

HOMELAND SECURITY ACQUISITION MANUAL

DEPARTMENT OF HOMELAND SECURITY REVISIONS TO HSAM CHAPTER 3004 - ADMINISTRATIVE MATTERS AND HSAM CHAPTER 3007 – ACQUISITION PLANNING

This HSAM Notice is being transmitted to all DHS Heads of Contracting Activities and Acquisition Leads. PLEASE DISSEMINATE TO WIDEST POSSIBLE AUDIENCE - ACQUISITION STAFF, FINANCIAL PERSONNEL, CUSTOMERS, PURCHASE CARDHOLDERS, ETC.

Introduction: This notice provides revisions to HSAM Subchapter 3004.70, Review and approval procedures and Subchapter 3007.103, Agency-Head responsibilities. This notice is issued in accordance with HSAM 3001.301-70(a). The changes are integrated into the electronic HSAM version at www.dhs.gov and DHS Online. The HSAM changes are as follows:

CHAPTER 3004 ADMINISTRATIVE MATTERS

(1) Subchapter 3004.7000(b) is revised to read:

(b) This subchapter does not apply to acquisitions made under FAR Parts 8, 13, 17.5 or 41. However, see HSAM Subchapter 3004.7003(c) regarding legal reviews and Subchapter 3004.7003(e) regarding OCPO acquisition reviews and approvals which may include actions under FAR Parts 8, 13, 17.5 or 41.

(2) Subchapter 3004.7003(c) is revised to read:

(c) Legal review:

(1) Proposed solicitations, contract awards, contract modification awards, and intragovernmental transactions (intra/inter-agency agreements) expected to exceed \$500,000 shall receive prior legal review for sufficiency. This amount may be increased by the HCA in coordination with the OE's legal counsel.

(2) For the DHS HQ Office of Procurement Operations (OPO), the HCA will coordinate with the DHS Headquarters General Counsel.

(3) Modifications where the sole purpose is to extend the term of the contract and where the basic contract was reviewed by legal counsel are exempted from this review.

(4) Contracting officers may request legal review due to the complexity of issues or concerns associated with an acquisition at any dollar amount.

(3) **Subchapter 3004.7003(e)** is revised to read:

(e) Office of Chief Procurement Officer (OCPO) Review and Approval: The OCPO may review any DHS solicitation, contract award, order, agreement, or contract modification during the acquisition process to ensure that sound business practices are being used; actions are in compliance with applicable laws, executive orders, and acquisition regulations; and actions serve the Government's best interest.

(1) Specific actions requiring approval.

(a) The OCPO will identify specific contract actions for review and approval during its review of Acquisition Plans as specified in HSAM Subchapter 3007.1.

(b) In accordance with MD 710.1 entitled "Intra/Inter-agency Agreements," CPO approval is required prior to issuance (as the requesting agency) of any intra/inter-agency agreement to an agency not covered by the FAR.

(2) Information required for OCPO review and approval.

(a) General.

(i) Reviews required by HSAM Subchapter 3004.7003 (a) through (d) shall be obtained prior to transmittal to OCPO, including evidence of review and resolution of OE comments. The HCA memorandum transmitting the request for review and approval shall identify the action submitted, the documents provided, and any peculiar or extraordinary circumstances relating to the action which needs to be taken into consideration.

(ii) Documents submitted must be sufficient to allow for a comprehensive review. Documents submitted for review which include proprietary information or source selection information shall be marked and protected in accordance with (FAR) 48 CFR 3.104-5 and HSAM Subchapter 3003.104-5.

(4) **Subchapter 3004.7004(a)** is revised to read:

(a) The documentation of legal comments received or a statement from legal counsel that the procurement document has been reviewed and found to be legally sufficient must be placed in the contract file. The contracting officer is responsible for assuring that all legal comments are responded to in the contract file. Any disagreements between the contracting officer and the reviewing

attorney shall be forwarded to the COCO for resolution. The COCO may delegate this function in accordance with OE procedures.

CHAPTER 3007 – ACQUISITION PLANNING

(5) **Subchapter 3007.1 Acquisition Plans** is revised to read:

This subchapter applies to all of DHS including the Transportation Security Administration.

(6) **Subchapter 3007.101 Definitions** is revised to read:

The paragraph entitled, "Streamlined Acquisition Plan" is deleted.

The paragraph entitled, "Plan" is revised to read as follows:

"Plan" means an acquisition plan.

(7) **Subchapter 3007.103 Agency-head responsibilities** is revised to read:

(d) DHS's implementation of (FAR) 48 CFR Part 7 acquisition planning requirements is as follows:

(2) Content Requirements.

(i) Acquisitions greater than \$5 million require a written acquisition plan that complies with the planning requirements of (FAR) 48 CFR Part 7.1 including (FAR) 48 CFR Part 7.106, Additional Requirements for Major Systems.

(ii) When the acquisition involves contract bundling, the plan shall also include the acquisition research and analysis requirements of (FAR) 48 CFR Part 7.107.

(iii) Appendix A, DHS Acquisition Planning Requirements, provides additional requirements and guidance on preparing written Acquisition Plans.

(3) Acquisition plans are not required for:

(i) Agreements between DHS elements in which all work is performed by DHS personnel;

(ii) Emergency acquisitions (i.e., when the need for the supplies/services is of such an unusual and compelling urgency that the Government would be seriously injured if the supplies/services were not immediately acquired);

(iii) Actions subsequent to the initial submittal of a plan which have already been included as part of an approved plan (e.g., exercise of options); and

(iv) Procurements conducted under the Small Business Innovative Research Program (SBIR).

(v) Procurements for construction projects.

(e) Individual procurements where written plans for a program have already been approved and address the specific contracting actions do not require a separate acquisition plan.

(h) Review and Approval of Acquisitions Plans.

(1) Review and Approvals.

(i) For acquisitions greater than \$5 million, the HCAs for the United States Secret Service (USSS) and the Federal Law Enforcement Training Center (FLETC) shall submit all acquisition plans to OCPO for review and approval. All other OE HCAs shall submit acquisition plans with a total value exceeding \$10 million to OCPO for review and approval.

(ii) The Chief Procurement Officer may, at his discretion, waive the requirements of paragraph (h).

(2) Submission requirements. Before APs are submitted to OCPO, the HCA must review, approve and endorse the plan. If more than one OE is involved in the acquisition, the OE preparing the acquisition plan must coordinate the plan with the appropriate individuals within the Department.

(3) Revisions. Any significant change to an approved AP must be reviewed and approved before implementing any such changes following the process defined in this paragraph.

(4) Other review and approval requirements.

(i) Refer to MD Number 1400, Investment Review Process for additional submittal, review and approval requirements.

(ii) The Chief Procurement Officer retains the right to review any acquisition plan.

(8) Subchapter 3007.171 Update, approval, and distribution procedures for streamlined acquisition plans is revised to read:

Subchapter 3007.171 Reserved.

Additional Information:

Direct questions or comments to Thomas Mason (202) 692-4210, Thomas.Mason@hq.dhs.gov or Kathy Strouss (202) 772-9955 kathy.strouss@dhs.gov.

Attachment: Appendix A to Chapter 3007

Effective date: October 26, 2004

Signed by:

(signed)

Ashley J. Lewis
Director, Office of Acquisition Policy and Oversight