fee. Attendance may require conference approval from chain of command and

legal office.

- 2) **Conference that Requires Official Travel.** Cardholders may use a GPC for a standalone, advanced payment of the registration fee. Attendance may require conference approval from chain of command and legal office.
- 3) **Virtual Training Conference.** Cardholders should use a GPC to pay the registration fee. Conference approval is not required per AR 1-50, 1-8.

g. **Food, Meals, and Refreshments.** In general, CHs may not use appropriated funds to purchase items considered personal expenses, such as food, meals, and refreshments without specific authority. Provided you have specific authority, there may be limited exceptions that permit a CH to purchase food. Additional information regarding acceptable food purchases is available in the GAO publication, "Can Your Agency Use Appropriated Funds for Meals and Light Refreshments?" When purchasing food, CHs may use the GPC to buy disposable serving materials (e.g., paper plates and napkins, plastic forks). **Written legal and A/OPC approval is required for all food purchases and must be included in the purchase file. The below list identifies exemptions under which food may be allowable if approved by the command and legal counsel. This list is not all-inclusive.**

- 1) **Nongovernmental Meeting or Conference.** Cardholders may use GPC to pay for food if the cost of food is a non-separable portion of a registration or attendance fee that covers attendance and meals. CH may also use the GPC if food is necessary to obtain full benefit of the meeting or conference (B-233807, Aug. 27, 1990). Criteria used in determining if an agency may pay for food for an employee attending a nongovernmental meeting or conference:
  - i. Meals and refreshments are incidental to the meeting or conference,
  - ii. Attendance at the meal or when refreshments are provided is important to ensure the employees' full participation in the meeting or conference, and
  - iii. The meal and refreshments are part of a formal conference or meeting that includes not just the meal and refreshments and, discussions or speeches that may take place when the meal and refreshments are served, but also substantial functions separate from when the food is served.
- 2) **Agency Paying for Food for an Employee Attending a Government-Sponsored Conference.** Cardholders may use the GPC if food is necessary to obtain full benefit of the conference and the conference involves matters of topical interest to multiple agencies and/or nongovernmental participants. Also, without statutory authority to charge a fee and retain the proceeds, the host agency may not charge a registration or other fee to defray the costs of providing food (B-198471, May 1, 1980, and B-288266, Jan. 27, 2003). Criteria used in determining if an agency may pay for food for an employee attending a government-sponsored meeting or conference:
  - i. Meals and refreshments are incidental to the meeting or conference,
  - ii. Attendance at the meal or when refreshments are provided is important to ensure the employees' full participation in the meeting or conference, and
  - iii. The meal and refreshments are part of a formal conference or meeting that includes not just the meal and refreshments and discussions or speeches that may take place when the meal and refreshments are served, but also substantial functions separate from when the food is served.
  - iv. In addition, the meeting or conference may not be a routine meeting that involves the day-to-day operations of the government.
- 3) **Agency Hosting a Formal Conference.** Cardholders may use the GPC if the conference includes registration, published substantive agenda, and scheduled speakers; the food is a legitimate conference expense; and the conference involves matters of topical interest to multiple agencies and/or nongovernmental participants. Also, without statutory authority to

charge a fee and retain the proceeds, the host agency may not charge a registration or other fee to defray the costs of providing food (B-300826, March 3, 2005). Criteria used in determining when an agency, as host, may pay for food at a formal conference:

- i. Meals and refreshments are incidental to the formal conference,
  - ii. Attendance at the meal or when refreshments are provided is important for the host agency to ensure attendees' full participation in essential discussions and speeches concerning the purpose of the formal conference, and
  - iii. The meal and refreshments are part of a formal conference that includes not just the meal and refreshments and discussions or speeches that may take place when the meal and refreshments are served, but also substantial functions separate from when the food is served.
- 4) **Light Refreshments at Government-sponsored Conferences.** The agency sponsoring the conference may use the GPC to provide light refreshments on breaks at Government-sponsored conferences only for Government employees on travel orders (TDY status). Use of GPC to buy refreshments for non-Government employees or for Government employees not on travel orders is prohibited.
- 5) **Agency Hosting a Focus Group.** Cardholders may use the GPC if the focus group advances a specific statutory mission; the participants are federal employees; and the expenditure contributes materially to the achievement of the specific statutory function (B-304718, Nov. 9, 2005).
- 6) **Routine Agency Meeting Held to Discuss the Internal Day-to-Day Operations of the Government.** Cardholders may use GPC if the meeting is held at an outside facility, and the cost of food is included, at no extra charge, in the fee for the conference space (B-281063, Dec. 1, 1999).
- 7) **Training.** Cardholders may use GPC if participation in the meal is necessary to obtain the full benefit of the training (39 Comp. Gen. 119 (1959)). Sponsoring agency may serve refreshments/meals at training where the food is necessary to achieve the objectives of the training program. The food must be incidental to the training, and the event must meet the definition of training in 5 USC 4101(4). Attendees would fail to complete the training if they missed the meal.
- 8) **Award Ceremony.** Cardholders may use GPC if the recipients will be publicly recognized, and the authorized agency official has determined that food advances the recognition of the awardee. Sponsoring agency may serve light refreshments at award ceremonies honoring individuals recognized under a Civilian Employee Incentive Award Program. Use of GPC to pay for refreshments at the following types of ceremonies is prohibited: retirement, promotion, graduation, recurring quarterly recognition, commanders' call, PCS, and longevity (65 Comp. Gen. 738 (1986)).
- 9) **Cultural Awareness Ceremony.** Cardholders may use GPC if the food is part of a formal program intended to advance EEO objectives and make the audience aware of the cultural or ethnic history being celebrated. The food must be a sample of the food of the culture and be offered as part of the larger program to serve an educational function (B-301184, Jan. 15, 2004).

- 10) **Official Representational Funds (ORF).** Cardholders may use the GPC to extend official courtesies, including meals and refreshments, to authorized guests in accordance with AR 37-47 or appropriate agency regulations. The GPC must be dedicated solely for use of ORF expenditures. For example, ORF may be used to purchase food in support of Employer Support of Guard and Reserve (ESGR) for official reception, representation, and advertising activities authorized in DoDI 7250.13, 10 USC 2241(c), and ESGROI 7000.1.
- 11) **Chaplain-led Programs.** Cardholders may use the GPC to buy food in support of chaplain-led programs to assist members of the Armed Forces and their immediate family members in building and maintaining strong family structures. Allowable expenses include the cost of transportation, food, lodging, supplies, fees, childcare, and training materials for members of the Armed Forces and their immediate family members, including participation at retreats and training conferences (10 USC 1789(b) and AR 165-1).
- 12) **Yellow Ribbon Reintegration Program (YRRP).** Use of the GPC may be authorized for purchases in support of YRRP events (e.g., meals/refreshments, childcare) for eligible individuals when the purchase is considered a “necessary expense” in carrying out the statutory requirement of the program established under Public Law 110-181 Section 582. See DoDI 1342.28; JTR 031902; 37 USC § 481I and 37 USC § 452(b)(15); OUSD Memo “Use of Appropriated Funds for the YRRP” dated 7 Jul 2010; and Chief National Guard Bureau Manual 1801.01.
- 13) **Recruiting Activities.** Cardholders may use the GPC for purchases in compliance with Army Regulation (AR) 601-2, Army Recruiting Support Programs Chapter 5-2. See National Guard Regulation 601-1 para. 9-10., Army National Guard Strength Maintenance Program. Per 10 USC § 520c: Recruiting functions: provisions of meals and refreshments, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons:
- i. Persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title.
  - ii. Persons who are objects of armed forces recruiting efforts.
  - iii. Persons whose assistance in recruiting efforts of the military departments is determined to be influential by the Secretary concerned.
  - iv. Members of the armed forces and Federal employees when attending recruiting functions in accordance with a requirement to do so.
  - v. Other persons whose presence at recruiting functions will contribute to recruiting efforts.
- 14) **Field Studies Program (FSP).** Cardholders may use the GPC for the Field Studies Program to pay for administrative program costs and actual event execution costs below the micro-purchase threshold. DoD training activities may pay for expenditures in support of the Field Studies Program IAW DoDI 5410.17, AR 12-15, SECNAVINST 4950.4B, and AFI 16-105, including but not limited to, food and meals, supplies for International Military Student lounges such as coffee, tea, and condiment kits, admission to authorized venues, rental of event space, hiring of tour guides as well as other authorized support services during FSP field trips. See AR 12-15, Chapter 11-30a(2).
- 15) **Emergency Requirements.** CHs may use the GPC to purchase food in emergency circumstances where the provision of food is incidental to the protection of human life or Federal property (B-189003, July 5, 1977). This exception applies in authorized emergency conditions that clearly present an imminent danger to human life and/or destruction to federal property and it was necessary to have employees assist in the emergency response and/or maintain the essential functions of the office for an extended period (53 Comp. Gen. 71 (1973) and B189003). Emergency circumstances do not include situations where employees are merely required to remain on duty beyond their regular working hours, even if required to remain on duty for a 24-hour period (B-185159, Dec. 10, 1975). Further, emergency

circumstances do not include situations merely involving inclement weather (68 Comp. Gen. 46 (1988)). Food is unauthorized in an event where personnel were not engaged in activities to prevent imminent danger to human life or Federal property but were only investigating a dangerous situation which had already occurred. Food purchases for this exception will depend on the facts and circumstances present in each case. Occupations such as those of policeman, firemen, security guards, are often required to be performed under emergent and dangerous conditions and this fact alone does not warrant departure from general rule against payment for employees' meals from appropriated funds (B-185159, December 10, 1975).

**h. Fuel.**

- 1) **Fuel for Special Purpose Vehicles.** Cardholders may use GPC for fuel for special purpose vehicles such as a forklift, tractor, lawn mower.
- 2) **Fuel for Rental Vehicles.** Cardholders may use GPC for fuel for vehicles rented 30 days or less for official purposes, when not in a TDY status. If in TDY status and need to purchase fuel for the rental vehicle, requester must use a Travel card.
- 3) **Fuel for Army NAF-owned Vehicles.** Cardholders may use GPC for NAF vehicle refueling in accordance with NAF vehicle refueling policy requirements in the JTR and DFAS 4200.2-1.
- 4) **Fuel for Personally owned Vehicles.** GPC is prohibited. Requester must use travel card.
- 5) **Fuel for GSA Fleet vehicles.** GPC is prohibited. Requester must use the GSA Fleet card.
- 6) **Fuel for Vehicles owned or leased by DoD.** Requester should use the DoD Fleet card.
- 7) **Bulk Fuel.** Requester should use the Logistics Fuel Card (LOGFUEL). The fuel may also be purchased via contract.

i. **Gift Funds** in support of Army donor program where nonappropriated funds are permitted. Gift Fund purchases must each have a supporting legal review uploaded in the bank's EAS. Gift Fund programs must operate in accordance with AR 1-100 and donor intent while following their local Gift Fund standard operating procedure. The A/OPC will check uploaded purchase documents to ensure the supporting legal review is attached while monitoring program compliance.

**j. Lodging in Kind (LIK) and Subsistence in Kind (SIK).**

- 1) The GPC is the preferred method to purchase and pay for LIK/SIK requirements below the MPT on dedicated LIK/SIK cards.
- 2) The requiring activity must coordinate LIK/SIK requirements with their respective contracting activities early in the acquisition planning process to decide if a contract or the GPC is the appropriate method of procurement. The requiring activity's contracting office will determine the proper procurement method. If the GPC is deemed the appropriate procurement method, the contracting office will forward the requirement to the appropriate CH to make the purchase. If the appropriate procurement method is determined to be a contract or BPA, the contracting office should establish or utilize a contract/BPA. The contracting office will determine if the GPC will be used as a method of payment.
- 3) The Army will identify recurring GPC LIK/SIK requirements on an annual basis and, where appropriate, put these acquisitions into contract vehicles or BPAs.
- 4) See the [Army LIK/SIK Standard Operating Procedures \(SOP\)](#) for detailed guidance.

**k. Long-term Lease of Land and Buildings.**

- 1) Lease of real property (i.e., land and/or buildings) for a term longer than 30 days is prohibited.
- 2) Lease of real property for a term shorter than 30 days is permitted.

l. **Professional Credentials.** Per 5 USC 5757, an agency may use appropriated funds or funds otherwise available to the agency to pay for expenses for employees to obtain professional credentials, including expenses for professional accreditation, state-imposed and professional licenses, and

professional certification; and examinations to obtain such credentials. The authority under subsection (a) may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-determining, policymaking, or policy-advocating character of the position.

m. **Recreational Events.** Cardholders using appropriated funds cannot pay for recreational events with the GPC. NAF CHs using non-appropriated funds may pay for recreational events with the GPC.

n. **Subscriptions.** Advance payment is authorized in 31 USC 3324(d)(2) for “charges for a publication printed or recorded in any way for the auditory or visual use of the agency.” CHs must retain the renewal notice or a statement that reflects the beginning and ending date of the subscription service. CHs must purchase mission-related subscriptions to magazines, journals, and technical data in the name of the agency only rather than in the name of an individual employee. Advance payments are authorized for subscriptions to prevent disruptions in service. Subscriptions must not have an automatic renewal at the end of the subscription period. Before leaving their role, CHs should notify their BO and A/OPC so that the subscription may be cancelled or transferred to another account as appropriate.

o. **Tires.** Cardholders may use FedMall's Global Tires Program contract.

p. **Travel Advances, Claims, or Expenses.** Only the Government Travel Charge Card is to be used for individual official travel-related expenses. All travel-related expenses (e.g., metro fares, taxi, bus fares, automated toll tools, and parking fees) are processed in accordance with the JTR. For travel-related expenses, the GPC may be used only to place orders and/or make payments against contracts awarded by warranted Contracting Officers.

q. **Vehicle-related expenses.** These expenses are generally paid with the travel or fleet cards. CHs may use GPC when the travel or fleet card is inappropriate, e.g., NAF and Air Force vehicles. Use of the GPC to purchase repairs on GSA fleet-operated vehicles is prohibited.

r. **Vehicle Rental.** Cardholders may use the GPC for short term vehicle rental (less than 90 days) from a commercial vendor 1) if vehicles are not available from the installation's motor pool and 2) use of GSA Short Term Rental program is not feasible. The total rental cost must be below the MPT. See AR 58-1 for guidance on maintenance and lease of vehicles.

s. **Weapons, Ammunition, and Explosives.** Use of the GPC for purchases of these items is generally prohibited. As controlled DoD commodities, weapons, ammunition, and explosives are assigned to the Army (see DFARS 208.70), which has contracting responsibility to supply all DoD Components with weapons, ammunition, explosives, and other commodities listed in DFARS PGI 208.7006. DoD Components are to submit their commodity requirements via MIPR to the assigned Component in accordance with DFARS 208.7002 and DFARS PGI 208.7002-1. See Chapter 16 for exceptions to policy. CHs may purchase ceremonial knives and swords provided they meet all the following conditions:

- 1) Do not have a sharpened blade – must not be sharpened for use as a weapon.
- 2) Used for change of command, military retirements, drills, Honor Guard, ceremonies, displays, cake cutting, etc.
- 3) Not for personal use.
- 4) Kept on hand for use in appropriate ceremonies.

#### 14-5. Split Purchases

a. A split purchase is the intentional breaking down of a known requirement to stay within a CH's single purchase limit or the MPT to avoid other procurement methods or competition requirements. Split purchases are prohibited with the GPC (FAR 13.003(c)(2)). Direct requirements exceeding the MPT to the contracting office. Cardholders and A/OPCs should check with their legal advisor if unsure whether

a proposed purchase would be considered split.

b. The requirement is the total quantity and price known at the time of purchase. If a CH purchases as they become aware of a requirement, the requirement is each purchase. If a CH consolidates purchases and buys once a day, the requirement becomes what was received during that day.

c. Examples of split purchases include, but are not limited to, the following:

- 1) A single CH making multiple purchases from the same merchant 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.
- 2) A single CH purchasing the same/similar item(s) from multiple merchants on the same day, the total of which exceeds the single purchase limit, and the total was known at the time of the first purchase.
- 3) A single CH making multiple purchases of similar items from the same or multiple merchants over a period of time when the total requirement was known at time of the first purchase and the value exceeds the single purchase limit.
- 4) Multiple CHs under the same supervision or BO purchasing the same/similar item(s) the same day or in a compressed timeframe when the total requirement is known at a given time and exceeds the single purchase limit.
- 5) Requirements exceeding the MPT (e.g., requirements for monthly recurring services, in which the monthly payment is less than the applicable services MPT, but the known yearly total exceeds the MPT).

d. **What is not a Split Purchase.** Sometimes transactions appear like a split purchase, but they do not meet the definition and are allowable to purchase with the GPC. See common examples below:

- 1) Multiple purchases to the same vendor which do not exceed the single purchase limit or MPT.  
**Example.** A CH makes two separate \$100 purchases from the same vendor on the same day. This situation is not a split purchase because the combined total of \$200 is below the MPT.
- 2) Multiple purchases to the same vendor when the CH purchases as requirements are received.  
**Example.** A CH receives a \$6,000 purchase request on Monday. He obtains funding and approval and places the order. On Wednesday, the CH receives a purchase request from the same customer to buy additional items from the same vendor for \$5,000. He obtains funding and approval and places a second order to the same vendor. This situation is not a split purchase, because the CH was unaware of the second request when he made the initial purchase.

#### 14-6. Merchant Authorization Controls (MAC)

a. The servicing bank provides Merchant Authorization Controls (MAC) in the form of Merchant Category Codes (MCC) and Merchant Category Code Groups (MCCG). MCCs and MCCGs categorize merchants by the goods and services they provide. They are used within the servicing bank's card processing system to authorize or decline purchase transactions based on controls established for each GPC account. An MCC is a four-character numeric code with a corresponding description that reflects the merchant's primary business. An MCCG is a logical grouping of MCCs.

b. **Merchant Category Code (MCC).** A code assigned by the merchant's bank to categorize each merchant according to the type of business in which the merchant is engaged and the kinds of supplies or services provided. These codes are used as authorized transaction codes on a card/account to identify the types of businesses providing authorized supplies or services. DPCAP maintains the list of DoD-wide blocked MCC codes. The servicing bank uses MasterCard's MCCs to categorize merchants based on the types of goods or services they provide. When an A/OPC adds MCCs to a Cardholder or Managing Account profile, it enables that specific account to make purchases from vendors categorized

under that MCC.

c. **Tier 1 MCCs.** The servicing bank has placed a hard block on merchants with Tier 1 (Very High Risk) MCCs. The bank will decline all attempted transactions from vendors with these MCCs. Tier 1 MCCs may be unblocked upon approval by the Level 2 A/OPC, on a case-by-case basis. All purchases from merchants associated with Tier 1 MCCs will generate a data mining case in IOD.

Table 14-1: Tier 1 Hard Block Merchant Category Codes

Code	Description
4829	Money/Wire Transfer – Money Orders
5960	Direct Marketing Insurance Services
5962	Direct Marketing – Travel Related Services
6010	Financial Instructions – Manual Cash Disbursements
6011	Financial Instructions – Automated Cash Disbursements
6012	Merchandise and Service – Custom Financial Institution
6051	Quasi Cash – Merchant
6211	Securities – Broker and Dealers
6532	Payment Service Provider – Member Financial Inst. – Payment Trans. (M/C Only)
6533	Payment Service Provider – Merchant – Payment Transaction (M/C Only)
7012	Timeshares
7273	Dating Services
7276	Services – Tax Preparation
7297	Massage Parlors
7800	Government-Owned Lotteries
7801	Government-Licensed On-Line Casinos (On-Line Gambling)
7802	Government-Licensed Horse/Dog Racing
7995	Gambling Transactions
8651	Political Organizations
8661	Religious Organizations
9211	Court Cost Including Alimony and Child Support
9222	Fines
9223	Bail and Bond Payments
9311	Tax Payments
9401	I-Purchasing Pilot
9406	Government Owned Lottery (Specific Countries)
9700	Automated Referral Service

d. **Tier 2 MCCs.** Tier 2 MCCs are considered high risk, and their blocking can be customized within the servicing bank. Level 3 A/OPCs may authorize purchase from vendors with Tier 2 MCCs on a case-by-case basis. Purchases from merchants associated with these MCCs will not automatically generate a case in IOD. A complete list of Tier 1 and 2 MCCs are located at [DoD Tier 1 and 2 MCC Codes](#).

e. **MCC Blocking.** MCC blocking is a designation attached to an account, which prevents a specified MCC group from being charged (e.g., casinos, pawn shops). The blocking is established by attaching a merchant authorization control to a cardholder and/or managing account. If authorized MCCs are attached and set to approve, then non-authorized MCCs are effectively blocked. If non-authorized MCCs are attached and set to decline, then those MCCs are blocked and all other MCCs are effectively authorized.

f. **Requests to Override an MCC Block.** When requesting to override an MCC block, the CH or BO must provide the following information to the A/OPC.



- 1) Merchant name and address
- 2) Item/service description
- 3) Exact dollar amount of the transaction
- 4) Estimated date of the purchase
- 5) CH name and last four digits of the card account number
- 6) Justification for the purchase
- 7) Description of efforts to locate a source other than the merchant with the blocked MCC
- 8) Blocked MCC, if known

The Level 4 A/OPC will forward the request to the appropriate higher-level A/OPC for approval. Upon approval, the Level 4 A/OPC will update the merchant authorization control in the CH account to allow the transaction to process. The CH asks the vendor to resubmit the charge. After the transaction has processed, the Level 4 A/OPC will reapply the merchant authorization control to the CH account.

g. **Erroneous MCCs.** When a GPC transaction is declined due to an erroneously identified code, the CH must contact the servicing bank to determine what code is necessary to complete the transaction with the declining merchant. The BO and CH should contact the A/OPC to discuss a change to the CH's merchant authorization controls. Appropriate authorization is required when Tier 1 or Tier 2 MCC is the concern.

#### **14-7. Detainees and Obligations under the Geneva Convention**

The GPC is an authorized tool to procure items in support of detainee operations with the consultation of their A/OPC and legal office. Under the articles of the Geneva Convention, the US is obligated to provide certain standards of care to persons in the custody of the U.S. Armed Forces, often referred to as detainees. Personal items purchased in support of detainee operations is thereby authorized in accordance with the Geneva Convention. These items may include but are not limited to the following:

- 1) Personal clothing items/footwear
- 2) Medical care
- 3) Quarters
- 4) Food/food preparation
- 5) Items in support of religious, social, recreational, educational and intellectual activities

Prior to purchasing these items, the cardholder must consult with their legal and A/OPC. To obtain more information on detainee operation please refer to AR 190-8 and Articles 89, 90 91, 93 and 94 of the Geneva Convention IV.

## CHAPTER 15 – CONTRACT PAYMENTS

### 15-1. Contract Payments

a. The GPC may be used as a payment method on contracts. See FAR 32.1108. The Contracting Officer will make the determination to use the GPC as the payment method for CHs to make contract payments on formal contract vehicles up to the limit of the Contracting Officer's warrant when the GPC payment method is proven to be more advantageous to the Government. Benefits to increasing GPC contract payments include greatly increased refunds per effort expended, exemption from GPC data mining, and faster receipt of payments. Contracting Officers normally appoint CHs residing in the contracting office as GPC contract payment CHs. The Contracting Officer or an A/OPC with the appropriate delegating authority may appoint GPC contract payment CHs outside the contracting office providing the Contracting Officer or A/OPC with the appropriate delegating authority provides adequate training and oversight.

b. All modifications impacting payment and/or funding (including options exercised) must be re-coordinated with the RM, CH, and BO to ensure the financial management system and the bank's EAS are properly updated. Failure to do so will result in the servicing bank not being paid which may result in a possible account delinquency. The CH will maintain supporting documentation in the bank's EAS for each contract payment made using the GPC.

c. At a minimum, procedures must be in place to ensure proper separation of duties to safeguard Government resources and to avoid the posting of double obligations associated with the use of the GPC to make payment on existing contract vehicles. Contracts where the GPC is used as the method of payment are required to be fully funded. No progress (finance) payments are authorized.

d. **FPDS-NG.** Contracting Officers are responsible for ensuring the FPDS reporting is completed. When the GPC is used as a method of payment against a contract, the action must be reported in an individual contract action report (CAR), and "Yes" must be selected for "Purchase Card as Payment Method" in FPDS. See FPDS reporting requirements of FAR 4.6, DFARS 204.6, and DFARS PGI 204.606. Open-market micro-purchases made with the GPC and valued less than the MPT will not be reported to FPDS. (See FAR 4.606(c) for a list of additional actions that are not to be reported.)

e. FAR policy requires the consent of contractors when contemplating the use of GPC as the payment method. Consent is typically obtained by including FAR clause 52.232-36 in the solicitation and, if the contractor does not object, the contract. Existing contracts may be modified to include the clause, with the consent of the contractor. The GPC may be used as a contract payment method if the vendor accepts the payment.

f. **Contract Payment Processes.** The servicing bank has two different methods for contract payments: a payment card process and a Payment Plus process. See paragraph 15-4 and Figure 15-1 for a description of the payment card process. See paragraph 15-5 and Figure 15-2 for a description of the Payment Plus process.

### 15-2. Contract Clauses.

FAR 32.1108 and 32.1110(d) provide instructions for use of the appropriate clause when payment under a written contract is made by GPC. When using the GPC for contract payments, the contracting officer will insert the FAR clause 52.232-36, Payment by Third Party, in solicitations and contracts. Payment by a purchase card may also be made under a contract that does not contain the clause at 52.232-36, to the extent the contractor agrees to accept that method of payment. When the clause at 52.232-36 is included in a solicitation or contract, the contracting officer will also insert the clause at 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration, as appropriate. The contracting

officer should also insert DFARS clause 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

### 15-3. GFEBS Purchase Order Creation

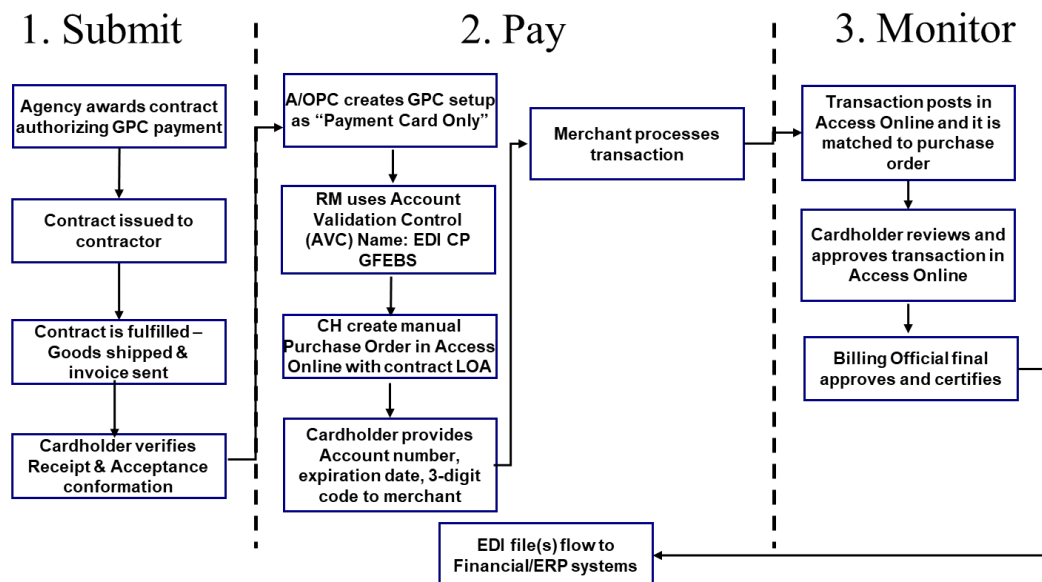
Resource managers should be aware of the following information as they create the PR/PO in GFEBS:

- 1) Some purchase orders (POs) are created automatically via interface upon contract award as is the case with SPS, LMP, and DMLSS. To prevent double obligations, the A/OPC must work with the servicing bank for the proper EDI file set up.
- 2) MIPR obligations are automatically posted after fund certification and acceptance respectively.
- 3) **Transactions for Others (TFO).** Not Receiving MIPR requires manual obligation in GFEBS for funds other than Army ("21").
- 4) Navy ("97") customer creates PO and commits in their system. Army FM enters Navy LOA in GFEBS TFO tab.
- 5) **GFEBS Purchase Requests (PRs)/Awards.** Select "CRCARD" for Pay Station.
- 6) **GFEBS PO partners tab.** Add Invoicing Party: U.S. BANCORP DoDAAC: 1E5G9

### 15-4. Payment Card Process Flow

The Army must follow all the necessary internal contracting procedures before starting the Payment Card Process. The CH has a GPC that is embossed and established for only "Contract Payments." The RM builds the managing account with Account Validation Control (AVC) "EDI CP GFEBS." Cardholder creates a manual purchase order for each contract. Cardholder provides the same card information to the contractor as they would for a purchase to the merchant. The person within the agency responsible for the payments is the BO who will certify the invoice "transaction(s)" for payment to the bank.

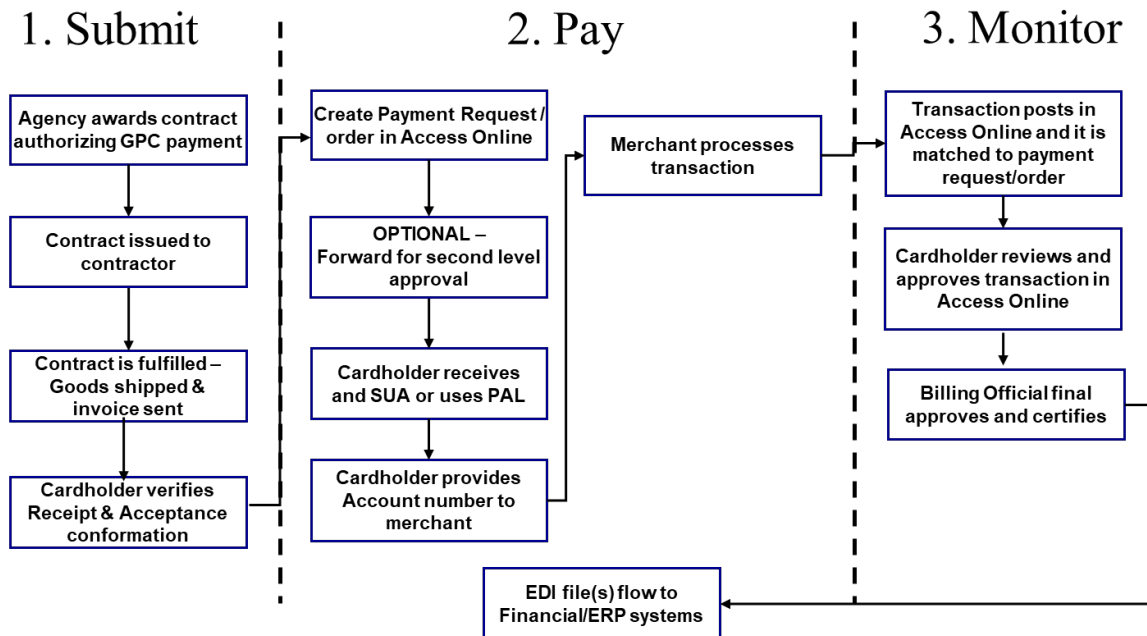
Figure 15-1: Payment Card Process Flow



## 15-5. Payment Plus Process Flow

The Army must follow all the necessary internal contracting procedures before starting the Payment Request Process. The contract payments CH is the person who will receive either a Single Use Account (SUA) or a Pre-Authorized Limit (PAL) account number for each transaction and who in turn, provides the account number to the merchant. If using SUA, it is generated for each transaction, notification is sent to the CH. The SUA comes with an Expiration Date and CVV (Card Verification Value). The person within the agency responsible for the payments is the contract payments BO who will certify the invoice “transaction(s)” for payment to the bank.

Figure 15-2: Payment Plus Process Flow



## 15-6. Wide Area Workflow

a. [DFARS 232.7002\(a\)\(5\)\(b\)\(1\)](#) requires that only WAWF be used to create and accept receiving reports when the GPC is used as a method of payment against a contract. As specified in [DFARS PGI 253.213-70](#), the code “CRCARD” must be used in the Pay Official / DoDAAC field for self-administered contracts to be paid in WAWF. Contracting Officers awarding contracts authorizing use of the GPC as a method of payment must ensure contractor compliance with the requirement for vendors to use WAWF to create and submit the receiving report in accordance with the [Prompt Payment Act](#) requirement for written acceptance. These requirements are addressed in [DFARS 232.7002\(a\)\(2\)](#) and [232.7003\(a\)](#), and [DFARS PGI 253.213-70](#).

b. The Contracting Officer is responsible for ensuring the WAWF clauses are included in the contract, the vendor initiates the receiving report in WAWF, and the Government acceptor documents acceptance in WAWF. The CH is required to verify acceptance has occurred in WAWF prior to approving his/her billing statement and sending it to the BO for approval and Certifying Officer for certification. Contracting Officers **may not** specify the GPC as the method of payment when contract administration functions will be performed by other than the contracting organization (e.g., they will be assigned to DCMA), because the contract administration office does not have insight into contract delivery and payments. To ensure proper routing of contracts paid with the GPC, contracts assigned to DCMA for administration cannot cite the GPC as the method of payment. [DFARS PGI 242.3](#) requires

that a valid payment office be designated using the Contract Administration Services Directory (CASD). GPC is not a valid CASD payment method.

c. DFARS Appendix F contains procedures and instructions for the use, preparation, and distribution of the WAWF Receiving Report (RR) and commercial shipping/packing lists used to document Government contract quality assurance. Preparation instructions and training for the WAWF RR are available at [PIEE](#). The instructions on preparing a WAWF RR are part of the Vendor Training section.

d. On March 3, 2008, DoD issued a final rule amending the DFARS to require use of WAWF as the only acceptable electronic system for submitting requests for payment (invoices and receiving reports) under DoD contracts.

## **15-7. Purchase Card Receiving Report (PCRR) Process**

a. Wide Area Workflow must be utilized when making contract payments with the GPC per DFARS 232.7002, 232.7003, and 252.232-7003. The contractor must use WAWF to create the purchase card receiving report (PCRR) when the GPC is used as a method of payment. The CH provides the following information to the contractor to submit PCRR into WAWF:

- 1) Vendor Identifier: Vendor/Company Name
- 2) Payment Office: CRCARD
- 3) Ship to:
- 4) Inspect by:
- 5) Accept by:
- 6) Card Issuing Bank ID: 556862

b. The contractor then uses WAWF to create and submit the PCRR. Upon notification that the goods have been received, the Government acceptor accepts the PCRR in WAWF. The CH verifies that acceptance has occurred in PIEE/WAWF and that the contracting officer has approved the invoice. The CH submits the invoice, receiving report, copy of the contract and modifications, and a current obligation/disbursement sheet to the BO for approval. After acceptance of the property in WAWF, data will flow to the Defense Manpower Data Center (DMDC) based on the Pay DoDAAC. Indicating "CRCARD" as the payment office prevents double obligation and data from entering the payment process.

## CHAPTER 16 - AMMUNITION AND WEAPONS

### 16-1. References

- a. AR 5-13, Army Munitions Requirements, Prioritization, and Authorizations Management Policy, 31 March 2021
- b. Army Techniques Publication (ATP) 4-35.1 Ammunition and Explosives Handler Safety Techniques
- c. DoD FMR Volume 2A, Chapter 1, Section 010213

### 16-2. Authority to use the GPC for Non-Standard Ammunition (NSA) not from Army inventory

Per AR 5-13 paragraph 2-1b. and 2-7a(4), the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), through the ODASA(P) and the Joint Program Executive Office Armaments and Ammunition (JPEO A&A), have implemented a waiver process (Figure 16-1) to procure small quantities of Army NSA for Army's requirements not from Army inventory.

### 16-3. Approved Exceptions

- a. Purchases of explosives, toxins, and ammunition are authorized only after JPEO-A&A has authorized an exception. This specifically includes small arms, explosives, weapon parts, accessories, and ammunition. Each exception is approved on a case-by-case basis by JPEO A&A and ODASA(P) CPM.
- b. Waiver requests may be submitted to JPEO A&A via use of the [JPEO A&A Waiver Request Checklist](#) along with the supporting documentation identified below. Forward the waiver request and supporting documentation to your Level 4 A/OPC.
  - 1) Justification for Waiver and Mission Requirements stated in a signed memorandum on the requesting organization's official letterhead
  - 2) Internal Controls (safe storage)
  - 3) Ammunition Storage License
  - 4) Accountability Processes
  - 5) Funding Type (NAF or PAA only)
  - 6) Legal review
- c. The Level 4 A/OPC will submit the completed request packet to the Level 3 A/OPC for submission to JPEO-A&A and the Army GPC CPM for review/approval.
- d. JPEO-A&A provides a recommendation to concur or non-concur with the waiver request to the ODASA(P) CPM. If JPEO-A&A concurs with the request and the request justifies inclusion in the AFARS Appendix EE list of approved exceptions to policy, the ODASA(P) will approve the waiver request. If JPEO-A&A non-concurs with the waiver request, JPEO-A&A will return the request with a non-concurrence to the requesting organization. If the waiver request is approved by the ODASA(P), the activity will be authorized the exception to policy in compliance with Army policy.
- e. A dedicated GPC is mandatory for such approved exceptions to policy. The dedicated GPC will be identified by a third line embossing as "AMMO," providing transparent identification for ammunition purchases via GPC for Army reporting purposes.

### 16-4. Funding Non-Standard Ammunition (NSA)

- a. The Deputy Chief of Staff (DCS) G – 37/TRA validates and authorizes all NSA requirements except for organizations in AR 5-13 "Army Munitions Requirements, Prioritization, and Authorizations Management Policy" paragraphs 2–1b and 2-7 of this regulation, when they are procuring NSA for their

respective requirements and not requesting NSA from Army inventory.

b. Policy memorandum for procurement of NSA dated 8 Aug 2008 establishes Army policy for NSA. This memorandum directs all Army NSA procurements be forwarded to JPEO A&A to execute. If valid reasons exist, making it impractical for JPEO A&A to procure NSA, the procuring organization will coordinate with JPEO A&A in writing. The JPEO A&A will have final approval authority to allow other Army organizations to procure Non-Standard Ammunition by following the exception to policy procedures in this chapter.

c. Procurement of Ammunition, Army (PAA) is the **only** appropriation authorized for ammunition procurement within the Army. JPEO A&A will make the determination if any other funding may be used when using the GPC. Alternatively, Research, Development, Test, and Evaluation (RDT&E) appropriations can be used to procure end items, weapons, equipment, components, materials and services required for development of equipment, material, or computer application software, where applicable.

## 16-5. Explosives, Toxins, and Ammunition Definitions

a. **Ammunition** (per 18 USC 921(a)(17)). The term means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

b. **Non-Standard Ammunition (NSA)**. Munitions that have not been safety tested and type classified for U.S. Army use. Munitions and explosives that are not managed by National Inventory Control Points, do not have a national stock number (NSN) and cannot be procured or requisitioned through the U.S. Army supply system.

c. **Arms**. DoD 5100.76-M defines a weapon that will or is designed to expel a projectile or flame by the action of the explosive, and the frame or receiver of any such weapon. Arms is a specified subset of Dangerous Weapons and all provisions for procuring, securing, and accounting for Arms will also specifically apply to all manner of silencers, mufflers, or suppressors.

d. **Arms Parts**. Arms parts are a subset of “Arms” and defined as any item required to effect a function of the firing cycle, but not an Arm in and of itself.

e. **Arms Accessories**. Arms accessories are anything not defined/covered by the previous definitions. Arms Accessories would include, by specific delineation/enumeration, detachable magazines. This would specifically include all manner of sights, optics, slings, bipods, etc., that are available in the commercial marketplace.

f. **Weapons**. The term “weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length. Weapons include but are not limited to the following: Any knife having a switchblade, automatic opener, or spring-loaded blade and/or disguise to resemble another item; martial arts devices (e.g., blackjacks) or other devices (e.g., brass knuckles to amplify the effect of a bare-handed blow). Weapon does not include single-edge (it is permissible to have a saw on the edge opposite the blade) fixed or folding bladed knives or “multi-tools” with a blade length not to exceed four inches.

## 16-6. Approved Exceptions

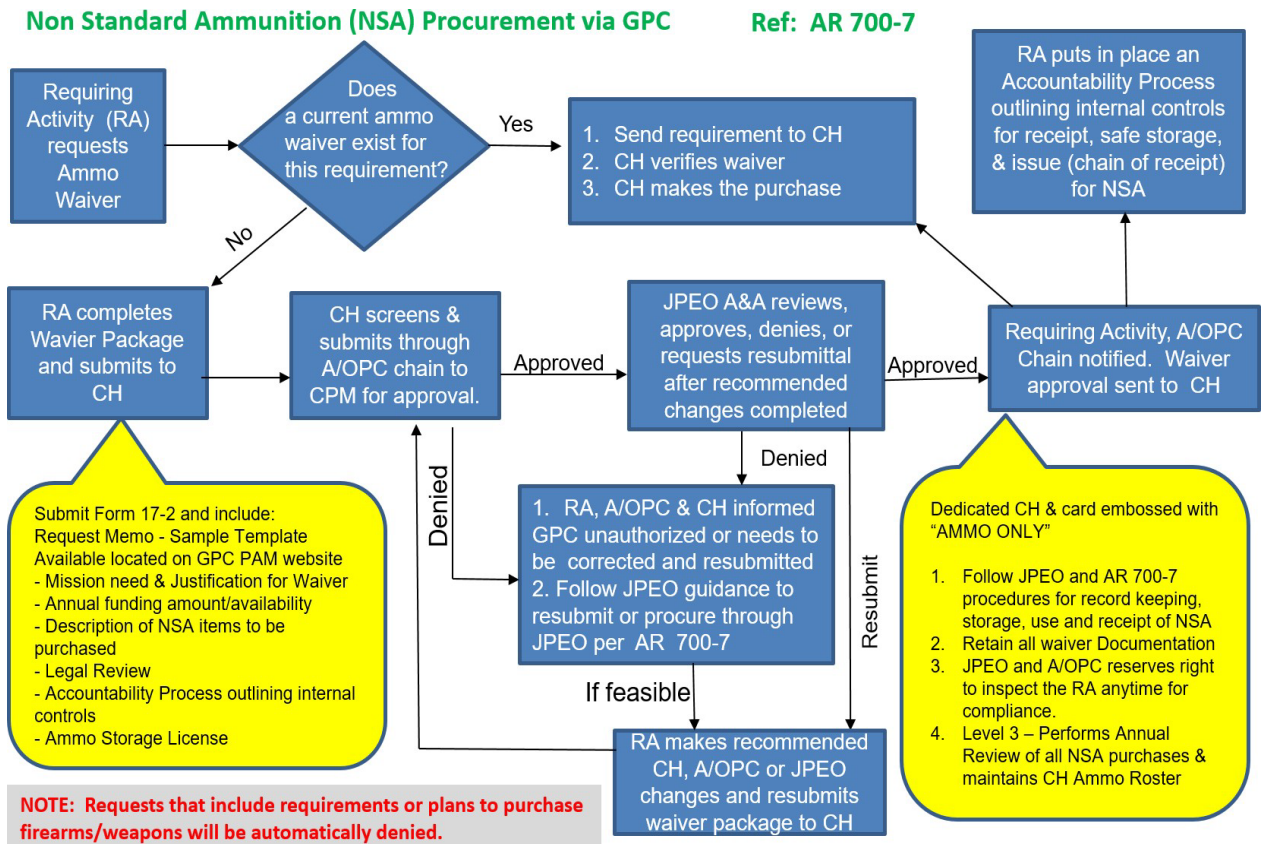
Organizations granted an approved exception to purchase small quantities of commercial-off-the-shelf Non-Standard Ammunition (NSA) and/or Small Arms Parts are listed and maintained on the PAM website:

<https://armyeitaas.sharepoint-mil.us/sites/ASA-ALT-PAM-ProcProc/SitePages/GPC.aspx.0>



## 16-7. NSA Exception Process

Figure 16-1: Army NSA Exception Process



a. All organizations/activities will ensure proper accountability of all NSA, whether contained in sets or issued as individual items.

b. All organizations/activities will comply with safety, storage and transportation procedures in regulations and directives governing those functions including reference 16-1.b.

c. The Army's goals are to maintain ammunition supply activity supply levels as close to the validated need as possible while avoiding shortfalls and overages.

d. **Provide an annual report of expenditures.** All organizations/activities with an exception to use the GPC to purchase small quantities of NSA are required to provide a report, through command channels, to the ODASA(P) CPM and JPEO A&A upon completion of the event for which the NSA was required and at the end of each FY. The report of expenditures is due by October 31 and must include for each munition the following information:

- 1) Nomenclature.
- 2) Quantity procured.
- 3) Quantity and location of remaining munitions.



## CHAPTER 17 – METRICS AND REPORTING

### 17-1. Program Metrics

a. A/OPCs have several reporting tools that enable them to manage their purchase program effectively through the bank's EAS. Most electronic reports are updated within two to three days after a transaction. However, some reports are only updated at the end of the billing cycle. A/OPCs will have access through the EAS to monitor account holder transactions at any time. By searching by account holder name or account number, A/OPCs can track account holder transactions (e.g., transactions, payments, disputes), as well as view account holder monthly statements. A/OPCs may also contact the bank's customer service at any time to request information on a specific account.

b. Program metrics will be implemented in each contracting office to provide the SCO, A/OPCs, and key Army officials with an assessment of the risk environment and feedback as to whether card programs are satisfying overall strategic goals. All A/OPCs will utilize the reports identified in Table 17-1 and 17-2 to review performance metrics and identify any systemic deficiencies requiring corrective action(s).

c. A/OPCs should maximize utilization of reports available on the GPC Business IT systems web sites such as the IOD and AXOL. The reports can assist with conducting periodic and annual surveillance inspections along with overall GPC Program management. Many reports are available through the servicing bank's EAS, IOD, and PEE system to assist A/OPCs in the management and oversight of the GPC program. In addition to reviewing these reports, A/OPCs at all levels should perform and maintain certain metrics to assess the performance of their program. These metrics include, but are not limited to, the following:

Table 17-1: GPC Metrics

#	GPC Metric Description	GPC Metric
1	Monthly Delinquency Percentage - zero tolerance - any percentage of receivables over 180 days past due.	< 0.75% - of its total receivables over 60 days past due.
2	Span of Control - Level 4 A/OPC to Accounts (re-evaluated biennially)	1:250 accounts
3	Span of Control - BO to CH Accounts	1:7 accounts
4	Span of Control - Maximum number of cards per CH	Waiver needed for more than 3
5	Annual Assessment Checklist – Level 4 A/OPC	100% Annually
6	PMR - Level 3 A/OPC reviews all Level 4 A/OPCs	100% Every 3 Years
7	PMR - Level 2 A/OPC reviews all Level 3 A/OPCs	100% Every 3 Years
8	Convenience Check Reviews	Annually
9	Training	Before receiving GPC or assuming duties
10	CH review of Account Statement Monthly	3 business days from cycle end date (19 <sup>th</sup> )
11	BO Certification of Billing Statements Monthly	5 business days from cycle end date (19 <sup>th</sup> )
12	Level 4 review of all BO and CH credit limits	Annually
13	Level 4 review of the ongoing need for all GPCs	Annually

#	GPC Metric Description	GPC Metric
14	Retention of BO financial records	6 years
15	Separation of Duties	BO, CH, RM, APO, A/OPC must be separate individuals
16	Dispute Transaction with the Servicing Bank	CH has 45 days from the date the transaction posted to the account
17	IOD Data Mining	Table 11-1, 11-2, 11-3
18	Upload transaction supporting documentation in the bank's EAS	100% each transaction
19	Independent Receipt and Acceptance	100% each transaction
20	Suspend purchasing under accounts with open data mining cases or incomplete monthly reviews	NLT 55 days after cycle end date (19 <sup>th</sup> )
21	A/OPCs may suspend BO Accounts with open DM cases	30 days after cycle end date (19 <sup>th</sup> )

## 17-2. Reports for Monitoring and Oversight

A/OPCs should generate the reports listed in the Level 4 A/OPC Annual Management Assessment. For instructions, see [How to Run Reports for Level 4 Assessment](#) on the PAM website. Reports listed in the Tables 17-2 through 17-11 are provided by the servicing bank for A/OPCs, BOs, and CHs to utilize to assist in managing the GPC program. These reports should be used for program oversight, assessments, and PMRs. Reports are not limited to those listed below.

Table 17-2: Recommended Reports for Monitoring and Oversight

Report	Purpose
<b>Insights on Demand</b>	
Findings and Determinations	View all case findings and determinations
Exceptions by Type	View all data mining cases by type
<b>U.S. Bank Access Online – Program Management</b>	
Account List	View all card and managing accounts in your program.
Account Spend Analysis	View the number of transactions and dollars spent in a specified time period. Check for inactive accounts.
Past Due	View managing accounts that are currently past due.
Order File History	Check to see if orders were created before making a purchase.
<b>U.S. Bank Access Online – Financial Management</b>	
Transaction Detail	View CHs' data in the Comments tab (including Contingency Operations and 889 Custom Fields tab). View sales tax charged on transactions.
Transaction Summary	View whether CHs uploaded their purchase file into U.S. Bank.
Full Transaction and Order Detail	View specific descriptions of what was purchased. Select Transaction Line Item Detail only and Excel.
Managing Account Approval Status	View the certification status of managing accounts and date on which they were certified. This report is helpful for identifying managing accounts that need certification after the end of the billing cycle.

Report	Purpose
<b>U.S. Bank Access Online – Supplier Management</b>	
Merchant Spend Analysis	Track CH spending patterns from various merchants
Top Merchant Spend Analysis	View top merchants from whom CHs are purchasing. You can customize the number shown (e.g., top 10, 25, 50).
<b>U.S. Bank Access Online – Administration</b>	
System User List	Check user profiles to confirm whether they are active or inactive. View the Functional Entitlement Group for users in your program.
<b>U.S. Bank Access Online – Flex Data Reporting</b>	
Flex Data Report	Create a custom report showing selected data.
<b>U.S. Bank Access Online – Custom Reports</b>	
Certification and Payment Report	View the exact dates on which accounts were certified and payments were made. This report is helpful for identifying managing accounts that need certification after the end of the billing cycle. This report also includes interest charged to delinquent accounts. Allows users to view accounts over multiple billing cycles.
Payment and Prompt Payment Act Interest Penalty Transactions	View all payments, including interest charged to delinquent accounts. Allows you to view only one billing cycle at a time.
All Convenience Check Transactions	Monitor convenience check activity.
<b>PIEE Electronic Data Access (EDA)</b>	
JAM Detailed GPC Appointment Status Report	View appointment status of CHs, BOs, and A/OPCs
JAM GPC Training Report	View training completion dates

### 17-3. Standard Reports in the Servicing Bank's EAS

U.S. Bank Access Online features a full range of reports that enable users to analyze vital program data to support program management and vendor relationships. All Access Online reports are parameter-driven and have different parameters based on the data elements available for each report. Users can run reports by performing three basic steps:

- 1) **Select the report.** Begin by accessing the custom reports function and then navigating to and selecting the custom report you want to run.
- 2) **Specify parameters.** Set parameters for the report, such as date range.
- 3) **Run the report.** After specifying any report-specific parameters, select to run the report or save and then run the report.

Table 17-3: Summary of Standard Report Categories

Report Category	Category Description
Program management	The reports in this category enable you to monitor compliance with your organization's program policies. You can also use these reports for general program management activities.
Financial management	These reports contain detailed transaction information, including transaction data and allocation.
Supplier management	You can use the reports in this category to manage your supplier relationships, support negotiations and manage spending by category.
Tax and compliance management	You can use the reports in this category to estimate sales/use tax, track spending for 1099/1057 vendors, and perform other regulatory reporting (e.g., with minority-owned suppliers).
Administration	You can use the reports in this category to manage the functionality you use in Access Online.
User Activity Audit reports	These reports capture activity that users take in Access Online.
Scheduled reports	These reports are standard reports that Program Administrators can set up to run on specific dates in the future.
Flex Data reports	These are basic ad hoc reports that Program Administrators create based on pre-created report templates.
Custom reports	These are complex, highly customized ad hoc reports we worked with clients to create to meet specific program management needs.

Table 17-4: Program Management Reports

Report	Report Description
Account History	This report provides information on the history of changes to accounts so that you can easily manage and track updates.
Account List	You can use this report to give you a comprehensive list of all the accounts in your program. With a single, complete list you can quickly and easily review and make decisions about your program accounts.
Account Spend Analysis	This report helps you audit CH accounts to ensure program compliance.
Account Status Change	This report lets you quickly identify an account with changes within a given period. This information lets you track correct changes and spot trends that may need addressing (e.g., a high number of lost/stolen cards).
Account Suspension	This report lets you quickly identify suspended accounts and review program policy adherence rates. You can leverage this information to manage policy guidelines.
Declined Transaction Authorizations	This report provides details of declined transaction authorizations along with related account and merchant information to help you monitor program compliance, card usage, and merchant program parameters.
Order File History	This report provides a history of your order file loading and matching to help you monitor and manage the order management function in the system.
Past Due	This report lets you quickly identify problem accounts and review program policy adherence rates. You can leverage this information to manage policy guidelines.

Table 17-5: Financial Management Reports

Report	Report Description
Full Transaction and Order Detail	This report provides full expenditure detail, including Level III data, for complete analysis of orders and transactions.
Managing Account Approval Status	This report provides a history of managing account and cardholder account statement approvals and certifications. You can use this report to track the status and progress of account approvals as they align with your internal operating procedures. In this way, you can ensure compliance with established procedures and actively manage and improve the efficiency of your program.
Order Detail	This report provides detailed order data, including line-item detail.
Transaction Detail	This report provides detailed transaction data, including merchant detail, transaction allocation information, and transaction comment data.
Transaction Summary	This report provides a summary of the transactions. It also includes information if an electronic attachment is present and/or the ability to view the attachment.

Table 17-6: Supplier Management Reports

Report	Report Description
Merchant Spend Analysis	This report gives you an overall view of total supplier base activity or total commodity type. You can use this information to support service-level and pricing requests with your suppliers.
Merchant Spend Analysis by Line Item	This report provides summary and detail information for analyzing merchant spend activity by purchasing line item to help support purchasing strategy and vendor negotiations.
Top Merchant Spend Analysis	This report lets you compare vendors based on purchase activity. When you combine this information with information on supplier service, you can put together a comprehensive profile of your key vendors.

Table 17-7: Administration Reports

Report	Report Description
System User List Detail	This report gives you detailed information about users in a single organization. You can use this report to manage the cardholders and other users who work in Access Online.
System User List	This report gives you information about user IDs and associated user profiles. The report includes a list of user hierarchy access and user functional entitlements. You can use this report to manage the cardholders and other users who work in Access Online.

Table 17-8: User Activity Audit reports

Report	Report Description
Transaction Management	You can use this report to review a detailed history of activity and changes for transaction-related actions such as transaction approval, rejection, reallocation, and extraction.

Report	Report Description
Order Management	You can use this report to track users' actions within Order Management, including maintaining orders, matching multiple orders to transactions, and managing order receipt.
User Profiles	You can use this report to review a detailed history of activity and changes for user profile-related actions such as changing login information, contact information, updating processing hierarchy position, or adding/removing an account.
PIEE Task Queue	Detailed History of PIEE appointment task activity including creation and maintenance of User Profiles, Point of Contacts, Cardholder Accounts, and Managing Accounts.

#### 17-4. Custom Reports within the Servicing Bank

In addition to the ability to access and run standard reports, the servicing bank has created custom reports available to the Army. Users can run these custom reports in three basic steps:

- 1) **Select the report.** Begin by accessing the custom reports function and then navigating to and selecting the custom report you want to run.
- 2) **Specify parameters.** Set parameters for the report, such as date range.
- 3) **Run the report.** After specifying any report-specific parameters, select to run the report or save and then run the report.

Table 17-9: Summary of Custom Reports

Account information reports	Transaction activity reports
Account Approval Status	All Convenience Check Transactions
Account List	Cash Activity Only
Accounts with High Credit Limits	Declined Transactions
Accounts with Underutilized Credit Limits	Frequent Credits by Merchant
Active Accounts with Multiple Lost/Stolen Cards	Frequent Credit Transactions
Billing/Approval Official Conflict of Interest	High Cardholder Spending by Merchant
Certification and Payment Report	Large Dollar Transactions
MCC/MAT Codes Assigned to CH Accounts	Mismatched Authorizations
	Over Limit Convenience Check Transactions
	Payment and Prompt Payment Act Interest Penalty Transactions
	Potential Split Requirement Review
	Retail Transaction
	Suspect Merchants
	Transactions at Blocked MCCs
	Transactions Without Authorization
	Transactions without Terminal IDs
	Transaction Detail
	Travel Industry Transactions
	Unusual Spending Activity

Table 17-10: Custom Reports of Account Information

Report	Report Description
Account Approval Status	This report provides a list of accounts with the approval status for each account. You can use this report to track the approval workflow for your program.
Account List	This report provides a list of accounts by one or more processing hierarchy positions or one or more reporting hierarchy positions.
Accounts with High Credit Limits	This report provides a list of accounts that have maximum credit limits over a specified amount. You can use the report to mitigate risk and review credit limits. The report presents all credit limits for analysis.
Accounts with underutilized Credit Limits	You can use this report to assist in your review of cardholder spend against the cardholder's maximum credit limit. In this way, you can identify cardholder accounts that may need credit limit adjustments.
Active Accounts with Multiple Lost and Stolen Cards	This report lists accounts that have multiple lost and/or stolen cards. You can use the report to identify accounts that may be misusing their cards so that you can improve program management.
Billing/Approval Official Conflict of Interest	This report lists cardholder accounts that the BO has approved in Access Online. You can use this report to identify potential lack of separation of duties between BOs and cardholders.
Certification and Payment Report	This report provides information on certification status and payment, including cycle close date, amount certified, last payment date and last payment amount. You can use this report to make sure your approvals, certifications, and payments are on track.
MCC/MAT Codes Assigned to CH Accounts	This report lists merchant category codes (MCCs)/merchant activity type (MAT) codes assigned to cardholder accounts. You can use this report to gain an overall picture of which merchants are available for cardholder purchases.

Table 17-11: Custom Reports of Transaction Activity

Report	Report Description
All Convenience Check Transactions	This report lists all convenience check transactions within your organization to help you identify trends inconvenience check transactions and possible misuse of convenience checks.
Cash Activity Only	This report provides a list of accounts that have only cash transactions, including transaction and merchant information. You can use this report to monitor program compliance.
Declined Transactions	This report lists transactions that a merchant declined at point of sale. You can use this report to monitor declined transactions, audit program compliance, and identify training needs.
Frequent Credits by Merchant	This report lists merchants who have a high number of credits as part of their overall number of transactions versus debits over a specified time period (e.g., 30 percent of all transactions between December 1 and December 31 were credits). You can use this report to identify potential card misuse at specific merchants and thereby improve program management.
Frequent Credit Transactions	This report lists accounts with a high percentage of credits relative to purchases (e.g., 30 percent credits and 70% debits). You can use this report to identify potential card misuse.



Report	Report Description
High Cardholder Spending by Merchant	This report lists cardholder accounts with a high level of spending with a specific merchant. You can use this report to identify potential card misuse, including cardholder collusion with a merchant.
Large Dollar Transactions	This report lists transactions that are over a specified purchase limit, which can help you identify possible misuse.
Mismatched Authorizations	This report lists transactions for which the authorization amount approved does not match the final transaction amount. You can use this report to help identify card misuse and improve program management.
Over Limit Convenience Check Transactions	This report lists convenience check transactions that are greater than a specified amount. You can use this report to help identify transactions that may require an independent review to mitigate risk.
Payment and Prompt Payment Act Interest Penalty Transactions	This report lists all Payment and Prompt Payment Act interest penalty transactions. You can use this report to identify timely certification and payment processing for your organization
Potential Split Requirement Review	This report lists CHs associated to the same managing account who have multiple transactions with the same vendor that total a specified amount or more over a specified number of days (e.g., Jane Doe has transactions totaling \$2,000 with Quick Office Supply between January 10 and January 11). You can use this report to identify possible instances of CHs splitting a transaction among multiple dates to get around spending limits (e.g., get around a SPL of \$1,500).
Retail Transaction	This report provides a list of retail transactions, including account information, merchant information, and transaction information. You can use this report to monitor policy and program compliance.
Suspect Merchants	This report provides a list of transactions with suspect merchants, including account information, merchant information, and transaction information. You can use this report to monitor policy and program compliance.
Transactions at Blocked MCCs	This report lists transactions at blocked merchant category codes (MCCs). You can use this report to track and manage vendor relationships and identify potential card misuse.
Transactions Without Authorization	The report shows transactions the cardholder did not obtain an authorization for. By tracking transactions without authorization, you can identify potential card misuse and improve program management.
Transactions without Terminal IDs	This report shows transactions for which no terminal ID was obtained. You can use this report to help identify potential card misuse and to improve program management.
Transaction Detail	This report provides detailed transaction information, including account, merchant, transaction, and allocation information. You can use this report for overall program management.
Travel Industry Transactions	This report identifies transactions (over a specified amount) from merchants in the travel industry. You can use this report to help identify potential card misuse.
Unusual Spending Activity	This report lists transactions a cardholder made on a weekend or transactions that appear to be split transactions. You can use this report to identify potential card misuse and thereby improve program management.



### **17-5. Printing and Storing Reports**

A/OPCs should save copies of all electronic reports that they generate, particularly statistical or summary reports. Due to the volume of information available, the bank will furnish information for a limited period (generally, 18 months or less) before archiving the data. Reports containing sensitive information (e.g., account numbers, CH information) should be maintained in a secure location.

### **17-6. Ad Hoc Reports**

Ad Hoc reports provide the ability for the Army and A/OPCs to access all data elements of the BO, CH and transaction records at any time by allowing the Army A/OPCs, servicing bank, or GSA to create reports in html, Excel, text (ASCII) formats, and/or others as defined by the Army at the task order level. The servicing bank provides the capability for the Army to utilize the ad-hoc reporting functionality of the EAS Systems for any additional future reporting needs that are not listed.

## **APPENDIX A: ACRONYMS**

**A/BO** - Alternate and/or Billing Official

**A/BO** - for JAM purposes = Approving/Billing Official

**ACOM** - Army Command

**AFARS** - Army Federal Acquisition Regulation Supplement

**AO** - Approving Official

**A/OPC** - Agency/Organization Program Coordinator

**APO** - Accountable Property Officer

**ARRA** - American Recovery and Reinvestment Act

**ASA(ALT)** - Assistant Secretary of the Army (Acquisition, Logistics, and Technology)

**AXOL** - Access Online

**BO** - Billing Official

**BPA** - Blanket Purchase Agreement

**CAP** - Computer/Electronic Accommodations Program

**CCO** - Chief of Contracting Office

**CH** - Cardholder

**CHESS** - Computer Hardware, Enterprise Software and Solutions

**C.O.D.** - Cash on delivery

**CONUS** - Continental United States

**DA** - Department of the Army

**DAO** - Departmental Accountable Official

**DAU** - Defense Acquisition University

**DAWIA** - Defense Acquisition Workforce Improvement Act

**DEAMS** - Defense Enterprise Accounting Management System

**DFARS** - Defense Federal Acquisition Regulation Supplement

**DFAS** - Defense Finance and Accounting Service

**DoD** - Department of Defense

**DD Form** - Department of Defense Form

**DPCAP** - Defense Pricing, Contracting, and Acquisition Policy

**DSN** - Defense Switched Network

**DTMO** - Defense Travel Management Office

**EAS** - Electronic Access System

**EEO** - Equal Employment Opportunity

**EDI** - Electronic Data Interchange

**ETO** - Emergency-Type Operations

**FAR** - Federal Acquisition Regulation

**FDC** - Foreign Draft Checks

**FORSCOM** - Forces Command

**FMR** - Financial Management Regulation

**FPDS-NG** - Federal Procurement Data System – Next Generation

**GAO** - Government Accountability Office

**GFEBS** - General Financial Enterprise Business System

**GPC** - Government Purchase Card

**GSA** - General Services Administration

**HA** - Head of Activity

**HCA** - Head of Contracting Activity

**IOD** - Insights on Demand

**IRS** - Internal Revenue Service

**IT** - Information Technology

**JWOD** - Javits-Wagner-O'Day

**KO** – Contracting Officer

**LOA** – Line of Accounting

**MCC** - Merchant Category Code

**MCCG** - Merchant Category Code Group

**MIPR** - Military Interdepartmental Purchase Request

**MPT** - Micro-purchase Threshold

**NAF** - Nonappropriated Fund

**NAFI** - Nonappropriated Fund Instrumentalities

**NDAA** - National Defense Authorization Act

**OCONUS** - Outside the Continental United States

**OMB** - Office of Management and Budget

**PAM** – Procurement.army.mil

**PR&A** - Purchase Request and Approval

**RM** - Resource Manager

**SCO** - Senior Contracting Official

**SF** - Standard Form

**UAC** - Unauthorized Commitment

**USC** - United States Code

## APPENDIX B: DEFINITIONS

**AbilityOne Program** - FAR Subpart 8.7 - This socioeconomic program provides employment opportunities for over 40,000 Americans who are blind or have other severe disabilities by orchestrating Government purchases of products and services provided by nonprofit agencies employing such individuals throughout the country. The Committee for Purchase from People Who Are Blind or Severely Disabled statute, (41 USC 8501-8506) requires the Government to purchase supplies or services on the Procurement List, at prices established by the Committee, from AbilityOne participating nonprofit agencies if they are available within the period required.

**Abuse** - Intentional use of the GPC in violation of the FAR, DFARS, Agency supplements, or activity Government Charge Card Program policies/procedures. Evidence of intentionality will be inferred from repeat offenses of the same violation, following administrative and/or disciplinary action taken for this violation. This category is reportable to OMB and classified as Intentional.

**Accountable Property** - AR 735-5 - A term used to identify property recorded in a formal property management or accounting system. Accountable property includes all property purchased, leased (capital leases), or otherwise obtained having a unit acquisition cost of \$5,000 or more (land, regardless of cost), and items that are sensitive. Sensitive items require a high degree of protection and control due to statutory requirements or regulations, such as narcotics and drug abuse items; precious metals; items which are of a high value, highly technical, or a hazardous nature; and small arms, ammunition, explosives, and demolition material or classified. (See Volume 10, Table 61 of DoD 4100.39-M reference (k).) Additional and/or separate records or other record-keeping instruments will be established for management purposes, or when otherwise required by law, policy, regulation, or agency direction, including, but not limited to pilferable items. Pilferable items have a ready resale value or application to personal possession and are, therefore, especially subject to theft. Screening by the Accountable Property Officer (APO) is required to determine the accounting requirements of the purchased property. The installation APO provides guidance on specific local property accountability procedures to the A/OPC, BOs, and CHs related to GPC purchases.

**Administrative Discrepancy** - Actions that violate operational policies/procedures but do not violate federal law or regulation. This category is not reportable to OMB.

**Agency/Organization Program Coordinator (A/OPC)** - A Government employee responsible for the implementation and execution of his/her agency/organization purchase card program in accordance with established regulations, policies and procedures. The A/OPC has overall administration to include developing and implementing policy, establishing and making changes to accounts, as well as training CHs and BOs. Multiple levels of A/OPCs exist at different hierarchical levels within the program for each agency/organization.

**Assessable Unit Manager** - A Head of Activity designated by the head of the reporting organization to provide leadership and support needed to ensure that internal controls are in place and operating effectively.

**Average Days to Pay** - The average number of calendar days between the billing cycle and when payment is received by the issuing bank.

**Billing Invoice** - The billing invoice identifies all the purchase card transactions made by the CHs assigned to a particular BO that are posted during a billing cycle. The invoice can be paper-based or presented through the bank's EAS.

**Billing Official (BO)** - A Government employee who has been nominated by his or her activity/organization to have oversight responsibility over the CHs assigned to his or her managing account. See section 2-6. for a summary of BO duties. Installation, unit, and local Heads of Activities or their designees nominates individuals from their organizations as BOs. The nominating official must be

in the supervisory chain of the individual being nominated. Issuing appointments to BOs may be re-delegated in writing to the A/OPC. The BO is at Level 5 in the GPC reporting hierarchy.

**Bulk Funding Method** - The bulk funding method requires posting specific funds to the official accounting records prior to payment of a CH's account. Bulk funding may be made as appropriate to the funding environment of the activity.

**Cardholder (CH)** - An individual designated by an agency/organization to be issued a card. The card bears the individual's name and can be used only by that individual for official purchases in compliance with agency internal procedures. The term "CH" also applies to checkwriters on convenience check accounts. CHs are responsible for the timely and accurate processing of monthly CH statements and maintaining a purchase log or the servicing bank's automated system to record purchases. CHs must adequately control access to the card to preclude unauthorized use and take timely and proper action when unauthorized charges occur. Installation, unit, and local Heads of Activities or their designees nominates individuals from their organizations as CHs. The nominating official must be in the supervisory chain of the individual being nominated. Issuing delegations of authority to CHs may be re-delegated in writing to the A/OPC. The CH is at Level 6 in the GPC reporting hierarchy.

**Cardholder Statement** - The statement of charges provided to a CH detailing all the transactions posted to his or her account during a billing cycle.

**Certifying Officer** - Certain Government employees (Resource Managers, Billing Officials) are held accountable for Federal Payments responsible to verify that payments made by the Federal Government are legal, proper and correct. Certifying officers are responsible for the accuracy and legality of the payments made from Federal funds that they approve (31 USC 3528). Certifying Officers review payment vouchers before certification to ensure that the information on the vouchers agrees with all supporting documentation. See DoD FMR Volume 5, Chapter 330308 A.2.c. For GPC purposes, certifying officer and certifying official are synonymous.

**Computer Hardware, Enterprise Software and Solutions (CHESS)** - The CHESS program is the Army's mandatory source for commercial information technology (IT) hardware and software.

**Computer/Electronic Accommodations Program (CAP)** - A centrally funded program that provides ergonomic-related and low-vision equipment for all DoD employees.

**Contract Action Report (CAR)** - Form used to report contract actions on the FPDS-NG web site.

**Convenience Checks** - Third-party drafts issued using the GPC account. Third-party drafts may be used to acquire and pay for supplies or services.

**Delegation of Procurement Authority Letter** - A document issued giving an individual procurement authority to use the GPC. This delegation of procurement authority specifies the single-purchase and monthly purchase limitations unique to that CH.

**Delinquency** - An undisputed charge card account balance that is unpaid for more than 61 days past the statement date. This category is not reportable to OMB.

**Departmental Accountable Official (DAO)** - A member of DoD, military or civilian personnel, designated in writing and not otherwise accountable under applicable law, who provides source information, data, or service (such as an RO, a CH, and an Automated Information System Administrator) to a reviewing or disbursing official in support of the payment process. The AO has pecuniary liability for erroneous payments resulting from his/her negligent actions.

**Direct-Hire** - Authorities: 5 USC 3304 and 5 CFR Part 337, Subpart B Using OPM-approved governmentwide or agency specific direct-hire authorities, agencies may appoint candidates to positions without regard to the requirements in title 5 USC 3309 through 3318. For an agency to use direct hire,

OPM must determine that there is either a severe shortage of candidates or a critical hiring need for a position or group of positions.

**E-Commerce Platforms** - Also referred to as e-marketplace platforms or commercial online platforms. Web-based offerings that provide a managed channel for open-market purchases. Examples of non-DoD e-commerce platforms include GSA's Commercial Platforms program (participating platforms currently include Amazon Business.com, FisherSci.com, and OverstockGovenment.com) and AmazonBusiness.com (separate and distinct from AmazonBusiness.com participating in GSA's Commercial Platforms program).

**Electronic Access System (EAS)** - A web-based computer system required by the task order with the issuing bank for account set-up, maintenance, reporting, and electronic bill presentment and certification.

**Electronic data interchange (EDI)** - The automatic process of receiving electronic obligation and invoice records directly from the servicing bank into a DoD accounting system.

**Erroneous Payment** - Illegal, improper, or incorrect payment. DoD FMR Vol. 5 Ch. 33 paragraph 330903.

**External Fraud** - Any felonious act of corruption or attempt to cheat the Government or corrupt the Government's agents by someone other than Government Charge Card Program officials. This category is classified as Malicious Intent. It is not reportable to OMB.

**Federal Procurement Data System Next Generation (FPDS-NG)** - A computer-based Federal Procurement Data System for collecting, developing and disseminating procurement data to the Congress, Executive Branch and private sector in compliance with 41 USC 1101 et seq. and FAR Subpart 4.6. The data is used to measure and assess the impact of Federal procurement on the nation's economy, the extent to which awards are made to businesses in the various socio-economic categories, the impact of full and open competition on the acquisition process and other procurement policy purposes. The Office of Federal Procurement Policy (OFPP) requires that each Department and Agency certify annually that all data within FPDS-NG is valid and complete.

**Fraud** - Any intentional deception designed to deprive the Government unlawfully of something of value or to secure from the Government for an individual a benefit, privilege, allowance, or consideration to which he or she is not entitled.

**General Fund Enterprise Business System (GFEBS)** – DoD's financial system. It is a web-enabled enterprise resource planning (ERP) system allowing the U.S. Army to share financial, asset and accounting data across the Service. The system will standardize transactional input and business processes across the Army to enable cost management activities; provide accurate, reliable, and real-time data; and tie budgets to execution. GFEBS moves the Army from a "spend and consume culture" to a "cost and control culture" by providing value-added, decision-support tools. GFEBS benefits the Army by reducing and eliminating waste; reducing variation and improving quality, and complying with regulatory and legislative directives.

**Hand Receipt Holder** - An individual responsible for property listed on a signed document, thereby acknowledging acceptance and responsibility for items therein.

**Head of Activity (HA)** - The military officer in command or the civilian executive in charge of the mission of a command or activity. This individual has disciplinary authority over CHs and BOs in his or her organization and is responsible for having proper internal controls that deter fraud and ensuring that those who violate the policies are properly sanctioned or counseled.

**Head of the Agency** - means, for DoD, the Secretary of Defense, the Secretary of the Army, the

Secretary of the Navy, and the Secretary of the Air Force. Subject to the direction of the Secretary of Defense, the Under Secretary of Defense (Acquisition, Technology, and Logistics), and the Director of Defense Procurement and Acquisition Policy, the directors of the defense agencies have been delegated authority to act as head of the agency for their respective agencies (i.e., to perform functions under the FAR or DFARS reserved to a head of agency or agency head), except for such actions that by terms of statute, or any delegation, must be exercised within the Office of the Secretary of Defense. (For emergency acquisition flexibilities, see DFARS 218.270.) (DFARS 202.101 Definitions)

**Head of Contracting Activity** - The official who has overall responsibility for managing the contracting activity, including use of the GPC by personnel under his or her contracting cognizance. (FAR 2.101) "Contracting activity" for DoD also means an element of a Defense agency, designated by the Head of Activity for that Defense agency that has been delegated contracting authority through its agency charter. (FAR 2.101)

**Improper Purchase** – Reference: OMB Circular A-123 Appendix B. An improper purchase is any purchase that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other applicable requirements. Incorrect amounts include overcharges and undercharges. An improper purchase can be one of two types - unauthorized or incorrect:

- 1) **Unauthorized purchases** consist of items that are intentionally purchased and are outside of the cardholder's purchasing authority.
- 2) **Incorrect purchases** are mistakes that are the result of an unintentional error during the purchase process. A series of seemingly incorrect purchases may require additional scrutiny to determine whether these purchases are actually unauthorized purchases.

**Inter/Intra-Governmental Transaction (IGT)** – Transactions or payments between different federal agencies (inter-governmental) or within the same agency (intra-governmental). In most instances, these transactions are classified under Merchant Category Code 9399, Miscellaneous Government Services.

**Internal Fraud** - Any felonious act of corruption or attempt to cheat the Government or corrupt the Government's agents by Government Charge Card officials. Use of the GPC to transact business that is not sanctioned, not authorized, not in one's official government capacity, not for the purpose for which the card was issued, and/or not as part of official government business. This category is reportable to OMB and classified as Malicious Intent.

**Javits-Wagner-O'Day (JWOD Act)** - A law that establishes as an independent federal entity the Committee for Purchase From People Who Are Blind or People With Other Significant Disabilities. It establishes mandatory sources for supplies and services, administered by the Committee for Purchase from People Who Are Blind or Severely Disabled. Two national, independent organizations, National Industries for the Blind (NIB) and National Institute for the Severely Handicapped (NISH), help state and private nonprofit agencies participate in the AbilityOne Program.

**Merchant Category Code (MCC)** - A code used by the merchant (vendor's bank) bank to categorize each merchant according to the type of business in which the merchant is engaged and the kinds of goods and services provided. MCC codes are used as authorized-transaction-type codes on a card/account to identify authorized types of businesses from which purchases may be made with the GPC. DPCAP maintains the list of DoD-wide blocked codes. The Army Level 2 A/OPC is responsible to administer and record any waiver requests to these blocks.

**Misuse** - Unintentional use of the GPC in violation of the FAR, DFARS, Agency supplements, or Agency policies/procedures. These actions are the result of ignorance and/or carelessness, lacking intent. This category is reportable to OMB and classified as Unintentional.

**OCONUS** - *Outside the Continental United States (OCONUS)* - Any area beyond the 48 contiguous States and the District of Columbia, i.e., CONUS. OCONUS is further divided into foreign areas and non-foreign areas:



- 1) Foreign area - Any area situated beyond both the CONUS and the non-foreign areas.
- 2) Non-foreign area - The states of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and the territories and possessions of the United States.

**Packing List/Slip** - (also known as a bill of sale, unpacking note, packaging slip, (delivery) docket, delivery list), is a shipping document that accompanies delivery packages, usually inside an attached shipping pouch or inside the package itself. It commonly includes an itemized detail of the package contents and does not include customer pricing. It serves to inform all parties, including transport agencies, Government authorities, and customers, about the contents of the package.

**Pre-Purchase Approval** - When required and identified by Army or local procedures, documentation showing authority has been obtained to purchase special-use items such as IT or hazardous material.

**Prompt Payment Act** - A law that requires prompt payment of invoices (billing statements) within 30 days of receipt (FAR Clause 52.232-25, Prompt Payment, (May 1997)). An automatic interest penalty is required if payment is not timely.

**Receipt** - A receipt is a written record of a transaction documenting proof of payment. The receipt acts as the title to the property obtained in the exchange. A receipt is a legal document which serves as a permanent record of the transaction that can be used to support financial records (i.e., billing official invoice). Internet shopping has led to the creation of electronic receipts. Many online businesses provide the cardholder with the option of printing a receipt of the transaction as soon as the payment is approved. In addition, the vendor may provide the cardholder with an email copy of the receipt. The receipt includes basic information about the nature of the sale. This essential detail includes the date of the transaction, a list of the prices of the items purchased, subtotal, applicable taxes, and a final total. Some receipts will provide unit prices and extended prices when multiple units of the same item are purchased, as well as a detailed description of each item.

**Required or Mandatory Sources of Supply** - The priority of sources is dictated by FAR Part 8, Required Sources of Supplies and Services, Subpart 8.001, Priorities for Use of Government Supply Sources, and DFARS 208. Mandatory sources must be considered before an open-market source can be considered. Other mandatory sources include DLA Printing Services, Army CHES, Army BPAs.

**Resource Manager (RM)** - RM is a Certifying Officer who certifies that funds are available for the GPC program and establishes lines of accounting used on the GPC program. The RM is responsible for the proper assignment of funding on an obligation document before the obligation is incurred, and for maintaining a system of positive funds control.

**Split Purchase** - Occurs when a CH splits a known requirement at the time of the purchase into several transactions to circumvent dollar thresholds in order to use the GPC; to avoid competitive bids for purchases over the MPT; or to avoid other established credit limits (this is prohibited). When a known small purchase requirement exceeds the MPT, it must be purchased through a contract using simplified acquisition procedures.

**Third-party Payments** – An online payment processor (e.g., PayPal, Square) provides ways for a merchant to accept credit cards and other payments online without the extra cost and obligation of a merchant account. Where it is identified that a purchase will be processed via a third-party merchant (i.e. PayPal), the CH should make every attempt to choose another merchant with whom to procure the goods and/or services. If still found necessary to procure using a third-party payment merchant, the CH and BO must ensure there is adequate supporting documentation to prove that there was a detailed review of the purchase and that the use of the third-party payment merchant was unavoidable. Transactions made with a third-party payment merchant are considered high risk for both subsequent audit and data mining screening.

**Third-Party E-Commerce Merchants** – Third-party merchants are entities that fulfill orders on e-commerce platforms who are NOT the platform providers themselves. These individual merchants might offer products for sale on various online marketplaces, such as AmazonBusiness.com.

**Third-Party Payment Processors** – Commercial financial service providers offering on-line payment solutions for commercial transactions. These processors own merchant accounts that allow them to accept and process purchase card payments on behalf of merchants who provide supplies and services. Many merchants choose to utilize third party payment processors to accept payments without having to establish a merchant account through a merchant bank. Examples include PayPal, Venmo, or Square.

**Training – Commercial Off-the-Shelf Training** - is defined as training products and services regularly available to the public and/or Government personnel. The term includes training offered in catalogs or other printed material by a college, university, professional association, consultant firm or organization. It does not include training specifically developed, designed, and produced to meet requirements unique to an organization and/or program. **Non-Government training** sources include, but are not limited to:

- 1) State government or instrumentality;
- 2) Interstate government organization;
- 3) Medical, scientific, technical, educational, research, or professional institutions, foundations or organizations; and,
- 4) Universities, technical, business, and vocational schools, business, commercial, or industrial firms, corporations, partnerships, proprietorships, or other organizations.

**United States** - The 50 States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, Wake Island, Johnston Island, Canton Island, the outer Continental Shelf lands, and any other place subject to the jurisdiction of the United States (but not including leased bases).

# AFARS APPENDIX FF

## DEPARTMENT OF THE ARMY

### PLAN FOR CONTROL OF NONSTANDARD CLAUSES

September 3, 2014

1. PURPOSE. The purpose of this plan is to implement, maintain, and comply with a plan for controlling the use of clauses other than those prescribed in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) as required in DFARS 201.304(4). This plan supersedes the July 31, 2009, update.
2. DEFINITIONS.
  - a. Clause – The term “clause” includes solicitation provisions and means a term or condition of the type set forth in FAR part 52 and DFARS part 252.
  - b. Deviation – The term “deviation” includes any clause that is inconsistent with the FAR or DFARS.
  - c. Regulation – The term “regulation” includes any contracting supplement, policy letter, clause book, automated system, acquisition instruction (AI), or similar regulatory instrument.
3. REVIEW AND APPROVAL OF NONSTANDARD CLAUSES. Army contracting activities coordinate all nonstandard clauses with the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) Policy and Programs Directorate in accordance with Army Federal Acquisition Regulation Supplement (AFARS) 5101.304(1)(i). The ODASA(P) Policy and Programs Directorate coordinates with the Office of the Army General Counsel during review of nonstandard clauses.
  - a. Director of Defense Procurement and Acquisition Policy (DPAP) Clause Approval –
    - (1) Obtain DPAP approval to use clauses that have a significant effect beyond the internal operating procedures of the Army or impose a significant cost or administrative impact on contractors or offerors (DFARS 201.304(1)). Included are class deviations from the FAR or DFARS (DFARS 201.404(b)) and the six categories of individual deviations set forth in DFARS 201.402(1).
    - (2) Coordinate with the ODASA(P) Policy and Programs Directorate to publish clauses requiring DPAP approval in the *Federal Register*, conduct analysis to ensure compliance with the Paperwork Reduction Act and the Regulatory Flexibility Act (FAR 1.301(c)), and analyze public comments. Submit the clause and all analysis through the Defense Acquisition Regulations (DAR) Council Director (DFARS 201.304(5) and AFARS 5101.301(b)).
  - b. Other than DPAP Clause Approval –
    - (1) Obtain Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) approval to use clauses that do not require DPAP approval and do not require publication in the *Federal Register* for public comment, but are included in contracting activity AIs or clause books.

- (2) Obtain Army Principal Assistant Responsible for Contracting (PARC) approval for individual deviations as defined at FAR 1.403, other than those specified in paragraph 3.a.(1) and 3.b.(1), as required in AFARS 5101.403(1), and forward a copy to the ODASA(P) Policy and Programs Directorate. One-time use clauses (including Section H clauses) are individual deviations.
  - (3) Obtain Army PARC (or their designee) approval for contracting activity and local clauses that implement FAR or DFARS clauses that permit “substantially the same as” use prior to using them. This review is necessary to determine that tailoring is required and to ensure that the tailored clause is not materially different from the parent clause.
4. CLAUSE NUMBERING. Adhere to the numbering and identification requirements of FAR subpart 52.1, as supplemented by DFARS subpart 252.1 when prescribing clauses in an Army regulation:
- a. Number clauses with the Army prefix of 51 (AFARS 5101.303(a)(i)), except see paragraph 4.c. regarding one-time use clauses;
  - b. Assign 9000 numbers as an extension to clauses approved for Army-wide use for incorporation into the AFARS, to clauses approved for specific command use for incorporation into Command Supplements, and to clauses approved for subordinate commands or contracting offices (DFARS 252.101 and AFARS 5152.101(b)(2)(ii)(B)); and
  - c. Do not number one-time use clauses but identify them by the title, date, and name of the organization that developed it (FAR 52.103).
5. CONTROLS.
- a. Army contracting activities review nonstandard clauses as part of their pre-solicitation, pre-award and legal reviews.
  - b. Procurement management review teams address non-standard clauses as a special review item.
6. CLAUSE CONTROL PLAN RESPONSIBILITIES. The Army DAR Council policy member is the Army's action officer responsible for clause control. Please send any questions to the Office of the DASA(P) (ODASA(P)), e-mail [usarmy.pentagon.hqda-asa-alt.list.saal-pp-staff@mail.mil](mailto:usarmy.pentagon.hqda-asa-alt.list.saal-pp-staff@mail.mil), through your chain-of-command, as appropriate. Include “Clause Control” in the “Subject” block.

DEPARTMENT OF THE ARMY

PLAN FOR CONTROL OF NONSTANDARD CLAUSES

CENTCOM- JOINT THEATER SUPPORT CONTRACTING COMMAND (C-JTSCC)

ADDENDUM

1. PURPOSE. The purpose of this addendum is to implement an expedited nonstandard clause approval process for C-JTSCC.
2. UNITED STATES CENTRAL COMMAND (CENTCOM) – JOINT THEATER SUPPORT CONTRACTING COMMAND (C-JTSCC) EXPEDITED PROCESS:
  - a. When the Deputy Assistance Secretary of the Army (Procurement) determines that urgent and compelling circumstances make compliance with the review and approval process set forth in the Department of the Army Plan for Control of Nonstandard Clauses impracticable (see TAB A), C-JTSCC may incorporate clauses in its solicitations and contracts concurrent with the review and approval process (41 U.S.C. 1707(d)). In these instances, the clause will have the same force and effect as if the cognizant approving official had approved it until such time that the Army and/or DPAP completes the review and approval process and an approved clause replaces the unapproved clause.
  - b. C-JTSCC shall follow the process set forth in Tab B of this addendum to expedite approval of nonstandard clauses under urgent and compelling circumstances.

**[C-JTSCC LETTERHEAD]**

In rely refer to  
[Clause Title and number]

**MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)**

**SUBJECT: DETERMINATION OF URGENCY**

I have determined that the following urgent and compelling reasons exist to publish this clause prior to affording the public an opportunity to comment.

[Insert a factual description of the urgent and compelling circumstances that justify this action, for example: The current changing threat environment, such as X and Y/circumstances relating to demobilization or X and Y/challenges requiring immediate action to avoid harm including A and B].

This clause [resolves the situation by accomplishing X and Y/provides necessary guidance/clarifies existing guidance/to ensure that X and Y do not occur]. Furthermore, it clarifies that [insert descriptive language].

Public comment will be obtained by publication of this clause in the Federal Register.

[Insert name]  
Head of Contracting Activity  
CENTCOM – Joint Theater Support  
Contracting Command

SAAL-ZP

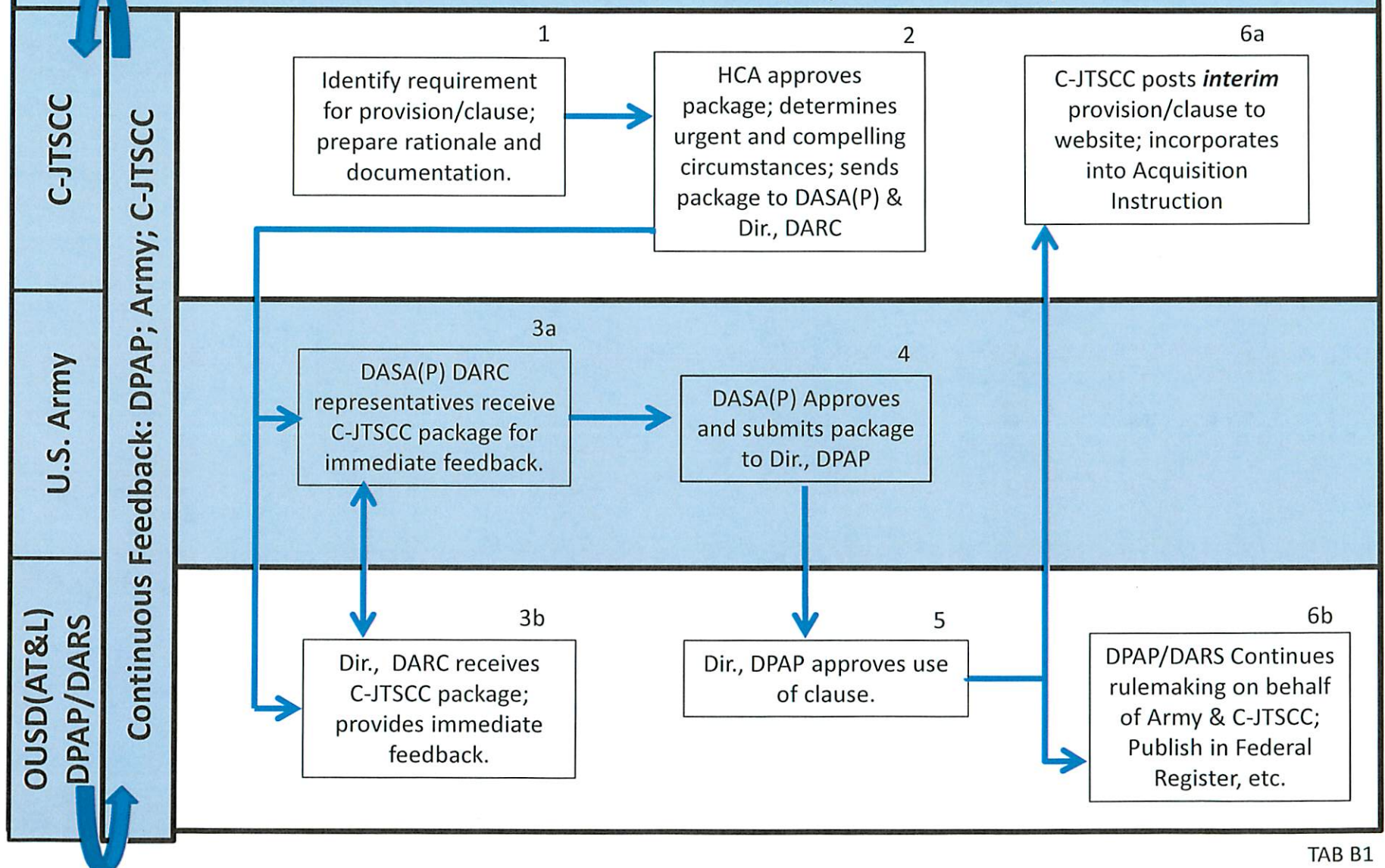
[Insert date]

Pursuant to 41 U.S.C. 1707 and based upon the facts presented above, I have determined that urgent and compelling circumstances exist that require publishing this clause prior to affording the public an opportunity to comment. I am, therefore, authorizing issuance of this clause for immediate use.

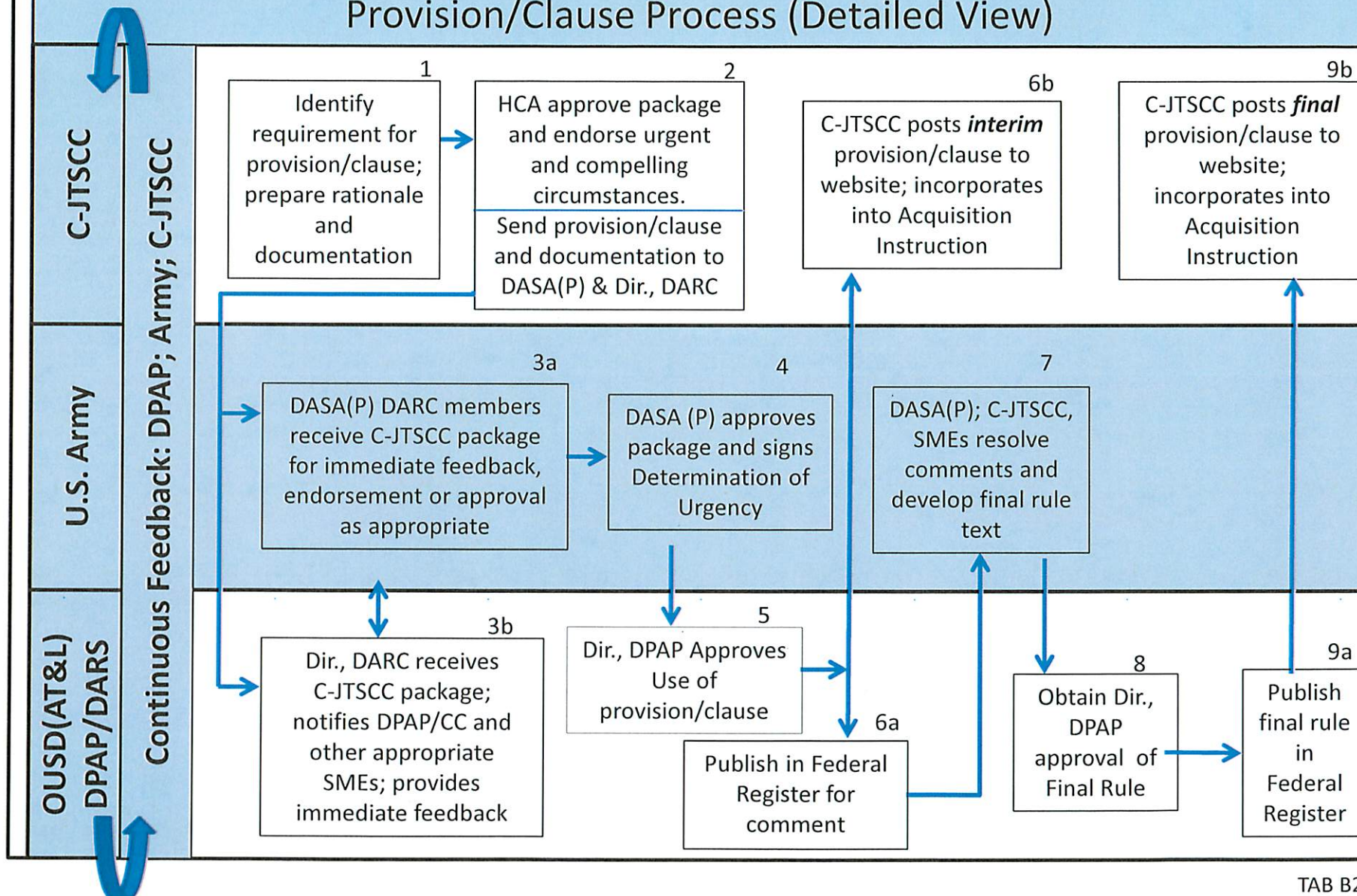
Harry P. Hallock  
Deputy Assistant Secretary  
of the Army (Procurement)



## Expedited CENTCOM Joint Theater Support Contracting Command Provision/Clause Process (Top-Level View)



# Expedited CENTCOM Joint Theater Support Contracting Command Provision/Clause Process (Detailed View)





Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
1	Preaward Peer Reviews	Conducting a preaward peer review for contracts for competitive procurements above \$1B, except MDAPI/USDI/A&S special interest programs.					201.170(a)(1)(i)	DASA(P)	Yes	No limitation	5101.170(a)(1)(i)	DASA(P)	Yes	HCA non-delegable, except for DASA(P) special interest acquisitions
1	Preaward Peer Reviews	Chairing Solicitation Review Board (SRB) and a Contract Review Board (CRB) for competitive procurements valued at \$250M or more but less than \$1B; or noncompetitive procurements valued at \$250M or more but less than \$1B.	-	-	-	-	201.170(b)(1) and (2)	-	-	-	5101.170(b)	HCA	Yes	No Lower than the SCO
1	Preaward Peer Reviews	Chairing SRB and CRB for all procurements valued at \$50M or more but less than \$250M.	-	-	-	-	201.170(b)(1) and (2)	-	-	-	5101.170(b)	SCO	Yes	No Lower than the CoCO
1	Preaward Peer Reviews	Chairing SRB and CRB for all procurements valued below \$50M	-	-	-	-	201.170(b)(1) and (2)	-	-	-	5101.170(b)	SCO or Designee	No	-
1	Independent Management Reviews (formally Postaward Peer Reviews)	Conducting a IMRs for contracts for services valued at \$1B or more	-	-	-	-	-	-	-	-	5101.170(b)	DASA(P) or SSM	No	-
1	Independent Management Reviews (formally Postaward Peer Reviews)	Conducting a IMRs for contracts for services valued at \$100M or more but less than \$1B	-	-	-	-	-	-	-	-	5101.170(b)	HCA	Yes	No Lower than the SCO
1	Agency Acquisition Regulations	Issue or Authorize the issuance of agency acquisition regulations that implement or supplement FAR.	1.301	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5101.301	ASA(ALT)	Yes	DASA(P), without further delegation
1	Deviations from the FAR	Approval of Class Deviation	1.404(b)	In accordance with DFARS	-	-	201.404(b)(ii)	SPE	Yes	No limitation	5101.404(b)(ii)	SPE	Yes	DASA(P), without power to further delegate
1	Ratification of Unauthorized Commitments	Ratification of Unauthorized Commitments	1.602-3(b)	HCA, unless a higher level official is designated by the agency	Yes	No lower than CoCO	No additional Guidance	-	-	-	5101.602-3(b)	HCA	Yes	HCA non-delegable above \$100,000, except to USACE Director of Contracting, HQ, or Commander, ACC. Greater than \$10,000 up to \$100,000, no lower than SCO. \$10,000 or less, no lower than the chief of contracting
1	Career Development, Contracting Authority, and Responsibilities	Selection, Appointment, and Termination of Appointment for Contracting Officers	1.603-1	Agency Head	Yes	No Limitation (consistent with OFPP standards)	No additional Guidance	-	-	-	5101.603-1	ASA(ALT)	Yes	DASA(P) or HCA, with further delegation to No Lower than the CoCO
3	Procurement Integrity	Disclosure, protection, and marking of contractor bid or proposal information and source selection information.	3.104-4(a)	Agency Head or Contracting Officer	Yes	No limitation	No additional Guidance	-	-	-	5103.104-4(a)	ASA(ALT) or Contracting Officer	Yes	Personnel serving in the positions identified in AFARS 5103.104-4(a)(i) through (vii).
3	Procurement Integrity	Authorization of disqualified official to resume participation in a procurement	3.104-5(c)2	HCA	Yes	No limitation	No additional Guidance	-	-	-	5103.104-5	HCA	Yes	No lower than SCO. If SCO is disqualified individual, HCA will make the determination.
3	Procurement Integrity	Actions and determinations related to possible or actual procurement integrity violations	3.104-7(b) - (g)	HCA	Yes	No lower than one level above KO and of GO, Flag, SES, or equivalent rank	No additional Guidance	-	-	-	5103.104-7	HCA at GO/SES equivalent rank; otherwise DASA(P)	Retain	-
3	Treatment of Violations	Actions and determinations against contractor under a contract containing Gratuities clause	3.204(a)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5103.204(a)	ASA(ALT)	Yes	Suspension and Debarment Official or other senior official designated by the Judge Advocate General
3	Treatment of Violations	Make the determination whether to terminate the contractor's right to proceed under the contract, and, if so, whether to assess exemplary damages and in what amount.	3.204(c)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5103.204(c)(i)	ASA(ALT)	Yes	HCA, without power to further delegate
3	Contracts with Government Employees of Organizations Owned or Controlled by Them	Authorization of exception to requirement to not award contract to Gov't employee or their business / organization	3.602	Agency Head	Yes	No lower than HCA	No additional Guidance	-	-	-	5103.602	No Lower Than HCA	No	-
3	Voiding and Rescinding Contracts	Make determinations concerning voiding and rescinding contracts upon final conviction for bribery, conflicts of interest or violations of 18 U.S.C. 201-224.	3.703	Agency Head	Yes	No limitation	203.703	No lower than an official appointed by and with advice of the Senate	Yes	No lower than an official appointed by and with advice of the Senate	5103.703	ASA(ALT)	Retain	-
3	Voiding and Rescinding Contracts	Consider declaring void and rescinding contracts, recovering amounts expended, and recommending suspension/debarment upon conviction/preponderance of evidence for an offense punishable under 41 U.S.C. 2105	3.704(c)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5103.704(c)	HCA at GO/SES equivalent rank; otherwise DASA(P)	Retain	-
3	Remedies (Whistleblower Protections for Contractor Employees)	Direct the contractor to take certain actions	-	-	-	-	203.906	Agency Head	Yes	No limitation	5103.906	ASA(ALT)	Yes	HCA, without power to further delegate
3	Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions	Authority to impose conditions that mitigate conflicts of interest or grant a waiver	3.1104	HCA	No	-	No additional Guidance	-	-	-	-	HCA	No	-
4	Electronic Commerce In Contracting	Establishment and Use of Electronic Commerce	4.502(b) and (c)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5104.502-90	ASA(ALT)	Retain	-
4	Contract Reporting	Responsibility for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS	4.604(a)	SPE	Yes	No Limitation	No additional Guidance	-	-	-	5104.604(a)	SPE	Yes	DASA(P), without power to further delegate
4	Closeout of Contract Files	Assignment of highest priority to close out of contracts awarded for performance in contingency area	-	-	-	-	204.804(2)	HCA	Yes	No limitation	5104.804(2)	HCA	Yes	No lower than CoCO
4	Reporting Contract Information to the IRS	Requirement for Federal Agencies to Report Certain Information to the IRS	4.903(a)	Head of Federal Agency	Yes	No Limitation	No additional Guidance	-	-	-	5104.903(a)	ASA(ALT)	Yes	DASA(P),without power to further delegate
5	Availability of Solicitations	Determination that use of Government Point of Entry (GPE) is not in the Gov't's interest	5.102(a)(5)(iii)	SPE	Yes	No limitation	No additional Guidance	-	-	-	5105.102(a)(5)(iii)	SPE	Yes	HCA, with authority to delegate to No lower than SCO
5	Release of Long-Range Acquisition Estimates	Release of long-range acquisition estimates	5.404-1(a)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5105.404-1(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than CoCO
5	Paid Advertisements	Heads of contracting activities are delegated authority to approve the publication of paid advertisements in newspapers.	5.502	Agency Head	Yes	No limitation	205.502	HCA	Yes	No limitation	5105.502(a)	HCA	Yes	No lower than 1 level above the KO
6	Establishing or Maintaining Alternative Sources	Exclusion of a particular source from a contract action in order to establish or maintain an alternative source(s) for the supplies or services being acquired	6.202(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5106.202(a)	ASA(ALT)	Yes	Approval Levels IAW 5106.304
6	Only one responsible source and no other supplies or services will satisfy agency requirements.	Authority to enter into contracts for studies, analyses, or consulting services on the basis of an unsolicited proposal without providing for full and open competition	-	-	-	-	206.302-1(a)(2)(i)(1)	HCA	Yes	No lower than CoCO	5106.302-1(a)(2)(i)(1)	HCA	Yes	No lower than CoCO
6	Only one responsible source and no other supplies or services will satisfy agency requirements.	Authority to waive the requirement to post a request for information or a sources sought notice, and include the results of this inquiry in the justification required by FAR 6.303.	-	-	-	-	DFARS PGI 206.302-1(d)	HCA	Yes	No lower than a GO/SES	5106.302-1(d)	HCA	Yes	SCOs at GO/SES level only; otherwise HCA
6	Unusual and Compelling Urgency	Total period of performance of a contract awarded or modified may not exceed one year, including all options, unless the head of the agency determines that exceptional circumstances apply.	6.302-2(d)(1)(ii)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5106.302-2(d)(1)(ii)	ASA(ALT)	Yes	HCA, without power to further delegate
6	Unusual and Compelling Urgency	Any subsequent modification that extends the period of performance beyond one year, requires a separate determination. This determination is only required if the cumulative period of performance using this authority exceeds one year.	6.302-2(d)(2)(ii)	Head of Agency (Must be Same Level as the Level to which the Agency Head Authority is in (d)(1)(ii))	Yes	No Limitation	No additional Guidance	-	-	-	5106.302-2(d)(2)(ii)	ASA(ALT)	Yes	HCA, without power to further delegate
6	International Agreement	Determination that J&A is not required for an InFI agreement and preparation of document such as LOA that has the effect of requiring use of other than competitive procedures for the acquisition	-	-	-	-	206.302-4(c)	HCA	Yes	No limitation	5106.302-4(c)	HCA	Yes	No lower than the CoCO
6	Other Than Full and Open Competition	Justifications -- Sole Source 8(a) awards exceeding \$100 million	6.302-5(b)(4)	Head of Procuring Activity	Yes	No Limitation	-	-	-	-	5106.302-5(b)(4)	Head of Procuring Activity	Yes	SCO at GO/SES Level; Otherwise HCA
6	Public Interest	Full and open competition need not be provided for when the agency head determines that it is not in the public interest in the particular acquisition concerned.	6.302-7(c)(1)	Secretariat Level	No	-	No Additional Guidance	-	-	-	-	Secretary of the Army	No	-
6	Public Interest	Full and open competition need not be provided for IAW CD 2024-00005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel.	-	-	-	-	Class Deviation 2024-00005	Agency Head	Yes	No lower than an officer or employee who is a general or flag officer or civilian serving in a grade above General Schedule – 15 or in a comparable or higher position under another schedule	5106.302-7(b)(2)	HCA at GO/SES equivalent rank; otherwise DASA(P)	Yes	HCA, with power to further delegate to an official who meets the eligibility criteria stated in the class deviation: No lower than an officer or employee who— -If a member of the Armed Forces, is a general or flag officer; or -If a civilian, is serving in a position in a grade above GS-15 under the General Schedule (or in comparable or higher position under another schedule).
6	Justifications	Content Justifications Shall Contain Agency Specific Requirements	6.303-2(d)(5)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5106.303-2(d)(5)	ASA(ALT)	Yes	DASA(P), without power to further delegate
6	Approval of the Justification	Approval of J&A over \$750K, but not exceeding \$15M	6.304(a)(2)	Advocate for Competition	No	-	No additional Guidance	-	-	-	-	Advocate for Competition	No	-
6	Approval of the Justification	Approval of J&A over \$15M but not exceeding \$100M	6.304(a)(3)	HCA	Yes	General/Flag Officer, SES, or grade above GS-15 only	No additional Guidance	-	-	-	5106.304(a)(3)	HCA	Yes	SCOs at GO/SES Level only; otherwise HCA
6	Approval of the Justification	Approval of J&A over \$100M	6.304(a)(4)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
6	Advocates for Competition	Appointment of special advocates for competition	6.501	Head of Each Executive Agency	Yes	No limitation	No additional Guidance	-	-	-	5106.501	ASA(ALT)	Yes	DASA(P) serves as Army Advocate for Completion; HCAs serve as the Command Advocate for Competition, with authority to delegate to No Lower than the SCO

Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
7	Agency-Head Responsibilities	Acquisition Plan Approval Authority for PEO or DRPM Acquisitions	7.103	Agency Head	Yes	No limitation	207.103(d)(i)	PM/Official Responsible for Program	Yes	No limitation	5107.103-90(a)(1)	ASA(ALT)	Yes	For programs assigned to program executive officers (PEOs) or program managers reporting directly to the Army Acquisition Executive (DRPM), the designated milestone decision authority (MDA), on a nondelegable basis, is the acquisition plan approval authority. In the case of PEO-/DRPM-managed efforts for which no MDA has been designated, the PEO/DRPM, on a nondelegable basis, is the acquisition plan approval authority.
7	Agency-Head Responsibilities	Acquisition Plan Approval Authority for Non-PEO or DRPM Acquisitions	7.103	Agency Head	Yes	No limitation	207.103(d)(i)	PM/Official Responsible for Program	Yes	No limitation	5107.103-90(a)(2)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
7	Contents of Written Acquisition Plans	Planning to ensure that contingency contracts will be closed in a timely manner, considering turnover and other contracting workload	-	-	-	-	DFARS PGI 207.105(b)(20)(C)(8)(iv)	HCA	Yes	No limitation	5107.105(b)(20)(C)(8)(iv)	HCA	Yes	No lower than SCO
7	Consolidation of Contract Requirements	Consolidation of contract requirements is \$500M or more	7.107-2	SPE	Yes	-	-	-	-	-	5107.107-2(b)(i)	SPE	Yes	DASA(P), without power to further delegate
7	Consolidation of Contract Requirements	Consolidation of contract requirements exceeds \$2M but less than \$500M	7.107-2	SPE	Yes	-	-	-	-	-	5107.107-2(b)(ii)	SPE	Yes	HCA, with authority to delegate to No lower than the CoCO
7	Additional Requirements for Acquisitions Involving Bundling	Justification of bundling	7.107-3(f)(2)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
7	Equipment Lease or Purchase--Statutory Requirements	Determination that contract for vessel, aircraft, or vehicle via lease, charter, or similar agreement with term of 18 months or more, or extension / renewal of such contract for 18 months, is in Government's best interest	-	-	-	-	207.470(b)	HCA	Yes	No limitation	5107.470(b)	HCA	Yes	No lower than CoCO
8	Use of Federal Supply Schedules	Approval of D&Fs for T&M or LH orders against FSS contracts when base period + options = more than 3 years	8.404(h)(3)(ii)(C)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5108.404(h)(3)(ii)(C)	HCA	No	-
8	Blanket Purchase Agreements (BPAs)	Determination that single-award BPA with an estimated value exceeding \$100 million (including any options), may be awarded	8.405-3(a)(3)(ii)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5108.405-3(a)(3)(ii)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
8	Limiting Sources	Determination that access through eBuy is not in Government's best interests	8.405-6(b)(3)(iii)(C)	SPE	Yes	No limitation	No additional Guidance	-	-	-	5108.405-6(b)(3)(iii)(C)	SPE	Yes	HCA, with authority to delegate to No lower than SCO
8	Limiting Sources--Justifications and Approvals	Approval of Proposed order or BPA with an estimated value exceeding \$750,000, but not exceeding \$750,000	8.405-6(d)(1)	Ordering Activity Contracting Officer	No	-	No additional Guidance	-	-	-	-	Contracting Officer	No	-
8	Limiting Sources--Justifications and Approvals	Approval of Proposed order or BPA with an estimated value exceeding \$750,000, but not exceeding \$15 million.	8.405-6(d)(2)	Advocate for Competition	No	-	No additional Guidance	-	-	-	-	Advocate for Competition	No	-
8	Limiting Sources--Justifications and Approvals	Approval of Proposed order or BPA with an estimated value exceeding \$15 million, but not exceeding \$100 million	8.405-6(d)(3)	Head of Procuring Activity	Yes	General/Flag officer, SES, or grade above GS-15 only	No additional Guidance	-	-	-	5108.405-6(d)(3)	HCA	Yes	SCOs at GO/SES level only; otherwise HCA
8	Limiting Sources--Justifications and Approvals	Approval of Proposed order or BPA with an estimated value exceeding \$100 million	8.405-6(d)(4)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
8	Leasing of Motor Vehicles - Presolicitation Requirements	Approve limiting solicitations to current models on the basis of overall economy	8.1102(c)	Head of Contracting Office	Yes	No limitation	No additional Guidance	-	-	-	5108.1102(c)	CoCO	Yes	1 level above KO
9	Responsible Prospective Contractors	Waiver for awarding with domestic inverted corporations	9.108-4	Agency Head	Yes	No Limitation	No Additional Guidance	-	-	-	5109.108-4	ASA(ALT)	Yes	HCA, without power to further delegate
9	Qualifications Requirements. Policy	Prepare and approve written justifications establishing a contractor qualification requirement.	9.202(a)	Agency Head	Yes	No limitation	DFARS PGI 209.202(a)(1)	COCO	-	No limitation	5109.202(a)(1)	CoCO	No	-
9	Qualification Requirements. Policy	Waiver of requirements of 9.202(a)(1)(ii) through (4) for up to 2 years with respect to the item subject to the qualification requirement	9.202(b)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5109.202(b)	HCA	Yes	No lower than SCO
9	Qualifications Requirements. Policy	Establishing a Qualification Requirement	9.202(e)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5109.202(e)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
9	Acquisitions subject to qualification requirements. General	Determination that an emergency exists	9.206-1(b)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5109.206-1(b)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
9	Aviation and Ship Critical Safety Items	Enter into a contract for the procurement, modification, repair, or overhaul aviation or ship critical safety item only with a source approved by the head of the design control activity	-	-	-	-	209.270-3(a)	HCA	Yes	No limitation	5109.270-3(a)	HCA	Yes	No lower than CoCO
9	Debarment, Suspension, and Ineligibility	Determination for Contractors excluded from receiving contracts to be included.	9.405(a), 9.405-1(b), 9.405-2(a), 9.406-1(c) and 9.407-1(d)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5109.405(a)	ASA(ALT)	Yes	Suspension and Debarment Official
9	Debarment, Suspension, and Ineligibility	Determination to accept bids from a debarred, suspended or proposed debarment contractor	9.405(d)(2) and 9.405(d)(3)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5109.405(d)(3)	ASA(ALT)	Yes	Suspension and Debarment Official
9	Organizational and Consultant Conflicts of Interest. Waiver	Waiving any general rule or procedure of subpart 9.5	9.503	Agency head	Yes	Not below the level of HCA	No additional Guidance	-	-	-	5109.503	HCA, without power to further delegate	No	-
9	Contracting Officer Responsibilities	Approval of conflict of interest course of action	9.504(c)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5109.504(c)	HCA	Yes	No lower than SCO
9	Organizational and Consultant Conflicts of Interest. Procedures	Approval of KO's resolution of conflict or potential conflict of interest	9.506(d)(3)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5109.506(d)(3)	HCA	Yes	No lower than SCO
9	Systems Engineering and Technical Assistance Contracts	Waiver of limitation on future contracting for performance of systems engineering and tech assistance for MDAP or pre-MDAP by contractor or any affiliate of contractor from participating in development or production of weapon system under such program	-	-	-	-	209.571-7(c)(1)	HCA	No	-	-	HCA	No	-
10	Market Research - Procedures	Document the results of market research in a manner appropriate to the size and complexity of the acquisition.	10.002(e)	Agency Head	Yes	No Limitation	-	-	-	-	5110.002(e)	ASA(ALT)	Yes	HCA, with the authority to delegate to No Lower than the KO
11	Market Acceptance	Require Offerors to Demonstrate that Items Offered have commercial market acceptance or been supplied under current or recent contracts	11.103(a)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5111.103(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
11	Using and Maintaining Requirements Documents	Determine that Single Process Initiative process is not acceptable for a specific procurement	-	-	-	-	DFARS PGI 211.273-3	HCA or PEO	No	-	-	HCA or PEO	No	-
11	Policy for Item Unique Valuation	Determination that items are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, radiological attack, cyber attack, international disaster assistance, and response to an emergency or major disaster.	-	-	-	-	211.274-2(b)(1)	HCA	Yes	No limitation	5111.274-2(b)(1)	HCA	Retain	-
11	Policy for Item Unique Valuation	Approval of D&F for exception for contractor from requirement to provide DoD unique item ID	-	-	-	-	211.274-2(b)(2)(i)(B)	HCA	Yes	No limitation	5111.274-2(b)(2)(i)(B)	HCA	Yes	No lower than SCO
11	Liquidated Damages	Reduce or Waive the Amount of Liquidated Damages Assessed Under a Contract	11.501(d)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5111.501(d)	ASA(ALT)	Yes	HCA, without power to further delegate
12	Treatment as a commercial item and use of FAR Part 12 procedures. Applicability.	Permits carrying out a procurement of a product or a service for a covered contract to treat the product or service as a commercial product or a commercial service for the purpose of carrying out the procurement	-	-	-	-	See Class Deviation 2024-00005, Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel	Head of an Agency	Yes	No limitation	5112.102(a)(i)(B)(3)	ASA(ALT)	Yes	Contracting Officers may use this authority consistent with the terms of the class deviation
12	Acquisition of Commercial Items. Applicability	Determination that the prior determination was appropriate and still applicable or issue a determination that the prior use of FAR part 12 procedures was improper or that it is no longer appropriate to acquire the item using FAR part 12 procedures, with a written explanation of the basis for the determination.	-	-	-	-	212.102(a)(ii)(B)	HCA	Yes	No limitation	5112.102(a)(ii)(B)	HCA	Yes	No Lower than CoCO
12	Acquisition of Commercial Items. Applicability	Determination of supplies or services that are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, cyber attack, international disaster assistance, and response to an emergency or major disaster and can be treated as an acquisition of commercial items.	12.102(f)	Agency Head	Yes	No limitation	218.270	HCA	Yes	No limitation	5112.102(f)	HCA	Yes	No lower than SCO
12	Contract Type	Determine a time-and-materials or labor-hour contract type is in the best interest of the Government for commercial services	-	-	-	-	212.207(b)(iii)	Agency Head	Yes	No limitation	5112.207(b)(iii)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
12	Preference for certain commercial products and services.	Approval to make determination to enter into contracts above \$10M for facilities-related services, knowledge-based services (except engineering services), medical services, or transportation services that are not commercial services.	-	-	-	-	212.272(b)(2)(i)	HCA	Yes	No limitation	5112.272(b)(2)(i)	HCA	Yes	No Lower than CoCO
12	Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items	Insert Certain Clauses for Acquisition of commercial items when waiving the examination of records by the Comptroller General	12.301(b)(4)(i)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5112.301(b)(4)(i)	ASA(ALT)	Retain	-
12	Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items	Approval of supplementing the provisions and clauses of FAR part 12	12.301(f)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
12	Tailoring of Provisions and Clauses for the Acquisition of Commercial Items	Approval of waivers under FAR 12.302(c)	-	-	-	-	212.302(c)	HCA	Yes	No limitation	5112.302(c)	HCA	Yes	No lower than SCO
13	Actions at or Below the Micro-Purchase Threshold	Delegate Micropurchase Authority	13.201(a)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5113.201(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than CoCO
13	Actions at or Below the Micro-Purchase Threshold	Micro-Purchase Threshold for Supplies or Services are to be used in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, radiological attack, cyber attack, and response to an emergency or major disaster.	13.201(g)	Head of Agency	Yes	No Limitation	218.27	HCA	Yes	No limitation	5113.201(g)	HCA	Yes	No lower than SCO
13	Impreset Funds and Third Party Drafts	Use of Impreset funds or Third Party drafts	13.305-3(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5113.305-3(a)	ASA(ALT)	Yes	No Lower than KO
13	Simplified Procedures for Certain Commercial Items	Authorizes use of simplified procedures for commercial items that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, radiological attack, cyber attack, and response to an emergency or major disaster.	13.500(c)(1)	Agency Head	Yes	No limitation	218.27	HCA	Yes	No limitation	5113.500(c)(1)	HCA	Yes	No Lower than SCO
13	Test Program for Certain Commercial Items	Approval of sole-source justification over \$750K but not exceeding \$15M	13.501(a)(2)(ii)	Advocate for Competition	No	-	No additional Guidance	-	-	-	-	Advocate for Competition	No	-
13	Test Program for Certain Commercial Items	Approval of sole-source justification over \$15M but not over \$100M	13.501(a)(2)(iii)	HCA or Official Described at 6.304(a)(3) or (a)(4)	No	-	No additional Guidance	-	-	-	-	HCA or SCO at GO/SES Level	No	-
13	Test Program for Certain Commercial Items	Approval of sole-source justification over \$100M	13.501(a)(2)(iv)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
14	Preparation of Invitations for Bids	Waiving requirement for inclusion of clauses 51.214-27 and/or 52.214-28 in contract with a foreign government or agency of that government	14.201-7(b)(2) & (c)(2)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5114.201-7(b)(2) & (c)(2)	HCA	Yes	No lower than SCO
14	Cancellation of Invitations After Opening	Determination to cancel invitations and reject all bids before award but after opening	14.404-1(c) and (e)(1)	Agency Head	Yes	No limitation	214.404-1(1)	KO	No	-	-	KO	No	-
14	Other Mistakes Disclosed Before Award	Make determinations under paragraph (c) of FAR 14.407-3	14.407-3(c)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5114.407-3(c)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than CoCO
14	Other Mistakes Disclosed Before Award	Make determinations under paragraph (a, b, d) of FAR 14.407-3	14.407-3(e)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5114.407-3(e)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than CoCO
14	Mistakes After Award	Authority to rescind a contract, reform a contract or delete items involve in a mistake made in the contractor proposal, in accordance with FAR 14.407-4(b).	14.407-4(b)	Agency	Yes	No limitation	No additional Guidance	-	-	-	5114.407-4(b)	HCA	Yes	No lower than SCO
15	Contract Format	Authority to exempt individual contracts from the use of the uniform contract format.	15.204(e)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5115.204(e)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
15	Contract Format	Authority to exempt classes of contracts	15.204(e)	-	-	-	-	-	-	-	5115.204(e)	ASA(ALT)	Yes	DASA(P), without power to further delegate

APPENDIX GG  
Revision 29  
Revised 01 October 2024

Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
15	Source Selection	Waivers for Solicitations valued below \$1B	-	-	-	-	(See DoD Source Selection Procedures)	SPE	Yes	No limitation	5115.300-90	SPE	Yes	DASA(P), without power to further delegate
15	Source Selection	Waivers for Solicitations valued at \$1B or more	-	-	-	-	215.300 (See DoD Source Selection Procedures)	DPC	No	-	-	DPC	No	-
15	Source Selection. Responsibilities	Appointment of SSAs for acquisitions for systems and services, acquired through the Defense Acquisition System, for which milestone decision authority (or other decision authority) is at the AAE or Office of the Secretary of Defense level IAW the applicable Adaptive Acquisition Framework DoDI	15.303(a)	Agency Head	Yes	KO or other appointed individual	No additional Guidance	-	-	-	5115.303, Table 15-1	AAE	Yes	AAE or AAE's Delegate
15	Source Selection. Responsibilities	Appointment of SSAs for other service acquisitions with a total planned dollar value of \$500 million or more, or service acquisitions identified by the ASA(ALT) as a special interest. See DoDI 5000.74 and AR 70-13	15.303(a)	Agency Head	Yes	KO or other appointed individual	No additional Guidance	-	-	-	5115.303, Table 15-1	ASA(ALT)	Yes	DASA(P) or SSM
15	Source Selection. Responsibilities	Appointment of SSAs all other acquisitions for which formal source selection procedures are used.	15.303(a)	Agency Head	Yes	KO or other appointed individual	No additional Guidance	-	-	-	5115.303, Table 15-1	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
15	Only One Offer Waiver	Approval of waiver of requirement to resolicit for additional 30 days	-	-	-	-	215.371-5(a) & (b)	HCA	Yes	1 level above KO	5115.371-5(a)	HCA	Yes	1 level above KO
15	Prohibition on Obtaining Certified Cost or Pricing Data	Waiving requirement for submission of certified cost or pricing data	15.403-1(c)(4)	HCA	No	-	DFARS PGI 215.403-1(c)(4)(A)(2)	HCA, with SPE coordination prior to HCA approval	Yes	No limitation	-	HCA, with SPE coordination prior to HCA approval	Yes	HCA, with DASA(P) coordination prior to HCA approval
15	Prohibition on Obtaining Certified Cost or Pricing Data	Waiving requirement for submission of certified cost or pricing data IAW CD 2024-00005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel	-	-	-	-	Class Deviation 2024-00005	Head of the Agency	Yes	No limitation	5115.403-1(c)(5)	HCA, without power to further delegate	No	-
15	Obtaining Certified Cost or Pricing Data	Determination that it is in the best interest of the Government to make award to offeror who does not comply with requirement to submit other than certified cost or pricing data	15.403-3(a)(4)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5115.403-3(a)(4)	HCA	Yes	No lower than SCO
15	Requiring Certified Cost or Pricing Data	Authorize KO to obtain certified cost or pricing data for actions below \$2M but exceeding SAT	15.403-4(a)(2)	HCA	No	-	No additional Guidance	-	-	-	-	HCA	No	-
15	Proposal Analysis Techniques	Determination that it is in the best interest of the Government to make award to offeror who does not comply with requirement to submit other than certified cost or pricing data - When the contractor continues to refuse to provide data to the contracting officer	-	-	-	-	DFARS PGI 215.404-1(a)(i)(A)(iv)	HCA	Yes	No limitation	5115.404-1(a)(i)(A)(iv)	HCA	Yes	No lower than SCO
15	Proposal Analysis, Profit	Approval of alternate approaches when weighted guidelines method does not produce reasonable profit objective	-	-	-	-	215.404-4(c)(2)(C)(2)	HCA	Yes	No limitation	5115.404-4(c)(2)(C)(2)	HCA	Yes	1 level above KO
15	Proposal Analysis, Forward Pricing Rate Agreements	Waiver of use of forward pricing rate agreements when such rates are available.	-	-	-	-	215.407-3(b)(i)	HCA	Yes	No limitation	5115.407-3(b)(i)	HCA	Yes	1 level above KO
15	Should-Cost Review	Request an overhead should-cost review for a contractor business unit that does not meet the criteria found in DFARS PGI 215.407-4(c)(2)(A).	-	-	-	-	DFARS PGI 215.407-4(c)(2)(B)	HCA	Yes	No limitation	5115.407-4(c)(2)(B)	HCA	Yes	No lower than SCO
15	Contract Clauses and Provisions	Approve determination (when contracting with the Canadian Commercial Corporation) that data other than certified cost or pricing data are needed in order to determine that the price is fair and reasonable.	-	-	-	-	215.408(3)(i)(A)(2) & 225.870-4(c)(2)(ii)	HCA	Yes	2 levels above KO	-	No Lower Than 2 Levels Above KO	No	-
15	Solicitation Provisions and Contract Clauses	Approve determination (when contracting with the Canadian Commercial Corporation) that it is reasonably certain that data other than certified cost or pricing data will be needed in order to determine that the price of modifications is fair and reasonable.	-	-	-	-	215.408(3)(ii)(A)(2) & 225.870-4(c)(2)(ii)	HCA	Yes	2 levels above KO	-	No Lower Than 2 Levels Above KO	No	-
16	Selecting Contract Types	Waiver approval authority for determining contract types for FMS contracts	-	-	-	-	See Class Deviation 2018-00017, Determining Contract Type for FMS Contracts	CoCO	No	-	-	CoCO	No	-
16	Fixed Ceiling-Price Contracts with Retroactive Price Predetermination. Limitations	Approval of fixed-price contracts with retroactive price redetermination	16.206-3(d)	HCA or Higher	No	-	No additional Guidance	-	-	-	-	HCA or Higher	No	-
16	Limitations on Cost-Reimbursement Contracts	Limitations on Awarding Cost-Reimbursement Contracts in excess of \$25M.	16.301-3(a)	-	-	-	216.301-3	HCA	Yes	No limitation	5116.301-3	HCA	Yes	No Lower than SCO
16	Incentive Contracts	Sharing Proven Incentive Strategies	16.401(g)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5116.401(g)	ASA(ALT)	Yes	DASA(P), without power to further delegate
16	Award-fee Contracts	Approval of D&F for all award-fee contracts (except for cost-reimbursement award-fee contracts in excess of \$25 million) justifying use of this type of contract	16.401(d)	HCA	Yes	No limitation	216.401(d)(i)(A)	HCA or Designee	Yes	No Lower than 1 Level Below HCA	5116.401(d)(i)	No Lower than SCO	No	-
16	Incentive Contracts	Approval of D&F for all incentive contracts (except for cost-reimbursement contracts valued in excess of \$25 million) incentive contracts, justifying use of this type of contract	16.401(d)	HCA	Yes	No limitation	216.401(d)(i)(B)	HCA or Designee	Yes	1 Level Above the KO	5116.401(d)(i)	1 Level Above the KO	Yes	-
16	Award-fee Contracts	Approval of D&F for cost-reimbursement incentive- or award fee contracts valued in excess of \$25 million	16.401(d)	HCA	Yes	No limitation	216.401(d)(ii)	HCA	Yes	No limitation	5116.401(d)(ii)	HCA	Yes	No lower than SCO
16	Cost-Plus-Award-Fee Contracts	Approval of remaining award fee pool less than 40% at time of final evaluation	-	-	-	-	216.405-2(1)	HCA	No	-	-	HCA	No	-
16	Single Source Award	No task or delivery order contract in an amount estimated to exceed \$100 million (including all options) may be awarded to a single source unless the head of the agency determination	16.504(c)(1)(ii)(D)(1)	Head of the Agency	Yes	-	216.504(c)(1)(ii)(D)(1)	SPE	Yes	-	5116.504(c)(1)(ii)(D)(1)	SPE	Yes	HCA, with authority to delegate to No lower than SCO
16	Indefinite-Delivery Contracts. Ordering	Approval of justification for an exception to fair opportunity over \$15M but not exceeding \$100M	16.505(b)(2)(ii)(C)(3)	HCA	Yes	General/Flag officer, SES, or grade above GS-15 only	No additional Guidance	-	-	-	5116.504(b)(2)(ii)(C)(3)	HCA	Yes	SCOs at GO/SES level only; otherwise HCA
16	Indefinite-Delivery Contracts. Ordering	Approval of justification for an exception to fair opportunity exceeding \$100M	16.505(b)(2)(ii)(C)(4)	SPE	No	-	-	-	-	-	-	SPE	No	-
16	Indefinite-Delivery Contracts. Ombudsman	HCA shall designate a task and delivery order ombudsman for the contracting activity.	16.505(b)(8)	Head of the Agency	Yes	No limitation	-	-	-	-	5116.505(b)(8)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
16	Time-and-Materials Contracts. Limitations	Approval of D&Fs for use of T&M when base period + options exceeds 3 years	16.601(d)(1)(iii)	HCA	Yes	No limitation	216.601(d)(ii)(A)(2)	HCA	No	-	-	HCA	No	-
16	Determination of Price Reasonableness	Approval of Contracting Officer's Price reasonableness for Letter contract under dispute	FAR 16.603-2(c) and 52.216-25(c)	HCA	No	-	No additional Guidance	-	-	-	-	HCA	No	-
16	Letter Contracts. Application	Approval of KO's determination of reasonable price to definitize UCA under certain circumstances.	16.603-2(c)(3)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5116.603-2(c)(3)	HCA	Yes	No lower than SCO
16	Letter Contracts. Limitations	Authorizing use of letter contract	16.603-3	HCA	Yes	No limitation	216.603-3	HCA	Yes	No limitation	5116.603-3	HCA	Yes	No lower than SCO
17	Multi-Year Contracting	Authorize modifications of the requirements	17.104(b)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5117.104(b)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
17	Multi-Year Contracting for Supplies	Authorize use of multi-year contract for supplies	17.105-1(b)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5117.105-1(b)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
17	Multi-Year Contracting for Supplies	Authorize use of multi-year contract for procurement of certain enumerated munitions	-	-	-	-	See DPC Class Deviation 2024-00005 Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel	Head of Agency	Yes	No limitation	5117.105-1	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
17	Multi-Year Contracting	Authorizes recurring costs in cancellation ceiling	17.106-3(e)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5117.106-3(e)	ASA(ALT)	Yes	HCA, without power to further delegate
17	Multi-Year Contracting	Authorizes the use of a solicitation requesting only multi-year prices, provided that dual proposals are not necessary to meet the objectives in FAR 17.105-2.	17.106-3(f)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5117.106-3(f)	HCA	Yes	No lower than SCO
17	Multi-Year Contracting	Approves the use of variable unit prices on multi-year contracts provided that, for competitive proposals, there is a valid method of evaluation.	17.106-3(g)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5117.106-3(g)	HCA	Yes	No lower than SCO
17	Multi-Year Contracting	Written Notification to Congress to Award a Multi-Year Contract which includes a cancellation ceiling in excess of \$150M	17.108(b)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5117.108(b)	ASA(ALT)	Yes	DASA(P), without power to further delegate
17	Multi-Year Contracting for Services	Entering into a multiyear contract for a period of not more than 5 years for certain types of services, even though funds are limited by statute to obligation only during the fiscal year for which they were appropriated; the Head of Agency must follow certain principals and before entering into a multiyear contract for services; and the head of the agency must make a written determination that there will be continuing requirement for the services	-	-	-	No limitation	217.171(a) through (c)	Head of Agency	Yes	No limitation	5117.171(a) through (c)	ASA(ALT)	Yes	HCA, without power to further delegate
17	Multi-Year Contracting Supplies	Entering into a multiyear contract for supplies if, in addition to the conditions listed in FAR 17.105-1(b), the use of such a contract will promote the national security of the United States (10 U.S.C. 3501(a)(6)).	-	-	-	-	217.172 (a) through (e) and (g)	Head of Agency	Yes	No limitation	5117.172 (a) through (e) and (g)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
17	Multiyear Contracts for Supplies	For contracts equal to or greater than \$750 million, determination that the conditions required by paragraphs (h)(2)(i) through (vii) of this section will be met by such contract, in accordance with the Secretary's certification and determination required by paragraph (h)(2) of this section	-	-	-	-	217.172(f)(2)	HCA	Yes	No limitation	5117.172(f)(2)	HCA	Yes	No lower than SCO
17	Multiyear Contracts for Electricity from Renewable Energy Sources	Authorization to enter into contract for period not more than 10 years for electricity from renewable sources	-	-	-	-	217.174(a)	HCA	Yes	No limitation	5117.174(a)	HCA	Yes	No lower than CoCO
17	Multiyear Contracts for Electricity from Renewable Energy Sources	Authorization to enter into contract for electricity from renewable sources for more than 5 years based on business case analysis	-	-	-	-	217.174(b)	HCA	Yes	No limitation	5117.174(b)	HCA	Yes	No lower than CoCO
17	Contracts	Approval for use of contract terms in excess of the limitations specified in FAR 17.204(e).	17.204(e)	-	-	-	217.204(e)	-	-	-	5117.204(e)	HCA	Yes	HCA, with authority to delegate to No Lower than SCO
17	Contracts (Options)	Approval of ordering periods in excess of 10 years for task/delivery order contracts	17.204(e)	-	-	-	217.204(e)(i)(C)	Agency Head	Yes	No limitation	5117.204(e)(i)(C)	ASA(ALT)	Yes	HCA, without power to further delegate
17	Contracts (Options)	Approval for task / delivery order performance more than 1 year beyond 10-year base contract limit in 217.204(e)(i)(C)	17.204(e)	-	-	-	217.204(e)(iii)	SPE	Yes	No limitation	5117.204(e)(iii)	SPE	Yes	HCA, withough power to further delegate
17	Interagency Acquisitions – The Economy Act	Approval of D&F for Economy Act order to obtain supplies or services by interagency acquisitions when servicing agency covered by the FAR	17.502-2(c)(2)	KO of Requesting Agency or Another Official Designated by Agency Head	Yes	-	-	-	-	-	5117.502-2(c)(2)	KO of Requesting Agency	No	KO of Requesting Agency
17	Interagency Acquisitions – The Economy Act	Approval of D&F for Economy Act order to obtain supplies or services by interagency acquisitions when servicing agency is not covered by the FAR	17.502-2(c)(2)	SPE	No	-	-	-	-	-	-	SPE	No	-
17	Interagency Acquisitions	Waiver determination for acquisitions of supplies and services by nondefense agencies on behalf of DoD	17.703(e)	USD(A&S)	Yes	No limitation	See DPC Memo Subject: Re-delegation of Authority Under Section 801 FY18 NDAA "Internal Controls for Procurements on Behalf of DoD by Certain Non-Defense Agencies", dated 17 June 2019.	SPE	Yes	No Lower than HCA	5117.703(e)	SPE	Yes	DASA(P) or SSM, without power to further delegate
17	Interagency Acquisitions: Acquisitions by Nondefense Agencies on behalf of DoD	Concurrence to use non-DoD contract prior to public announcement of the requirement for acquisitions valued at or above the simplified acquisition threshold, but less than \$50 million	-	-	-	-	217.770	In accordance with Department and Agency Procedures	Yes	No limitation	5117.770(2)(i)	HCA	Yes	No lower than 2 levels below SCO
17	Interagency Acquisitions: Acquisitions by Nondefense Agencies on behalf of DoD	Concurrence to use non-DoD contract prior to public announcement of the requirement for acquisitions valued at or above \$50 million but less than \$250 million	-	-	-	-	217.770	In accordance with Department and Agency Procedures	Yes	No limitation	5117.770(2)(ii)	HCA	Yes	No lower than 1 level below SCO

APPENDIX GG  
Revision 29  
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Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
17	Interagency Acquisitions: Acquisitions by Nondefense Agencies on behalf of DoD	Concurrence to use non-DoD contract prior to public announcement of the requirement for acquisitions valued at or above \$250 million	-	-	-	-	217.770	In accordance with Department and Agency Procedures	Yes	No limitation	5117.770(2)(iii)	HCA	Yes	No lower than SCO
17	Unfinalized Contract Actions (UCA) Limitations.	Approval to enter into a UCA for foreign military sales contracts	-	-	-	-	217.7404(a)(1)(ii)	HCA	Yes	No Limitation	5117.7404(a)(1)(ii)	HCA	Yes	No lower than CoCO if \$50m or less; SCO if greater than \$50m
17	Unfinalized Contract Actions (UCA) Limitations.	Approval of unilaterally finalizing UCAs with a value greater than \$50M	-	-	-	-	217.7404(b)(2)	HCA	No	-	-	HCA	No	-
17	Unfinalized Contract Actions (UCA) Limitations.	Approves Unfinalized Contract Actions (UCA).	-	-	-	-	217.7404-1	HCA	Yes	No limitation	5117.7404-1	HCA	Yes	No lower than CoCO if \$50m or less; SCO if greater than \$50m
17	Unfinalized Contract Actions (UCA) Authorization.	Approval of determination to extend finalization schedule beyond an additional 90 days	-	-	-	-	217.7404-3(a)(1)	HCA	No	-	-	HCA	No	-
17	Unfinalized Contract Actions (UCA) Limitations on Obligations.	Waive the limitations in 217.7404(a), 217.7404-2, 217.7404-3, and 217.7404-4 for UCAs if determined that the waiver is necessary to support a contingency operation; or a humanitarian or peacekeeping operation.	-	-	-	-	217.7404-5(b)	Agency Head	Yes	No limitation	5117.7404-5(b)	ASA(ALT)	Yes	HCA, without power to further delegate
17	Unfinalized Contract Actions (UCA) Limitations on Obligations.	Waive the limitations DFARS 217.7404(a) FMS contracts; 217.7404-3 Finalization schedule; and 217.7404-4, Limitations on obligations in accordance with subsection (D) of DPC 2024-00005 - Class Deviation - Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel	-	-	-	-	Class Deviation 2024-00005	Agency Head	Yes	No limitation	5117.7404-5(b)	ASA(ALT)	Yes	HCA, without power to further delegate
17	Unfinalized Contract Actions - Allowable Profit	Ensures profit reflects risk when UCA is finalized after substantial portion of performance is completed	-	-	-	-	217.7404-6	HCA	Yes	No limitation	5117.7404-6	HCA	Yes	No lower than CoCO
17	Acquisition of Parts When Data is not available	Authorization of reverse engineering	-	-	-	-	DFARS PGI 217.7504(4)(ii)	HCA	Yes	No limitation	5117.7504(4)(ii)	HCA	Yes	No lower than SCO
17	Limitations on Price Increases	KO certification of certain requirements to HCA before award of contract for a part, the price of which exceeds the limit in 217.7505(a)	-	-	-	-	217.7505(b)	HCA	Yes	No limitation	5117.7505(b)	HCA	Yes	No lower than 1 level above KO
18	Protest to GAO	Override of CICA Stay due to a Protest	18.125 (See 33.104(b) and (c))	HCA	No	-	No additional Guidance	-	-	-	-	HCA	No	-
18	Available Acquisition Flexibilities	Rights in Technical Data	-	-	-	-	218.170(h)	Agency Head	Yes	No limitation	5118.170(h)	ASA(ALT)	Retain	-
18	Emergency Acquisitions, Contingency Operation	Waive limitations for UCAs if necessary to support a contingency operation or humanitarian or peacekeeping operation	-	-	-	-	218.201(9) & 217.7404-5(b)	Head of Agency	Yes	No limitation	5118.201(9)	ASA(ALT)	Yes	HCA, without power to further delegate
18	Emergency Acquisitions, Defense or recovery from certain events.	Approve determinations related to support of contingency ops or defense against / recovery from nuclear, biological, chemical, radiological attack, cyber attack, international disaster assistance, and response to an emergency or major disaster.	18.202	Head of Agency	Yes	No Limitation	218.202	HCA (per 218.270, Head of Agency is replaced with HCA for FAR Part 18.2)	Yes	No limitation	5118.202	HCA	Yes	No lower than SCO
18	Emergency Acquisitions, Defense or recovery from certain events.	Permits the head of an agency carrying out a procurement of a product or a service for a covered contract to treat the product or service as a commercial product or a commercial service for the purpose of carrying out the procurement.	-	-	-	-	See Class Deviation 2024-00005, Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan,	Head of an Agency	Yes	No limitation	5118.202(c)	ASA(ALT)	Yes	Contracting Officers may use this authority consistent with the terms of the class deviation
18	Emergency Acquisitions, Head of contracting activity determinations	The term "head of the agency" is replaced with "head of the contracting activity," as defined in FAR 2.101.	-	-	-	-	218.270(e)	HCA	Yes	No limitation	5118.270(e)	HCA	Yes	No Lower than SCO
19	Encouraging small business participation in acquisitions	Determination that a consolidated requirement cannot be placed under one of the preference programs prior to release of the solicitation	-	-	-	-	-	-	-	-	5119.202-1(1)	HCA	Yes	No lower than SCO
19	Partial Set-Asides	Authorizing partial set-aside when only 2 concerns (1 large, 1 small) are expected to respond with offers	19.502-3(a)(5)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5119.502-3(a)(5)	HCA	Yes	No lower than CoCO
19	Rejecting Small Business Administration recommendations	Issuing a decision in response to an appeal of KO's rejection of SBA procurement center recommendation	19.502-8(b)	HCA	Yes	No Limitation	No additional Guidance	219.502-8(b)	Yes	No lower than the Chief of Contracting Office	5119.502-8(b)	HCA	Yes	No lower than CoCO
19	Contracting with the Small Business Administration (The 8(a) Program)	Confirm or withdraw the request for waiver of the termination requirement	19.812(d)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5119.812(d)	ASA(ALT)	Yes	HCA without the power to further delegate
19	Contracting with the Small Business Administration (The 8(a) Program)	Suspension from the 8(a) Program	19.816(b)	Head of Contracting Agency	Yes	No Limitation	No additional Guidance	-	-	-	5119.816(b)	ASA(ALT)	Yes	HCA, without power to further delegate
19	HUBZone Set-Aside Procedures	Determining urgent and compelling circumstances exist to proceed with acquisition upon receipt of SBA's notice of intent to appeal	19.1305(d)(2)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5119.1305(d)(2)	HCA	Yes	No lower than SCO
19	Service-Disabled Veteran-Owned Business Set-Aside Procedures	Issuing a decision in response to appeal of the KO's rejection of SBA recommendation to set aside a procurement for SDVOSB	19.1405(d)	HCA	Yes	No limitation	No additional Guidance	0	-	-	5119.1405(d)	HCA	Yes	No lower than SCO
22	Labor Relations	Designation of programs or requirements for which contractors are required to notify Gov't of actual or potential labor disputes that delay or threaten to delay timely contract performance	22.101-1(e)	HCA	Yes	No limitation	DFARS PGI 222.101-1	Labor Advisor	Yes	No limitation	5122.101-1	HCA	Yes	No lower than CoCO
22	Reporting Labor Disputes	Submit a report of findings and recommendations to the labor advisor regarding the impact of potential or actual labor disputes that involve a product, project (including construction), or service that must be obtained in order to meet schedules for urgently needed military programs or requirements.	22.101-3	Contract Administration Office	Yes	No limitation	222.101-3-70(b)	HCA	Yes	No limitation	5122.101-3-70(b)	HCA	Yes	No lower than SCO
22	Overtime Approvals	Authority to approve overtime	22.103-4	Agency Approving Official	Yes	No limitation	222.103-4	Department Approving Official	Yes	No limitation	5122.103-4(a)	See AFARS	Yes	Various
22	Liquidated Damages and Overtime Pay	Determination on Liquidated Damages	22.302(c)	Agency Head	Yes	-	No additional Guidance	-	-	-	5122.302(c)	ASA(ALT)	Yes	Chief of Engineers, Labor Advisor for other than USACE
22	Construction Wage Requirements Statute Wage Determinations	Extension request to modify wage determination	22.404-6(b)(6)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5122.404-6(b)(6)	ASA(ALT)	Yes	HCA, with authority to delegate to no lower than CoCO
22	Labor Standards for Contracts Involving Construction	Processing of Contracting Officer's Report	22.406-8(d)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5122.406-8(d)	ASA(ALT)	Yes	DA, Labor Advisor
22	Use of Project Labor Agreements for Federal Construction Projects	Grant an exception grant an exception from using the requirement at FAR 22.503 to use project labor agreements (PLAs) for large-scale Federal construction projects, where the total estimated cost to the Government is \$35 million or more.	22.504(d)(1)	Senior Procurement Executive	Yes	No Limitation	No additional Guidance	-	-	-	-	SPE	Retain	-
22	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000	Exemption of specific contracts or classes of contracts from the inclusion or application of one or more of the Small Business Act stipulations	22.604-2(b)(1)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	-	Director, OSBP	No	-
22	Equal Employment Opportunity Procedures	Approval to award without preaward clearance	22.805(a)(8)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5122.805(a)(8)	HCA	Yes	No lower than CoCO
22	Equal Employment Opportunity Exemptions	Exemption of EO 11246 for national security	22.807(a)(1)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5122.807(a)(1)	ASA(ALT)	Yes	DASA(P), without power to further delegate
22	Non-displacement of Qualified Workers Under Service Contracts	Waive some or all of the provisions in FAR subpart 22.12	22.1203(a)	SPE	No	-	No additional Guidance	-	-	-	-	SPE	No	-
22	Equal Employment Opportunity for Veterans	Waiver of Requirements when determined that the contract is essential to the national security	22.1305(a)	Head of Agency	Yes	No Limitation	PGI 222.1305(c)(i)	Agency Head	Yes	No Limitation	5122.1305(a)	ASA(ALT)	Yes	DASA(P), without power to further delegate
22	Equal Employment Opportunity for Veterans	Waiver of Requirements when determined that the contract is essential to the national security	22.1305(b)	Head of Agency	Yes	No Limitation	PGI 222.1305(c)(ii)	Secretary of Defense	No	-	-	Secretary of Defense	No	-
22	Employment of Workers with Disabilities	Waiver of Requirements when determined that the contract is essential to the national security	22.1403(a)	Head of Agency	Yes	No Limitation	222.1403(c)(i)	Agency Head	Yes	No Limitation	5122.1403(a)	ASA(ALT)	Yes	DASA(P), without power to further delegate
22	Employment of Workers with Disabilities	Waiver of Requirements when determined that the contract is essential to the national security	22.1403(b)	Head of Agency	Yes	No Limitation	222.1403(c)(ii)	Secretary of Defense	No	-	-	Secretary of Defense	No	-
22	Procedures for acquiring end products on the list of products requiring contractor certification as to forced or indentured child labor.	Imposing remedies if the contractor has furnished an end product or component that has in fact been mined, produced, or manufactured, wholly or in part, using forced or indentured child labor.	22.1503(f)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5122.1503(f)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
22	Notification of Employee Rights Under the National Labor Relations Act	Objection to Suspension or Termination of a contract if violation of National Labor Relations	22.1604(d)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5122.1604(d)	ASA(ALT)	Yes	HCA, without power to further delegate
22	Combating Trafficking in Persons	Exemption from the requirement to provide return transportation or pay for the cost of return transportation	22.1703(a)(7)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5122.1703(a)(7)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
22	Combating Trafficking in Persons - Violations and Remedies	Receipt of agency Inspector General report	22.1704(c)	Head of Executive Agency	Yes	No Limitation	No additional Guidance	-	-	-	5122.1704(c)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
22	Employment Eligibility Verification Policy	Waive e-Verify requirement for a contract, subcontract, or class of contracts or subcontracts	22.1802(d)	HCA	No	-	No additional Guidance	-	-	-	-	HCA	No	-
23	Sustainable Acquisition Policy - Exceptions	Determination of Application	23.104(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5123.104(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
23	Sustainable Acquisition Policy - Exemption Authority	Exemption Authority to purchase sustainable products	23.105	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5123.105	ASA(ALT)	Retain	-
23	Energy and Water Efficiency and Renewable Energy, Procurement Exemptions	Determination not to procure an ENERGY STAR or FEMP-designated product if no ENERGY STAR or FEMP-designated product is reasonably available or no ENERGY STAR or FEMP-designated product is cost effective	23.204	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5123.204	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than the CoCO
23	Safety precautions for ammunition and explosives, Procedures	Waives the mandatory requirements for safety precautions for ammunition and explosives.	-	-	-	-	DFARS PGI 223.370-4(1)(i)	HCA	Yes	No limitation	5123.370-4(1)(i)	HCA	Yes	No lower than SCO
23	Drug-Free Workplace	Determination to suspend contract payments, terminate a contract for default, debar or suspend	23.506(e)	Agency Head	No	-	No additional Guidance	-	-	-	-	ASA(ALT)	No	-
23	Contractor Compliance with Environmental Management Systems	Determination that the use of Compliance With Environmental Management Systems clause for facilities located outside the U.S.	23.903	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5123.903	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
25	Buy America Supplies, Exceptions	Approval of determination for public interest exception to Buy American statute at various thresholds	25.103(a)	Agency Head	Yes	No limitation	225.103(a)(ii)(B)(1)	At a Level Above KO	Yes	No limitation	5125.103(a)(ii)(B)(1)	No Lower than 1 Level Above KO	No	-
25	Buy America Supplies, Exceptions	Approval of determination for public interest exception to Buy American statute at various thresholds	25.103(a)	Agency Head	Yes	No limitation	225.103(a)(ii)(B)(2)	HCA	Yes	No limitation	5125.103(a)(ii)(B)(2)	HCA	Yes	No lower than SCO
25	Buy America Supplies, Exceptions	Approval of determination for public interest exception to Buy American statute at various thresholds	25.103(a)	Agency Head	Yes	No limitation	225.103(a)(ii)(B)(3)	Agency Head	Yes	No limitation	5125.103(a)(ii)(B)(3)	ASA(ALT)	Yes	HCA, without power to further delegate
25	Buy America Supplies, Exceptions	Approval of determination for nonavailability exception to Buy American statute for acquisitions valued at or below SAT	25.103(b)(2)(i)	HCA	Yes	No limitation	225.103(b)(ii)(A)	At a Level Above KO	Yes	No limitation	5125.103(b)(ii)(A)	No Lower than 1 Level Above KO	No	-
25	Buy America Supplies, Exceptions	Approval of determination for nonavailability exception to Buy American statute for acquisitions valued between the SAT and less than \$1.5M	25.103(b)(2)(i)	HCA	Yes	No limitation	225.103(b)(ii)(B)	CoCO	Yes	No limitation	5125.103(b)(ii)(B)	CoCO	No	-
25	Buy America Supplies, Exceptions	Approval of determination for nonavailability exception to Buy American statute for acquisitions valued at \$1.5M or more	25.103(b)(2)(i)	HCA	Yes	No limitation	225.103(b)(ii)(C)	HCA or Immediate Deputy	Yes	No limitation	5125.103(b)(ii)(C)	HCA	Yes	No lower than SCO

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Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
25	Buy American - Supplies	Determination that use of higher evaluation factors are appropriate	25.105(a)(1)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5125.105(a)(1)	ASA(ALT)	Yes	DASA(P) and for the U.S. Army Corps of Engineers, the HCA USACE, without power to further delegate
25	Buy American - Construction Materials	Authority to determine the use of a particular domestic construction material is impracticable	25.202(a)(1)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5125.202(a)(1)	ASA(ALT)	Yes	DASA(P) and for the U.S. Army Corps of Engineers, the HCA USACE, without power to further delegate
25	Buy American - Construction Materials	Authority to determine the use of a particular domestic construction material is inconsistent with public interest	25.202(a)(1)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5125.202(a)(1)	ASA(ALT)	Retain	-
25	Buy American-Construction Materials	Determining that construction material is not mined, produced, or manufactured in the US in sufficient and reasonably available quantities of a satisfactory quality	25.202(a)(2)	HCA	Yes	No limitation	225.202(a)(2) (see 225.103(b)(ii)(A))	At a Level Above KO	Yes	No limitation	5125.202(a)(2)	No Lower than 1 Level Above KO	No	-
25	Buy American-Construction Materials	Determining that construction material is not mined, produced, or manufactured in the US in sufficient and reasonably available quantities of a satisfactory quality	25.202(a)(2)	HCA	Yes	No limitation	225.202(a)(2) (see 225.103(b)(ii)(B))	CoCO	Yes	No limitation	5125.202(a)(2)	CoCO without further delegation	No	-
25	Buy American-Construction Materials	Determining that construction material is not mined, produced, or manufactured in the US in sufficient and reasonably available quantities of a satisfactory quality	25.202(a)(2)	HCA	Yes	No limitation	225.202(a)(2) (see 225.103(b)(ii)(C))	HCA or Immediate Deputy	Yes	No limitation	5125.202(a)(2)	HCA	Yes	No lower than SCO
25	Buy American - Construction Materials	Specifying a higher percentage to the offered price of the cost of any foreign construction material proposed for exception from the requirements of the Buy American Act based on unreasonable cost of domestic materials	25.204(b)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5125.204(b)	ASA(ALT)	Yes	DASA(P) and for the U.S. Army Corps of Engineers, the HCA USACE, without power to further delegate
25	World Trade Organization Government Procurement Agreement and Free Trade Agreement	Approval of national interest waiver for purchase by overseas purchasing activity in support of US forces stationed abroad	-	-	-	-	225.403(c)(ii)(A)	HCA	Yes	No limitation	5125.403(c)(ii)(A)	HCA	Yes	No lower than SCO
25	American Recovery and Reinvestment Act--Buy America Statute-Construction materials	Determining for ARRA that construction material is not mined, produced, or manufactured in the US in sufficient and reasonably available quantities of a satisfactory quality	25.603(a)(1)(i)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5125.603(a)(1)(i)	HCA	Yes	No lower than SCO
25	American Recovery and Reinvestment Act--Buy America Statute-Construction materials	Determination that application of the restrictions of AARA in particular manufactured construction material would be inconsistent with the public interest	25.603(a)(1)(iii)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5125.603(a)(1)(iii)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
25	American Recovery and Reinvestment Act--Buy America Statute-Construction materials	Determination that application of the Buy American statute to a particular unmanufactured construction material would be impracticable	25.603(a)(2)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5125.603(a)(2)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
25	End Use Certificates	Authority to sign EUCs for non-PEO managed items.	-	-	-	-	225.802-71 See DoDI 2040.03 for Delegation	DoD Component Heads	Yes	No Lower than GO/SES	5125.802-71	ASA(ALT)	Yes	DASA(P), without power to further delegate
25	End Use Certificates	Authority to sign EUCs for PEO managed items.	-	-	-	-	225.802-71 See DoDI 2040.03 for Delegation	DoD Component Heads	Yes	No Lower than GO/SES	ASA(ALT) Memorandum, SUBJECT: Delegation of Authority under Department of Defense Instruction 2040.03. "End Use Certificates" dated 30 January 2021.	ASA(ALT)	Yes	PEOs/DPEOs
25	Contracting with Canadian Contractors. Contracting Procedures	Determination that data other than certified cost/pricing data from Canadian Commercial Corporation are needed in order to determine that price is fair and reasonable in circumstances other than those in 225.870-4(c)(2)(i)	-	-	-	-	225.870-4(c)(2)(ii)	HCA	Yes	No lower than 2 levels above KO	5125.870-4(c)(2)(ii)	No Lower Than 2 Levels Above KO	No	-
25	Contracting with Canadian Contractors. Contracting Procedures	Determination that it is in the best interest of the Government to make award to offeror who does not comply with requirement to submit other than certified cost or pricing data	-	-	-	-	225.870-4(c)(5)	HCA	Yes	No limitation	5125.870-4(c)(5)	HCA	Yes	No Lower than 2 levels above KO
25	Foreign Acquisition	Waiver of Right to Examine Records	25.1001(a)(2)(iii)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5125.1001(a)(2)(iii)	ASA(ALT)	Retain	-
25	Authorization Acts, Appropriation Acts, and Other Statutory Restrictions on Foreign Acquisition	Determination that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices	-	-	-	-	225.7002-2	Secretary of the Army	No	-	5125.7002-2(b)(1)(ii)(1)	Secretary of the Army	No	-
25	Restrictions on Acquisitions of Specialty Metals--Exceptions	Determines that specialty metal melted or produced in the United States cannot be acquired as and when needed at a fair and reasonable price in a satisfactory quality, a sufficient quantity, and the required form (i.e., a domestic nonavailability determination that apply to only 1 contract).	-	-	-	-	225.7003-3(b)(5)(i)	Secretary of the Military Department	No	-	5225.7003-3(b)(5)(i)(i)	Secretary of the Army	No	-
25	Restrictions on Acquisitions of Specialty Metals--Exceptions	Determines that specialty metal melted or produced in the United States cannot be acquired as and when needed at a fair and reasonable price in a satisfactory quality, a sufficient quantity, and the required form (i.e., a domestic nonavailability determination for more than 1 contract).	-	-	-	-	225.7003-3(b)(5)(ii)	USD(AT&L)	No	-	5225.7003-3(b)(5)(i)(i)	USD(AT&L)	No	-
25	Waiver of Restrictions of 10 U.S.C. 2534 Authorization Acts, Appropriations Acts, and Other Statutory Restrictions on Foreign Acquisition.	Waiver of restrictions on certain foreign purchases on a case-by-case basis	-	-	-	-	225.7008(a)(2)	HCA	Yes	No limitation	5125.7008(a)(2)	HCA	Yes	No lower than SCO
25	Restriction on Acquisition of Certain Magnets and Tungsten	Waiver on restriction for supercomputer	-	-	-	-	225.7012-2	SECDEF	Yes	No limitation	5125.7012-2	SECDEF	No	-
25	Requirement to Use Firm-Fixed-Price Contracts for FMS	Determination to make individual nonavailability determination	-	-	-	-	225.7018-4(a)(1)	HCA	Yes	No limitation	-	HCA	Retain	-
25	Enhanced Authority to Acquire Products or Services from Afghanistan, Determination Requirements	Waiver of requirement to use a firm-fixed-price contract for FMS.	-	-	-	-	225.7301-1(b)	See DPC Class Deviation 2020-00003 valid through Dec 31, 2020; After CoCO	Yes	No Limitation	5125.7301-1(b)	CoCO	Retain	-
25	Enhanced Authority to Acquire Products or Services from Afghanistan, Determination Requirements	Determination to use enhanced authority for individual acquisition of products or services with a value of less than \$100M from Afghanistan	-	-	-	-	225.7703-2(b)(2)(i)	HCA	Yes	No limitation	5125.7703-2(b)(2)(i)	HCA	Yes	No lower than SCO
25	Enhanced Authority to Acquire Products or Services from Afghanistan, Determination Requirements	Determination to use enhanced authority for individual acquisition of products or services with a value of \$100M or more from Afghanistan	-	-	-	-	225.7703-2(b)(2)(ii)	AAE	No	-	-	AAE	No	-
25	Prohibition on Providing Funds to the Enemy and Authorization of Additional Access to Records	Authority to terminate or void contracts and to restrict future awards directly or indirectly to any person that is actively opposing United States or coalition forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.	-	-	-	-	225.7793 (Class Deviation 2015-O0016)	HCA	No	-	-	HCA	No	-
25	Enhanced authority to acquire products or services of Djibouti in support of DoD operations in Djibouti	Determination to use enhanced authority for individual acquisition of products or services with a value of \$93M or more, or a class of acquisitions, from Djibouti	-	-	-	-	225.7798-4(b)(1)(ii) (Class Deviation 2016-O0005)	HCA	No	-	-	HCA	No	-
25	Authority to acquire products and services (including construction) from Afghanistan or from countries along a major route of supply to Afghanistan, Determination Requirements	Determination to use authority for individual acquisition of products or services (including construction) with a value of \$93M or more, or a class of acquisitions, from Afghanistan or a country along a major route of supply to Afghanistan	-	-	-	-	225.7799-2(b)(1)(ii) (Class Deviation 2016-O0004)	HCA	No	-	-	HCA	No	-
27	Patent and Copyright Infringement Liability - Contract Clauses	Obtain approval to exempt specific US patents from the patent indemnity clause	27.201-2(e)	Agency Head	Yes	No Limitation	No Additional Guidance	-	-	-	5127.201-2(e)	ASA(ALT)	Yes	Commander, U.S. Army Legal Services Agency; Exception: the Commander for AMC and designees that have patent counsel
27	Patent Rights Under Government Contracts - Contract Clauses	Grant a foreign government a sublicense in subject inventions pursuant to a specified treaty or agreement	27.303(b)(3)	Agency Head	Yes	No Limitation	227.303(2)(ii)(B)	Agency Head	Yes	No limitation	5127.303(b)(3)	ASA(ALT)	Retain	-
27	Patent Rights Under Government Contracts - Contract Clauses	Determine that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of USC 35, chapter 18.	27.303(e)(1)(ii)	Agency Head	Yes	No Limitation	No Additional Guidance	-	-	-	5127.303(e)(1)(ii)	ASA(ALT)	Yes	HCA, without power to further delegate
27	Patent Rights Under Government Contracts - Contract Clauses	Determine that it would be in the national interests to sublicense foreign governments or international organizations pursuant to any existing or further agreement or treaty.	27.303(e)(4)(ii)	Agency Head	Yes	No Limitation	No Additional Guidance	-	-	-	5127.303(e)(4)(ii)	ASA(ALT)	Retain	-
27	Licensing Background Patent Rights to Third Parties	Allowing Government to Require Licensing to Third Parties of inventions when contracting with a small business firm or nonprofit organization	27.306(a)	Agency Head	No	-	No Additional Guidance	-	-	-	-	ASA(ALT)	No	-
27	Government right to review, verify, challenge, and validate asserted restrictions.	Notification that the person asserting the restriction that urgent or compelling circumstances do not permit the Government to continue to respect the asserted restriction.	-	-	-	-	227.7103-13(d)(6)(iii) (See DFARS 252.227-7037(g)(2))	Agency Head	No	-	5127.7103-13(d)(6)(iii)	ASA(ALT)	No	-
27	Conformity, Acceptance and Warranty of Technical Data	Authorization to withhold payments (or exercise such other remedies an agency head considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.	-	-	-	-	227.7103-14(a)(2)	Agency Head	Yes	No limitation	5127.7103-14(a)(2)	ASA(ALT)	Yes	No Lower Than the KO
27	Government right to review, verify, challenge, and validate asserted restrictions.	Notification that that urgent or compelling circumstances do not permit the Government to continue to respect the asserted restriction	-	-	-	-	227.7203-13(e)(1) (See DFARS 252.227-7019(g)(3))	Agency Head	No	-	5127.7203-13(e)(1)	ASA(ALT)	No	-
28	Bid Guarantees	Class waivers may be authorized for bid guarantees	28.101-1(c)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5128.101-1(c)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
28	Other Types of Bonds	Approval to use other types of bonds in connection with acquiring particular supplies or services	28.105	HCA	Yes	No limitation	228.105	-	-	-	5128.105	HCA	Yes	No lower than CoCO
28	Substitution of Surety Bonds	Approval of new surety bond covering all or some obligations on a bond previously approved	28.106-2(a)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5128.106-2(a)	HCA	Yes	No lower than CoCO
28	Furnishing information on Surety Bonds	Copies of payment bonds, provided for contracts, shall be furnished to any person who makes a request	28.106-6(c)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5128.106-6(c)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
28	Exclusion of Individual Sureties	Excluding individual from acting as a surety on bonds	28.203-5	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5128.203-5(d)	ASA(ALT)	Yes	Suspension and Debarment Official, without power to further delegate
28	Overseas Workers Compensation and War Hazard Insurance	Waiver of applicability of the Defense Base Act to any contract, subcontract, work location or classification of employees	28.305(d)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5128.305(d)	ASA(ALT)	Yes	DASA(P), without power to further delegate
28	Solicitation Provisions and Contract Clauses on Liability Insurance Under Cost Reimbursement Contracts	Waiver of requirement to use clause at FAR 52.228-7	28.311-1	-	-	-	228.311-1	HCA	Yes	No limitation	5128.311-1	HCA	Yes	No lower than CoCO
28	Insurance--Additional Clauses	Decision not to allow contractor to buy insurance for war-hazard losses	-	-	-	-	228.371(a)(2)	HCA	Yes	No limitation	5128.371(a)(2)	HCA	Yes	No lower than SCO
29	Federal Excise Taxes	Process applications to the Bureau of Alcohol, Tobacco, and Firearms for permits to procure alcohol free of tax pursuant to guidance at Title 27 Code of Federal Regulations, Section 22.172 Application and permit	-	-	-	-	-	-	-	-	5129.201(b)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
29	Application of State and Local Taxes to Government Contractors and Subcontractors	Designation of Prime and Subcontractors as agents of the Government	29.303(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5129.303(a)	ASA(ALT)	Yes	DASA(P), without power to further delegate
30	Waiver of CAS	A waiver to CAS for a particular contract or subcontract	30.201-5(a) and (b)	Agency head	Yes	not below the senior contract policymaking level	230.201-5(a)(2)	Agency head	Yes	not below the senior contract policymaking level	5130.201-5(a)(2)	ASA(ALT)	Yes	DASA(P), without power to further delegate
30	CAS Program Requirements - Disclosure Requirements	Authorization of a CAS-covered contract award without obtaining submission of the required disclosure statement	30.202-6(b)	Agency Head	No	-	No additional Guidance	-	-	-	5130.202-6(b)	ASA(ALT)	No	-
31	Interest and Other Financial Costs	Waive some or all requirements of FAR part 31 for Government contracts awarded in conjunction with conveyance of a utility system under 10 U.S.C 2688	31	-	-	-	231.100-70 (Class Deviation 2011-O0006)	HCA	Yes	No limitation	-	HCA	Retain	No delegation for deviation

Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
31	Individual Deviations of Cost Principles	Approve Individual Deviations from Cost principles and procedures	31.101	Agency head	Yes	No limitation	201.402-1(iv)	DPC	No	-	-	DPC	No	-
31	Compensation for Personal Services - Severance Pay	Permission to waive severance payment allowability limitations	31.205-6(g)(6)	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5131.205-6(g)(6)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
31	Compensation for Personal Services	Establish one or more narrowly targeted exceptions for employee compensation limits for scientists, engineers, or other specialists upon a determination that such exceptions are needed to ensure that the executive agency has continued access to needed skills and capabilities.	31.205-6(p)(4)(iii)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5131.205-6(p)(4)(iii)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than the SCO
32	Contract Financing	Reduction or Suspension of Contactor Payments upon finding Fraud	32.006-1(b) and (c)	Agency Head	Yes	Not below the Level IV of Executive Schedule (10 U.S.C. 2307(i)(9))	No additional Guidance	-	-	-	5132.006-1(c)	ASA(ALT)	Yes	HCA if they meet the criteria of Level IV SES, without power to further delegate
32	Contract Financing Payments	Prescription for shorter payment periods based on contracting pricing or administrative considerations. Cannot be period shorter than 7 days or longer than 30 days.	32.007(a)(3) and (4)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5132.007(a)(3) and (4)	ASA(ALT)	Yes	HCA, with authority to delegate to 1 level above KO
32	Unusual Contract Financing	Approve/authorize contract financing arrangements that deviate from arrangements in FAR 32.1	32.114	Agency head	Yes	No limitation	201.402(1)(vi)	Director, DPC	No	No limitation	5132.114	Director, DPC	No	-
32	Commercial Item Purchase Financing - Statutory Authority	Determination that payment for commercial items maybe under such terms and conditions that are appropriate or customary in the commercial marketplace	32.201	Head of Agency	Yes	No Limitation	No additional Guidance	-	-	-	5132.201	ASA(ALT)	Yes	No Lower Than the KO
32	Commercial Item Purchase Financing	Approval, as unusual contract financing, of any contract financing arrangement not in accord with agency regs or FAR 32.202	32.202-1(d)	HCA	Yes	No limitation	201.402(1)(vi)	Director, DPC	No	No limitation	5132.202-1(d)	Director, DPC	No	-
32	Advance Payments for Non-Commercial Items	Determination that statutory requirements and standards for advance payment are met and in in the public interest	32.402(c)(1)(iii)(A)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.402(c)(1)(iii)(A)	ASA(ALT)	Retain	-
32	Advance Payments for Non-Commercial Items	Determination that statutory requirements and standards for advance payment are met and facilitates the national defense	32.402(c)(1)(iii)(B)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.402(c)(1)(iii)(B)	Secretary of the Army	No	-
32	Advance Payments for Non-Commercial Items	Authorization of advance payments without interest under certain types of contracts	32.407(d)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.407(d)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower Than SCO
32	Unusual Progress Payments	Approval of contractor's request for unusual progress payments	32.501-2(a)(3)	HCA	Yes	No limitation	DFARS PGI 232.501-2	Director, DPC	No	-	-	DPC	No	-
32	Contract Funding - Contracts Crossing Fiscal Years	Entering into a contract or exercising an option for severable services for a period that begins in one fiscal year and ends in the next fiscal year	32.703-3(b)	Head of Executive Agency	Yes	No Limitation	232.703-3(b)	KO	No	-	-	KO	No	-
32	Assignment of Claims	Determination to include a no-setoff commitment	32.803(d)	Head of Agency	Yes	No Limitation	232.803(d)	KO in accordance with FAR 32.803(d)	No	-	5132.803(d)	ASA(ALT)	Retain	-
32	Prompt Payment, Applicability	Determination that conditions exist that limit normal business ops	-	-	-	-	232.901(1)(ii)	HCA	Yes	No limitation	5132.901(1)(ii)	HCA	Yes	No lower than the SCO
32	Prompt Payment, Applicability	Subsequent determinations as operational area becomes more stable or less stable	-	-	-	-	232.901(3)	HCA	Yes	No limitation	5132.901(3)	HCA	Yes	No lower than the SCO
32	Prompt Payment Responsibilities	Establish policies and procedures for prompt payment	32.903(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.903(a)	ASA(ALT)	Yes	DASA(P), without power to further delegate, for policy and procedures; Execution may be addressed in AFARS
32	Making Payments	Determination to make invoice payments earlier than 7 days prior to the due date	32.906(a)	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.906(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than the SCO
32	Electronic Funds Transfer Mechanisms	Authorization of other mechanisms for domestic and nondomestic EFT	32.1106	Agency Head	Yes	No Limitation	No additional Guidance	-	-	-	5132.1106	ASA(ALT)	Yes	HCA, without power to further delegate
33	Protests	Make determinations when a solicitation, proposed award, or award does not comply with the requirements of law or regulation	33.102(b)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5133.102(b)(i)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO, the Chief of the Supporting Legal Office or the Official Designated as the Independent Review Authority IAW FAR 33.103(d)(4)
33	Protests to agency	Procedures for Independent Reviews by Interested Parties	33.103(d)(4)	Level above KO	Yes	No limitation	No additional Guidance	-	-	-	5133.103(d)(4)(iii)	HCA	Yes	No lower than CoCo
33	Protests to GAO	Protests before award	33.104(b)(1)	HCA	No	-	No additional Guidance	-	-	-	5133.104(b)	HCA	No	-
33	Protests to GAO	Protests after award	33.104(c)(2)	HCA	No	-	No additional Guidance	-	-	-	5133.104(c)	HCA	No	-
33	Protests to GAO	Reporting to GAO the agency's failure to fully implement GAO's recommendations regarding a solicitation or contract award	33.104(g)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5133.104(g)	HCA	Yes	No lower than SCO; Exception for USACE: Chief Counsel
33	Applicability of Disputes	Determination that the application of the Disputes statute to the contract with an international organization or a subsidiary body of that organization, would not be in the public interest.	33.203(b)(2)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5133.203(b)(2)	ASA(ALT)	Yes	DASA(P), without power to further delegate
33	Contracting officer's duties upon appeal	Approval of use of the Judgment Fund for cases at or below \$1M	-	-	-	-	-	-	-	-	5133.212-98(a)(1)	ASA(FM&C)	Yes	DASA-FO, without power to further delegate
33	Obligation to continue performance	Approve the determination to use the alternate paragraph in the clause at FAR 233-1	33.213	-	-	-	-	-	-	-	5133.213(a)	HCA	Yes	No lower than SCO; Exception for USACE: No lower than CoCo; Deviation Required
33	Disputes and Appeals, Contract Clauses	Determination that continued performance is necessary pending resolution of claims arising under or related to the contract	33.215(a)	-	-	-	233.215(3)	HCA	Yes	No limitation	5133.215(3)	HCA	Yes	No lower than CoCo
33	Grant and Cooperative Agreement Claims, Disputes and Appeals	Designation of grant appeal authority	-	-	-	-	-	-	-	-	5133.9001(c)	HCA if a GO/SES; otherwise DASA(P) designates on case by case basis.	No	-
34	Acquisition of Major Weapon Systems as Commercial Items	Determination that the information submitted pursuant to DFARS 234.7002(d)(1) and (d)(2) [Relevant Information] is not sufficient to determine the reasonableness of price	-	-	-	-	234.7002(d)(4)	HCA	Yes	No limitation	5134.7002(d)(4)	HCA	Yes	No Lower than CoCo
35	Government Property and Title	Application of policies regarding title to equipment to contracts with nonprofit institutions of higher education and nonprofits who conduct scientific research	35.014(b)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5135.014(b)	ASA(ALT)	Yes	DASA(P), without power to further delegate
35	Special requirements for research and development contracts	Determination that the facilities and equipment are necessary for the performance of the contract	35.014	Secretary of the Military Department Concerned	Yes	No Limitation	No additional Guidance	-	-	-	-	Secretary of the Army	No	-
35	Special Use Allowances for Research Facilities Acquired by Educational Institutions	Approval for special use allowance for research facilities	-	-	-	-	235.015-70(c)	HCA	Yes	No limitation	5135.015-70(c)	HCA	Yes	No lower than SCO
35	Special Use Allowances for Research Facilities Acquired by Educational Institutions	Consent to put research facility to significant use other than that which justified the special use allowance	-	-	-	-	235.015-70(d)(3)(ii)	HCA	Yes	No limitation	5135.015-70(d)(3)(ii)	HCA	Yes	No lower than SCO
36	Concurrent Performance of Firm-Fixed Price and Other Types of Construction Contracts	Approval of CPFF, FPI, or other types of contracts with cost variation or adjustment features concurrently, at same work site, with FFP, lump sum or unit price contracts	36.208	HCA	Yes	No limitation	No additional Guidance	-	-	-	5136.208	HCA	Yes	No lower than CoCo
36	Construction Contracts with Architect-Engineer Firms	Prohibits award of a contract for the construction of a project to the firm that designed the project or its subsidiaries or affiliates, except with the approval.	36.209	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5136.209	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
36	Special Procedures for Sealed Bidding in Construction Contracting--Presolicitation Notices	Waiving presolicitation notices on any construction requirement when proposed contract is expected to exceed SAT	36.213-2(a)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5136.213-2(a)	HCA	Yes	No lower than CoCo
36	Expediting Construction Contracts	10 U.S.C 2858 requires approval to expedite the completion date of a contract funded by Military Construction Appropriations Act, if there are additional costs	-	-	-	-	236.270(a)	Agency head	No	-	5136.27	Secretary of the Army	No	-
36	Construction and Architect-Engineer Contracts--Prequalification of Sources	Authorization and approval of prequalification of sources	-	-	-	-	236.272(b)	HCA	Yes	No limitation	5136.272(b)	HCA	Yes	No lower than CoCo
36	Construction and Architect -- Engineer Contracts	Criteria for use of tow-phase design-build procedures	36.301(b)(3)(vi)	Head of Contracting Activity	Yes	No Limitation	No additional Guidance	-	-	-	5136.301(b)(3)(vi)	HCA	Retain	-
36	Two-Phase Design-Build Selection Procedures	Approval of determination that more than 5 offerors will be selected to submit phase-two proposals for acquisitions greater than \$4.5M	-	-	-	-	236.303-1(a)(4)	HCA	Yes	No Lower Than the Senior Contracting Official	-	HCA	Yes	No Lower than the SCO
36	Construction and Architect-Engineer Contracts--Additional Provisions and Clauses	Approval of use of separate bid item for mobilization and prep work	-	-	-	-	236.570(b)(2)	HCA	Yes	No limitation	5136.570(b)(2)	HCA	Yes	No lower than CoCo
36	Selection of Firms for Architect-Engineer Contracts	Permits approval of the use of design competition; authorizes 1 final selection decision; and requires review of the selection report under a short selection process for contracts not expected to exceed the simplified acquisition threshold and approval or return to the chairperson of the evaluation board for appropriate revision.	36.602-1(b) 36.602-4(a) 36.602-5(b)(2)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5136.602-1(b) 5136.602-4(a) 5136.602-5(b)(2)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than CoCo Exception for USACE: HCA, with authority to delegate to the Center Director/District Commander, with authority to re-delegate to the Center/District Chief Of Engineering, the CoCo, or other appropriate officials Not Below the level of the CoCo.
36	Design Within Funding Limitations	Determination not to insert clause at 52.236-22 Design within Funding Limitations	36.609-1(c)(1)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5136.609-1(c)(1)	HCA	Yes	No lower than CoCo
37	Personal Services Contracts	Personal services contracts for experts and consultants authorized by 10 U.S.C. 129b	-	-	-	-	237.104(b)(i)	In accordance with Agency regulations	Yes	No limitation	5137.104(b)(i)	HCA	Yes	No lower than SCO
37	Personal Services Contracts	Approval Requirements for Personal services contracts for health care are authorized by 10 U.S.C. 1091	-	-	-	-	237.104(b)(ii)(C)(2)	In accordance with Agency regulations	Yes	No limitation	5137.104(b)(ii)(C)(2)	HCA	Yes	No Lower Than SCO; Exception for MEDCOM No Lower than the CoCo
37	Personal Services Contracts	Approval of personal services contract in accordance with 10 USC 129b(d)	-	-	-	-	237.104(b)(iii)(A)(2)	HCA	Yes	No limitation	5137.104(b)(iii)(A)(2)	HCA	Yes	No lower than SCO
37	Severance Payments with Foreign Nationals	Permits waiver of FAR 31.205-6(g)(6) cost allowability limitations on severance payments to foreign nationals	37.113-1(a)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5137.113-1(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
37	Approval of Contracts and Task Orders for Services	Approval of contract or task order that is not performance-based (at or below \$100M)	-	-	-	-	DFARS 237.170-2(a)(1)	Official designated by the Department or Agency	Yes	No limitation	5137.170-2(a)(1)	HCA	Yes	No Lower than SCO
37	Approval of Contracts and Task Orders for Services	Approval of contract or task order that is not performance-based (exceeding \$100M)	-	-	-	-	DFARS 237.170-2(a)(2)	SPE	Yes	No limitation	5137.170-2(a)(2)	SPE	Yes	HCA, without power to further delegate
37	Guidelines for Determining Availability of Personnel	Determines if sufficient personnel are available to evaluate/analyze proposals for advisory and assistance service procurements.	37.204	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5137.204	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower than SCO
37	Management Oversight of Service Contracts	Agency Head Responsibilities	37.503	Agency Head	Yes	No limitation	237.503	Agency Head or Designee	Yes	No limitation	5137.503	ASA(ALT)	Yes	Army Regulation 70-13, Management and Oversight of Service Contracts, chapter 2, implements the responsibilities set forth in FAR 37.503; and FAR 37.503(c) and DFARS 237.503 are implemented at AFARS 5107.503
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDI 5000.74	-	-	-	5137.590-3 (category I) Acquisition of services with an estimated total value of \$1B or more, or more than \$300M in any one year.	AAE	Yes	DASA(P) or Senior Services Manager, without power to further delegate
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDi 5000.74	USD(AT&L) for acquisitions designated as special interest by the USD(AT&L)	-	-	5137.590-3 (special interest). As designated by USD(A&S), ASA(ALT), DASA(P) or SSM.	ASA(ALT)	Yes	ASA(ALT), DASA(P) or Senior Services Manager, without power to further delegate
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDi 5000.74	-	-	-	5137.590-3 (category II) Acquisition of services with an estimated total value of \$250M or more, but less than \$1B.	AAE	Yes	DASA(P) or Senior Services Manager, without power to further delegate
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDi 5000.74	-	-	-	5137.590-3 (category III) Acquisition of services with an estimated total value of \$100M or more, but less than \$250M.	AAE	Yes	HCA, with authority to delegate to No Lower than SCO
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDi 5000.74	-	-	-	5137.590-3 (category IV) Acquisition of services with an estimated value of \$10M or more, but less than \$100M.	AAE	Yes	HCA, with authority to delegate to No Lower than CoCo

Part	Title of Section	Description of Authority	Federal Reference (FAR)	Federal Approving Official	Delegable	Level	Defense Reference (DFARS/PGI)	Defense Approving Official	Delegable	Level	Army Reference (AFARS)	Army Approving Official/Designee	Delegable	Level
37	Management Oversight of Service Contracts	Review and approval of Acquisition Strategies	-	-	-	-	DoDI 5000.74	-	-	-	5137.590-3 (category V) <i>Acquisition of services with an estimated total of simplified acquisition threshold, but less than \$10M.</i>	AAE	Yes	HCA, with authority to delegate to No Lower than 1 Level Above KO
37	Services at Installations Being Closed--Policy	Determination that services acquired from local gov't are in the best interests of DoD	-	-	-	-	237.7401(c)	HCA	Yes	No limitation	5137.7401(c)	HCA	Yes	No lower than CoCO
39	Acquisition of Information Technology - Policy	Determination that no commercial items are suitable to meet the agency's needs for information technology products or services, as determined through the use of market research appropriate to the circumstances.	-	-	-	-	239.101(1)	HCA	Yes	No limitation	5139.101(1)	HCA	Yes	No Lower than CoCO
39	Telecommunications Services	Authorization of provision of the necessary property as GFP or acquisition as CAP if conditions at FAR 45.102(b) met	-	-	-	-	239.7402(b)(4)	Agency head	Yes	No limitation	5139.7402(b)(4)	ASA(ALT)	Yes	HCA, without power to further delegate
42	Assignment of Contract Administration	Approval of delegation of authority to issue orders under provisioning procedures and under BOAs	42.202(c)(2)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5142.202(c)(2)	HCA	Yes	No lower than CoCO
42	Contract Administration Office Functions--Monitoring Contractor Costs	Specific direction to conduct formal program of Gov't monitoring of contractor policies, procedures, and practices for controlling costs where significant Gov't business exists	-	-	-	-	DFARS PGI 242.302(a)(S-75)(c)(1)(I)(C)	HCA	Yes	No limitation	5142.302(a)(S-75)(c)(1)(I)(C)	HCA	Yes	No lower than SCO
42	Assignment of CACO	Approve the need for CACO	42.602(a)(2)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5142.602(a)(2)	ASA(ALT)	Yes	HCA, without power to further delegate
42	Indirect Cost Rates--Waiver of Certification	Waive the Certification requirement when in the interest of the US or written determination is made available to public	42.703-2	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5142.703-2	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
42	Voluntary Refunds	Approval to solicit voluntary refunds	-	-	-	-	PGI 242.7100(4)	HCA	Yes	No limitation	5142.7100(4)	HCA	Yes	No lower than SCO
43	Exceptions to Limitations on Change Orders	Waive the limitations in 243.204-70-2, 243.204-70-3 and 243.204-70-4 for unpriced orders necessary to support contingency or humanitarian or peacekeeping operations	-	-	-	-	243.204-70-5	Agency head	Yes	No limitation	5143.204-70-5(c)	ASA(ALT)	Yes	HCA, without power to further delegate
43	Allowable Profit - Change Orders	Ensure profit allowed reflects reduced cost risk due to substantial portion of the work complete before definitization	-	-	-	-	243.204-70-6	HCA	Yes	No limitation	5143.204-70-6	HCA	Yes	No lower than 1 level above KO
45	Government Property	Determination that non-severable installation / construction of Gov't property on contractor-owned real property is necessary and in Government's interest	45.102(e)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5145.102(e)	HCA	Yes	No lower than SCO
45	Government Property	Exception to GFP ID for items used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack	-	-	-	-	245.102(4)(ii)(B)	Agency head	Yes	No limitation	5145.102(4)(ii)(B)	ASA(ALT)	Yes	HCA, with authority to delegate to No Lower Than SCO
45	Government Property--Policy	Determine exception to requirement for contractor to tag, label, or mark items (IUID) acquired from a small business or commercial item	-	-	-	-	245.102(4)(ii)(C)(1)(i)	Component Acquisition Executive for ACAT I program	Yes	No limitation	5145.102(4)(ii)(C)(1)(i)	AAE	Yes	Responsible Program Executive Officer
45	Government Property--Policy	Determine exception to requirement for contractor to tag, label, or mark items (IUID) acquired from a small business or commercial item	-	-	-	-	245.102(4)(ii)(C)(1)(ii)	HCA for non-ACAT I programs	Yes	No limitation	5145.102(4)(ii)(C)(1)(ii)	HCA	Yes	No lower than SCO
45	Use and Rental of Government Property	Approval of contractor use of Gov't property for commercial use expected to exceed 25% of total use of Gov't and commercial work performed	45.301(f)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5145.301(f)	HCA	Yes	No lower than SCO
48	Value Engineering-- Policies	Exemption for class of contracts from inclusion of value engineering provisions	48.102(a)	Agency head	Yes	No limitation	No additional Guidance	-	-	-	5148.102(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
48	Value Engineering-- Sharing Arrangements	Determination that cost of calculating & tracking savings will exceed benefits (sharing collateral savings)	48.104-3(a)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5148.104-3(a)	HCA	Yes	No lower than CoCO
48	Value Engineering-- Clauses for Supply or Service Contracts	Exempted the contract (or a class of contracts) from the requirements of this Part 48	48.201(a)(6)	Agency Head	Yes	No limitation	No additional Guidance	-	-	-	5148.201(a)(6)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than SCO
48	Value Engineering-- Clauses for Supply or Service Contracts	Determination that Collateral savings computation not cost-effective.	48.201(e)	HCA	Yes	No limitation	No additional Guidance	-	-	-	5148.201(e)	HCA	Yes	1 level above KO
48	Value Engineering-- Clauses for Construction Contracts	Determination that benefits from inclusion of FAR clause 52.248-3 Alt 1 exceeds the cost of computing and tracking collateral savings	48.202	HCA	Yes	No limitation	No additional Guidance	-	-	-	5148.202	HCA	Yes	No lower than CoCO
49	Special Termination Costs	Approve the use of clause at 252.249-7000, Special Termination Costs, in an incrementally funded contract	-	-	-	-	249.501-70(a)	Agency head	Yes	No limitation	5149.501-70(a)	ASA(ALT)	Yes	HCA, with authority to delegate to No lower than the CoCO
50	Delegation of and Limitations on Exercise of Authority	Authority to indemnify against unusually hazardous or nuclear risks, including extension of such indemnification to subcontracts	50.102-1(d)	Secretary of Agency Concerned	No	-	250.102-1(d)	Secretary of the Military Department	No	-	5150.102-1(d)	Secretary of the Army	No	-
50	Delegation of and Limitations on Exercise of Authority	Authority to approve contract adjustments request for amounts not exceeding the threshold at FAR 50.102-1(b)	50.102-1(a)	Agency Head	Yes	Authority delegated shall be to a level high enough to ensure uniformity of action	250.102-1-70(a)	-	-	-	5150.102-1-70(a)	ASA(ALT)	Yes	HCA, without power to further delegate
50	Delegation of and Limitations on Exercise of Authority	Authority to deny contract adjustment requests, regardless of dollar value	50.102-1(a)	Agency Head	Yes	Authority delegated shall be to a level high enough to ensure uniformity of action	250.102-1-70(a)	-	-	-	5150.102-1-70(a)(i)	ASA(ALT)	Yes	HCA, without power to further delegate
50	Delegation of and Limitations on Exercise of Authority	Authority to approve contract adjustment requests for amounts exceeding the threshold at FAR 50.102-1(b) and endorsed by the contracting activity	50.102-1(b)	Agency Head	Yes	Not Below the Secretarial Level	250.102-1-70(a)	-	-	-	5150.102-1-70(a)(ii)	ASA(ALT)	Yes	Army Contract Adjustment Board (ACAB)
52	Riding Gang Member Requirements	Authority to waive the requirements for contractor background checks if the individual possesses a valid U.S. Merchant Mariner's Document issued under 46 U.S.C., chapter 73, or a transportation security card issued under section 70105 of such title.	-	-	-	-	252.247-7027(c)(2)(i)(B)(ii)	HCA	Yes	No limitation	-	HCA	Retain	HCA

## AFARS – APPENDIX HH

### Cloud Computing

*(Revised 17 March 2025)*

**Reporting:** The Army must collect, consolidate, and report commercial cloud spending as directed in the HQDA EXORD 009-20, 'Army Data Plan Implementation in Support of Cloud Migration', and subsequent fragmentary orders.

**Implementation:** To achieve this objective, the Enterprise Cloud Management Agency (ECMA) implemented the Technology Business Management (TBM) taxonomy with associated General Services Administration Product Service Codes (PSCs) and Contract Line-Item Numbers (CLINs) to provide more accurate and comprehensive reporting of cloud investments.

#### TBM Taxonomy

- (1) Identify the cloud activity (e.g., migrating to the cloud, new software development in the cloud, etc.)
- (2) Based on the cloud activity, use the assigned TBM tower and PSC to enable clear mapping of the requirement to an appropriate CLIN
- (3) The cloud activity shall be used as the CLIN name

Cloud Activities / CLIN Name	TBM Tower	PSC	PSC Description
Migrating To the Cloud or New Software Development in the Cloud	Application	DA01	IT and Telecom – Business Application/Application Development Support Services (Labor)
Application Operations and Continual Enhancement in the Cloud and/or Follow-on contracts related to common services and management	Delivery	DD01	IT and Telecom - Service Delivery Support Services: ITSM, Operations Center, IT Program/Project Management (Labor)
Cloud Hosting	Application	DA10	IT And Telecom - Business Application/Application Development Software As A Service