

FOREWORD

The Department of Treasury Acquisition Regulation (DTAR) is published by the Senior Procurement Executive of the Department of Treasury (Director, Office of the Procurement Executive) under the authority of the Federal Acquisition Regulation (FAR) and Treasury Directive 76-01, "Department of the Treasury Acquisition Regulation." The contents of the DTAR include procurement policies and procedures to assist in processing Treasury acquisitions.

The effective date for this 2002 Edition of the DTAR is 06/14/02. This edition is indexed to subpart levels to coincide with the FAR, and it incorporates DTAR changes 98-01 through 98-13. The FAR and DTAR apply to all acquisitions of supplies and services, which obligate appropriated or non-appropriated funds, except for the U.S. Mint. Any exemptions/waivers to the FAR and DTAR that are requested by bureaus/offices using non-appropriated funds should be submitted to the Senior Procurement Executive (SPE) for review and approval/concurrence. Each Treasury bureau and office must utilize the DTAR in conjunction with the FAR to ensure adherence to all Federal procurement mandates. Previous editions of the DTAR are obsolete.

The DTAR provides flexibility to allow innovative solutions to common and unique acquisitions. This flexibility requires the need for contracting personnel to maintain consistent procurement procedures to foster accountable contractual actions.

Senior Procurement Executive

Department of the Treasury Acquisition Regulation (DTAR)

2002 Edition
06/14/02

General Structure and Subparts

PART 1001 FEDERAL ACQUISITION REGULATIONS SYSTEM

Subpart 1001.1	Purpose, Authority, Issuance
Subpart 1001.3	Agency Acquisition Regulations
Subpart 1001.4	Deviations From the FAR
Subpart 1001.6	Career Development, Contracting Authority, and Responsibilities
Subpart 1001.7	Determinations and Findings
Subpart 1001.70	Other Determinations, Waivers, Exceptions, Approvals, Reviews, and Submittals

PART 1002 DEFINITIONS OF WORDS AND TERMS

Subpart 1002.1	Definitions
Subpart 1002.70	Abbreviations

PART 1003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1003.1	Safeguards
Subpart 1003.2	Contractor Gratuities to Government Personnel
Subpart 1003.3	Reports of Suspected Antitrust Violations
Subpart 1003.4	Contingent Fees
Subpart 1003.5	Other Improper Business Practices
Subpart 1003.6	Contracts with Government Employees or Organizations Owned or Controlled by Them
Subpart 1003.7	Voiding and Rescinding Contracts
Subpart 1003.8	Limitation on the Payment of Funds to Influence Federal Transactions
Subpart 1003.9	Whistleblower Protections for Contractor Employees

PART 1004 ADMINISTRATIVE MATTERS

Subpart 1004.1	Contract Execution
Subpart 1004.4	Safeguarding Classified Information within Industry
Subpart 1004.6	Contract Reporting
Subpart 1004.8	Government Contract Files
Subpart 1004.70	Numbering of Solicitations, Contracts, and Orders
Subpart 1004.71	Legal Review
Subpart 1004.72	Staff Review
Subpart 1004.73	Evaluation and Certification of Treasury Procurement System
Subpart 1004.74	Procurement Automation

PART 1005 PUBLICIZING CONTRACT ACTIONS

Subpart 1005.2	Synopses of Proposed Contract Actions
Subpart 1005.3	Synopses of Contract Awards
Subpart 1005.4	Release of Information
Subpart 1005.5	Paid Advertisements

PART 1006 COMPETITION REQUIREMENTS

Subpart 1006.2	Full and Open Competition after Exclusion of Sources
Subpart 1006.3	Other Than Full and Open Competition
Subpart 1006.5	Competition Advocates

PART 1007 ACQUISITION PLANNING

Subpart 1007.1	Acquisition Plans
Subpart 1007.4	Equipment Lease or Purchase
Subpart 1007.5	Inherently Governmental Functions

PART 1008 REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 1008.4	Federal Supply Schedules
Subpart 1008.8	Acquisition of Printing and Related Supplies
Subpart 1008.70	Purchase of Motor Vehicles

PART 1009 CONTRACTOR QUALIFICATIONS

Subpart 1009.1	Responsible Prospective Contractors
Subpart 1009.2	Qualifications Requirements
Subpart 1009.4	Debarment, Suspension, and Ineligibility
Subpart 1009.5	Organizational and Consultant Conflicts of Interest

PART 1010 MARKET RESEARCH

PART 1011 DESCRIBING AGENCY NEEDS

- Subpart 1011.1 Selecting and Developing Requirements Documents
- Subpart 1011.2 Using and Maintaining Requirements Documents
- Subpart 1011.5 Liquidated Damages

PART 1012 ACQUISITION OF COMMERCIAL ITEMS

- Subpart 1012.3 Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

PART 1013 SIMPLIFIED ACQUISITION PROCEDURES

- Subpart 1013.1 Procedures
- Subpart 1013.3 Simplified Acquisition Methods

PART 1014 SEALED BIDDING

- Subpart 1014.4 Opening of Bids and Award of Contract

PART 1015 CONTRACTING BY NEGOTIATION

- Subpart 1015.2 Solicitation and Receipt of Proposals and Information
- Subpart 1015.3 Source Selection
- Subpart 1015.4 Contract Pricing
- Subpart 1015.6 Unsolicited Proposals

PART 1016 TYPES OF CONTRACTS

- Subpart 1016.2 Fixed-Price Contracts
- Subpart 1016.4 Incentive Contracts
- Subpart 1016.5 Indefinite-Delivery Contracts
- Subpart 1016.6 Time-and-Materials, Labor Hour, and Letter Contracts

PART 1017 SPECIAL CONTRACTING METHODS

- Subpart 1017.2 Options
- Subpart 1017.4 Leader Company Contracting
- Subpart 1017.5 Interagency Acquisitions Under the Economy Act
- Subpart 1017.70 Treasury-Wide Acquisition Contracts

PART 1018 [RESERVED]

PART 1019 SMALL BUSINESS PROGRAMS

- Subpart 1019.2 Policies
- Subpart 1019.3 Determination of Status as a Small Business Concern
- Subpart 1019.4 Cooperation with the Small Business Administration
- Subpart 1019.5 Set-Asides for Small Business
- Subpart 1019.6 Certificates of Competency
- Subpart 1019.7 Subcontracting with Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns
- Subpart 1019.8 Contracting with the Small Business Administration (8(a) Program)
- Subpart 1019.12 Small Disadvantaged Business Participation Program

PART 1020 [RESERVED]

PART 1021 [RESERVED]

PART 1022 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

- Subpart 1022.1 Basic Labor Policies
- Subpart 1022.3 Contract Work Hours and Safety Standards Act
- Subpart 1022.4 Labor Standards for Contracts Involving Construction
- Subpart 1022.6 Walsh-Healey Public Contracts Act
- Subpart 1022.8 Equal Employment Opportunity
- Subpart 1022.10 Service Contract Act of 1965, as amended
- Subpart 1022.13 Disabled Veterans and Vietnam Era Veterans
- Subpart 1022.14 Employment of the Handicapped

PART 1023 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

- Subpart 1023.1 Pollution Control and Clean Air and Water
- Subpart 1023.4 Use of Recovered Materials
- Subpart 1023.5 Drug-Free Workplace
- Subpart 1023.7 Contracting for Environmentally Preferable and Energy-Efficient Products and Services
- Subpart 1023.10 Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements

PART 1024 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

- Subpart 1024.1 Protection of Individual Privacy
- Subpart 1024.2 Freedom of Information Act

PART 1025 FOREIGN ACQUISITION

- Subpart 1025.1 Buy American Act -- Supplies
- Subpart 1025.2 Buy American Act -- Construction Materials
- Subpart 1025.3 Balance of Payments Program
- Subpart 1025.4 Trade Agreements
- Subpart 1025.9 Additional Foreign Acquisitions Clauses
- Subpart 1025.10 Implementation of Sanctions Against Countries that Discriminate Against United States Products or Services in Government Procurement

PART 1026 OTHER SOCIOECONOMIC PROGRAMS

PART 1027 PATENTS, DATA AND COPYRIGHTS

- Subpart 1027.2 Patents
- Subpart 1027.3 Patent Rights Under Government Contracts
- Subpart 1027.4 Rights in Data and Copyrights

PART 1028 BONDS AND INSURANCE

- Subpart 1028.1 Bonds
- Subpart 1028.2 Sureties and Other Security for Bonds
- Subpart 1028.3 Insurance

PART 1029 TAXES

- Subpart 1029.3 State and Local Taxes

PART 1030 COST ACCOUNTING STANDARDS ADMINISTRATION

- Subpart 1030.2 CAS Program Requirements

PART 1031 CONTRACT COST PRINCIPLES AND PROCEDURES

- Subpart 1031.1 Applicability

PART 1032 CONTRACT FINANCING

- Subpart 1032.1 Non-Commercial Item Purchase
- Subpart 1032.2 Commercial Item Purchase Financing
- Subpart 1032.4 Advance Payments for Non-Commercial Items
- Subpart 1032.8 Assignment of Claims
- Subpart 1032.9 Prompt Payment
- Subpart 1032.10 Performance-Based Payments

PART 1033 PROTESTS, DISPUTES, AND APPEALS

Subpart 1033.1 Protests
Subpart 1033.2 Disputes and Appeals

PART 1034 MAJOR SYSTEM ACQUISITION

Subpart 1034.0 General

PART 1035 RESEARCH AND DEVELOPMENT CONTRACTING

Subpart 1035.0 General

PART 1036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1036.2 Special Aspects of Contracting for construction
Subpart 1036.6 Architect-Engineer Services

PART 1037 SERVICE CONTRACTING

Subpart 1037.1 Service Contracts -- General
Subpart 1037.2 Advisory and Assistance Services

PART 1038 FEDERAL SUPPLY SCHEDULE CONTRACTING

PART 1039 ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 1039.1 General

PART 1040 [RESERVED]

PART 1041 ACQUISITION OF UTILITY SERVICES

Subpart 1041.1 General

PART 1042 CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 1042.1 Interagency Contract Administration and Audit Services
Subpart 1042.7 Indirect Cost Rates
Subpart 1042.15 Contractor Performance Information

PART 1043 CONTRACT MODIFICATIONS

Subpart 1043.1 General
Subpart 1043.2 Change Orders

PART 1044 SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1043.3 Contractors' Purchasing System Reviews

PART 1045 GOVERNMENT PROPERTY

Subpart 1045.3 Providing Government Property to Contractors
Subpart 1045.4 Contractor Use and Rental of Government Property
Subpart 1045.6 Reporting, Redistribution, and Disposal of contractor
Inventory

PART 1046 QUALITY ASSURANCE

Subpart 1046.4 Government Contract Quality Assurance
Subpart 1046.6 Material Inspection and Receiving Reports
Subpart 1046.7 Warranties

PART 1047 TRANSPORTATION

Subpart 1047.5 Ocean Transportation by U.S. Flag Vessels

PART 1048 VALUE ENGINEERING

Subpart 1048.1 Policies and Procedures
Subpart 1048.70 Reporting

PART 1049 TERMINATION OF CONTRACTS

Subpart 1049.1 General Principles

PART 1050 EXTRAORDINARY CONTRACTUAL ACTIONS

Subpart 1050.1 General
Subpart 1050.2 Delegation of and Limitations on Exercise of Authority
Subpart 1050.3 Contract Adjustments
Subpart 1050.4 Residual Powers

PART 1051 USE OF GOVERNMENT SOURCES BY CONTRACTORS

PART 1052 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2 Text of Provisions and Clauses

PART 1053 FORMS

Subpart 1053.1	General
Subpart 1053.2	Prescription of Forms
Subpart 1053.3	Illustrations of Forms

DTAR INDEX

APPENDIX A

PART 1001 FEDERAL ACQUISITION REGULATIONS SYSTEM

- Subpart 1001.1 Purpose, Authority, Issuance**
1001.102 Statement of Guiding Principles for the Federal Acquisition System.
1001.106 OMB Approval under the Paperwork Reduction Act.
- Subpart 1001.3 Agency Acquisition Regulations**
1001.301 Policy.
1001.303 Publication and codification.
1001.304 Agency control and compliance procedures.
- Subpart 1001.4 Deviations From the FAR**
1001.403 Individual deviations.
1001.404 Class deviations.
- Subpart 1001.6 Career Development, Contracting Authority, and Responsibilities**
1001.601 General.
1001.602 Contracting officers.
1001.602-3 Ratification of unauthorized commitments.
1001.603 Selection, appointment, and termination of appointment.
1001.603-1 General.
1001.603-2 Selection.
1001.603-3 Appointment.
1001.670 Training, Nomination, Appointment, and Termination of Appointment of Contracting Officer's Technical Representatives (COTRs)
1001.670-1 General
1001.670-2 Training of COTRs
1001.670-3 Nomination of COTRs
1001.670-4 Appointment of COTRs
1001.670-5 Termination of Appointment of COTRs
1001.670-6 Contract Clause
- Subpart 1001.7 Determinations and Findings**
1001.704 Content.
- Subpart 1001.70 Other Determinations, Waivers, Exceptions, Approvals, Reviews, and Submittals**
1001.7000 Coordination and approval.
1001.7001 Content.
- Subpart 1001.1 Purpose, Authority, Issuance**
1001.102 Statement of Guiding Principles for the Federal Acquisition System.

(d) The Federal Acquisition Regulation and this supplement are to be interpreted permissively, if pursuant actions are consistent with statutory and regulatory requirements, policy, and sound professional judgement.

1001.106 OMB Approval under the Paperwork Reduction Act.

OMB has assigned the following control numbers that must appear on the upper right-hand corner of the face page of each solicitation, contract, modification, and order:

OMB Control No. 1505-0081 (Offeror submissions)
OMB Control No. 1505-0080 (Contractor submissions)
OMB Control No. 1505-0107 (Protests)

OMB regulations and OMB's approval and assignment of control numbers are conditioned upon Treasury bureaus not requiring more than three copies (including the original) of any document of information.

OMB has granted a waiver to permit the Department to require up to eight copies of proposal packages, including proprietary data, for solicitations, provided that contractors who submit only an original and two copies will not be placed at a disadvantage.

Subpart 1001.3 Agency Acquisition Regulations

1001.301 Policy.

(a) The DTAR is issued for Departmental guidance in accordance with the policy cited in FAR 1.301. The DTAR establishes uniform Treasury policies and procedures for all acquisition activities within the Department of the Treasury, except the United States Mint. The DTAR is issued pursuant to the authority of FAR 1.301(a).

1001.303 Publication and codification.

(a) When the FAR requires no additional implementation, the DTAR will not contain corresponding citations.

1001.304 Agency control and compliance procedures.

(a) The DTAR is under the direct oversight and control of Treasury's Office of the Procurement Executive (OPE), which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance. The Treasury DTAR Council will review proposed revisions to the DTAR and make recommendations. Each Bureau Chief Procurement Officer (BCPO) may supplement the DTAR. Supplementation should be kept to a minimum. Bureaus proposing to issue regulatory supplements or use solicitation and/or contract clauses on a repetitive basis must forward them to the Senior Procurement Executive (SPE) for concurrence prior to publication in the Federal Register.

(c) This is the responsibility of the SPE.

Subpart 1001.4 Deviations From the FAR

1001.403 Individual deviations.

The SPE is authorized to approve deviations from the FAR or DTAR (except FAR Subparts 30.201-3, 30.201-4; the requirements of the Cost Accounting Standards board rules and regulations at 48 CFR Chapter 99 (FAR Appendix); and Part 50). Submit requests per 1001.7000 (a), including complete documentation of the justification for the deviation.

1001.404 Class deviations.

(a) The SPE is authorized to approve deviations from the FAR or DTAR (except FAR Subparts 30.201-3, 30.201-4; the requirements of the Cost Accounting Standards board rules and regulations at 48 CFR Chapter 99 (FAR Appendix); and Part 50). Submit requests per 1001.7000 (a), including complete documentation of the justification for the deviation, and the number and type of contract actions affected. Include a copy of the approved deviation in each contract file. The SPE will transmit a copy of each approved deviation to the FAR Secretariat.

Subpart 1001.6 Career Development, Contracting Authority, and Responsibilities

1001.601 General.

Treasury Order 101-30, "Designation of "Head of Agency" for Procurement Matters," delegates authority from the Secretary to the Assistant Secretary (Management) and Chief Financial Officer (AS(M)/CFO) to manage the acquisition function. Treasury Directive 12-11, "Procurement Authority," in turn, delegates this authority from AS(M)/CFO to the SPE and the Bureau Heads.

1001.602 Contracting officers.

1001.602-3 Ratification of unauthorized commitments.

(a) Definitions

"Commitment" includes the issuance of "letters of intent" and arrangements for "free" vendor services or use of equipment with the promise or the appearance of commitment that a contract, modification, or order will be awarded.

(b)(3) The chief of an acquisition field office, without redelegation, is authorized to ratify unauthorized commitments at or below 10 percent of the simplified acquisition threshold. Unauthorized commitments up to the simplified acquisition threshold should be ratified by BCPOs, in writing, on an individual basis. Unauthorized commitments exceeding the simplified acquisition threshold must be reviewed and approved by the SPE.

(c)(5) Unauthorized commitments processed in accordance with FAR 33.2 are not subject to the limitations in (c)(7), below.

(c)(7) A case file must be prepared for all ratifications above the micro-purchase threshold, and as otherwise deemed necessary. The case file must document that the circumstances set forth in FAR 1.602-3(c)(1) through (c)(6) are present and must include: all relevant documents and facts concerning the commitment; name of the individual and whether the individual previously has made other unauthorized commitments; a statement indicating corrective action taken to preclude recurrence; and a justification for the ratification. Legal review must be obtained for all ratifications exceeding 10 percent of the simplified acquisition threshold. Bureaus will maintain information on the number and type of approved and unapproved ratifications.

1001.603 Selection, appointment, and termination of appointment.

1001.603-1 General.

In accordance with TD 12-11, "Procurement Authority," Bureau Heads or their designees are authorized to select and appoint contracting officers and terminate their appointment.

The Treasury Acquisition/Business Career Management Program is applicable to personnel who are in Civil Service classification series 1102 and 1105, or other series when 50% or more of duties and responsibilities involve contracting and purchasing functions, and to all personnel issued a Certificate of Appointment (SF 1402). The Program is described in detail in the Treasury Acquisition/Business Career Management Handbook.

1001.603-2 Selection.

(a) Experience requirements are listed in the Treasury Acquisition/Business Career Management Handbook. The Handbook can be found at www.treas.gov/procurement/training. Experience is to be at the level of procurement transactions for which the individual is being delegated contracting authority. Exceptions to the qualification standards may be granted on an individual basis by the SPE, as provided in the Handbook.

(e) Required training is listed in the Treasury Acquisition/Business Career Management Handbook.

1001.603-3 Appointment.

(a) Certificates must be numbered using a prefix of "T" followed by a hyphen, the bureau's solicitation prefix (see DTAR 1004.7000), a hyphen and number serially assigned beginning with 1 or 001 (e.g., T-A-001). Any limitations on authority must be clearly stated on the SF 1402. Monetary limitations must be stated as dollar ceilings.

(b) Appointments (e.g., blanket purchase agreements, imprest fund, SF 44, purchase card) may be made by letter and/or regulation, and may be done on a class basis.

1001.670 Training, Nomination, Appointment, and Termination of Appointment of Contracting Officer's Technical Representatives (COTRs)

1001.670-1 General

Requisitioning offices must nominate to the contracting officer an individual to act as the contracting officer's technical representative in the administration and monitoring of a contract. Selection is to be based on the technical expertise and experience of the individual, as described below.

1001.670-2 Training of COTRs

Contracting Officer's Technical Representative (COTR) training must consist of a basic acquisition course of at least 24 hours approved by the Bureau Chief Procurement Officer (BCPO) that includes pre-award, post-award, and procurement ethics training. Upon completion of the basic course, COTRs are required to complete at least 8 hours of maintenance each year. Examples of COTR maintenance training include, but are not limited to, acquisition, technical, job-specific, or project management courses.

1001.670-3 Nomination of COTRs

A COTR must be nominated in writing by the requesting office. The nomination must be submitted to the Contracting Officer (CO) no later than the time of contract award. A COTR is the CO's technical expert and representative in the administration and monitoring of a contract task order. COTR nominees must have the technical expertise and experience to perform delegated contract administration duties, including evaluating contract performance and deliverables. It is highly recommended that COTRs have a minimum of 2 years substantiated technical experience, and, although not required, a degree in the technical area covered by the contract is desired.

1001.670-4 Appointment of COTRs

Prior to appointment, the CO must review the COTR's documentation of experience and training. To be appointed, COTRs must have completed the approved training as described in Section 1001.670-2. A COTR may be appointed without the requisite training, as described in section 1001.670-2, based on a determination of equivalent past education, experience, and training. The CO will make the equivalency determination and document it in the contract file. COTRs appointed through equivalency determinations must, however, meet the requirement for yearly maintenance training. COTRS may also be appointed on an interim basis for up to 120 days, pending completion of the requisite training described in section 1001.670-2. The BCPO, with redelegation to no lower than the CO, will appoint COTRs by issuing a signed letter of appointment tailored to meet the needs of each contract. Before the COTR signs the acknowledgement of the appointment letter, the CO and COTR must jointly review all required duties. The CO must send a copy of the appointment letter to the contractor. The CO is responsible for retaining copies of the COTR's training certificate from the basic course (or equivalency determination) and the signed appointment letter in the contract file. If for any

reason the COTR changes, a new appointment letter must be completed and the clause at section 1052.201-70 must be updated by the CO via a contract modification.

1001.670-5 Termination of Appointment of COTRs

The BCPO, with redelegation to no lower than the CO, will terminate the COTR’s appointment either by contract modification if there is a change during contract performance, or by determining at the time of contract closeout that all COTR actions are complete.

1001.670-6 Contract clause.

Contracting Officers must insert a clause substantially similar to the clause in section 1052.201-70, Contracting Officer’s Technical Representative (COTR) Appointment and Authority, in all solicitations and contracts. Exceptions to the requirement for inclusion of the COTR clause and the appointment of a COTR may be made at the discretion of the BCPO.

Subpart 1001.7 Determinations and Findings

1001.704 Content.

Use the following format for all determinations and findings (D&Fs), unless otherwise specified in the FAR or DTAR. Insert specific information indicated in brackets.

Determination and Findings

Under [*insert citation for appropriate statutory and/or regulatory basis for D&F*], the Department of the Treasury, [*insert contracting activity*], is granted authority to [*insert nature and/or description of the action being approved*].

Findings

[*Findings that detail the particular circumstances, facts, or reasoning essential to support the determination.*]

Determination

[*A determination, based on the findings, that the proposed action is justified under the applicable statute or regulation.*]

[*Expiration date of the D&F, if required.*]

[*Signature of authorized official*]
Name and Title

[*month, day, and year of signature*]
Date

Subpart 1001.70 Other Determinations, Waivers, Exceptions, Approvals, Reviews, and Submittals

1001.7000 Coordination and approval.

(a) Documents requiring SPE approval.

Requests must be prepared in writing by the CO and submitted through the BCPO to the SPE for approval.

(b) Documents requiring AS(M)/CFO approval.

Requests must be prepared in writing by the CO and submitted through the BCPO to the SPE for review and transmittal to the AS(M)/CFO for approval.

1001.7001 Content.

The general format at DTAR 1001.704 must be used to provide a justification to support the requested determination, waiver, exception or approval.

PART 1002 DEFINITIONS OF WORDS AND TERMS

Subpart 1002.1 **Definitions**
1002.101 Definitions.

Subpart 1002.70 **Abbreviations**
1002.7000 Abbreviations.

Subpart 1002.1 **Definitions**

1002.101 **Definitions.**

"Bureau" means any Treasury organization, the head of which is listed in paragraph 1.b of Department of the Treasury Directive 12-11.

"Bureau Chief Procurement Officer (BCPO)" means the senior acquisition person at each headquarters office or bureau. Within the Internal Revenue Service, this may be the Director, Procurement or the Deputy Director, Procurement.

"Contracting activity" means an organization within a bureau or the Departmental offices, having delegated acquisition authority.

"Head of contracting activity (HCA)" means the Deputy Assistant Secretary for Administration for Departmental Offices, and the head of each bureau, as listed in paragraph 1.b of Department of the Treasury Directive 12-11.

"Head of the Agency" means the Secretary of the Treasury, and under delegation of authorities, the Assistant Secretary (Management) (AS(M)) and Chief Financial Officer

"Legal counsel" means the Treasury or bureau office providing legal services to the contracting activity.

"Legal review" means review by legal counsel.

"Major system" means an acquisition where total expenditures are expected to exceed \$10 million. The SPE may designate additional major systems.

"Senior Procurement Executive (SPE)" for the Department of the Treasury is the Director, Office of the Procurement Executive.

Subpart 1002.70 **Abbreviations**

1002.7000 **Abbreviations.**

AS(M) Assistant Secretary (Management)

BCPO	Bureau Chief Procurement Officer
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
D&F	Determination and Findings
DO	Debarring Official
FOIA	Freedom of Information Act
GSBCA	General Services Administration Board of Contract Appeals
HCA	Head of Contracting Activity
ICAR	Individual Contract Action Report
JOFOC	Justification for Other than Full and Open Competition
OIG	Office of the Inspector General
OPE	Office of the Procurement Executive
OSBD	Office of Small Business Development
OSDBU	Office of Small and Disadvantaged Business Utilization
PCR	SBA's Procurement Center Representative
RFP	Request for Proposal
SBA	Small Business Administration
SBS	Small Business Specialist
SPE	Senior Procurement Executive
SO	Suspension Official
TADS	Treasury Acquisition Data System

**PART 1003 IMPROPER BUSINESS PRACTICES AND PERSONAL
CONFLICTS OF INTEREST**

- Subpart 1003.1 Safeguards**
1003.101 Standards of conduct.
1003.101-3 Agency regulations.
1003.104 Procurement integrity.
1003.104-7 Violations or possible violations.
- Subpart 1003.2 Contractor Gratuities to Government Personnel**
1003.203 Reporting suspected violations of the Gratuities clause.
1003.204 Treatment of violations.
- Subpart 1003.3 Reports of Suspected Antitrust Violations**
1003.301 General.
- Subpart 1003.4 Contingent Fees**
1003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.
- Subpart 1003.5 Other Improper Business Practices**
1003.570 Contractor publicity.
- Subpart 1003.6 Contracts with Government Employees or Organizations Owned or Controlled by Them**
1003.602 Exceptions.
- Subpart 1003.7 Voiding and Rescinding Contracts**
1003.705 Procedures.
- Subpart 1003.8 Limitation on the Payment of Funds to Influence Federal Transactions**
1003.804 Policy.
1003.806 Processing suspected violations.
1003.870 Treasury Deviations of FAR provision and clause.
- Subpart 1003.9 Whistleblower Protections for Contractor Employees**
1003.901 Definitions.
- Subpart 1003.1 Safeguards**
1003.101 Standards of conduct.
1003.101-3 Agency regulations.

(a) Government-wide and Department of the Treasury regulations governing the conduct and responsibilities of employees are contained in 5 CFR Parts 2635 and 3101, and 31 CFR Part 0.

1003.104 Procurement integrity.

1003.104-7 Violations or possible violations.

(a)(1) Forward the required information, after legal review, to a level above the CO for concurrence.

(a)(2) Forward such information to the BCPO after legal review.

(b) Submit information per 1001.7000(a).

(b)(3) Refer the information to the OIG.

(f) Submit notification per 1001.7000(b).

Subpart 1003.2 Contractor Gratuities to Government Personnel

1003.203 Reporting suspected violations of the Gratuities clause.

(a) Report suspected violations to the cognizant CO. The report must be in writing and state circumstances surrounding the incident, including date(s), location(s), and name(s) of parties involved.

(b) The CO must submit the report to the BCPO, who will consult with legal counsel, and determine if the case warrants submission to the OIG, or other investigatory organization, and the SPE for further action.

1003.204 Treatment of violations.

(b) If required, the contractor must be provided with a formal notice which summarizes events involving the suspected violation and affords the contractor the opportunity to take the action(s) listed under FAR 3.204(b). The notice must contain a 30 day time limit for reply and be sent by certified mail, return receipt requested.

(c)(1) The SPE must make the determination.

(c)(2) The debarring and suspension official is delegated authority to make the determination.

(c)(3) The SPE is delegated authority to make the determination.

1003.3 Reports of Suspected Antitrust Violations

1003.301 General.

(b) Evidence of any suspected antitrust violations must be referred to legal counsel and the OIG, or other investigatory organization.

Subpart 1003.4 Contingent Fees

1003.405 Misrepresentations or violations of the covenant against contingent fees.

(a) Reports must be in writing.

(b) The BCPO will consult with legal counsel and the OIG, or other investigatory organization to determine a course of action.

(b)(4) Submit referrals per 1001.7000(a).

Subpart 1003.5 Other Improper Business Practices

1003.570 Contractor publicity.

31 U.S.C. 333 prohibits anyone from referring or using, in connection with, or as a part of, any advertisement, solicitation, business activity, or product:

(a) The words "Department of Treasury" or the name of any service, bureau, office or other subdivision of Treasury;

(b) The titles "Secretary of the Treasury" or "Treasurer of the United States," or the title of any other Treasury employee;

(c) The abbreviations or initials for any of the above;

(d) The words "U.S. Savings Bond" or the name of any other obligation issued by Treasury; or,

(e) Any symbols or emblems of any of the above.

All possible violations relating to bureau acquisitions will be referred through the BCPO to legal counsel.

Subpart 1003.6 Contracts with Government Employees or Organizations Owned or Controlled by Them

1003.602 Exceptions.

Submit requests per 1001.7000(a), after review by legal counsel.

Subpart 1003.7 Voiding and Rescinding Contracts

1003.705 Procedures.

- (a) The BCPO must make the required report to the SPE. The SPE must notify the Department of Justice.
- (b) The decision must be rendered by the SPE.
- (c) The SPE will follow the procedures at FAR 3.705(c), (d), and (e).

Subpart 1003.8 Limitation on the Payment of Funds to Influence Federal Transactions.

1003.804 Policy.

- (b) Bureaus must maintain Anti-Lobbying reports, and submit as requested by OPE.

1003.806 Processing suspected violations.

Refer to the OIG, or other investigatory organization.

1003.870 Treasury deviations of FAR provision and clause.

- (a) Insert the provision 52.203-11, "Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (DEVIATION)," in lieu of the FAR provision.
- (b) Insert the clause 52.203-12, "Limitation on Payment to Influence Certain Federal Transactions (DEVIATION)," in lieu of the FAR clause.

Subpart 1003.9 Whistleblower Protections for Contractor Employees

1003.901 Definitions.

"Authorized official of an agency" means Treasury's SPE.

PART 1004 ADMINISTRATIVE MATTERS

Subpart 1004.1	Contract Execution
1004.101	Contracting officer's signature.
1004.103	Contract clause.
Subpart 1004.4	Safeguarding Classified Information within Industry
1004.402	General.
1004.403	Responsibilities of contracting officers.
1004.470	Investigative requirements for contractors.
1004.470-1	General.
1004.470-2	Responsibilities of contracting officers.
Subpart 1004.6	Contract Reporting
1004.602	Federal Procurement Data System
1004.670	TADS and other reports.
1004.671	Procurement Register Form TD F 76-01.7.
Subpart 1004.8	Government Contract Files
1004.805	Storage, handling, and disposal of contract files.
1004.805-70	Storage, handling, and disposal of purchase card records.
Subpart 1004.70	Numbering of Solicitations, Contracts, and Orders
1004.7000	Prefixes.
1004.7001	Numbering.
Subpart 1004.71	Legal Review
1004.7100	Threshold.
1004.7101	Timeframes for review.
1004.7102	Threshold exceptions.
1004.7103	Documentation.
1004.7104	Legal review comments.
Subpart 1004.72	Staff Review
1004.7200	General.
1004.7201	Departmental review.
1004.7202	Departmental review comments and approval.
Subpart 1004.73	Evaluation and Certification of Treasury Procurement System
Subpart 1004.74	Procurement Automation
1004.7401	Policy.
1004.7402	Departmental collaboration on automated acquisition systems and applications.

Subpart 1004.1 Contract Execution

1004.101 Contracting officer's signature.

(d) No employee may sign a contract document "for" a CO; such documents may be signed only by the CO whose name appears thereon.

1004.103 Contract clause.

Insert the clause at FAR 52.204-1 in each solicitation where approval is required above the CO level.

Subpart 1004.4 Safeguarding Classified Information within Industry

1004.402 General.

(b) The Treasury is a participant in the National Industrial Security Program. The Director, Office of Security, is delegated authority and responsibility for this function in accordance with TD P 71-10, "Office of Security Manual."

1004.403 Responsibilities of contracting officers.

- (a) Presolicitation phase.
- (2) The instructions provided in Chapter IV of TD P 71-10 apply.
- (b) Solicitation phase.
- (1) The instructions provided in Chapter IV of TD P 71-10 apply.
- (c) Award phase.

(1) COs must ensure that DD Form 254, including solicitation or contract number and required classified guidance, is forwarded to the Office of Security prior to release of classified information.

1004.470 Investigative Requirements for Contractors

1004.470-1 General.

Contract employees not requiring access to classified information must meet the investigative requirements of Chapter II, Section 2 of TD P 71-10, Department of Treasury - Security Manual.

1004.470-2 Responsibilities of contracting officers.

(a) Presolicitation phase.

(1) For contractors not requiring access to classified information, the instructions provided in Chapter II, Section 2 of TD P 71-10 apply.

(b) Solicitation phase.

(1) For contractors not requiring access to classified information, the instructions provided in Chapter II, Section 2 of TD P 71-10 apply.

Subpart 1004.6 Contract Reporting

1004.602 Federal Procurement Data System (FPDS).

(c) The Office of the Procurement Executive (OPE) oversees the Treasury Acquisition Data System (TADS), which provides the Department's input to the FPDS.

1004.670 TADS and other reports.

(a) Bureaus must report procurement data in accordance with instructions provided in the most current versions of the Federal Procurement Data System (FPDS) Reporting Manual, and the Treasury Acquisition Data System (TADS) User Manual.

(b) BCPOs are responsible for maintaining overall quality of their data in the TADS and notifying OP of any discrepancies between data in the TADS and other information available.

(c) Bureaus must designate a data coordinator and notify OP in writing of the designation. Bureau coordinators are responsible, at minimum, for the following: training of bureau personnel in preparation of Individual Contract Action Reports (ICARs) and proper completion of manual or automated registers for collection of simplified acquisition data; and, collection of contract and purchasing data in accordance with reporting requirements as noted in 1004.670(a).

(d) A copy of the ICAR or computer generated copy of the record accepted into the TADS for each action must be retained in the contract file.

(e) Procurement data must be entered into the TADS within 15 days after contract award date.

(f) OP is the single point of contact within Treasury for reporting Department-wide procurement data to external organizations.

1004.671 Procurement Register Form TD F 76-01.7.

This form, a bureau approved form, or an automated version will be used by all procurement offices to track Treasury procurements.

Subpart 1004.8 Government Contract Files

1004.805 Storage, handling, and disposal of contract files.

(a) Contract and order files must be disposed of in accordance with TD 80-05, “Records and Information Management Program,” TD P 80-05, “Records and Information Management Handbook,” as supplemented by bureau directives. In no case must files be destroyed before the times specified in FAR 4.805.

1004.805-70 Storage, handling, and disposal of purchase card records.

Purchase Card records at or below the simplified acquisition threshold for other than construction orders must be retained for three years after final payment. Purchase Card records for construction orders must be retained for six years and three months.

Subpart 1004.70 Numbering of Solicitations, Contracts, and Orders

1004.7000 Prefixes.

In order to establish a uniform numbering system, the following prefixes are assigned:

<u>Bureau</u>	<u>Solicitation</u>	<u>Contract</u>	<u>Delivery Order/ Purchase Order</u>
Departmental offices	A-	Tos-	DO-
Bureau of Alcohol, Tobacco and Firearms	BATF-	Tatf-	AT-
Comptroller of the Currency	CC-	Tcc-	CC-
U.S. Customs service	CS-	Tc-	CS-
Bureau of Engraving and Printing	BEP-	Tep-	EP-
Federal Law Enforcement Training Center	FTC-	Tftc-	FT-
Financial Crimes Enforcement	FCEN-	Tfc-	FC-

Financial Management Service	FMS-	Tfms-	FM-
Internal Revenue Service	IRS-	Tir-	IR-
Office of Thrift Supervision	OTS-	Totc-	TS-
United States Mint	USM-	Tm-	MT-
Bureau of the Public Debt	BPD-	Tpd-	PD-
U.S. Secret Service	USSS	Tss-	SS-

1004.7001 Numbering.

Following the prefix, insert the last two digits of the fiscal year in which the solicitation is issued or contract awarded, preceded and followed by hyphens and followed by sequential numbering each year (e.g., solicitation USM-03-1). Bureaus having field contracting offices should assign alphabetic or numeric designations after the bureau prefix and the fiscal year (e.g., contract CS-03-I-00123). A separate series of numbers must be used for solicitations and contracts. If needed, special characters should be added to the right of the purchase order/delivery order (e.g., CS-03-I-00123-1-XXX). Hyphens and special characters are not required when entering the above numbers into automated procurement tracking and reporting systems.

Subpart 1004.71 Legal Review

1004.7100 Threshold.

Legal review is required for solicitations (including letter RFPs), contracts (including letter contracts), contract modifications, basic ordering agreements or orders issued thereunder where the acquisition value, including options for additional quantities or extended terms, is estimated at \$10,000,000 or more, or when the agency head appoints another individual for a particular acquisition or group of acquisitions valued over \$5,000,000. All interagency agreements in excess of \$10,000,000, whereby one party agrees to provide contracting support for another, must be reviewed by legal counsel.

1004.7101 Timeframes for review.

A copy of each acquisition document that is estimated to exceed the thresholds in 1004.7100 must be forwarded to legal counsel at least ten work days prior to its release, to the extent feasible. Legal counsel will conduct the review within this time period, or if unable to do so, negotiate an alternative review schedule or process with the BCPO. In urgent situations, solicitations may be forwarded for review concurrent with release to industry, provided that the BCPO has given adequate notice to legal counsel.

1004.7102 Threshold exceptions.

Modifications do not require legal review if they solely extend the term of the contract, or if they are for administrative actions, such as funding modifications and option exercise, where legal review was previously obtained. Change orders may be issued without prior legal review, if determined in writing by the CO that they are urgent and require immediate award. Such change orders must be submitted for legal review as soon as possible after issuance. Legal assistance should be obtained whenever the CO considers the action unusual or difficult.

1004.7103 Documentation.

The following minimal documentation, as applicable, may accompany the contract document in lieu of the complete contract file when submitted for legal review.

- Requisition and Government estimate
- Acquisition Plan
- Justification for Other Than Full and Open Competition
- Statement of Work
- Source Selection Plan
- Evaluation Criteria
- Commerce Business Daily/FedBizOpps synopsis (copy of published notice) or waiver
- Legal review and/or bureau procurement review and response
- DD Form 254, Contract Security Classification Specification
- Delegation of Procurement Authority, when applicable
- Cost or price analysis
- Audit report
- Technical and cost evaluation
- Memorandum of prenegotiation objectives
- Price negotiation memorandum
- SF 279 or SF 281
- Contractor representations and certifications
- Other relevant documentation

1004.7104 Legal review comments.

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 CO is responsible for assuring that all legal comments are responded to in the contract file.

Subpart 1004.72 Staff Review

1004.7200 General.

Bureau procurement offices are not generally required to submit procurement actions for Departmental review. The SPE reserves the right to require submission of procurement actions for review and approval. All procurements to be reviewed by the Department must be first reviewed by the BCPO or his/her designee to assure accuracy and completeness of the documents. Evidence of this bureau-level review must be included in the contract file. Each bureau is responsible for establishing an internal review system to assure quality procurement. Such systems should evaluate at least the following elements: accountability, integrity, professionalism, competition, organizational placement, customer service, performance measurement, and staffing.

1004.7201 Department review.

When acquisition documents are required to be submitted for Departmental review, one copy of the acquisition document must be included in the file and forwarded by the BCPO to the SPE. This must be done at least ten work days prior to release to the extent feasible. In urgent situations, the acquisition documents may be forwarded concurrent with release to industry, provided that the BCPO has given adequate written notice to the SPE. The contract file (see 1004.7103) must accompany the acquisition document when submitted for review.

1004.7202 Departmental review comments and approval.

Staff review and comments must be resolved prior to proceeding with the acquisition. BCPOs are responsible for assuring that all Departmental comments are resolved, and clearly documented in the contract file.

Subpart 1004.73 Evaluation and Certification of Treasury Procurement System

TD 12-11 delegates the responsibility for the maintenance and oversight of a Department-wide procurement system to the SPE. Acquisition Bulletin (AB) 02-12, Treasury Acquisition Management Program Assistance Reviews, establishes the framework for the Departmental oversight of the bureaus' acquisition systems. AB 02-12 lists the types of reviews conducted by OP, the review structure, the written report and any follow-up work.

Subpart 1004.74 Procurement Automation

1004.7401 Policy.

(a) OP encourages the use of automated acquisition and exchange of information among all bureaus. The objective is to automate acquisition processes to the extent that it is efficient and effective. OP requires that acquisition automation be developed with consideration for potential to integrate, interface, or coordinate with related functions such as finance, accounting, internal control, property, and personnel, and to the enterprise level.

1004.7402 Departmental collaboration on automated acquisitions systems and applications.

Bureaus must notify the SPE of the intent to develop or obtain any significant automated acquisition system or application, or to make any substantive change to a current system or application. Bureaus must collaborate with the Office of the Procurement Executive during such initiatives. Acquisition of, or substantive changes to, any significant automated acquisition system or application must address at least the following points as well as those prescribed by the bureau's Office of the Chief Information Officer:

- Purpose
- Integration and Interfacing with other bureau's TADS and Federal procurement-related systems
- Return on Investment
- Configuration
- Standards
- Security
- Market Research
- Strategic IT Planning
- Risks
- Maintenance
- Training

PART 1005 PUBLICIZING CONTRACT ACTIONS

Subpart 1005.2 Synopses of Proposed Contract Actions
1005.202 Exceptions.
1005.207 Preparation and transmittal of synopses.

Subpart 1005.3 Synopses of Contract Awards
1005.301 General.

Subpart 1005.4 Release of Information
1005.403 Requests from Members of Congress.
1005.404 Release of long-range acquisition estimates.
1005.404-1 Release procedures.

Subpart 1005.5 Paid Advertisements
1005.502 Authority.

Subpart 1005.2 Synopses of Proposed Contract Actions

1005.202 Exceptions.

- (a) A copy of the determination must be retained in the contract file.
- (b) Authority to make the required determination is delegated to the SPE. Submit requests per 1001.7000(a). Retain determination in the contract file.
 - (1) The Office of Federal Procurement Policy and the Small Business Administration have extended the Pilot Program on Acquisition of Services from Small Businesses. It allows for a waiver of the synopsis requirement for services from competitive small businesses between \$25,000 and \$100,000. Contracting officers may waive the synopsis requirement after determining the following:
 - (i) Acquisitions covered by the waiver are for services (excluding those exempted from set-asides under the Small Business Competitiveness Demonstration Program) in amounts over \$25,000, but not exceeding the simplified acquisition threshold (\$100,000), of which supply items are expected to constitute less than 20 percent of the total value of the contract;
 - (ii) The covered acquisitions will be set-aside for small businesses;
 - (iii) Quotes or offers for covered acquisitions will be solicited and obtained from a minimum of five small business concerns;
 - (iv) The Procurement Marketing and Access Network (PRO-Net) will be used to identify and solicit bids from a minimum of five small businesses; and

(v) If practicable, two sources not included in the previous solicitation for the same services will be solicited.

1005.207 Preparation and transmittal of synopses.

(b)(4) Each synopsis must include "Department of the Treasury (DY)" and name of the bureau.

Subpart 1005.3 Synopses of Contract Awards

1005.301 General.

(a) The CO must document the contract file after determining that an award will not be synopsisized because subcontracts are not likely.

(b) The CO must document the contract file with the reason(s) why a contract award was not synopsisized.

Subpart 1005.4 Release of Information

1005.403 Requests from Members of Congress.

(a) BCPOs, without redelegation, must provide prompt written notification of all Congressional inquiries regarding acquisitions to the SPE.

1005.404 Release of long-range acquisition estimates.

1005.404-1 Release procedures.

Heads of bureaus are authorized to release long-range acquisition estimates.

Subpart 1005.5 Paid Advertisements

1005.502 Authority.

(a) Other statutes or laws may grant separate authority for paid advertisements. Heads of bureaus or their designees are authorized to approve procurement of paid advertising for supplies or services.

PART 1006 COMPETITION REQUIREMENTS

- Subpart 1006.2 Full and Open Competition After Exclusion of Sources**
1006.202 Establishing or maintaining alternative sources.
- Subpart 1006.3 Other Than Full and Open Competition**
1006.302 Circumstances permitting other than full and open competition.
1006.302-7 Public interest.
1006.303 Justifications.
1006.303-2 Content.
- Subpart 1006.5 Competition Advocates**
1006.501 Requirements.
1006.502 Duties and responsibilities.

Subpart 1006.2 Full and Open Competition After Exclusion of Sources

1006.202 Establishing or maintaining alternative sources.

(b)(1) Submit D&F per 1001.7000(a) in the format per 1001.704.

Subpart 1006.3 Other Than Full and Open Competition

1006.302 Circumstances permitting other than full and open competition.

1006.302-7 Public interest.

(c)(1)(ii) Requests must be prepared in writing by the CO, using the format found in 1001.704, and submitted through the BCPO to the SPE for review and transmittal to the Secretary for approval.

1006.303 Justifications.

1006.303-2 Content.

(a)(1) TDF 70-01.6, "Justification for Other Than Full and Open Competition (JOFOC)," or a Treasury-approved bureau form, must be used to document justifications and approvals exceeding the simplified acquisition threshold.

Subpart 1006.5 Competition Advocates

1006.501 Requirements.

Bureau heads, as defined in TD 12-11, will appoint competition advocates. A copy of each appointment will be submitted to the Departmental Advocate for Competition.

1006.502 Duties and responsibilities.

(a) Bureau competition advocates will submit an annual report to the Departmental Advocate for Competition.

PART 1007 ACQUISITION PLANNING

- Subpart 1007.1 Acquisition Plans**
1007.103 Agency-head responsibilities.
1007.104 General procedures.
1007.105 Contents of written acquisition plans.
- Subpart 1007.4 Equipment Lease or Purchase**
1007.401 Acquisition considerations.
- Subpart 1007.5 Inherently Governmental Functions.**
1007.503 Policy.

Subpart 1007.1 Acquisition Plans

1007.103 Agency-head responsibilities.

(d) A written plan is required for each commercial source acquisition exceeding the simplified acquisition threshold (inclusive of all options and term extensions). BCPOs must identify all mission critical requirements to the SPE. Retain approved plan in the contract file, and update for significant changes.

(e) Write plans for major systems on a system basis.

(h) The CO must review, approve, and sign the plan, and any significant changes to the plan. If more than one Treasury bureau is involved in the acquisition, the bureau or agency preparing the acquisition plan must coordinate the plan with the appropriate individuals within the Department, prior to approval by the CO. The SPE reserves the right to review any acquisition plan and to coordinate with the appropriate departmental officials.

(j) Plans must include an introduction stating the bureau, identity of the assigned buyer/specialist/CO, and a description of the requirement.

1007.104 General procedures.

(b) To aid planning, bureau program officials must forecast ongoing and future requirements to ensure applicable projects are covered in Acquisition Plans. Additionally, BCPOs must issue instructions establishing procurement lead-times and cut-off dates.

1007.105 Contents of written acquisition plans.

When an acquisition plan states that performance-based contracting (PBC) methods are impractical, then a determination and findings (D&F's) must be prepared and signed at the dollar levels indicated in Subpart 1001.70. D&F's for acquisitions in excess of \$5 million must be forwarded to the SPE for approval; for Customs, IRS, BPD, and the Mint, this threshold is

\$10 million. Once the bureau goal for awarding PBCs is reached for a particular fiscal year (i.e., 20 percent of all eligible service contracts must be performance-based), then SPE approval will not be required for the remainder of that fiscal year.

Subpart 1007.4 Equipment Lease or Purchase

1007.401 Acquisition considerations.

- (a) COs must make any required comparison and document the contract file.

Subpart 1007.5 Inherently Governmental Functions

1007.503 Policy.

- (e) Requirements officials must provide the required determination. Disagreements must be resolved by the BCPO, whose decision is final.

PART 1008 REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 1008.4 Federal Supply Schedules

1008.404 Using schedules.
1008.404-3 Requests for waivers.

Subpart 1008.8 Acquisition of Printing and Related Supplies

1008.802 Policy.

Subpart 1008.70 Purchase of Motor Vehicles

1008.7000 General.

Subpart 1008.4 Federal Supply Schedules

1008.404 Using schedules.

1008.404-3 Requests for waivers.

(a) BCPOs are authorized to submit requests for waivers.

Subpart 1008.8 Acquisition of Printing and Related Supplies

1008.802 Policy.

(b) The Office of Printing and Graphics has been designated as the Department's liaison. Bureaus with publication programs have publication liaison officers authorized to coordinate with the Office of Printing and Graphics.

Subpart 1008.70 Purchase of Motor Vehicles

1008.7000 General.

(a) Section 1343 (b)2 of Title 31 United States Code requires that a Treasury bureau's appropriations must authorize the purchase or lease of passenger motor vehicles. Additionally, Treasury Appropriations Act language may require that the Department specifically approve the purchase of law enforcement vehicles. Bureaus must forward their requirements for these vehicles to the Office of Asset Management (OAM) in accordance with guidance issued by that office. OAM will review the request for compliance with the requirements and transmit it to the Assistant Secretary for Management and CFO with a recommendation for approval or disapproval. Following approval of the request by the Assistant Secretary for Management and CFO, the package will be returned to the bureau, so that it may be submitted to GSA in accordance with 41 CFR 26.501.

(b) Bureaus must forward to OAM all requests for waivers (e.g. direct purchase authority), including special-purpose type vehicles (e.g., bomb trucks, surveillance vans) for transmittal to GSA.

PART 1009 CONTRACTOR QUALIFICATIONS

Subpart 1009.1	Responsible Prospective Contractors
1009.105	Procedures.
1009.105-1	Obtaining information.
Subpart 1009.2	Qualifications Requirements
1009.202	Policy.
1009.204	Responsibilities for establishment of a qualification requirement.
1009.206	Acquisitions subject to qualification requirements.
1009.206-1	General.
Subpart 1009.4	Debarment, Suspension, and Ineligibility
1009.404	List of parties excluded from Federal Procurement and Nonprocurement Programs.
1009.405	Effect of listing.
1009.406	Debarment.
1009.406-1	General.
1009.406-3	Procedures.
1009.407	Suspension.
1009.407-1	General.
1009.407-3	Procedures.
Subpart 1009.5	Organizational and Consultant Conflicts of Interest
1009.503	Waiver.

Subpart 1009.1 Responsible Prospective Contractors

1009.105 Procedures.

1009.105-1 Obtaining information.

(b)(3) COs should obtain credit reports on proposed contractors as part of a financial responsibility review.

Subpart 1009.2 Qualifications Requirements

1009.202 Policy.

(a)(1) Submit justification per 1001.7000(a).

(b) Submit determination per 1001.7000(a).

(e) When approved by the SPE, at the request of the BCPO, a procurement need not be delayed in order to comply with FAR 9.202(a).

1009.204 Responsibilities for establishment of a qualification requirement.

(a)(2) The determination must be approved by the BCPO.

1009.206 Acquisitions subject to qualification requirements.

1009.206-1 General.

(b) Submit determination per 1001.7000(a).

Subpart 1009.4 Debarment, Suspension, and Ineligibility

1009.404 List of parties excluded from Federal procurement and nonprocurement programs.

(c) The SPE is responsible for accomplishing the required actions.

(c)(5) The CO must consult the List prior to issuance of a solicitation, award of a contract, contract extension, major modification, or consent to subcontract.

1009.405 Effect of listing.

Submit determinations, decisions, or statements in this section and subsections per 1001.7000(a).

1009.406 Debarment.

1009.406-1 General.

(a) The SPE is the debarring official (DO).

(c) The DO is authorized to make the required statement.

1009.406-3 Procedures.

(a) Whenever a cause for debarment becomes known, the matter must be referred to the BCPO, who must consult with legal counsel and the OIG, or other investigatory organization, and submit a formal recommendation, containing written concurrence of legal counsel, to the DO.

(b)(1) The DO will establish internal procedures, as required.

(b)(2)(i) The hearing will be conducted by the DO or designee.

(c) Based upon review of the recommendation to debar, and consultation with the Office of the General Counsel and OIG, as appropriate, the DO may initiate debarment.

1009.407 Suspension.

1009.407-1 General.

- (a) The SPE is the suspension official (SO).
- (d) The SO is authorized to make the required statement.

1009.407-3 Procedures.

(a) Whenever a cause for suspension becomes known, the matter must be referred to the BCPO, who must consult with legal counsel and the OIG, or other investigatory organization, and submit a formal recommendation, containing written concurrence of legal counsel, to the SO.

(b)(1) The SO will establish internal procedures, as required.

(c) Based upon review of the recommendation to suspend, and consultation with the Office of the General Counsel and the OIG, as appropriate, the SO may initiate suspension.

Subpart 1009.5 Organizational and Consultant Conflicts of Interest

1009.503 Waiver.

Submit waiver requests per 1001.7000(a), after legal review.

PART 10 MARKET RESEARCH

There is no text implementing or supplementing FAR Part 10.

PART 1011 DESCRIBING AGENCY NEEDS

Subpart 1011.1 Selecting and Developing Requirements Documents
1011.103 Market acceptance.

Subpart 1011.2 Using and Maintaining Requirements Documents
1011.202 Maintenance of standardization documents.

Subpart 1011.5 Liquidated Damages
1011.501 Policy.

Subpart 1011.1 Selecting and Developing Requirements Documents

1011.103 Market acceptance.

(a) BCPOs can act on behalf of the head of the agency in this subpart only. BCPOs may, under appropriate circumstances, require offerors to make the required demonstrations.

Subpart 1011.2 Using and Maintaining Requirements Documents

1011.202 Maintenance of standardization documents.

(a) Submit through the SPE.

Subpart 1011.5 Liquidated Damages

1011.501 Policy.

(d) The SPE may make such recommendation.

PART 1012 ACQUISITION OF COMMERCIAL ITEMS

Subpart 1012.3 Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

1012.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Subpart 1012.3 Solicitation Provisions and Contract clauses for the Acquisition of Commercial Items

1012.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) BCPOs must approve waivers. The bureau competition advocate must review any waivers for transactions exceeding the simplified acquisition threshold.

PART 1013 SIMPLIFIED ACQUISITION PROCEDURES

Subpart 1013.1	Procedures
1013.106	Soliciting competition, evaluation of quotations or offers, award and documentation.
1013.106-3	Award and documentation.

Subpart 1013.3	Simplified Acquisition Methods
1013.301	Governmentwide commercial purchase card.
1013.305	Imprest funds and third party drafts.
1013.305-2	Agency responsibilities.
1013.305-3	Conditions for use.
1013.306	SF 44, Purchase Order--Invoice--Voucher.
1013.307	Forms.

Subpart 1013.1 Procedures

1013.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

1013.106-3 Award and documentation.

(b) Information must be recorded on Treasury Form TD F 76-01.1, "Purchase/Delivery Order/BPA Record," or other bureau form approved by OP.

Subpart 1013.3 Simplified Acquisition Methods

1013.301 Governmentwide commercial purchase card.

(b) Treasury procedures governing the Governmentwide purchase card are defined in TD 76-04, "Government Purchase Card for Small Purchasing."

1013.305 Imprest funds and third party drafts.

1013.305-2 Agency responsibilities.

(c) BCPOs must ensure that procedures are established for the use of third party drafts as a purchase method. The procedures must include required documentation for third party drafts transactions and cover the designation of personnel authorized to use these drafts.

1013.305-3 Conditions for use.

(b) Requests to exceed the third party draft transaction ceiling must be submitted in accordance with 1001.7000(a).

1013.306 SF 44, Purchase Order--Invoice--Voucher.

(d) BCPOs must ensure that procedures are established for: maintaining a list of authorized individuals; controls for issuance; review of purchase transactions; and requirements for competition of purchases exceeding the micro-purchase threshold or a sole source justification.

1013.307 Forms.

The applicable forms required to conduct a simplified acquisition may be used, unless an equivalent bureau form has been authorized for use by the SPE.

PART 1014 SEALED BIDDING

Subpart 1014.4	Opening of Bids and Award of Contract
1014.404	Rejection of bids.
1014.404-1	Cancellation of invitations after opening.
1014.407	Mistakes in bids.
1014.407-3	Other mistakes disclosed before award.
1014.407-4	Mistakes after award.

Subpart 1014.4 Opening of Bids and Award of Contract

1014.404 Rejection of bids.

1014.404-1 Cancellation of invitations after opening.

(c) BCPOs are authorized, without redelegation, to make the required determination, including a statement concerning plans for resolicitation.

1014.407 Mistakes in bids.

1014.407-3 Other mistakes disclosed before award.

(e) BCPOs are authorized to make the determinations at FAR 14.407-3(a), (b) and (d).

(h) When requested, promptly submit copies of all determinations to the SPE.

1014.407-4 Mistakes after award.

(b) COs are authorized to make the determinations.

PART 1015 CONTRACTING BY NEGOTIATION

Subpart 1015.2 Solicitation and Receipt of Proposals and Information
1015.204 Contract format.

Subpart 1015.3 Source Selection
1015.303 Responsibilities.
1015.305 Proposal evaluation.

Subpart 1015.4 Contract Pricing
1015.404-2 Information to support proposal analysis.
1015.404-4 Profit.
1015.406-1 Prenegotiation objectives.
1015.407-4 Should-cost review.

Subpart 1015.6 Unsolicited Proposals
1015.606 Agency procedures.

Subpart 1015.2 Solicitation and Receipt of Proposals and Information

1015.204 Contract format.

(e) The SPE is authorized to grant exemptions from the uniform contract format.

Subpart 1015.3 Source Selection

1015.303 Responsibilities.

(a) BCPOs are responsible for source selection. BCPOs are authorized to appoint individuals other than the contracting officer as the source selection authority for a particular acquisition or group of acquisitions.

1015.305 Proposal evaluation.

(a)(4) Cost information may be provided to members of the technical evaluation team.

Subpart 1015.4 Contract Pricing

1015.404-2 Information to support proposal analysis.

(a) Requests for audit services must be in accordance with TD 76-06, "Request for Contract Audit Services."

1015.404-4 Profit.

(b) COs must use a structured approach for determining the profit or fee, in contract actions requiring cost analysis. The objective must be documented on TD F 76-01.2, Record of Profit/Fee Prenegotiation Objective.

1015.406-1 Prenegotiation objectives.

(b) Document renegotiation objectives, including supporting analysis, in the contract file. Include results of a profit or fee objective, required by DTAR 1015.404-4, including reasons for the selection of the weight for each cost element.

1015.407-4 Should-cost review.

(b)(3) Request participation of contract administration office.

(b)(4) The report, prepared for the CO, must include:

- Results of the review, including proposed versus recommended hours, tasks, or issues. Discuss each cost element in terms of review method, finding, and proposed or recommended cost. Do not accumulate the dollar value of individual recommendations into a recommended total price. Indicate team members available to support negotiations;

- Improvement recommendations, including long and short term benefits, to be passed on to the contractor or the Government, including monitoring approach;

- A list of lessons learned having value to later should-cost teams; and

- Attachments, including letters recommending changes, implementing plans, renegotiation objectives, and price negotiation memorandum.

Subpart 1015.6 Unsolicited Proposals

1015.606 Agency procedures.

(a) Bureaus must establish procedures.

(b) Bureaus must establish bureau points of contact.

PART 1016 TYPES OF CONTRACTS

Subpart 1016.2	Fixed-Price Contracts
1016.203	Fixed-price contracts with economic price adjustment.
1016.203-4	Contract clauses.
Subpart 1016.4	Incentive Contracts
1016.406	Contract clauses.
Subpart 1016.5	Indefinite-Delivery Contracts
1016.501-2	General.
1016.505	Ordering.
Subpart 1016.6	Time-and-Materials, Labor-Hour, and Letter Contracts
1016.603	Letter contracts.
1016.603-2	Application.

Subpart 1016.2 Fixed-Price Contracts

1016.203 Fixed-price contracts with economic price adjustment.

1016.203-4 Contract clauses.

(d)(2) Any clause using this method must be prepared and approved by the CO.

Subpart 1016.4 Incentive Contracts

1016.406 Contract clauses.

(e)(1) Approval as specified at 16.404(b)(4).

Subpart 1016.5 Indefinite-Delivery Contracts

1016.501-2 General.

Whenever possible and appropriate, all procurement offices must coordinate their indefinite delivery contract requirements with procurement offices of other bureaus.

1016.505 Ordering.

(b)(5) The BCPO must designate an ombudsman.

Subpart 1016.6 Time-and-Materials, Labor-Hour, and Letter Contracts

1016.603 Letter contracts.

1016.603-2 Application.

(c) COs may authorize an additional period for definitization of a letter contract upon written approval of the BCPO.

PART 1017 SPECIAL CONTRACTING METHODS

Subpart 1017.2	Options
1017.202	Use of options.
1017.204	Contracts.
Subpart 1017.4	Leader Company Contracting
1017.402	Limitations.
Subpart 1017.5	Interagency Acquisitions Under the Economy Act
1017.503	Determinations and findings requirements.
Subpart 1017.70	Treasury-Wide Acquisition Contracts
1017.7001	Designation of Treasury-Wide Acquisition Contracts (TWACs).
1017.7002	Post-Award Notification.

Subpart 1017.2 Options

1017.202 Use of options.

- (a) COs must not use unpriced options.

1017.204 Contracts.

(e) Approval for periods beyond the five-year limitations may be made upon written determination by the BCPO.

Subpart 1017.4 Leader Company Contracting

1017.402 Limitations.

- (a)(4) Submit requests per 1001.7000(a).

Subpart 1017.5 Interagency Acquisitions Under the Economy Act

1017.503 Determinations and findings requirements.

- (c) The SPE must approve D&Fs where the servicing agency is not subject to the FAR.

Subpart 1017.70 Treasury-Wide Acquisition Contracts

1017.7001 Designation of Treasury-Wide Acquisition Contracts (TWAC).

(a) The SPE must approve the designation of a contractual action as a Treasury-Wide Acquisition Contract (TWAC) prior to its being solicited. Requests for TWAC designation must be submitted by the BCPO.

(b) Prior to requesting a TWAC designation, review sources of information, like the OP website, to determine if your needs can be met by other contractual documents like TWACs, Governmentwide Acquisition Contracts (GWACs), and Multiple Award Contracts (MACs).

(c) TWAC contractual action will require the designated procurement office to coordinate the TWAC requirement(s) with the other Treasury bureaus/offices. Coordination includes, but is not limited to, consolidating requirements from all bureaus, establishing ordering and contract management procedures, and determining administrative costs/assessments for use of the TWAC.

1017.7002 Post-Award Notification.

The BCPO must notify the SPE via e-mail once the TWAC is awarded so that information about the TWAC can be posted on the website. This notification will list the name of the procurement office, program/project, contract type, fee arrangements, competition status, lead time requirements, and any other pertinent comments regarding the TWAC.

PART 1018

[RESERVED]

PART 1019 SMALL BUSINESS PROGRAMS

Subpart	1019.000	Scope of part.
Subpart	1019.2	Policies
	1019.201	General policy.
	1019.202	Specific policies.
	1019.202-1	Encouraging small business participation in acquisitions.
	1019.202-4	Solicitation.
	1019.202-70	Treasury's Mentor-Protege Program.
	1019.202-70.1	General.
	1019.202-70.2	Definitions.
	1019.202-70.3	Non-affiliation.
	1019.202-70.4	General policy.
	1019.202-70.5	Incentives for prime contractor participation.
	1019.202-70.6	Measurement of program success.
	1019.202-70.7	Mentor firms.
	1019.202-70.8	Protege firms.
	1019.202-70.9	Selection of protege firms.
	1019.202-70.10	Application process for mentor firms to participate in the program.
	1019.202-70.11	OSDB review and approval process of agreement.
	1019.202-70.12	Agreement contents.
	1019.202-70.13	Developmental assistance.
	1019.202-70.14	Obligation.
	1019.202-70.15	Internal controls.
	1019.202-70.16	Solicitation provisions and contract clauses.
Subpart	1019.3	Determination of Small Business Status for Small Business Programs
	1019.302	Protesting a small business representation.
Subpart	1019.4	Cooperation with the Small Business Administration
	1019.401	General.
	1019.402	Small Business Administration procurement center representatives.
Subpart	1019.5	Set-Asides for Small Business
	1019.501	General.
	1019.502	Setting aside acquisitions.
	1019.502-2	Total small business set-asides.
	1019.503	Setting aside a class of acquisitions for small business.
	1019.505	Rejecting Small Business Administration recommendations.
	1019.506	Withdrawing or modifying small business set-asides.
Subpart	1019.6	Certificates of Competency and Determinations of Responsibility
	1019.602	Procedures.

	1019.602-1	Referral.
	1019.602-2	Issuing or denying a Certificate of Competency (COC).
	1019.602-3	Resolving differences between the agency and the Small Business Administration.
Subpart	1019.7	The Small Business Subcontracting Program
	1019.705	Responsibilities of the contracting officer under the subcontracting assistance program.
	1019.705-2	Determining the need for a subcontracting plan.
	1019.705-3	Preparing the solicitation.
	1019.705-4	Reviewing the subcontracting plan.
	1019.705-7	Liquidated damages.
	1019.708	Contract clauses.
	1019.708-70	Solicitation provisions and contract clauses.
Subpart	1019.8	Contracting with the Small Business Administration (The 8(a) Program)
	1019.800	General.
	1019.803	Selecting acquisitions for the 8(a) Program.
	1019.803-70	Simplified Procedures for 8(a) Acquisitions Under MOUs.
	1019.804	Evaluation, offering, and acceptance.
	1019.804-2	Agency offering.
	1019.804-3	SBA acceptance.
	1019.804-370	SBA acceptance under the MOU for acquisitions exceeding \$100,000.
	1019.805	Competitive 8(a).
	1019.805-1	General.
	1019.805-2	Procedures.
	1019.806	Pricing the 8(a) contract.
	1019.808	Contract negotiation.
	1019.808-1	Sole source.
	1019.811	Preparing the contracts.
	1019.811-1	Sole source.
	1019.811-2	Competitive.
	1019.811-3	Contract clauses.
	1019.812-70	Information.
Subpart	1019.12	Small Disadvantaged Business Participation Program
	1019.1202-3	Considerations in developing an evaluation factor or subfactor.

Subpart 1019.000 Scope of part.

(a) TD P 76-01.B, "Small Business Program Handbook," provides detailed information. The Handbook is located at <http://intranet.treas.gov/procurement/research/sbhandbook.pdf>.

Subpart 1019.2 Policies

1019.201 General policy.

(c) BCPOs will implement small business programs in accordance with applicable statutes, regulations, and policies (e.g., TD P 76-01.B).

(d) The AS(M)/CFO is the Director, Office of Small and Disadvantaged Business Utilization (OSBDU). The Director, OSBDU has designated a Director, Office of Small Business Development (OSBD), with duties and functions including those specified at FAR 19.201(d).

(e) BCPOs will appoint Small Business Specialists (SBS) in accordance with TD P 76-01.B.

(f)(1) The AS(M)/CFO shall make any determinations. Submit requests in accordance with DTAR 1001.7000(b).

1019.202 Specific policies.

1019.202-1 Encouraging small business participation in acquisitions.

(f)[added] COs may negotiate payment terms less than 30 calendar days to encourage small business participation. A period of less than seven days must not be prescribed. See FAR 32.906(b). The CO must make the determination in consultation with the bureau finance office. See FAR 32.903(b)(1) and DTAR1032.903(b), for comments on restructuring these two provisions

1019.202-4 Solicitation.

(e)[added] To encourage small business participation, particularly where subcontracting opportunities exist or teaming arrangements are feasible, the CO may provide a copy of the Solicitation Mailing List (when available) concurrently with the solicitation, or provide a copy to any small business requesting the List. Do not process such requests under the Freedom of Information Act.

Subpart 1019.202-70 The Treasury Mentor Protégé Program

1019.202-70.1 General.

(a) The Mentor- Protégé Program is designed to motivate and encourage firms to assist small businesses (SB), including veteran-owned small businesses (VOSB), service-disabled veteran-owned small businesses (SDVOSB), HUBZone small businesses (HUBZone), small disadvantaged businesses (SDB) and women-owned small businesses (WOSB). The program is also designed to improve the performance of Department of the Treasury contracts and subcontracts, foster the establishment of long-term business relationships between these entities

and Treasury prime contractors, and increase the overall number of these entities that receive Treasury contract and subcontract awards.

(b) Phase I began in March 1999. Phase I consists of a Treasury/SBA partnership in which firms already designated by the SBA as 8(a) contractors serve as Treasury prime contractors and another firm, typically a much larger firm, would mentor the 8(a) prime contractor.

(c) Phase II of the Mentor- Protégé Program encourages agreements between a large or small prime contractor who act as mentors, and an eligible small business proteges. Phase II is implemented by this subpart of the DTAR.

(d) Phase III of the Mentor-Protégé Program is Treasury's participation in the HUBZone Program, effective October 1, 2000. The HUBZone Program encourages Federal procurement from small businesses located in economically distressed areas. Veteran-owned small business and service-disabled veteran-owned small business participation are incorporated in the program as a part of Phase III.

1019.202-70.2 Definitions.

(a) HUBZone Small Business Concern, as used herein, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA.

(b) Mentor, as used herein, means a prime contractor who elects, on a particular contract, to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the protégé. Mentors must be deemed eligible as a mentor as described in 1019.202-70.7.

(c) OSBD, as used herein, means the Office of Small Business Development, designated by the Department of the Treasury Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) to assist and advise small, small disadvantaged, and women-owned small business concerns on procedures for doing business with Treasury.

(d) Protégé, as used herein, means a small business as defined in paragraphs (a), (e) through (i) of this subsection who is the recipient of developmental assistance pursuant to a mentor- protégé arrangement on a particular contract. Protégés must be deemed eligible as described in 1019.202-70.8.

(e) Service-Disabled Veteran-Owned Small Business (SDVOSB) concern, as used herein, means a small business where ownership (at least 51%) is owned by one or more service disabled veterans, and the management and daily operations of which are controlled by one or more service disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of that veteran.

(f) Small Business (SB), as used herein, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business in their primary SIC code under the criteria and size standards in 13 CFR Part 121 and as described in FAR 19.102.

(g) Small Disadvantaged Business concern (SDB), as used herein, means small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by FAR 19.001.

(h) Woman-Owned Small Business (WOSB), as used herein, means a small business concern where ownership and controlling interest (at least 51%) in the company is held by a woman or women as defined by FAR 19.001.

(i) Veteran-Owned Small Business (VOSB) concern, as used herein, means a small business where ownership (at least 51%) is owned by one or more veterans, and the management and daily operations of which are controlled by one or more veterans.

1019.202-70.3 Non-affiliation.

For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in 1019.202-70.13 from such mentor firm under the Mentor- Protégé Program.

1019.202-70.4 General policy.

(a) Eligible contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", that are approved as mentors will enter into agreements with eligible protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of protégés to perform as contractors or subcontractors.

(b) A firm's status as a protégé under a Treasury contract must not have an effect on the firm's eligibility to seek other contracts or subcontracts.

1019.202-70.5 Incentives for contractor participation.

(a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), Treasury is authorized to provide appropriate incentives in negotiated contractual actions to encourage subcontracting opportunities consistent with the efficient and economical performance of the contract. Proposed mentor-protégé efforts will be considered during the evaluation of such negotiated, competitive offers. Contracting officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the technical/management factors.

(b) A mentor's performance will be evaluated against the criteria described in 1052.219-75.

(c) Before awarding a contract that requires a subcontracting plan, the existence of a mentor-protégé arrangement, and performance (if any) under an existing arrangement, will be considered by the contracting officer in: (1) Evaluating the quality of a proposed subcontracting plan under FAR 19.705-4; and, (2) Evaluating the contractor compliance with the subcontracting plans submitted in previous contracts as a factor in determining contractor responsibility under FAR 19.705-5(a)(1).

(d) Mentor-protégé arrangements may provide the government with greater assurance that a protégé subcontractor will be able to perform under the contract.

(e) The Office of Small Business Development (OSBD) Mentoring Award is a non-monetary award that will be presented (annually or as often as is appropriate) to the mentoring firm providing the most effective developmental support of a protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Director, Office of Small Business Development.

1019.202-70.6 Measurement of program success.

The overall success of the Treasury Mentor-Protégé Program will be measured by:

- The increase in the number and dollar value contracts awarded to protégé firms under Department of the Treasury contracts from the date the protégé enters the program.
- The increase in the number and dollar value of contracts and subcontracts awarded to the protégé under other Federal agencies and commercial contracts.
- An increase in the quality of the technical capabilities of the protégé firm.

1019.202-70.7 Mentor firms.

A mentor firm may be either a large or small business, eligible for award of a Government contract that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors. Mentors will be encouraged to enter into arrangements with protégés in addition to firms with whom they have established business relationships.

1019.202-70.8 Protégé firms.

(a) For selection as a protégé, a firm must be:

(1) A small business, women-owned small business, small disadvantaged business, small business owned and controlled by veteran or service disabled veteran, or qualified HUBZone small business;

(2) Small in the NAICS code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and

(3) Eligible for receipt of Government contracts.

(b) Except for small disadvantaged business, or qualified HUBZone small business firms, a protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (a) above. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. The small disadvantaged business or qualified HUBZone small business status eligibility and documentation requirements are determined according to FAR 19.304 and 19.1303, respectively.

(c) Protégés may not have multiple mentors unless approved, in writing, by the Director, Office of Small Business Development (OSBD). Protégés participating in other agency mentor-protégé programs in addition to the Treasury Mentor-Protégé Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

1019.202-70.9 Selection of protégé firms.

(a) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1019.202-70.7. Mentor firms may have multiple protégés.

(b) The selection of protégé firms by mentor firms may not be protested. Any protest regarding the size of eligibility status of an entity selected by a mentor to be a protégé must be referred solely to Treasury's OSBD for resolution. Treasury, at its discretion, may seek an advisory opinion from the Small Business Administration (SBA).

1019.202-70.10 Application process for mentor firms to participate in the program.

(a) Firms interested in becoming a mentor firm may apply in writing to Treasury's OSBD. The application will be evaluated based upon the description of the nature and extent of technical and managerial support proposed as well as the extent of other developmental assistance in the form of equity investment, loans, joint-venture support and traditional subcontracting support.

(b) A proposed mentor will submit the information listed in 1019.202-70.12 for inclusion in a mentor-protégé agreement.

1019.202-70.11 OSBD review and approval process of agreement.

(a) OSBD will review the information specified in 1019.202-70.12. The OSBD review will be completed no later than 30 calendar days after receipt.

(b) Upon completion of the review, the mentor may implement the developmental assistance program.

(c) An approved agreement will be incorporated into the mentor firm's contract(s) with Treasury.

(d) If the OSBD disapproves the agreement, the mentor may provide additional information for reconsideration. Upon finding deficiencies that the OSBD considers correctable, the OSBD will notify the mentor and provide a list of defects. Any additional information or corrections requested will be provided within 30 calendar days. The review of any supplemental material will be completed within 30 calendar days after receipt by the OSBD. When submission of additional data is required during a proposal evaluation for a new contract award, shorter timeframes for submission, review and re-evaluation for approval may be authorized by the OSBD.

(e) The agreement defines the relationship between the mentor and protégé firms only. The agreement itself does not create any privity of contract between the mentor or protege and Treasury.

1019.202-70.12 Agreement contents.

The contents of the agreement will contain:

(a) Names and addresses of mentor and protégé firms and a point of contact within both firms who will oversee the agreement;

(b) Procedures for the mentor firm to notify the protégé firm, OSBD and the contracting officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Mentor-Protégé Program;

(c) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement. The mentor must notify the OSBD and the contracting officer immediately upon receipt of such notice from the protégé;

(d) Each proposed mentor-protégé relationship must include information on the mentor's ability to provide developmental assistance to the protege and how that assistance will potentially increase contracting and subcontracting opportunities for the protégé firm;

(e) A description of the type of developmental Program that will be provided by the mentor firm to the protégé firm, to include a description of the potential subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégés developmental success;

(f) A listing of the types and dollar amounts of subcontracts that may be awarded to the protégé firm;

(g) Program participation term;

(h) Termination procedures;

(i) Plan for accomplishing work should the agreement be terminated; and

- (j) Other terms and conditions, as appropriate.

1019.202-70.13 Developmental assistance.

The forms of developmental assistance a mentor can provide to a protégé include:

- (a) Management guidance relating to financial management, organizational management, overall business management/planning, business development; and technical assistance.
- (b) Loans;
- (c) Rent-free use of facilities and/or equipment;
- (d) Property;
- (e) Temporary assignment of personnel to protégé for purpose of training; and
- (f) Any other types of mutually beneficial assistance.

1019.202-70.14 Obligation.

(a) Mentor or protege firms may voluntarily withdraw from the Mentor-Protégé Program. However, such withdrawal will not impact the program mission and contract requirements under the contract.

(b) At the conclusion of each year in the Mentor-Protégé Program, the contractor and protégé must formally brief the Department of the Treasury team regarding program accomplishments as pertains to the approved agreement. Individual briefings may be conducted, at the request of either party. Treasury will consider the following:

(1) Specific actions taken by the mentor, during the evaluation period, to increase the participation of protégés as suppliers to the Federal government and to commercial entities;

(2) Specific actions taken by the mentor, during the evaluation period, to develop the technical and corporate administrative expertise of a protégé as defined in the agreement.

(3) To what extent the protégé has met the developmental objectives in the agreement; and

(4) To what extent the mentor firm's participation in the Mentor-Protégé Program resulted in the protégé receiving contract(s) and subcontract(s) from private firms and agencies other than the Department of the Treasury.

(c) Mentor and protégé firms must submit an evaluation to the OSBD at the conclusion of the mutually agreed upon program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Mentor-Protégé Program, whichever comes first.

1019.202-70.15 Internal controls.

(a) The OSBD will oversee the program and will work with the cognizant Contracting Officer to achieve the program's objectives.

(c) The Department of the Treasury may rescind an existing Mentor-Protégé agreement if it determines that such actions are in Treasury's interest. Recision must be in writing and sent to the mentor and protégé after approval by the Director, OSBD. Recision of an agreement does not change the terms of the subcontract between the mentor and the protégé or the prime contractor's obligations under its subcontracting plan.

1019.202-70.16 Solicitation provisions and contract clauses.

(a) Insert the provision at 1052.219-73, Department of the Treasury Mentor-Protégé Program, in all unrestricted solicitations exceeding \$500,000 (\$1,000,000 for construction) that offer subcontracting possibilities.

(b) Insert the clause at 1052.219-75, Mentor Requirements and Evaluation, in contracts where the contractor is a participant in the Treasury Mentor-Protégé Program.

Subpart 1019.3 Determination of Small Business Status for a Small Business Programs

1019.302 Protesting a small business representation.

Any protest or appeal involving the SBA should be immediately brought to the attention of the bureau SBS and the OSBD.

Subpart 1019.4 Cooperation with the Small Business Administration

1019.401 General.

(b) The Director, OSDDBU has designated the OSBD to be Treasury liaison with the SBA.

1019.402 Small Business Administration procurement center representatives.

(c)(3) Recommended sources must be included on the list. Consult the PCR if the list is being limited.

(c)(4) If the PCR files an appeal, the SBS must promptly notify the OSBD.

Subpart 1019.5 Set-Asides for Small Business

1019.501 General.

(h) COs must carefully document decisions to award to other than small business based on price reasonableness. Awards may be made to small businesses over large businesses even though their prices may be higher, if they are not unreasonable (i.e., exceed fair market price).

(i)[added] COs must make available for review by the SBS all proposed open market acquisitions in excess of \$2,500 which have not been unilaterally set-aside for small business. Requisitions must be provided to the SBS for review upon receipt in the contracting office. If the CO rejects an SBS recommendation for the requirements in excess of \$25,000, written notice must be provided to the OSBD within 5 working days.

(j)[added] COs must make available for review by the SBS and the PCR all proposed open market acquisitions in excess of \$100,000 which have not been unilaterally set-aside for small business or the 8(a) program, and must make available any other such proposed acquisitions exceeding the micro-purchase threshold at the request of the PCR.

1019.502 Setting aside acquisitions.

1019.502-2 Total small business set-asides.

If the purchase is not a set-aside, file documentation must be completed and signed by the CO (if the order is between \$2,500 and \$25,000) and by the bureau SBS (if the order is between \$25,000 and \$100,000) prior to awarding the unrestricted purchase.

1019.503 Setting aside a class of acquisitions for small business.

(a) Once a product or service has been acquired successfully on a set-aside basis, all future requirements of the office for that product or service must be set-aside.

(c)(1) Listed below are products and services set-aside as a class for exclusive small business competition exceeding the simplified acquisition threshold. These class set-asides apply to all Treasury acquisition offices. Bureau headquarters acquisition offices must establish appropriate additional bureau and field class set-asides.

Purchases of any service listed below \$1,000,000 or less per year:

<u>Service</u>	<u>NAIC Code Group*</u>	<u>Service Code Category**</u>
Business services, including IT	541, 561	A,D,J,N,R,T,U,V
Engineering Accounting Research, Management and Related services	541, 561	A,B,C,R,U
Housing services	541, 561	S
	511, 532	
Maintenance and repair of equipment	532, 811	JK

Motion picture production	512, 421 561, 532	T
Motor freight transportation and warehousing	562, 484 492, 493	V,R
Printing and publishing	511, 512 323	T
Training	611	U
Transportation services	561, 488 541, 532	V

The purchase of any construction listed below of \$3,000,000 or less:

	NAIC Code	Service Code
	Construction Group*	Category**
Building	233	Y,Z
Special trades	235, 562	Y,Z

*Reference: 13 CFR Part 121 or FAR 19.102

**Reference: Federal Procurement Data Center Product and Service Code Manual

All items in a major group or category are included in the class set-aside.

1019.505 Rejecting Small Business Administration recommendations.

- (b) The SBS must inform the OSBD of any appeals and their outcome.

1019.506 Withdrawing or modifying small business set-asides.

- (a) The SBS must forward the written notice to the OSBD.
- (b) Withdrawal or modification of class set-asides in 1019.503(a) and (c)(1) must be forwarded through the SBS for approval by the OSDBU.

Subpart 1019.6 Certificates of Competency and Determinations of Responsibility

1019.602 Procedures.

1019.602-1 Referral.

- (a) A determination that a small business is not responsible must not be made without benefit of a preaward survey and preparation of documentation to substantiate the determination. Information adversely affecting the responsibility determination must be coordinated with the SBS.

(a)(2) Provide a copy of the CO's referral letter and supporting documents to the SBS and OSBD.

1019.602-2 Issuing or denying a Certificate of Competency (COC).

(d) Provide a copy of the SBA response to the SBS and OSBD.

1019.602-3 Resolving differences between the agency and the Small Business Administration.

(a) COs may work directly with the SBA area office through their SBS. The CO must coordinate suspension actions and referrals with the SBS and OSBD.

(3) If the CO decides to appeal issuance of a COC, the CO must notify the SBS and OSBD within five business days after receiving the Headquarters notice that the decision to issue a COC may be appealed.

Subpart 1019.7 The Small Business Subcontracting Program

1019.705 Responsibilities of the contracting officer under the subcontracting assistant program.

1019.705-2 Determining the need for a subcontracting plan.

Submit determination that no subcontracting possibilities exist for a contract, through the SBS and PCR, to the OSBD for approval at least 10 workdays prior to solicitation release.

1019.705-3 Preparing the solicitation.

COs must provide SBSs and the PCR on an as-requested basis 5 workdays to review solicitations requiring submissions of subcontracting plans and submit advisory findings before solicitation release.

(a)[added] A Subcontracting Plan Outline with advisory goals must be included in all solicitations that require subcontracting plans.

(b)[added] For large or complex acquisitions where substantial subcontracting opportunities exist, the CO must consider including the offeror's subcontracting plan and performance as an evaluation factor for award.

(70) The plan evaluation must be separate from the technical or cost evaluation.

(71) The offeror's prior performance on its subcontracting plans must account for half of the total number of points available for that factor.

(72) COs must consult with the SBS prior to incorporating subcontracting plans as an evaluation factor for award.

(c)[added] Submission of SF 294, "Subcontracting Report for Individual Contracts," and SF 295, "Summary Subcontract Report," reports must be included as a not separately priced deliverable under the contract when a subcontracting plan is required.

(d)[added] Reports from Treasury prime contractors must consist of the following:

(70) For contractors with individual plans, including master plans with individual goals, a semiannual SF 294. This report is required to be submitted to the CO, who must forward a copy to the SBS and the OSBD. An annual SF 295 is required to be submitted to the OSBD. For contractors with commercial plans, an annual SF 295 is required to be submitted to the CO, who must forward a copy to the bureau SBS, who in turn will forward to the SBS and the OSBD.

1019.705-4 Reviewing the subcontracting plan.

(a) Detailed instructions for reviewing subcontracting plans are contained in TD P 76-01.B.

(d)(1) Unless waived by the OSBD, prime contractors must be current in their submission of SF 294 and SF 295 reports in order to receive approval of new subcontracting plans.

(d)(7) The CO must forward all subcontracting plans from the offeror(s) to the bureau SBS for initial review. The SBA PCR must review all subcontracting plans, after review by the SBS, and prior to forwarding to the OSBD for approval. COs must provide the SBSs and the PCR each 5 workdays to review proposed subcontracting plans. Ideally, the SBS and PCR reviews should be performed concurrently. All subcontracting plans must be submitted to the OSBD at least 10 workdays prior to the contract award date. Upon request, a copy of the proposed prime contract and the cost proposal must be provided. A copy of the lead agency CO's approval of a master or commercial products subcontracting plan must be attached. The OSBD approval must be retained in the contract file.

1019.705-7 Liquidated damages.

(d) The CO must consult with legal counsel, the SBS, and OSBD prior to making a determination that the contractor failed to make a good faith effort to carry out its plan.

(e) Provide a copy of the final decision to the SBS and OSBD.

(h) Provide a copy of the final decision to the SBS and OSBD.

1019.708 Contract clauses.

1019.708-70 Solicitation provisions and contract clauses.

(a) Insert the clause at 1052.219-70, SF 294 and SF 295 Reporting, in all solicitations and contracts requiring a subcontracting plan.

(b) Insert the provision at 1052.219-71, Subcontracting Plan, in all solicitations requiring a subcontracting plan.

**Subpart 1019.8 Contracting with the Small Business Administration
(The 8(a) Program)**

1019.800 General.

COs may contract directly with 8(a) program participants. A contract may be awarded directly to an 8(a) firm on a sole source or competitive basis. (See AB 02-13, including Memorandum of Understanding between the SBA and the Department that establishes streamlined procedures for expediting the award of 8(a) requirements.)

1019.803 Selecting acquisitions for the 8(a) Program.

(a) Responses to search letters must be prepared by the SBS and coordinated with the CO.

(c) Once a product or service has been acquired successfully by an acquisition office on the basis of an 8(a) set-aside, all future requirements of that office for that product or service must be acquired using 8(a) set-aside procedures. If a CO determines there is no longer a reasonable likelihood that an offer can be obtained from a qualified 8(a) concern and award can be made at fair market prices, the repetitive set-aside must be withdrawn, using the procedures at 1019.506, prior to proceeding with the procurement on another basis.

1019.803-70 Simplified Procedures for 8(a) Acquisitions Under MOUs.

Contracting activities may use the procedures of FAR Part 13 and DTAR Part 1013 to issue purchase orders or contracts, not exceeding \$100,000, to 8(a) participants. The \$100,000 limitation for use of FAR Part 13 applies to commercial and noncommercial items. The following applies to such acquisitions:

(a) Neither offering letters to, nor acceptance letters from, the SBA are required.

(b) The contracting activity must use the SBA's PRO-Net database on the Internet (<http://www.pro-net.sba.gov>) to establish that the selected 8(a) firm is a current program participant.

(c) Once an 8(a) contractor has been identified, the CO must establish the price with the selected 8(a) contractor, prepare and issue a purchase order or contract in accordance with the provisions in FAR Part 13. The applicable clauses in FAR Part 19.811-3 must be included in the award document.

(d) The CO must issue the purchase order or contract directly to the 8(a) firm. The CO must insert FAR clause 52.219-14, Limitations on Subcontracting, and DTAR clause 1052.219-72, Section 8(a) Direct Award, in all purchase orders and contracts awarded under this subsection.

(e) No later than the day that the purchase order is provided to the 8(a) contractor, the Treasury CO must provide the cognizant SBA Business Opportunity Specialist, using facsimile or electronic mail, the following documents:

(i) a copy of the purchase order, and

(ii) a notice stating that the purchase order is being processed under the MOU. The notice must also indicate that the 8(a) contractor will be deemed eligible for award and automatically begin work under the purchase order unless, within 2 working days after SBA's receipt of the purchase order, the 8(a) contractor and the Treasury CO are notified that the 8(a) contractor is ineligible for award.

1019.804 Evaluation , Offering and Acceptance.

1019.804-2 Agency offering.

(a) When applicable, notification must identify that the offering is in accordance with the MOU identified in DTAR 1019.800.

1019.804-3 SBA acceptance.

1019.804-370 SBA acceptance under the MOU for acquisitions exceeding \$100,000.

(a) SBA acceptance under the MOU for acquisitions exceeding \$100,000.

(a) The SBA's decision whether to accept the requirement must be transmitted to the contracting agency in writing within five working days of receipt of the offer.

(b) The SBA may require, and the contracting agency may grant, an extension beyond the five day limit.

(c) SBA's acceptance letter should be faxed or e-mailed to the offering contracting activity.

(d) If the offering contracting agency has not received acceptance or rejection of the offering from SBA within five days of SBA's receipt of the offering letter, the procurement office must contact SBA to ascertain the status of the acceptance letter.

(e) The contents of the acceptance letter must be limited to the eligibility of the recommended 8(a) contractor.

(f) The CO must issue the contract directly to the 8(a) firm. The CO must insert FAR clause 52.219-14, Limitations on Subcontracting, and DTAR clause 1052.219-72, Section 8(a) Direct Award, in all contracts awarded under this subsection.

(g) The CO must forward to the SBA District Office servicing the 8(a) firm a copy of the contract, offer letter, and acceptance letter within five days after award of the contract. Any subsequent modifications to the contract must also be forwarded to the cognizant SBA Office within five days after of issuance of the modification.

1019.805 Competitive 8(a).

1019.805-1 General.

(a)(2) For IDIQ contracts, the threshold will be applied to the maximum value of the contract, including options.

1019.805-2 Procedures.

(a) 8(a) acquisitions below \$100,000 may be conducted using simplified acquisition procedures (see FAR Part 13)

(b)(1) For requirements exceeding \$100,000 processed under DTAR 1019.800, the CO must submit the name, address, and telephone number of the low bidder (in sealed bid acquisitions); the apparent successful offeror in negotiated acquisitions; or all offerors within the competitive range (if discussions are required) to the SBA Business Opportunity Specialist at the field office servicing the identified 8(a) firm. The SBA must determine the eligibility of the firm(s) and advise the CO within two working days of receipt of the request. If the firm is determined to be ineligible, the CO must submit information on the next low offeror or next apparent successful offeror, as applicable, to the cognizant SBA field office.

1019.806 Pricing the 8(a) contract.

(a) When required by FAR Subpart 15.4, the CO must obtain certified cost or pricing data directly from the 8(a) contractor if the contract is being awarded under DTAR 1019.800.

1019.808 Contract negotiation.

1019.808-1 Sole source.

(a) If the acquisition is conducted under DTAR 1019.800, the 8(a) contractor is responsible for negotiating with the CO within the time established by the contracting office. If the 8(a) contractor does not negotiate within the established time and the CO cannot allow additional time, the CO may, after notification and approval by SBA, proceed with the acquisition from other sources.

(b) If the acquisition is conducted under DTAR 1019.800, the CO must negotiate directly with the 8(a) participant; however, if requested by the 8(a) participant, the SBA may participate in the negotiations.

1019.811 Preparing the contracts.

1019.811-1 Sole source.

(b) If the award is to be made under 1019.800, the contract to be awarded by the contracting activity to the 8(a) firm must be prepared in accordance with the contracting activity's normal procedures, given contract type and dollar amount, that the contracting activity would use for a similar, non-8(a) acquisition, except for the following:

(1) The award form must cite 41 U.S.C. 253 (c)(5) or 10 U.S.C. 2304 (c)(5), as appropriate, and 15 U.S.C. 637 (a) as the authority for use of other than full and open competition.

(2) Appropriate contract clauses must be included, as necessary, to reflect that the acquisition is an 8(a) contract made under DTAR 1019.800.

(3) The contracting activity must include SBA's requirement number on the award document for acquisitions exceeding \$100,000.

(4) A single award document must be used between the agency and the 8(a) contractor. As such, a single signature by the agency's contracting officer who is identified under DTAR 1019.800 will suffice, i.e., an SBA signature will not be required. The 8(a) contractor's signature must be placed on the award document as the prime contractor. The 8(a) contractor's name and address must be placed in the "Awarded to" or "Contractor name" block on the appropriate forms.

1019.811-2 Competitive.

(a) If the award is made under the delegation of 8(a) authority, competitive contracts for 8(a) firms must be prepared in accordance with the same standards as DTAR 1019.811-1.

(b) If the acquisition is conducted under DTAR 1019.800, the process for obtaining signatures must be as specified in DTAR 1019.811-1(d)(4).

1019.811-3 Contract clauses.

(d)(3)[added] Insert the clause at 1052.219-18, Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (Deviation), for paragraph (c) of FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, in all solicitations and contracts that exceed \$100,000 and are processed under 1019.8.

(f)[added] Insert the clause at 1052.219-72, Section 8(a) Direct Award, in solicitations and contracts that exceed \$100,000 and are processed under 1019.8 for paragraph (c) of FAR 52.219-11, Special 8(a) Contract Conditions; FAR 52.219-12, Special 8(a) Subcontract Conditions; and FAR 52.219-17, Section 8(a) Award.

1019.812 Contract administration.

Awards under DTAR 1019.800 are subject to 15 U.S.C. 637(a)(21). These contracts contain the clause entitled, Section 8(a) Direct Award, that requires the 8(a) contractor to notify the SBA and the CO when ownership of the firm is being transferred.

1019.812-70 Information.

COs must promptly notify the SBA, and inform the SBS of 8(a) contractor performance problems.

Subpart 1019.12 Small Disadvantaged Business Participation Program

1019.1202-3 Consideration in developing an evaluation factor or subfactor.

(e) Past performance of offerors must be considered in developing an SDB participation evaluation factor or subfactor. The other criteria in FAR 19.1202-3 must also be considered when appropriate under the circumstances.

PART 20 [RESERVED]

PART 21 [RESERVED]

**PART 1022 APPLICATION OF LABOR LAWS
TO GOVERNMENT ACQUISITIONS**

Subpart	1022.1	Basic Labor Policies
	1022.101	Labor relations.
	1022.101-3	Reporting labor disputes.
	1022.101-4	Removal of items from contractors' facilities affected by work stoppages.
	1022.103	Overtime.
	1022.103-4	Approvals.
Subpart	1022.3	Contract Work Hours and Safety Standards Act
	1022.302	Liquidated damages and overtime pay.
Subpart	1022.4	Labor Standards for Contracts Involving Construction
	1022.404	Davis-Bacon Act wage determinations.
	1022.404-6	Modifications of wage determinations.
	1022.406	Administration and enforcement.
	1022.406-8	Investigations.
	1022.406-13	Semiannual enforcement reports.
Subpart	1022.6	Walsh-Healey Public Contracts Act
	1022.604	Exemptions.
	1022.604-2	Regulatory exemptions.
	1022.608	Procedures.
Subpart	1022.8	Equal Employment Opportunity
	1022.803	Responsibilities.
	1022.804	Affirmative action programs.
	1022.804-2	Construction.
	1022.805	Procedures.
	1022.807	Exemptions.
Subpart	1022.10	Service Contract Act of 1965, as Amended
	1022.1011	Response to Notice by Department of Labor.
	1022.1011-2	Requests for status or expediting of response.
Subpart	1022.13	Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans
	1022.1305	Waivers.
	1022.1308	Complaint procedures.
Subpart	1022.14	Employment of Workers with Disabilities
	1022.1403	Waivers.
	1022.1406	Complaint procedures.

Subpart 1022.1 Basic Labor Policies

1022.101 Labor relations.

1022.101-3 Reporting labor disputes.

COs must make reports of any potential or actual labor disputes to the BCPO and legal counsel. Reports must include at a minimum:

- The nature of the potential or actual dispute, including whether a strike, lockout, slow-down, shut down, or picketing is involved and the degree of emergency presented;
- The character, quantity, and importance and delivery dates and their relationship to the total acquisition program;
- The identity and location of the parties to the dispute and their representatives, including the approximate number of employees involved;
- The need for and availability of alternative resources to furnish the items involved within the time required;
- Any critical items that should be removed from the plant or work site or should continue to be processed there with the consent of the parties to the dispute; and
- Recommended action to be taken by Treasury.

1022.101-4 Removal of items from contractors' facilities affected by work stoppages.

(a)(3) The CO must obtain guidance from legal counsel and approval from the BCPO.

1022.103 Overtime.

1022.103-4 Approvals.

(a) BCPOs or their designees, but not below the level of the CO, must approve the use of overtime.

Subpart 1022.3 Contract Work Hours and Safety Standards Act

1022.302 Liquidated damages and overtime pay.

- (c) The SPE is authorized to take the actions prescribed.
- (d) Bureaus may establish procedures for disposing of funds.

Subpart 1022.4 Labor Standards for Contracts Involving Construction

1022.404 Davis-Bacon Act wage determinations.

1022.404-6 Modifications of wage determinations.

(b)(6) BCPOs may request extensions.

1022.406 Administration and enforcement.

1022.406-8 Investigations.

(d)(1) Submit report per 1001.7000(a).

(d)(2) The SPE is authorized to process the report.

1022.406-13 Semiannual enforcement reports.

Reports are due to OP 20 days after the end of the reporting period.

Subpart 1022.6 Walsh-Healey Public Contracts Act

1022.604 Exemptions.

1022.604-2 Regulatory exemptions.

(b)(1) Submit requests per 1001.7000(b).

1022.608 Procedures.

(a) The CO must include DOL publication WH-1313 in the award package.

(b) There are no additional agency procedures.

Subpart 1022.8 Equal Employment Opportunity

1022.803 Responsibilities.

(d) Submit questions per 1001.7000(a).

1022.804 Affirmative action programs.

1022.804-2 Construction.

(b) BCPOs are responsible for maintaining and distributing required lists.

1022.805 Procedures.

(b) The poster may be ordered directly from the nearest regional GSA supply depot.

1022.807 Exemptions.

(a)(1) The AS(M)/CFO is authorized to make the determination. Submit requests per 1001.7000(b).

(c) Submit requests per 1001.7000(a).

Subpart 1022.10 Service Contract Act of 1965, as Amended

1022.1011 Response to Notice by Department of Labor.

1022.1011-2 Requests for status or expediting of response.

Authority is granted to COs.

Subpart 1022.13 Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

1022.1305 Waivers.

(c) Submit requests under FAR 22.1303(a) and (b) per 1001.7000(b).

1022.1308 Complaint procedures.

COs must directly forward complaints.

Subpart 1022.14 Employment of Workers with Disabilities

1022.1403 Waivers.

(c) Submit requests under FAR 22.1403(a) and (b) per 1001.7000(b).

1022.1406 Complaint procedures.

COs must directly forward complaints.

PART 1023 ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

- Subpart 1023.4 Use of Recovered Materials**
1023.405 Procedures.
- Subpart 1023.5 Drug-Free Workplace**
1023.501 Applicability.
1023.506 Suspension of payments, termination of contract, and debarment and suspension actions.
- Subpart 1023.7 Contracting for Environmentally Preferable Products and Services**
1023.703 Policy.
- Subpart 1023.10 Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements**
1023.1002 Applicability.

Subpart 1023.4 Use of Recovered Materials

1023.405 Procedures.

(c)(3) In accordance with TD 75-07, Department of the Treasury Waste Prevention, Recycling and Acquisition, the AS(M)/CFO is the Departmental Environmental Executive, and may make such determinations.

Subpart 1023.5 Drug-Free Workplace

1023.501 Applicability.

(d) Heads of bureaus, without redelegation, are authorized to make the required determination.

1023.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(e) Submit requests per 1001.7000(b).

Subpart 1023.7 Contracting for Environmentally Preferable Products and Services

1023.703 Policy.

(a) BCPOs must establish required programs. Refer to TD 75-07, Department of the Treasury Waste Prevention, Recycling and Acquisition and TD 75-04, Energy Management Program for guidelines on preference programs.

Subpart 1023.10 Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements

1023.1002 Applicability.

TD 75-06, Prevention, Control and Abatement of Environmental Pollution at Treasury Facilities, provides guidance and direction for compliance with environmental laws.

**PART 1024 PROTECTION OF PRIVACY AND
FREEDOM OF INFORMATION**

Subpart 1024.1 Protection of Individual Privacy

1024.102 General.

1024.103 Procedures.

Subpart 1024.2 Freedom of Information Act

1024.203 Policy.

Subpart 1024.1 Protection of Individual Privacy

1024.102 General.

Procedures for implementing the Privacy Act of 1974 are contained in Departmental regulations under 31 CFR, Subtitle A, Part 1, Subpart C.

1024.103 Procedures.

(b)(2) COs must make copies of the Department's Privacy Act regulations available.

Subpart 1024.2 Freedom of Information Act

1024.203 Policy.

(a) The Department's implementation of the Freedom of Information Act is codified in regulations under 31 CFR, Subtitle A, Part 1, Subpart A.

(b) See FAR 15.207(b) on the safeguarding of proposals.

PART 1025 FOREIGN ACQUISITION

- Subpart 1025.1 Buy American Act -- Supplies**
1025.103 Exceptions.
1025.105 Determining reasonableness of cost.
- Subpart 1025.2 Buy American Act -- Construction Materials**
1025.202 Exceptions.
1025.204 Evaluating offers of foreign construction material.
1025.205 Postaward determinations.
1025.206 Noncompliance.
- Subpart 1025.4 Trade Agreements**
1025.403 Trade Agreements Act.
- Subpart 1025.5 Evaluating Foreign Offers - Supply Contracts**
1025.502 Application.
- Subpart 1025.6 Trade Sanctions**
1025.602 Exceptions.
- Subpart 1025.7 Prohibited Sources**
1025.701 Restrictions.
- Subpart 1025.10 Additional Foreign Acquisition Regulations**
1025.1001 Waiver of right to examination of records.

Subpart 1025.1 Buy American Act -- Supplies

1025.103 Exceptions.

- (a) The SPE is authorized to make the determination.
- (b) Submit requests under FAR 25.103(b)(2)(ii) per 1001.7000(a).

1025.105 Determining reasonableness of cost.

- (a)(1) The SPE is authorized to make the determination.

Subpart 1025.2 Buy American Act -- Construction Materials

1025.202 Exceptions.

- (a)(1) Submit requests under FAR 25.202(a)(1) per 1001.7000(a).

(a)(2) Determinations under FAR 25.202(a)(2) can be made in accordance with FAR 25.102(a)(2).

(b) Submit requests per 1001.7000(a).

1025.204 Evaluating offers of foreign construction material.

(b) BCPOs must consult with the SPE when using this subsection.

1025.205 Postaward determinations.

(c) The SPE must authorize any consideration less than the differential. Submit requests per 1001.7000(a).

1025.206 Noncompliance.

(c)(4) Noncompliance with the Buy American Act must be documented in the contract file along with any corrective action. If noncompliance is sufficiently serious, the CO must notify the debarring/suspension official through the BCPO. If noncompliance appears to be fraudulent, the CO must notify OIG or other investigatory organization.

Subpart 1025.4 Trade Agreements

1025.403 Trade Agreements Act.

(b) The SPE will issue an Acquisition Bulletin for changes to the threshold.

Subpart 1025.5 Evaluating Foreign Offers - Supply Contracts

1025.502 Application.

(a) There are no additional agency procedures.

Subpart 1025.6 Trade Sanctions

1025.602 Exceptions.

(b)(1) Submit requests per 1001.7000(b).

(b)(2) The SPE will notify the U.S. Trade Representative.

Subpart 1025.7 Prohibited Sources

1025.701 Restrictions.

(a)(2)(i) BCPOs must notify the SPE prior to acquiring supplies and services that are restricted in FAR 25.701(a)(1).

Subpart 1025.10 Additional Foreign Acquisition Regulations

1025.1001 Waiver of right to examination of records.

(a) The ASM/CFO will make the determination after concurring with the Comptroller General. Submit requests per 1001.7000(a).

PART 1026 OTHER SOCIOECONOMIC PROGRAMS

There is no text implementing or supplementing FAR Part 26.

PART 1027 PATENTS, DATA, AND COPYRIGHTS

Subpart 1027.2	Patents
1027.203	Patent indemnification of Government by contractor.
1027.203-6	Clause for Government waiver of indemnity.
1027.205	Adjustment of royalties.
1027.208	Use of patented technology under the North American Free Trade Agreement.
Subpart 1027.3	Patent Rights Under Government Contracts
1027.303	Contract clauses.
1027.304	Procedures.
1027.304-1	General.
1027.304-5	Appeals.
1027.306	Licensing background patent rights to third parties.
Subpart 1027.4	Rights in Data and Copyrights
1027.404	Basic Rights in Data clause.
1027.409	Solicitation provisions and contract clauses.

Subpart 1027.2 Patents

1027.203 Patent indemnification of Government by contractor.

1027.203-6 Clause for Government waiver of indemnity.

Submit requests per 1001.7000(a), after consultation with legal counsel.

1027.205 Adjustment of royalties.

(a) Reports must be made to legal counsel. COs must coordinate actions with the BCPO and SPE.

1027.208 Use of patented technology under the North American Free Trade Agreements.

(f) COs must ensure compliance.

Subpart 1027.3 Patent Rights Under Government Contracts

1027.303 Contract clauses.

The SPE is authorized to make the determinations at FAR 27.303(a)(3), (b)(2), and (c)(3).

1027.304 Procedures.

1027.304-1 General.

(a)(3) The appeal must be decided at least one level above the person who made the determination.

(a)(4) COs must refer fact-finding to the BCPO for action.

(b) Submit requests per 1001.7000(a).

(g)(2) The SPE is authorized to issue the required notice.

(h) Required approvals must be made by the SPE, after consultation with legal counsel.

1027.304-5 Appeals.

(a) COs are authorized to take the specified actions.

(b) Appeals must be made to the SPE. There are no additional Treasury procedures.

1027.306 Licensing background patent rights to third parties.

(a) The AS(M)/CFO must approve any such provision and justify its inclusion in a contract.

(b) The SPE must make the required determination.

Subpart 1027.4 Rights in Data and Copyrights

1027.404 Basic rights in data clause.

(f)(1)(iii) The Treasury has determined to use Alternate IV of FAR clause 52.227-14 in all contracts, unless BCPO approval is obtained.

1027.409 Solicitation provisions and contract clauses.

Alternate IV of FAR clause 52.227-14 must be included in solicitations and contracts, unless BCPO approval is obtained. Additional non-conflicting alternates may be used.

PART 1028 BONDS AND INSURANCE

Subpart 1028.1	Bonds and Other Financial Protections
1028.101	Bid guarantees.
1028.101-1	Policy on use.
1028.106	Administration.
1028.106-6	Furnishing information.
Subpart 1028.2	Sureties and Other Security for Bonds
1028.203	Acceptability of individual sureties.
1028.203-7	Exclusion of individual sureties.
1028.204	Alternatives in lieu of corporate or individual sureties.
Subpart 1028.3	Insurance
1028.307	Insurance under cost-reimbursement contracts.
1028.307-1	Group insurance plans.
1028.310	Contract clause for work on a Government installation.
1028.310-70	Contract clause.
1028.311	Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.
1028.311-1	Contract clause.

Subpart 1028.1 Bonds and Other Financial Protections

1028.101 Bid guarantees.

1028.101-1 Policy on use.

(c) Class waivers require approval by the SPE.

1028.106 Administration.

1028.106-6 Furnishing information.

(c) COs must furnish certified copies and determine reasonable and appropriate costs, after consultation with legal counsel.

Subpart 1028.2 Sureties and Other Security for Bonds

1028.203 Acceptability of individual sureties.

(g) Refer evidence through the BCPO to the OIG, or other investigatory organization, with a copy to the SPE. The OIG must provide a report of findings to the debarring and suspension official.

1028.203-7 Exclusion of individual sureties.

(d) Justifications must be prepared by the CO and forwarded through the BCPO to the debarring and suspension official for approval.

1028.204 Alternatives in lieu of corporate or individual sureties.

BCPOs must establish required safeguards.

Subpart 1028.3 Insurance

1028.307 Insurance under cost-reimbursement contracts.

1028.307-1 Group insurance plans.

Plans must be submitted to the CO, who must obtain the advice of legal counsel.

1028.310 Contract clause for work on a Government installation.

1028.310-70 Contract clause.

Insert a clause substantially similar to 1052.228-70, "Insurance Requirements," in all solicitations and contracts that contain the clause at FAR 52.228-5.

1028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1028.311-1 Contract clause.

Insert a clause substantially similar to 1052.228-70, "Insurance Requirements," in all solicitations and contracts that contain the clause at FAR 52.228-7.

PART 1029 TAXES

Subpart 1029.3 State and Local Taxes
1029.303 Application of State and local taxes to Government contractors and subcontractors.

Subpart 1029.3 State and Local Taxes

1029.303 Application of State and local taxes to Government contractors and subcontractors

(a) Submit requests for review per 1001.7000(a), after analysis by legal counsel.

PART 1030 COST ACCOUNTING STANDARDS ADMINISTRATION

Subpart 1030.2	CAS Program Requirements
1030.201	Contract requirements.
1030.201-5	Waiver.
1030.202	Disclosure requirements.
1030.202-2	Impracticality of submission.

Subpart 1030.2 CAS Program Requirements

1030.201 Contract requirements.

1030.201-5 Waiver.

Submit waiver requests per 1001.7000(a), for review and transmittal to the Cost Accounting Standard Board.

1030.202 Disclosure requirements.

1030.202-2 Impracticality of submission.

The AS(M)/CFO is authorized to determine that the Disclosure Statement is impractical to secure and authorize contract award without obtaining the statement.

PART 1031 CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1031.1 Applicability

1031.101 Objectives.

Subpart 1031.1 Applicability

1031.101 Objectives.

Submit deviations per 1001.7000(a).

PART 1032 CONTRACT FINANCING

- 1032.003** **Simplified acquisition procedures financing.**
- 1032.006** **Reduction or suspension of contract payments upon finding of fraud.**
- 1032.006-1** **General.**
- 1032.006-2** **Definition.**
- 1032.006-3** **Responsibilities.**

Subpart 1032.1 **Non-Commercial Item Purchase Financing**

- 1032.102 Description of contract financing methods.
- 1032.113 Customary contract financing.
- 1032.114 Unusual contract financing.

Subpart 1032.2 **Commercial Item Purchase Financing**

- 1032.202 General.
- 1032.202-1 Policy.
- 1032.202-4 Security for Government financing.

Subpart 1032.4 **Advance Payments for Non-Commercial Items**

- 1032.402 General.
- 1032.407 Interest.
- 1032.409 Contracting officer action.

Subpart 1032.8 **Assignment of Claims**

- 1032.803 Policies.

Subpart 1032.9 **Prompt Payment**

- 1032.906 Making payments.

Subpart 1032.11 **Electronic Funds Transfer**

- 1032.1109 EFT information submitted by offerors.

1032.003 **Simplified acquisition procedures financing.**

BCPOs must determine when contract financing for commercial items may be provided for purchases made under FAR Part 13.

1032.006 **Reduction or suspension of contract payments upon finding of fraud.**

1032.006-1 **General.**

(b) The required determination must be made by the AS(M)/CFO.

1032.006-2 **Definition.**

The SPE is Treasury's remedy coordination official (RCO).

1032.006-3 Responsibilities.

(a) The AS(M)/CFO will fulfill agency head responsibilities in FAR 32.006-4 and 32.006-5.

(b) Reports must be made through the BCPO to the RCO.

Subpart 1032.1 Non-Commercial Item Purchase Financing

1032.102 Description of contract financing methods.

(e)(2) Authorized if adequate safeguards and approved at one level above the CO.

1032.113 Customary contract financing.

The specified arrangements are considered customary within Treasury.

1032.114 Unusual contract financing.

Deviations must be approved by the SPE.

Subpart 1032.2 Commercial Item Purchase Financing

1032.202 General.

1032.202-1 Policy.

(b)(2) Commercial interim payments and commercial advance payments may also be made when the contract price is at or below the simplified acquisition threshold.

1032.202-4 Security for Government financing.

(a)(2) The required determination must be in writing, reviewed by legal counsel, and retained in the contract file.

Subpart 1032.4 Advance Payments for Non-Commercial Items

1032.402 General.

(e)(1) The SPE is responsible for making findings and determinations.

(e)(2) BCPOs must coordinate with the bureaus financing offices before requesting approval from the SPE.

1032.407 Interest.

(d) The SPE must make the authorization.

1032.409 Contracting officer action.

Submit recommendations under FAR 32.402 to BCPOs for coordination per DTAR 1032.402(e)(2) and SPE approval per DTAR 1001.7000(a).

Subpart 1032.8 Assignment of Claims

1032.803 Policies.

(d) Submit determination per DTAR 1001.7000(a).

Subpart 1032.9 Prompt Payment

1032.906 Making payments.

(a) The HCA may make the determination.

Subpart 1032.11 Electronic Funds Transfer

1032.1109 EFT information submitted by offerors.

Contracting officers must require offerors to submit EFT information prior to award.

PART 1033 PROTESTS, DISPUTES, AND APPEALS

Subpart 1033.1 Protests

- 1033.102 General.
- 1033.103 Protests to the agency.
- 1033.104 Protests to GAO.

Subpart 1033.2 Disputes and Appeals

- 1033.201 Definitions.
- 1033.203 Applicability.
- 1033.209 Suspected fraudulent claims.
- 1033.210 Contracting officer's authority.
- 1033.211 Contracting officer's decision.
- 1033.212 Contracting officer's duties upon appeal.
- 1033.213 Obligation to continue performance.

Subpart 1033.1 Protests

1033.102 General.

- (b) This determination may be made by the SPE.

1033.103 Protests to the agency.

(d)(3) Upon receipt of the agency protest, the CO must immediately notify the BCPO and legal counsel, providing the latter with a copy.

(d)(4) An independent review is available only as an appeal of the contracting officer's decision on an agency protest. The BCPO or the BCPO's designee will conduct independent reviews. The BCPO's designee must be at least one level above the contracting officer. In cases where the BCPO is the contracting officer/source selection authority, Treasury's Office of the Procurement Executive may conduct the independent review. Solicitations must specify the availability of the independent review.

1033.104 Protests to GAO.

(a)(3)(iv) The report must be appropriately titled and dated, cite the GAO file number, and be signed by the CO. Reports must be coordinated with legal counsel. Reports will be transmitted to GAO by the BCPO.

(a)(3)(iv)(B) If the protest is made before an award, the agency report must contain either a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties and/or additional Government expense, or, an estimate of the length of time an award may be delayed without difficulty in performance or significant expense.

(a)(4)(i) The protestor's copy must be hand-carried or express mailed. (Regular mail delivery will not suffice.)

(b)(1) The HCA must obtain legal counsel's review.

(c)(2) The HCA must obtain legal counsel's review.

Subpart 1033.2 Disputes and Appeals

1033.201 Definitions.

Agency Board of Contract Appeals means the General Services Administration Board of Contract Appeals (GSBCA). The GSBCA is the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of COs filed by contractors pursuant to FAR Subpart 33.2. Appeals must be governed by the Rules of the GSBCA (48 CFR Chapter 61, Part 6101).

1033.203 Applicability.

(b)(2) Submit request per 1001.7000(a).

1033.209 Suspected fraudulent claims.

COs must refer these matters to the OIG or other appropriate investigative organization.

1033.210 Contracting officer's authority.

It is the Treasury's policy to encourage the use of Alternate Disputes Resolution (ADR) procedures. A decision to use ADR procedures requires review and approval by legal counsel.

1033.211 Contracting officer's decision.

(a)(4)(v) Include specific reference to GSBCA, 18th and F Streets, NW, Washington, DC 20405.

1033.212 Contracting officer's duties upon appeal.

Your legal counsel is responsible for representing you before the GSBCA. Legal counsel will prepare all correspondence in connection with the appeal with the assistance of the CO and other appropriate personnel. COs must prepare the appeal file as prescribed in Rule 4 of the Rules of Procedure of the GSBCA. The file must be forwarded to legal counsel within 15 days from receipt of notice. Legal counsel must have 15 days to review the file, and file the appeal file with the GSBCA.

1033.213 Obligation to continue performance.

(b) At the discretion of the CO, FAR 52.233-1, Disputes, with its Alternate I may be used.

PART 1034 MAJOR SYSTEM ACQUISITION

Subpart	1034.0	General
	1034.003	Responsibilities.
	1034.004	Acquisition strategy.

Subpart 1034.0 General

1034.003 Responsibilities.

(a) The SPE is the Acquisition Executive under OMB Circular A-109. BCPOs should contact the SPE for further guidance as to applicability of OMB Circular A-109.

1034.004 Acquisition strategy.

An acquisition plan, written on a system basis in accordance with DTAR 1007.103(e), constitutes the program manager's acquisition strategy.

PART 1035 RESEARCH AND DEVELOPMENT CONTRACTING

1035.003 Policy.

1035.010 Scientific and Technical Reports.

1035.003 Policy.

Cost sharing and recoupment must be determined on a case-by-case basis. Recoupment not otherwise required by law should be structured to address factors such as recovering the Department's fair share of its investment in nonrecurring costs related to the items acquired. Advice of legal counsel must be obtained prior to establishing cost sharing policies and recoupment mechanisms under FAR 35.003(b) and (c).

1035.010 Scientific and technical reports.

(b) Prior to making R&D contract results available which involve classified or national security information, the CO must follow the procedures at FAR 4.403, as supplemented.

PART 1036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1036.2 Special Aspects of Contracting for Construction

- 1036.201 Evaluation of contractor performance.
- 1036.209 Construction contracts with architect-engineer firms.

Subpart 1036.6 Architect-Engineer Services

- 1036.602 Selection of firms for architect-engineer contracts.
 - 1036.602-1 Selection criteria.
 - 1036.602-2 Evaluation boards.
 - 1036.602-3 Evaluation board functions.
 - 1036.602-4 Selection authority.
 - 1036.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.
- 1036.603 Collecting data on and appraising firms qualifications.
- 1036.604 Performance evaluation.
- 1036.605 Government cost estimate for architect-engineer work.

Subpart 1036.2 Special Aspects of Contracting for Construction

1036.201 Evaluation of contractor performance.

(a)(2) Performance reports must be prepared and entered into the Contractor Performance System (CPS) on an annual basis for contracts exceeding one year.

(c)(1) COs must determine the appropriate distribution of the reports.

(c)(2) COs are encouraged to contact other bureaus for performance reports.

1036.209 Construction contracts with architect-engineer firms.

BCPOs must submit requests to the SPE for approval and include: (1) the reason(s) why award to the design firm is required; (2) an analysis of the facts involving potential or actual organizational conflicts of interest, including benefits and detriments to the Government and prospective contractor; and (3) measures to be taken to avoid, neutralize, or mitigate conflicts of interest.

Subpart 1036.6 Architect-Engineer Services

1036.602 Selection of firms for architect-engineer contracts.

1036.602-1 Selection criteria.

(b) BCPOs may approve the use of design competition.

1036.602-2 Evaluation boards.

(a) BCPOs are authorized to establish evaluation boards. Private practitioners of architecture, engineering, or related professions may be appointed as deemed necessary by the BCPO.

1036.602-3 Evaluation board functions.

(d) The selection report must be prepared for the BCPO.

1036.602-4 Selection authority.

(a) BCPOs must serve as the designated selection authority.

1036.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Bureaus are authorized to use either process.

1036.603 Collecting data on and appraising firms' qualifications.

(a) BCPOs must establish appropriate procedures. The procedures must include a list of names, addresses, and phone numbers of offices or boards assigned to maintain architect-engineer qualification data files.

1036.604 Performance evaluation.

(c) Performance reports must be distributed to bureau distribution points.

1036.605 Government cost estimate for architect-engineer work.

(b) COs may release Government estimates on an as-needed basis.

PART 1037 SERVICE CONTRACTING

- Subpart 1037.1 Service Contracts -- General**
1037.103 Contracting officer responsibility.
1037.104 Personal services contracts.
1037.112 Government use of private sector temporaries.
1037.113 Severance payments to foreign nationals.
1037.113-1 Waiver of cost allowability limitations.
- Subpart 1037.2 Advisory and Assistance Services**
1037.204 Guidelines for determining availability of personnel.

Subpart 1037.6 Performance-Based Contracting

Subpart 1037.1 Service Contracts -- General

1037.103 Contracting officer responsibility.

(a) COs must ensure that service contracts comply with the following Office of Federal Procurement Policy Letters:

- No. 92-1, Inherently Governmental Functions; and
- No. 93-1, Management Oversight of Service Contracting.

1037.104 Personal services contracts.

(b) Refer all personal services requirements to the bureau personnel officer for determination of whether the appointment is authorized by statute.

1037.112 Government use of private sector temporaries.

All actions must be coordinated with the bureau personnel officer.

1037.113 Severance payments to foreign nationals.

1037.113-1 Waiver of cost allowability limitations.

(a) The SPE may make the required waiver.

Subpart 1037.2 Advisory and Assistance Services

1037.204 Guidelines for determining availability of personnel.

Determinations must be made by the BCPO.

Subpart 1037.6 Performance-Based Contracting

Each bureau must name a performance-based contracting advocate (PBCA), who will review all eligible service solicitations in excess of \$100,000. The PBCA must work to ensure that their bureau meets or exceeds the performance-based contracting goals set by the Office of Federal Procurement Policy, and will be required to sign determination and findings prepared under Subpart 1007.105.

PART 1038 FEDERAL SUPPLY SCHEDULE CONTRACTING

There is no text implementing or supplementing FAR Part 38.

PART 1039 ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 1039.1 General
1039.101 Policy.

Subpart 1039.1 General

1039.101 Policy.

Treasury Directive 81-01, Treasury Information Technology (IT) Programs, and the IT Manual provide policy and guidance for the information resources management and IT programs.

PART 1040

[RESERVED]

PART 1041 ACQUISITION OF UTILITY SERVICES

Subpart 1041.1 General

1041.103 Statutory and delegated authority.

Subpart 1041.1 General

1041.103 Statutory and delegated authority.

(b) Requests for delegations of contracting authority must be referred by the BCPO to the SPE for forwarding to GSA.

PART 1042 CONTRACT ADMINISTRATION AND AUDIT SERVICES

1042.002 Interagency Agreements

Subpart 1042.1 Contract Audit Services
1042.102 Assignment of contract audit services.

Subpart 1042.7 Indirect Cost Rates
1042.703 General.
1042.703-2 Certificate of indirect costs.

Subpart 1042.15 Contractor Performance Information
1042.1502 Policy.

1042.002 Interagency agreements.

(a) Cross-servicing arrangements established to acquire field contract administration must be coordinated in advance with the SPE to determine whether there should be a Department-wide arrangement.

Subpart 1042.1 Contract Audit Services

1042.102 Assignment of contract audit services.

(a) Requests for audit services must be in accordance with TD 76-06, "Request for Contract Audit Services."

Subpart 1042.7 Indirect Cost Rates

1042.703 General.

1042.703-2 Certificate of indirect costs.

(b) BCPOs may waive certification requirements.

Subpart 1042.15 Contractor Performance Information

1042.1502 Policy.

(a) Bureaus must use the Contractor Performance System (CPS) for evaluating contractor performance in accordance with FAR 42.1502 and 1503.

PART 1043 CONTRACT MODIFICATIONS

Subpart 1043.1 General

1043.102 Policy.

Subpart 1043.2 Change Orders

1043.205 Contract clauses.

Subpart 1043.1 General

1043.102 Policy

All modifications increasing the estimated value of the contract by 50% or more must be approved by the BCPO prior to execution. COs must include in the contract file a determination that a proposed modification is within the general scope of the agreement. Legal counsel must be consulted in doubtful or unusual situations such as when modifications, other than original contract options increase the total contract price by 20% or more. Multiple modifications shall not be awarded to avoid this approval. New work modifications require the same level of documentation as a new contract.

Subpart 1043.2 Change Orders

1043.205 Contract clauses.

COs may modify the 30 day period in the clauses as specified in FAR 43.205.

PART 1044 SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1044.3 Contractors' Purchasing Systems Reviews
1044.302 Requirements.

Subpart 1044.3 Contractors' Purchasing Systems Reviews

1044.302 Requirements.

(a) The SPE is authorized to lower or raise the \$25 million review level. Submit requests per 1001.7000(a).

PART 1045 GOVERNMENT PROPERTY

Subpart 1045.3	Providing Government Property to Contractors
1045.302	Providing facilities.
1045.302-1	Policy.
Subpart 1045.4	Contractor Use and Rental of Government Property
1045.403	Rental - Use and Charges clause.
1045.407	Non-Government use of plant equipment.
Subpart 1045.6	Reporting, Redistribution, and Disposal of Contractor Inventory
1045.608	Screening of contractor inventory.
1045.608-6	Waiver of screening requirements.
1045.610	Sale of surplus contractor inventory.
1045.610-2	Exemptions from sale by GSA.

Subpart 1045.3 Providing Government Property to Contractors

1045.302 Providing facilities.

1045.302-1 Policy.

(a)(4) The SPE is authorized to make the required D&F for facilities contracts. Bureau heads, or their designees, are authorized to make the required D&F for other contracts.

Subpart 1045.4 Contractor Use and Rental of Government Property

1045.403 Rental - Use and Charges clause.

(a) The SPE is authorized to make the specified determination.

1045.407 Non-Government use of plant equipment.

(a) The SPE is authorized to make the required approval.

Subpart 1045.6 Reporting, Redistribution, and Disposal of Contractor Inventory

1045.608 Screening of contractor inventory.

1045.608-6 Waiver of screening requirements.

Submit requests per 1001.7000(a).

1045.610 Sale of surplus contractor inventory.

1045.610-2 Exemptions from sale by GSA.

- (a) BCPOs must request exemptions through the SPE to GSA.

PART 1046 QUALITY ASSURANCE

Subpart 1046.4 Government Contract Quality Assurance
1046.401 General.

Subpart 1046.6 Material Inspection and Receiving Reports
1046.670 Inspection and receiving report.
1046.671 Acceptance report.
1046.672 Inspection, acceptance and receiving report.

Subpart 1046.7 Warranties
1046.704 Authority for use of warranties.
1046.708 Warranties of data.

Subpart 1046.4 Government Contract Quality Assurance

1046.401 General.

(f) Inspection must be documented as prescribed in DTAR 1046.6.

Subpart 1046.6 Material Inspection and Receiving Reports

1046.670 Inspection and receiving report.

(a) Unless otherwise prescribed by bureau procedures, a receiving report statement must be signed by the authorized Government representative to evidence Government inspection and receipt, except for simplified acquisitions using OF 347. The receiving report must be completed at the place(s) specified in the contract for performance of Government quality assurance.

(b) For simplified acquisitions using OF 347, or an equivalent authorized bureau form, the receiving report section must be completed for inspection and receipt and signed by the authorized Government representative.

1046.671 Acceptance report.

(a) Unless otherwise prescribed by bureau procedures, an acceptance report statement must be signed by the authorized Government representative to evidence Government acceptance, except for simplified acquisitions using OF 347. The acceptance report must be completed at the place(s) specified in the contract for Government acceptance.

(b) For simplified acquisitions using OF 347, or an equivalent, authorized bureau form, the receiving report section must be completed for acceptance and signed by the authorized Government representative.

1046.672 Inspection, Acceptance and Receiving Report.

All contract and order files must contain the following information, in a bureau authorized form or format, when OF 347, or an equivalent, has not been used:

Date:

Contract Number:

Modification Number:

Contractor's Name:

Date items received or date recurring payment due:

Location where items were delivered or contractor's performance:

All the requirements have been inspected, received and accepted by me and meet the terms of the contract except as noted below:

List the requirements that were not accepted and/or the deductions made and state the reason why:

Total amount of deductions:

Signature of authorized government representative:

Title of authorized government representative:

Date signed:

Subpart 1046.7 Warranties

1046.704 Authority for use of warranties.

COs are authorized to approve the use of warranties.

1046.708 Warranties of data.

Warranties of data must be used only after consultation with legal counsel.

PART 1047 TRANSPORTATION

Subpart 1047.5 Ocean Transportation by U.S. - Flag Vessels
1047.506 Procedures.

Subpart 1047.5 Ocean Transportation by U.S. - Flag Vessels
1047.506 Procedures.

(d) COs must submit, where obtainable, a properly notated and legible copy of the ocean bill of lading in English to: Office of National Cargo and compliance, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590. If a bill of lading cannot be obtained, COs shall submit the information described in 46 C.F.R. § 381.3(a).

PART 1048 VALUE ENGINEERING

1048.001 Definitions.

Subpart 1048.1 Policies and Procedures

1048.102 Policies.

1048.103 Processing value engineering change proposals (VECPs)

1048.001 Definitions.

"Value engineering" includes technology refreshment and technology enhancement.

Subpart 1048.1 Policies and Procedures

1048.102 Policies.

(a) Submit requests per 1001.7000(a). Exemptions will be retained in the contract file.

(b)(1) Bureaus must establish required procedures.

1048.103 Processing value engineering change proposals (VECPs)

(a) Bureau technical personnel are responsible for: conducting a comprehensive review of VECPs for technical feasibility, usefulness, and adequacy of the contractor's estimate of cost savings; making a written report; and recommending acceptance or rejection to the CO.

(b) Bureaus must establish systems to track VECPs.

PART 1049 TERMINATION OF CONTRACTS

Subpart 1049.1 General Principles
1049.106 Fraud or other criminal conduct.

Subpart 1049.1 General Principles

1049.106 Fraud or other criminal conduct.

Whenever fraud, such as falsified documents, false statements, or other criminal conduct related to the settlement of a terminated contract is reasonably suspected, the CO must discontinue negotiations and prepare a report of facts. Submit an informational copy of the report through legal counsel to the BCPO and OIG, or other investigatory organization, along with copies of documents or other information connected with the suspected violations(s). Submit a copy of the report to the debarring/suspension official.

PART 1050 EXTRAORDINARY CONTRACTUAL ACTIONS

- Subpart 1050.1 General**
1050.105 Records.
- Subpart 1050.2 Delegation of and Limitations on Exercise of Authority**
1050.201 Delegation of authority.
- Subpart 1050.3 Contract Adjustments**
1050.305 Processing cases.
- Subpart 1050.4 Residual Powers**
1050.402 General.
1050.403 Special procedures for unusually hazardous or nuclear risks.
1050.403-2 Action on indemnification requests.

Subpart 1050.1 General

1050.105 Records.

The records must be maintained by OPE.

Subpart 1050.2 Delegation of and Limitations on Exercise of Authority

1050.201 Delegation of authority.

The AS(M)/CFO is authorized to approve all actions under FAR Part 50, except indemnification actions listed in FAR 50.201(d).

Subpart 1050.3 Contract Adjustments

1050.305 Processing cases.

COs must prepare written reports, including information in FAR 50.303 and 50.304, and draft Memoranda of Decision (see FAR 50.306). Submit report, after legal review and any comments/concerns addressed, per 1001.7000(b).

Subpart 1050.4 Residual Powers

1050.402 General.

(a) Proposals for the exercise of residual powers must be processed using the procedures in DTAR 1050.305.

1050.403 Special procedures for unusually hazardous or nuclear risks.

1050.403-2 Action on indemnification requests.

(a) The CO submission must include the contractor's indemnification request and a draft Memorandum of Decision for signature by the Secretary. After review by legal counsel and any comments/concerns addressed, submit per 1001.7000(b).

PART 1051 USE OF GOVERNMENT SOURCES BY CONTRACTORS

There is no text implementing or supplementing FAR Part 51.

PART 1052 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2	Texts of Provisions and Clauses
1052.201-70	Contracting Officer's Technical Representative (COTR) Appointment and Authority.
1052.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
1052.203-12	Limitation on Payments to Influence Certain Federal Transactions
1052.219-18	Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (Deviation).
1052.219-70	SF 294 and SF 295 Reporting.
1052.219-71	Subcontracting Plan.
1052.219.72	Section 8(a) Direct Awards.
1052.219-73	Department of the Treasury Mentor-Protégé Program.
1052.219-74	Evaluation of Offeror Participation in the Department of the Treasury Mentor Protégé Program.
1052.219-75	Mentor Requirements and Evaluation.
1052.228-70	Insurance Requirements.

Subpart 1052.2 Texts of Provisions and Clauses

1052.201-70 Contracting Officer's Technical Representative (COTR) Appointment and Authority.

As prescribed in 1001.670-6, insert the following clause:

**CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)
APPOINTMENT AND AUTHORITY (APR 2004)**

(a) The contracting officer's technical representative is

[insert name, address and telephone number].

(b) Performance of work under this contract must be subject to the technical direction of the COTR identified above, or a representative designated in writing. The term "technical direction" includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.

(c) Technical direction must be within the scope of the specification(s)/work statement. The COTR does not have authority to issue technical direction that:

(1) constitutes a change of assignment or additional work outside the specification(s)/work statement;

(2) constitutes a change as defined in the clause entitled "Changes";

(3) in any manner causes an increase or decrease in the contract price, or the time required for contract performance;

(4) changes any of the terms, conditions, or specification(s)/work statement of the contract;

(5) interferes with the contractor's right to perform under the terms and conditions of the contract; or

(6) directs, supervises or otherwise controls the actions of the contractor's employees.

(d) Technical direction may be oral or in writing. The COTR shall confirm oral direction in writing within five work days, with a copy to the contracting officer.

(e) The contractor shall proceed promptly with performance resulting from the technical direction issued by the COTR. If, in the opinion of the contractor, any direction of the COTR, or his/her designee, falls within the limitations in (c), above, the contractor shall immediately notify the contracting officer no later than the beginning of the next Government work day.

(f) Failure of the contractor and the contracting officer to agree that technical direction is within the scope of the contract shall be subject to the terms of the clause entitled "Disputes."

(End of clause)

1052.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (DEVIATION).

As prescribed in DTAR 1003.870(a), insert the following clause:

**CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS
TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
(APR 1991)(DEVIATION)**

(a) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitations on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989,--

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a Federal contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 must certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

1052.203-12 Limitation on Payments to Influence Certain Federal Transactions (DEVIATION).

As prescribed in DTAR 1003.870(b), insert the following clause:

LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JAN 1990) (DEVIATION)

(a) *Definitions.*

- Agency," as used in this clause, means executive agency as defined in 2.101.
- Covered Federal action," as used in this clause, means any of the following Federal actions:

- (a) The awarding of any Federal contract.
- (b) The making of any Federal grant.
- (c) The making of any Federal loan.

(d) The entering into of any cooperative agreement.

(e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

•Indian tribe" and •tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan natives.

•Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or an appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

•Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

•Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

(a) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.

(b) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(c) A special Government employee, as defined in section 202, title 18, United States Code.

(d) An individual who is a member of a Federal Advisory Committee Act, title 5, United States Code, appendix 2.

•Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

•Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for such work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

•Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

•Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

•Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

•State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) *Prohibitions.*

(1) Section 1352 of title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: The awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) *Agency and legislative liaison by own employees.*

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or

employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action-

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of any unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provision of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) *Professional and technical services.*

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of-

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or

technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. The following examples are not intended to be all inclusive, to limit the application of the professional or technical exemption provided in the law, or to limit the exemption to licensed professionals. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communication with a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communication with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of an bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officer or employees of a person.

(iii) *Selling activities by independent sales representatives.*

The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(A) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(B) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(c) *Disclosure.*

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to *include* profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes-

(i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(d) *Agreement.* The Contractor agrees not to make any payment prohibited by this clause.

(e) *Penalties.*

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided by 31 USC 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(End of clause)

52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (Deviation) (May 1998)

In accordance with 1019.811-3(d)(3), substitute the following for the paragraph (c) in 52.219-18:

(c) Any award resulting from this solicitation will be made directly by the contracting officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

1052.219-70 SF 294 and SF 295 Reporting.

As prescribed in 1019.708-70(a), insert the following clause:

SF 294 AND SF 295 REPORTING (MAR 2002)

In accordance with the clause entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan" in Section I and the contract schedule, SF 294 and SF 295 reports shall be submitted to the following personnel:

ADDRESSEE	SUBMIT SF 294	SUBMIT SF 295
Contracting Officer (Address shown on front of contract)	Original	Original
Small Business Specialist [Insert Bureau name and address]	Copy	Copy
Department of the Treasury Office of Small Business Development (MMD) 1500 Pennsylvania Avenue, NW c/o 1310 G St., NW, Suite 400W Washington, DC 20220	N/A	Copy

(End of clause)

1052.219-71 Subcontracting Plan.

As prescribed in 1019.708-70(b), insert the following provision:

SUBCONTRACTING PLAN (MAR 2002)

As part of its initial proposal, each large business offeror shall submit a subcontracting plan, as prescribed in FAR 52.219-9. Use of the subcontracting plan outline contained in Section J of this solicitation is optional, however, plans must contain all elements included in the outline.

(End of provision)

1052.219-72 Section 8(a) Direct Awards

As prescribed in 1019.811-3(f), insert the following clause:

Section 8(a) Direct Awards (MAR 2002)

(a) This purchase order or contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to the Memorandum of Understanding between the Small Business Administration (SBA) and the Department of the Treasury. SBA retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and provides counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is:

[To be completed by the contracting officer at the time of award]

(b) The contracting officer is responsible for administering the purchase order or contract and taking any action on behalf of the Government under the terms and conditions of the purchase order or contract. However, the contracting officer shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the purchase order or contract. The contracting officer shall also coordinate with SBA prior to processing any novation agreement. The contracting officer may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) to notify the contracting officer, simultaneously with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based, plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of control; and,

(2) to adhere to the requirements of FAR 52.219-14, Limitations on Subcontracting.

(End of clause)

1052.219-73 Department of the Treasury Mentor-Protégé Program.

As described in 1019.202-70, insert the following provision:

Department of the Treasury Mentor Protégé Program (January 2000)

(a) Large and small businesses are encouraged to participate in the Department of the Treasury Mentor-Protégé Program. Mentor firms provide small business protégés with developmental assistance to enhance their business capabilities and ability to obtain federal contracts.

Mentor firms are large prime contractors or eligible small businesses capable of providing developmental assistance. Protégé firms are small businesses, as defined in 13 CFR 121, 124, and 126.

Developmental assistance is technical, managerial, financial, and other mutually beneficial assistance to aid protégés. Contractors interested in participating in the Program are encouraged to contact the Department of the Treasury OSBD or the Bureau of the OSBD for further information.

(End of provision)

1052.219-74 Reserved

1052.219-75 Mentor Requirements and Evaluation

As prescribed in 1019.202-70, insert the following clause:

Mentor Requirements and Evaluation (January 2000)

(a) Mentor and protégé firms shall submit an evaluation to the Department of the Treasury's OSBD at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor Protégé Program, the prime contractor and protégé will formally brief the Department of the Treasury Mentor-Protégé Program Manager regarding program accomplishments under their mentor-protégé agreements.

(b) A mentor or protégé shall notify the OSBD and the contracting officer, in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program. A mentor firm shall notify the OSBD and the contracting officer upon receipt of a protégé's notice of withdrawal from the Program.

(End of clause)

1052.228-70 Insurance Requirements.

As prescribed in 1028.310-70 and 1028.311-1, insert a clause substantially as follows. The contracting officer may specify additional kinds (e.g., aircraft public and passenger liability, vessel liability) or increased amounts of insurance.

INSURANCE (MAR 2002)

In accordance with the clause entitled "Insurance - Work on a Government Installation" [or "Insurance - Liability to Third Persons"] in Section I, insurance of the following kinds and minimum amounts shall be provided and maintained during the period of performance of this contract:

(a) Worker's compensation and employer's liability. The contractor shall, as a minimum, meet the requirements specified at FAR 28.307-2(a).

(b) General liability. The contractor shall, as a minimum, meet the requirements specified at FAR 28.307-2(b).

(c) Automobile liability. The contractor shall, as a minimum, meet the requirements specified at FAR 28.307-2(c).

(End of clause)

PART 1053 FORMS

Subpart 1053.1 General

1053.101 Requirements for use of forms.

1053.103 Exceptions.

Subpart 1053.2 Prescription of Forms

1053.270 Department of the Treasury forms (TD F)

Subpart 1053.3 Illustrations of Forms

1053.303 Agency forms.

Subpart 1053 General

1053.101 Requirements for use of forms.

Unless excepted, forms prescribed in FAR Part 53 and DTAR Part 1053 are required for use by all bureaus.

1053.103 Exceptions.

Requests for exceptions to forms contained in FAR part 53 and to Treasury forms (TD F) in Part 1053 shall be submitted, as prescribed in FAR 53.103, to the SPE.

Subpart 1053.2 Prescription of Forms

1053.270 Department of the Treasury forms (TD F).

(a) TD F 76-01.1, "Purchase/Delivery Order/BPA Record" - This form must be used in accordance with DTAR 1013.106.

(b) TD F 76-01.6, "Justification for Other Than Full and Open Competition" - This form may be used in accordance with DTAR 1006.303-2(a)(1).

(c) TD F 76-01.2, "Record of Profit/Fee Prenegotiation Objective" - This form must be used in accordance with DTAR 1015.404-4(b).

Subpart 1053.3 Illustrations of Forms

1053.303 Agency forms.

This section illustrates agency-specified forms:

Cross Reference Documentation: Basic documents filed with:

- A. P.O./D.O./BPA/Contract No. _____
- B. Contractor: _____

Method of Procurement (Check One)

- A. Priority Source of Supply
 - (1) Federal Prison Industries, Inc.
 - (2) Industries for the Blind or Severely Handicapped
 - (3) Available from specified sources
 - (4) Treasury/Bureau requirements contract
 - (5) Federal Supply Schedule (FSS) (Mandatory)
- B. FSS (other). _____ Sources Sought (see file for explanation of only one source solicited)
- C. Treasury/Bureau Indefinite Delivery Contract
- D. Other Government Agency Contract
- E. Open Market
 - (1) BPA (competitive/multiple BPAs _____ are _____ are not established for the same or similar supplies/services)
 - (2) Competitive: _____ vendors solicited/ responded
 - (3) Non-competitive:
 - (a) Micro-purchase (if other than above)
 - (b) Educational services from nonprofit institution
 - (c) Utility available from only one source
 - (d) Other Sole Source (See file for explanation)

Basis For Award (Above Micro Purchase Ceiling)

- A. Mandatory Source of Supply
- B. Other Contracts. Single award _____ Multiple Award _____*
- C. Open Market
 - (1) Competitive, low offer
 - (2) Competitive, other than low offer (explanation attached)
 - (3) Non-competitive (explanation attached)
- D. Commercial Item Acquisition
 - Streamlined procedures (FAR 12.6)
 - Test program for Certain Commercial Items (FAR 13.5)

*If other than lowest overall price, see analysis in file

Electronic Commerce: Pursuant To FAR 4.502

- A. EC/FBO** applicable. Procedures used.
- B. EC/FBO applicable. Procedures not used (See file for waiver)
- C. EC/FBO not applicable

**Federal Business Opportunities (FBO)

5. Reasonableness of Price: Pursuant to FAR 13.106-3

The price is fair and reasonable based upon the following (check all that apply):

- A. Micro purchase
- B. Effective competition from _____ sources obtained
- C. Price set by statute or tariff
- D. Prices determined by mandatory/priority source
- E. Other contract determined price fair and reasonable
- F. Current price lists, catalogs, advertisements (attach copy/cite number, date, page number)
- G. Market Research (analysis in file)
- H. Comparison with prices found reasonable on Previous purchases, as stated below:

<u>Order No.</u>	<u>Contractor</u>	<u>Date</u>	<u>Unit Price Paid</u>
------------------	-------------------	-------------	------------------------

- I. Comparisons with prices of same/similar items in related industry (analysis in file)
- J. Value analysis (analysis in file)
- K. Contracting Officer's personal knowledge of item (explanation in file)
- L. Other

6. Justification for Dissolving Small Business Set-Aside (Above Micro Purchase Ceiling)

This item is not set-aside for small business because:

- A. The order is awarded to a mandatory source of supply.
- B. The order is issued against a FSS or other Government contract.
- C. The contract is non-competitive (See block 2 above)
- D. Foreign purchase [FAR 25.100 and 25.101(b)]
- E. There is no reasonable expectation of obtaining quotations from two or more responsible small business concerns that will be competitive in terms of market price, quality and delivery. [FAR 19.502-2(a)].
- F. No reasonable quotes were received from small businesses. [FAR 19.502-2(a)]

Small Business Specialist (Over \$25,000)	Date
--	------



**DEPARTMENT OF THE TREASURY - DEPARTMENTAL OFFICES
 JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION
 (JOFOC)**

I recommend that the **U.S. DEPARTMENT OF THE TREASURY** use other than full and open competition for the acquisition of the following supplies or services. If this acquisition is to be made with only one source or a limited number of sources, negotiations will be conducted with the indicated proposed supplier(s):

1. DESCRIPTION OF SUPPLIES OR SERVICES

2. REQUISITION NO.

4. NAME(S) OF PROPOSED SOURCE(S)

3. COST ESTIMATE

REQUESTING OFFICE CERTIFICATION

I certify that the attached justification is accurate, and contains complete data necessary to support the recommendation for other than full and open competition.

5. REQUESTING OFFICE REPRESENTATIVE <i>(Name & Title)</i>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
--	--------------------	--------------------	---------------

SMALL BUSINESS CERTIFICATION

I have conducted a search of vendor files, SF-129s, the Treasury Contractor Profile Data Base on the World Wide Web and SBA's PASS system to locate potential offerors for this procurement. If any were found, a list is attached.

6. SMALL BUSINESS SPECIALIST <i>(Name & Title)</i>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
---	--------------------	--------------------	---------------

PROCUREMENT OFFICE CERTIFICATION



**DEPARTMENT OF THE TREASURY - DEPARTMENTAL OFFICES
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION
(JOFOC)**

This requirement will will not provide for a bridge contract.

I certify that this submission is accurate, and that it contains complete information necessary to enable Approving Officials to make an informed recommendation for approval or disapproval.

7. ASSIGNED CONTRACTING OFFICER (Name)	(Signature)	(Phone No.)	(Date)
---	-------------	-------------	--------

|

Before requesting this procurement, state one statutory authority for this procurement to be conducted under "other than full and open competition" procedures. Provide narrative justification associated with the respective stated authority in block number 15.

THE COMPETITION IN CONTRACTING ACT OF 1984 (P.L.98-369)

41 USC 253(c)(1) - Only one responsible source

(8) This authority shall be used in preference to the Public Interest justification. It shall not be used when any of the other circumstances is applicable. (Explain what makes this contractor the only responsible source: i.e., does this proposed contractor have facilities or equipment that are specialized and vital to the effort? Is the proposed contractor the only one that can meet critical schedules? Does the proposed contractor have prior experience of a highly specialized nature vital to the effort? Why won't any other product or service satisfy the need? Describe the market survey and analysis efforts leading to this conclusion.)

41 USC 253(c)(2) - Unusual and compelling urgency

(9) This authority applies in those situations where (1) an unusual and compelling urgency precludes full and open competition, and (2) delay in award of contract would result in serious injury, financial or other, to the Government. (Explain why the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless it limited the number of sources. Solicitation from as many potential sources as is practicable under the circumstances is required.)

41 USC 253(c)(3) - Industrial mobilization; engineering, developmental, or research capability; or expert services

(10) This authority applies when it is necessary to award the contract to a particular source or sources in order to (1) maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization, or (2) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or (3) to acquire the services of an expert for any current or anticipated litigation or dispute. (Does the proposed contractor have facilities and equipment that are vital in the event of a national emergency? Is the proposed contract to maintain properly balanced sources of supply for meeting the requirements of acquisition of programs in the interest of industrial mobilization? Is the proposed contract to create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States or the United States and Canada?)

41 USC 253(c)(4) - International agreement

(11) This authority may be used when the acquisition is to be reimbursed by a foreign country that requires the product to be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or, when services are to be performed, or supplies are to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited. (Cite the international agreement or treaty between the United States and the foreign government or international organization that precludes full and open competition. Provide the written directions of the foreign government reimbursing the agency for the cost of the acquisition, which precludes full and open competition.)

41 USC 253(c)(5) - Authorized or required by statute

(12) This authority may be used when a statute expressly authorizes that the acquisition be made through another agency or from a specified source. (Cite the authority that expressly authorizes that the acquisition be made through another agency or from a specified source, and attach a copy of the statute.) Note: While this statutory exception includes the small disadvantaged business 8(a) set-aside program, a JOFOC is not required for this type of procurement.

41 USC 253(c)(6) - National Security

(13) This authority may be used for any acquisition when disclosure of the Government's needs would compromise national security. It will not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract. (Explain why the disclosure of the Government's needs would compromise the national security or violate security requirements.)

2

41 USC 253(c)(7) - Public Interest

(14) This authority may be used when none of the other authorities above apply. Individual justification, Secretarial approval, and Congressional notification 30 days before award of the contract are required.

15. JUSTIFICATION *(Attach additional pages if needed)*

(A) DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS OR THE NATURE OF THE ACQUISITION REQUIRES USE OF THE AUTHORITY CITED.

(B) DESCRIBE THE EFFORTS TAKEN TO ENSURE OFFERS WERE SOLICITED FROM AS MANY POTENTIAL SOURCES AS IS PRACTICABLE, INCLUDING WHETHER A COMMERCE BUSINESS DAILY (CBD) NOTICE WAS OR WILL BE PUBLISHED AS REQUIRED BY SUBPART 5.2 AND, IF NOT, WHICH EXCEPTION UNDER 5.202 APPLIES.

(C) DEMONSTRATION THAT THE ANTICIPATED COST TO THE GOVERNMENT WILL BE FAIR AND REASONABLE.

15. JUSTIFICATION CONTINUED (*Attach additional pages if needed*)

(D) DESCRIBE THE MARKET SURVEY THAT WAS CONDUCTED AND THE RESULTS OF THAT SURVEY. IF ACTIONS WERE TAKEN BY PROCUREMENT PERSONNEL TO SATISFY THIS REQUIREMENT SUCH AS A CBD SOURCES SOUGHT SYNOPSIS, PLEASE SPECIFY.

(E) DESCRIBE ANY OTHER DOCUMENTATION TO SUPPORT THE JOFOC.

(F) LIST SOURCES, IF ANY, THAT EXPRESSED, IN WRITING, AN INTEREST IN THE ACQUISITION.

15. JUSTIFICATION CONTINUED (*Attach additional pages if needed*)

(G) LIST THE ACTIONS THE BUREAU WILL TAKE TO PROMOTE COMPETITION ON ANY SUBSEQUENT ACQUISITIONS FOR SIMILAR SUPPLIES OR SERVICES.

(H) STATEMENT THAT REQUIREMENT DOES NOT RESULT FROM A LACK OF PLANNING OR THE EXPIRATION OF FUNDS.

16. COMPETITION REVIEW BOARD RECOMMENDATION (OPTIONAL)

_____ APPROVE

_____ DISAPPROVE

<i>(Name & Title)</i>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
<i>(Name & Title)</i>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
<i>(Name & Title)</i>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
ADDITIONAL APPROVALS			

17. BUREAU COMPETITION ADVOCATE <i>(Name & Title)</i> (Over \$500,000) <input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
18. BUREAU HEAD OR SENIOR EXECUTIVE SERVICE <i>(Signature)</i> DESIGNEE <i>(Name & Title)</i> (Over \$10 Million) <input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
19. SENIOR PROCUREMENT EXECUTIVE <i>(Name & Title)</i> (Over \$50 Million) <input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>

NOTE: Each review must be preceded by lower level approval(s), e.g., over \$50 million all approvals are required. IN NO CASE WILL AN INDIVIDUAL SIGN MORE THAN ONE APPROVAL LEVEL

INSTRUCTIONS FOR COMPLETING FORM

Block No.

- 5 Requesting Office Representative
- 6 Small Business Specialist
- 7 Assigned Contracting Officer
- 16 Competition Review Board (optional)
- 17 Bureau Competition Advocate (over \$500,000)
- 18 Bureau Head or Designee (over \$10 Million)
- 19 Senior Procurement Executive (over \$50 Million)

GUIDANCE ON COMPLETING CERTAIN BLOCKS

- 3 The cost estimate shall include all options/system life costs (as applicable).
- 4 Be sure to include more than one source as a proposed contractor, unless you are citing 41 USC 253(c)(1). For example, if the procurement is based on unusual and compelling urgency, you must still solicit from as many potential sources as is practicable unless the justification for urgency contains detailed documentation to show that it is not practicable under the circumstances to solicit additional sources (see FAR 6.3022 (c) (2)).

GENERAL, CERTIFICATION, AND REVIEW REQUIREMENTS

- 5 The Requesting Office Representative is responsible for completing Blocks 1 through 5, checking only one block on Page 2 (Blocks 8 through 14), and completing Block 15. Send the JOFOC, complete with all required information to support the justification, to the procurement office.

STATUTORY AUTHORITY

- 8-14 For Information Technology procurements of specific make and model items, the statutory authority generally will be 41 USC 253(c)(1) - only one responsible source. For all procurements, the specific authority shall be cited, and the justification on Pages 3 to 5 must be clear and concise as to how that authority is related to the requested procurement. However, in all cases only one statutory authority is to be used.

JUSTIFICATION

- 15 Each justification shall contain sufficient facts and rationale to justify the use of the specific authority cited. As a minimum, each justification shall include the following information:
 - (A) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.
 - (B) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a CBD notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception under FAR 5.202 applies.
 - (C) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

(D) A description of the market research conducted (see FAR Part 10) and the results or a

(E) Any other facts supporting the use of other than full and open competition, such as:

descriptions, (i) Explanation of why technical data packages, specifications, engineering
competition statements of work, or purchase descriptions suitable for full and open
have not been developed or are not available.

1 (ii) When FAR 6.302-1 is cited for a follow-on acquisition as described in FAR 6.302-
duplicated and how (a)(2)(ii), an estimate of the cost to the Government that would be
the estimate was derived.

(iii) When FAR 6.302-2 is cited, data, estimated cost, or other rationale as to the extent

(F) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

barriers (G) A statement of the actions, if any, the agency will take to remove or overcome any
required. to compete before any subsequent acquisition for the supplies or services is
required.

(H) A statement that the requirement does not result from a lack of planning or the expiration
of funds.

OTHER APPROVAL REQUIREMENTS

16-19 If any person required to sign in these blocks does not approve, the procurement shall not
proceed any further and the JOFOC shall be returned to the requisitioner with a written determination as
to why the JOFOC was not approved. When appropriate, an informational copy of this determination is
to be forwarded to the Contracting Officer and Bureau Competition Advocate. All signatures required on
the form (as applicable to the particular procurement) must appear in order for the procurement to be
valid.

NOTE: ANY SIGNIFICANT CHANGE TO THE REQUIREMENT OR COST ESTIMATE MUST BE
APPROVED BY ALL REVIEWERS (THIS CAN BE ACCOMPLISHED BY HAVING
EACH
PERSON INITIAL AND DATE NEXT TO HIS/HER SIGNATURE, OR BY SEPARATE

DISTRIBUTION:

ORIGINAL - CONTRACT FILE
COPY - BUREAU COMPETITION ADVOCATE

RECORD OF PROFIT/FEE PRENEGOTIATION OBJECTIVE					TD F 76-01.2
CONTRACT/SOLICITATION NUMBER		NAME OF CONTRACTOR/OFFEROR			CONTRACT TYPE
PROGRAM NAME/DESCRIPTION				TYPE OF EFFORT (e.g., supplies, services, R&D)	
PROFIT/FEE FACTORS					
ITEM	CATEGORY	WEIGHT RANGE (%)	ASSIGNED WEIGHT	GOVERNMENT COST OBJECTIVE (\$)	PROFIT/FEE OBJECTIVE (\$)
I.	CONTRACTOR EFFORT				
A.	MATERIAL ACQUISITION (DIRECT MATERIAL)				
1.	PURCHASED ITEMS	1 TO 4			
2.	SUBCONTRACTED ITEMS	1 TO 5			
3.	OTHER MATERIALS	1 TO 4			
B.	CONVERSION DIRECT LABOR (DIRECT LABOR)	5 TO 15			
C.	CONVERSION-RELATED DIRECT COSTS (OTHER DIRECT COSTS)	1 TO 3			
D.	CONVERSION-RELATED INDIRECT COSTS (OVERHEAD)	4 TO 9			
E.	GENERAL MANAGMENT (GENERAL AND ADMINISTRATIVE (G&A))	4 TO 8			
II.		SUBTOTAL (ITEM I.)			
III.	CONTRACTOR COST RISK	0 TO 8			
IV.	CAPITAL INVESTMENTS	0 TO 20			
V.	SPECIAL FACTORS	AS APPROPRIATE			
VI.		SUBTOTAL (ITEMS II. AND III. THROUGH V.)			
VII.	FACILITIES CAPITAL COST OF MONEY				
VIII.		TOTAL PROFIT/FEE OBJECTIVE			
ASSIGNED WEIGHTS FOR ITEMS III THROUGH V ARE APPLIED TO THE GOVERNMENT COST OBJECTIVE SUBTOTAL IN ITEMS II. ASSIGNED WEIGHT IS APPLIED TO NET BOOK VALUE OF ALLOCABLE FACILITIES. SUBJECT FACILITIES CAPITAL COST OF MONEY (CAS 414) FROM PROFIT/FEE OBJECTIVES SUBTOTAL IN ITEM VI.					
TYPED/PRINTED NAME OF CONTRACTING OFFICER (LAST, FIRST, MIDDLE INITIAL)		SIGNATURE OF CONTACTING OFFICER		TELEPHONE NO.	DATE

DTAR INDEX

Abbreviations.....	1002.7000
Acceptance Report.....	1046.671
Approvals.....	1001.70
Automation.....	1004.74
Certification and Disclosure Regarding Payments..... to Influence Certain Federal Transactions - Deviation	1003.870
Contents of written acquisition plans.....	1007.105
Contracting Officer's Technical Representative (COTR).....	1001.670
Determinations, Waivers, Exceptions, Approvals, Reviews,..... and Submittals	1001.70
Evaluation and Certification of Treasury Procurement System.....	1004.73
Governmentwide Commercial Purchase Card.....	1013.301
ICAR.....	1004.670
Imprest Funds and Third party Drafts.....	1013.305
Inspection, Acceptance and Receiving Report.....	1046.672
Inspection and Receiving Report.....	1046.670
Investigative Requirements for Contractors.....	1004.470
Legal Review.....	1004.71
Limitation on Payments to Influence Certain Federal..... Transactions - Deviation	1003.870
Mentor-Protégé Program.....	1019.202-70
Motor Vehicles.....	1008.70
Numbering of Solicitations, Contracts, and Orders.....	1004.70

Options.....	1017.2
Performance-Based Contracting.....	1037.6
Performance Problems, 8(a).....	1019.812-70
Prompt Payment.....	1032.9
Publicity, Contractor.....	1003.570
Simplified Acquisition Folder.....	1013.106-3
Simplified Acquisitions - 8(a) Program.....	1019.803-71
Source Selection.....	1015.3
TPDS and Other Reports.....	1004.670
Unpriced Options.....	1017.202
Value Engineering Reporting.....	1048.1

APPENDIX A

Reporting Requirements

REPORT NAME	DUE	COMMENTS
SF 279 - Individual Contract Action Report (ICAR)	January 15th April 15th July 15th October 31st	Input on-line or via batch input to TADS. See most current FPDS Reporting Manual and TADS User Manual.
SF 281 - FPDS Summary Contract Action Report (\$25,000 or Less)	January 15th April 15th July 15th October 31st	Input on-line to TADS. See most current FPDS Reporting Manual and TADS User Manual.
SF 295 - FPDS Summary Subcontract Report	March 15th (Include only reports for previous fiscal year.)	Input on-line to TADS. See most current FPDS Reporting Manual and TADS User Manual.
Contractor Performance System (CPS)	December 31st (annual/interim reports) 30 days after contract completion	Input on-line to CPS.
CICA	Annually	OPE will request when required.
Davis Bacon	April 15th (for 10/1 - 3/31) October 15th (for 4/1 - 12/31)	OPE will request when required.
RCRA	December/January	OPE will request when required.
Value Engineering	As requested	OPE will request when required.