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## FOREWORD

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The goal of this NIH Delegated Acquisition Reference Guide is to provide assistance to the Simplified Acquisition community. It is the intent of this Guide to provide acquisition guidance in regulatory and procedural policies and procedures, and provide a working reference manual that will aid the Simplified Acquisition community across NIH in accomplishing efficient and cost effective acquisitions.

All Approvers and Buyers of Simplified Acquisitions are encouraged to read the revised Guide cover to cover. While this Guide cannot fulfill every acquisition area of concern, many useful and resourceful Federal and Business links have been added for your convenience. Suggested changes or additions to this Guide should be sent to the attention of:

The Division of Simplified Acquisition Policy and Services (DSAPS)  
Acquisition Services and Review Branch (ASRB)  
6011 Executive Blvd., MSC.7663  
Room 549C,  
Rockville, MD. 20892-7663  
(301) 435-3939

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## **PART I - OVERVIEW**

### **BACKGROUND**

The NIH supports the simplified acquisition needs of its research programs through the New Business System (NBS) which includes various simplified acquisition mechanisms. The areas that support these programs are the Offices of Acquisitions and the IC decentralized Purchasers and NIH's purchase cardholders.

The NIH has established three goals for its simplified acquisition program:

1. responsiveness,
2. cost-economy, and
3. regulatory compliance.

Acquisition at the NIH is based on the Federal Acquisition Regulation (FAR), the Health and Human Services Acquisition Regulation (HHSAR), GAO Decisions, and NIH Policies and Procedures, including Manual Chapters (see <http://www1.od.nih.gov/oma/manualchapters/>) as well as periodic updates.

## ORGANIZATIONS

The following briefly describes the organizations that have responsibilities for NIH simplified acquisitions.

### A. **Head of the Contracting Activity (HCA)**

The individual who has been delegated responsibility to perform a variety of agency-level acquisition functions in accordance with the Health and Human Services Acquisition Regulation. This individual serves as both the Director, Office of Logistics and Acquisition Management (OLAM) and the HCA, with responsibility for assuring the effectiveness, efficiency, and integrity of all NIH acquisition activities. The HCA advises the NIH Director and provides leadership and direction for all NIH acquisition activities. OALM is comprised of Office of Acquisition Management and Policy (OAMP) and Office of Logistics Acquisition Operations (OLAO)

### B. **Office of Acquisition Management and Policy (OAMP)**

Responsible for the development and implementation of NIH-wide contracting and simplified acquisition policies and procedures. The divisions that support contracting are the Division of Acquisition Policy and Evaluation (DAPE) and the Division of Advisory Financial Services (DFAS).

The Division of Simplified Acquisition Policy and Services (DSAPS), is responsible for planning, developing, recommending and establishing NIH procedures, and guidance for all simplified acquisitions, including the Government Purchase Card program. It is comprised of four branches:

- a. **Acquisition Services and Review Branch (ASRB)**  
Recommends, plans, develops and establishes simplified acquisition policies and procedures for NIH Buyers in the Offices of Acquisition, as well as those in the delegated community. Assist with the utilization of various simplified acquisition vehicles including purchase orders, BPA Calls, Internal and External Task Orders/Delivery Orders (TOs/DOs) and SF44's; providing support through various means, including the Simplified Acquisition Handbook, e-mail Acquisition Newsflashes, and telephonic and e-mail Helplines; conducting an annual Simplified Acquisition Symposium; performing simplified acquisition reviews to ensure compliance with regulations and established procedures; managing

the simplified acquisition program; verifying and approving requests for acquisition authority; and maintaining statistics on NIH purchasing issues.

- b. **Acquisition Planning and Specifications Branch (APSB)**  
Conducts acquisition planning and market research. Helps develop performance-based specifications for contracts; conducts reverse auctions for ICs; develops commodity specifications; maintains a catalog library; provides technical assistance to NIH ordering offices, bidders and contractors on the design, manufacture, use and acquisition of equipment, supplies and technical services. Upon request, they evaluate bids/proposals to verify compliance with the specifications.
- c. **Blanket Purchase Agreement (BPA) Management Branch**  
Establishes new BPAs, negotiates vendor discounts, conducts discount validations, conducts competitive BPA solicitations, and manages, renews and terminates existing BPAs.
- d. **Purchase Card Management Branch**  
Manages the entire NIH Purchase Card Program, which encompasses providing training, establishing and terminating card accounts, performing oversight reviews and maintaining data on all aspects of the card. The Purchase Card Program provides a daily "Help line" at 301-435-6606 and an e-mail support line at [Creditcard@od.nih.gov](mailto:Creditcard@od.nih.gov) on the global menu.

### **C. Office of Logistics and Acquisition Operations (OLAO)**

Provides leadership and direction on NIH wide property, supply and transportation operations. Also includes the OLAO Office of Acquisition and the NIH Information Technology Information and Assessment Center (NITAAC).

## PROCUREMENT INTEGRITY

The NIH staff involved in the acquisition process must adhere to a high standard of ethics. These are summarized below:

**A. Code of Ethics** - Any person in Government service must:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.
2. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.
8. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust. (U.S.C. 7301)

## **B. Standards of Conduct**

There are several laws and regulations that address various ethical issues. Executive Order 12731 serves as the basis for the standards of conduct. It states 14 general principles that broadly define the obligations of public service. Underlying these 14 principles are two core concepts –

- employees shall not use public office for private gain, and
- employees shall act impartially and not give preferential treatment to any private organization or individual.

In addition, employees must strive to avoid any action that would create the appearance that they are violating the law or ethical standards. Standards of Conduct apply to all Government employees, not just those in acquisition. The areas that have the most implications for acquisition involve gifts from outside sources.

The Standards of Conduct state that employees are subject to restrictions on the gifts that they may accept from sources outside the Government. Generally they may not accept gifts that are given because of their official position or that come from certain sources (“prohibited sources”). Those prohibited sources include persons who are seeking official action by the employee’s agency, doing business with the employee’s agency, are regulated by the employee’s agency, or have interests that may be substantially affected by performance or nonperformance of the employee’s official duties.

There are a few exceptions to the ban on gifts from outside sources. These exceptions include allowing the acceptance of gifts where the value of the gift is \$20 or less. However, you may not accept more than \$50 from any one source in any one year. It doesn’t matter what the gift is - it can be food and refreshments, entertainment, or tangible items. (Modest refreshments such as coffee and donuts, greeting cards, and rewards and prizes open to the general public, are not considered gifts.) See NIH Manuals 2300-735-1, “Avoiding Conflicts of Interest” and 6009-1, “Contracting Officer’s Responsibility In Verification of Conflicts of Interest in Advisory and Assistance Service (A&As) and Other Contracts”.

## **FUNDING**

Congress authorizes the Departments of Government to expend specific amounts of money for specific purposes and appropriates funds for those purposes. The Departments obligate and expend these funds within the authorizations and limitations imposed by the Congress. The General Accountability Office (GAO) is responsible to Congress, and watches over expenditures to insure compliance with the restrictions placed by Congress on the use of the funds.

### **A. Anti-deficiency Act**

This act provides that no Government officer or employee of the Government may create or authorize an obligation in excess of the funds available, or in advance of appropriations, unless otherwise authorized by law. Before executing any purchase order or modification of a purchase order, the Contracting Officer shall obtain written assurance from a responsible fiscal authority that adequate funds are available.

### **B. Bona Fide Needs Rule**

The Federal Acquisition Streamlining Act expanded the Government's authority to enter into multi-year contracts. Agencies may now enter into multi-year contracts for property and services that cross fiscal years. Funds must be available and obligated for the full contract period or the first fiscal year, and for the cost associated with any necessary termination. The agency must make only two determinations before entering into such a contract - that the need for the service is reasonably firm and will continue over the contract period, and multi-year contracts will promote the Government's best interest by promoting competition and efficient administration. Multi-year contracts must include a termination clause in the event funds are not available for future years.

Agencies may enter into contracts for severable services that begin in one fiscal year. The period of the basic contract may not exceed one year. Contracts that cross fiscal years must be funded with the first fiscal year's funds. Severable services are those which can be separated by fiscal year whereas not to pay for service up-front for more than one fiscal year if it can be separated and what is truly needed can be accomplished in that fiscal year for which it is funded.

### **C. The Necessary Expense Doctrine**

NIH has reasonable discretion in determining how to carry out the objects of its appropriation. This process is known as the "necessary expense doctrine". The necessary expense rule contains two but slightly different concepts:

1. An appropriation made for a specific object is available for expenses necessarily incident to accomplishing that object unless prohibited by law or otherwise provided for.
2. Appropriation, even for broad categories such as salaries, frequently use the term “necessary expenses:”. As used in this context, the term refers to “current or running expenses of a miscellaneous character arising out of and directly related to the agency’s work.”

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## DELEGATED PROCUREMENT AUTHORITIES AND RESPONSIBILITIES

### A. Overview

Delegated Procurement Authority (DPA) may be granted to certain non-acquisition individuals in the IC to approve simplified acquisitions through the NBS. These individuals are designated as Approvers. Each Approver is responsible for the acquisition activities for another individual(s) associated with a particular IC. Generally, Administrative Officers and Administrative Assistants are granted DPA as Approvers. However, Lead Purchasing Agents in IC Ordering Offices and warranted Contracting Officers may also be Approvers.

1. Individuals granted DPA as Approvers must review, approve, and obligate funds for the individuals whose actions they approve in accordance with the limitations contained in their delegation and the FAR, HHSAR, and policy and procedures described within this Guide. Requests from an IC for delegated procurement authority may be made for purchase orders placed through NBS up to the Micropurchase Level or the other mechanisms shown below, at levels no greater than the maximum limitations listed. [Please keep in mind, the Director, Division of Simplified Acquisition Policy and Services (DSAPS) reserves the right to limit the authority granted.]
2. The following represents acquisition mechanisms and the current maximum limitations granted to Approvers for these mechanisms:

| <u>Mechanism Type</u>                         | <u>Maximum Order Limit</u> |
|-----------------------------------------------|----------------------------|
| <b>Purchase Orders</b>                        | <b>\$3,000</b>             |
| <b>BPA Calls</b>                              | <b>\$500,000</b>           |
| <b>Purchase Order-Invoice-Voucher (SF-44)</b> | <b>\$1,500</b>             |
| <b>Task Orders/Delivery Orders for IDC</b>    | <b>\$500,000</b>           |

*\* Most Open Market BPAs have a MOL of \$25,000*

3. Splitting orders to avoid dollar limits or delegated procurement authority limits is prohibited. Approvers are personally responsible for the proper and lawful purchasing of goods or services. If the authority granted is exceeded or misused, the purchase is not legal and must be ratified by their Chief Contracting Officer of the Office of Acquisitions that services them. (see Unauthorized Purchases - Part III).

### B. Delegated Procurement Authorities

1. It is the NIH policy that personnel engaged in the acquisition process possess necessary experience, training, knowledge, and satisfactory performance as prescribed in the FAR, HHSAR and NIH policy and

procedures in order to be appointed as an Approver or Buyer. . (See Acquisition Training and Certification Requirements - Part I)

2. Newly appointed Approvers and Buyers who have not had the opportunity to meet training and certification requirements prior to beginning their duties may obtain interim authority: Approvers may obtain interim authority up to one year. Buyers may obtain interim authority up to six months.
3. Principal Administrative Officers are responsible for:
  - a. maintaining the overall delegated acquisition operation within their IC, and ensuring compliance with established policies and procedures including responsiveness, cost economy, regulatory compliance, and internal controls as described in this Guide.
  - b. identifying and requesting the establishment or rescission of Delegated Procurement Authority
  - c. ensuring that the designated Approvers and Buyers under their purview have successfully completed the NIH Simplified Acquisitions Delegated Acquisition Training Program (SADATP) and the following Advanced Procurement Seminars: “Price Reasonableness in the Award of Simplified Acquisitions”, “Buying from Businesses on the Open Market”, “Consolidated Purchasing Through Contracts”, “Federal Supply Schedules”, “Appropriation Law for Simplified Acquisitions” and “Negotiation Techniques”.
  - d. ensuring that designated Approvers have received or will receive the required acquisition experience and training required for Simplified Acquisition Certification (formerly known as Level I certification) - see Part I. Arrangements are made for back-up Approvers in the event of extended absence from the office.
4. Approver and Buyer authority shall be granted where a valid organizational need can be demonstrated such as a new position or a replacement position is to be filled. Factors to be considered in assessing the need for appointment or replacement include volume of actions, complexity of work, the structure of the organization and the geographic location.
  - a. Approver and Buyer authority is granted to named individuals, not to positions. This authority can not be re-delegated.
  - b. Individuals granted Approver or Buyer authority are bound by the Standards of Conduct and thus are prohibited from accepting any

gift, gratuity, favor or entertainment from any person or business engaged in acquisition or other financial transactions with NIH.

### **C. Procedures for Appointing Approvers**

When an organizational need for an Approver has been determined or a replacement is required, a warrant will need to be issued.

The Requesting Official must fax the following documents to fax 301-496-8422; “Contracting Officer’s Warrant Application Form”, updated resume, last performance appraisal with a rating, proof of having taken Green Purchasing training and a copy of their SAC-A or Level I Certification..

Warrants may be cancelled by sending a “Request to Terminate Warrant/Notice of Termination” to Carl Henn, 6100 Executive Blvd, Room 6D01 along with the original warrant, and “Cancelled” written on the warrant..

### **D. Procedures for Appointing Buyers**

When an organizational need for a new Buyer is determined, or a replacement or cancellation is required, submit form 2604-1, “Request for Delegated Procurement Authority for Buyers”.

### **E. NBS User Account Request Form for Buyer Acquisition**

When an organizational need for an Approver or a Buyer has been determined or a replacement is required, the Approver or Administrative Officer must complete the “NBS User Account Request Form”. ***(See Website Listing for “NBS User Account Request Form”)***

## ACQUISITION TRAINING AND CERTIFICATION REQUIREMENTS

### Training

All Delegated Procurement Authority Approvers and Buyers must complete acquisition training to perform their duties effectively in accordance with governing regulations, policies and procedures.

### Approvers and Buyers

All Approvers and Buyers must attend the NIH Simplified Acquisition Delegated Procurement Training Program (SADPTP) class. The class is a combination of lecture and hands-on exercises using the NBS acquisition module. It is recommended that this course be completed prior to requesting Delegated Procurement Authority. This course must be completed within six months after being delegated interim authority as a Buyer.

An examination is administered on the last class day. A score of 80% or greater is required to pass. Students who do not pass the test will have a second opportunity to take a makeup exam.

Six continuing education seminars are mandatory. Completion of these seminars is mandatory for ALL Approvers and Buyers. The classes are:

1. **Buying from Businesses on the Open Market**
2. **Consolidated Purchasing Through Contracts**
3. **Federal Supply Schedules**
4. **Price Reasonableness in the Award of Simplified Acquisitions**
5. **Negotiation Techniques for Simplified Acquisitions**
6. **Appropriations Law for Simplified Acquisitions**

### Approvers

Approvers must complete 4 additional classes:

- **Basic Simplified Acquisition Procedures** - offered through HHS University
- **Advanced Simplified Acquisition Procedures** - offered through HHS University
- **Green Purchasing** - available as an online course or through webcast. This is a requirement for all those in the series 1102, 1105 and 1106 every two years
- **Section 508 Phase I** - available as an online tutorial course

*Classes **must** be completed within one year of being issued an interim warrant.*

***For course information and dates for the NIH Simplified Acquisition Delegated Procurement Training Program (SADPTP) and the mandatory seminars, visit the NIH Training Center website, review their training catalog, or contact the office at (301) 496-6211.***

*For course information and dates for the HHS Acquisition courses, visit the HHS University website, contact your IC Training Coordinator, or the NIH Acquisition Training Program Office on 301-496-7110.*

**All Approvers must obtain Simplified Acquisition Certification A after one year of performing these duties.** The Department requires that all individuals with delegated acquisition authority complete the prescribed HHS sponsored courses indicated on Part I and possess a minimum of six months of experience in the field of simplified acquisition.

#### **Eligibility Requirements for Simplified Acquisition Certification A**

1. Six months experience in using simplified acquisition procedures.
2. Eighty (80) hours of basic-level training which includes the following courses or their equivalent:
  - Basic Simplified Acquisition Procedures or DAU's CON 237
  - Advanced Simplified Acquisition Procedures or Appropriations Law
3. Satisfactory performance rating.

#### **The NIH Certification Board**

The NIH Certification Board meets quarterly to review all requests for Simplified Acquisition Certification. Individuals must submit evidence of course completion, performance rating, and experience (evidenced by the latest performance plan and satisfactory rating), and an updated resume or 171 describing the Acquisition/Delegated Procurement Authority duties and two covering forms; "Simplified Acquisition Certification Program Application Form" and "Contracting Officer's Warrant Application Form".

Purchase Cardholders and NBS Buyers placing purchase orders with Single Purchase Limits above \$3,000 must obtain Simplified Acquisition Certification.

Certification request packages and all related questions are forwarded to the IC Coordinator. If the IC Coordinator is unknown, contact ASRB for assistance.

In accordance with Department policy, interim authority may be granted for up to one (1) year. Upon receipt of Simplified Acquisition Certification, the individual will be granted a warrant.

**NOTE: Simplified Acquisition Certification A will expire if forty continuous learning points (CLPs) of skills currency training are not earned every two years following an employee's initial certification, and his/her warrant shall be considered invalid.**

## **Buyers**

If an individual has not successfully completed the SADPTP course, interim authority may be granted for a period not to exceed six (6) months. The SADPTP must be completed successfully during the interim period or the authority will be terminated. Interim authority requires that the Approver provide training and close oversight of the individual.

### **RESPONSIBILITIES OF BUYERS**

Orders placed by Buyers must be in compliance with the simplified acquisition procedures contained in the FAR, HHSAR, and NIH policies and procedures. Prior to an order being placed, it must be approved by a Contracting Officer or an Approver. Buyers are responsible for:

- A. Understanding what is being requested, identifying all requirements, and checking purchase requests for completeness.
- B. Checking required sources and determining whether a mandatory source of supply can meet the requirement.
- C. Determining the appropriate NIH simplified acquisition mechanism, and when appropriate, forwarding purchase request documentation for processing by an Office of Acquisition.
- D. Advising vendors of ordering requirements and specifications, and determining if vendors can meet these requirements.
- E. Ensuring that appropriate purchasing documentation is in the file before placing the order, including a completed purchase request, clearances when necessary, evidence of competition from three vendors for Open Market orders exceeding \$3,000 or evidence of price comparison from three vendors on Federal Supply Schedule for orders exceeding \$3,000, and any applicable justifications and determinations of price reasonableness.
- F. Refraining from purchasing personal services or unauthorized uses of BPA which includes acquiring controlled substances or maintenance contracts for equipment other than Federal Supply Schedule (FSS) Blanket Purchase Agreements (BPA) for copier maintenance
- G. Placing Open Market orders exceeding \$3,000 with a small

business and giving preference to small businesses for FSS orders or ensuring that a justification for use of other than a small business is provided.

- H. Obtaining and evaluating vendor list prices and unit prices to secure a fair and reasonable price and to ensure that NIH is receiving negotiated discounts. Assure the acquisition files over \$3,000 are documented for price reasonableness and that prices are correctly entered into the NBS . The order must include list prices and unit prices. These fields for BPA Call in the NBS are used for price validation.
- I. Contacting the vendor, confirming prices, specifications, and delivery schedule as well as, placing the orders..
- J. Ensuring that all input fields are entered correctly on the requisition in the NBS such as quantity, unit, product service codes, product descriptions, etc.
- K. Following through to make sure the requester received what was ordered, and contacting the vendor, if necessary, to resolve any problems.
- L. Ensuring that the receiving documentation is obtained from the Requester and available in the acquisition file. Receiving documentation must include the Receiving Officials's signature, contact information and receiving information required by the Prompt Payment Act.
- M. Ensuring that inspection, acceptance and entry of receiving information into the NBS is accomplished no later than seven calendar days after receipt of the goods or services. This will ensure that vendors are paid promptly, in accordance with the Prompt Payment Act.
- N. Periodically checking nVision reports for unpaid invoices and resolving payment problems.
- O. Maintaining accurate records and complete acquisition files that are readily available for a period of three years after final payment of the order. If any of the records are maintained on other than hard copy, such as on computer tapes, they must still be accessible for the same three year period.
- P. Ensuring that data is entered in the Departmental Contractor Information System (DCIS) for purchases over \$3000



## RESPONSIBILITIES OF NBS APPROVERS

Approvers have specific responsibility to ensure compliance with Simplified Acquisition Procedures contained in the FAR, HHSAR, and NIH policies and procedures regarding:

- A. The daily review and approval or disapproval of all delegated acquisition actions and amendments, within the limitations of their approved delegations, for their assigned organizational component.
- B. The use of mandatory and priority sources for supplies and services.
- C. The requirement to place Open Market orders exceeding \$3,000 with small businesses and giving preference for small businesses with GSA Schedules when they also exceed \$3,000 while ensuring that a justification for the use of other than small business is provided.
- D. The availability of sufficient funds from an appropriate fiscal year project number
- E. The determination that an item or service is needed and that the order will meet the actual and timely needs of the organization.
- F. The purchase of goods and services at fair and reasonable prices, and evidence that documentation is in the file regarding determinations of price reasonableness for:
  - 1. orders \$3,000 or less if suspected that the price is not fair and reasonable or have no way of determining as such;
  - 2. orders exceeding \$3,000 on the Open Market and best value for GSA Schedule orders
- G. The requirement to obtain competition when orders exceed \$3,000, as required, or to ensure that a sole source justification is provided.
- H. The requirement that list price information is obtained, wherever possible, and that negotiated discounts are received.

- I. The complete and timely entry of receiving, and other administrative data into the NBS system.
- J. The requirement to obtain clearances (if required) prior to placing orders.
- K. The requirement that ***personal appeal*** items are documented with justification to identify an item's benefit/use to the Government. Personal Appeal items include cameras, tape recorders, briefcases, calculators, hair dryers, power tools, projection sets, radios, cellular telephones, beepers, laptop computers, etc. (***See website listing for link to handout for Kitchen Appliances***)
- L. The requirement that orders are consolidated to achieve additional savings, whenever possible. Substantial savings can be realized through the centralized and consolidated acquisition of common use supplies, services, and equipment. The DHHS encourages agencies to seek opportunities to use consolidated acquisition mechanisms (e.g. Strategic Sourcing BPAs, FSS contracts, NIH-wide BPAs, Indefinite Delivery Contracts) to acquire commonly used items.
- M. The prohibition against splitting orders to circumvent dollar limitations for the order or authority. A purchase aggregating more than the simplified acquisition threshold shall not be broken down into several purchases less than the threshold for the primary purpose of using simplified acquisition procedures. The same rule applies to the use of micro-purchase procedures and prohibition against using NIH BPAs for unauthorized commodities.
- N. The establishment of acquisition files which are complete and properly maintained by Buyers for three years after final payment. If any of the records are maintained on other than hard copy, such as on computer tapes, they must still be accessible for the same three year period.

**Note:** records of purchase card transactions must be readily available for a period of 3 years after final payment of the order. Records can be stored at the Washington National Records Center. Contact the IC Records Officer or the NIH Records Management Officer at (301) 496-2832 or go to the website for IC Records.

- O. The requirement that Approver provide the necessary documentation requirements for ratification of unauthorized commitments (UPA) in a timely manner.
- P. The prohibition against purchasing personal services and the unauthorized use of BPAs for controlled substances or maintenance contracts for equipment (other than FSS BPA for copier maintenance).

- Q. The violation of conflict of interest policies as specified in the Office of Government Ethics "Standards of Ethical Conduct for Employees of the Executive Branch" and the "Procurement Integrity Act".
- R. Periodically, checking nVision reports for unpaid invoices and taking action with the buyer to resolve any payment problems and to avoid being charged interest penalties.
- S. The need for necessary oversight within an IC through periodic internal reviews and informal training of Buyers and Requesters, as necessary, to ensure adherence to all of the above, and completion of mandatory acquisition training for Ordering Office staff.
- T. Individuals granted Approver authority are prohibited from accepting any gift, gratuity, favor or entertainment from any person or business engaged in acquisition or other financial transactions with NIH with the exception of non-cash gifts with a dollar value of \$20 or less, and no more than \$50 from any one source in any one year .

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## REDUCTION OR RECISION OF DELEGATION OF AUTHORITY

### A. Reduction of Authority

Based upon on-site reviews, the cumulative or continual actions as described below may result in a reduction of Delegated Procurement Authority:

1. Splitting orders to avoid limitations, approvals, or clearances;
2. Approving orders which obligate funds against an incorrect fiscal year;
3. Approving orders after-the-fact without proper authorization and or documentation (usually considered Unauthorized Commitments);
4. Approving orders where the Requester is also the Buyer or the Approver, or the Receiving Official is also the Buyer or the Approver
5. Approving orders with improper, incomplete, or missing justifications for the use of large business, personal appeal items, or sole-source acquisitions;
6. Approving orders that exceed \$3,000 without documentation of competition or sole source statement;
7. Allowing incomplete acquisition file documentation or loss of records;
8. Failing to ensure that approval, and receiving requirements are met. It is required that:
  - a. Review and approval of valid orders must be conducted within 1 day of order entry into the NBS (weekends and holidays excluded);
  - b. Receiving information must be entered into the NBS system within seven calendar days of receipt.
9. Failing to document dates;
10. Approving orders where the vendor catalog numbers were entered in the wrong format;
11. Approving orders without obtaining proper clearances in advance;
12. Upon the recommendation of the Office of Financial Management based on information or evidence disclosed during periodic reviews conducted for compliance with OMB Circular A-123 and other DHHS accounting requirements for payment certification.

**B. Recision of Authority**

1. Based upon on-site reviews, the following circumstances may result in a recision of Delegated Procurement Authority:
  - a. failing to correct or make an effort to correct deficiencies previously reported;
  - b. Allowing another individual to approve or sign acquisition documents without a written delegation of authority;
  - c. Approving orders for controlled substances;
  - d. Violating conflict of interest policies as specified in DHHS Standards of Conduct and 18 U.S.C. 201;
  - e. Disclosing confidential information to businesses or individuals in violation of 21 U.S.C. 331j and 18 U.S.C.1905;
  - f. Directly or indirectly making use of, or permitting others to make use of, official information not made available to the general public for the purpose of furthering any private interest;
  - g. Directly or indirectly accepting anything of monetary value, including gifts, gratuities, favors, entertainment or loans with the exception of non-cash gifts with a dollar value of \$20 or less, and no more than \$50 from any one source in any one year;
  - h. Conducting fraudulent or criminal acts, as prohibited by federal statutes, that involve the use of the NBS system.

2. In addition, an Approver's Delegated Procurement Authority will be rescinded in the following circumstances:
  - a. Upon reassignment, transfer or termination of employment or when there is no longer an organizational need;
  - b. Upon notification by the IC Director, Executive Officer, or Principal Administrative Officers;
  - c. Upon failure to complete the requirements for and obtain Simplified Acquisition Certification A within one year.
  - d. Upon the recommendation of the OFM based on information or evidence that DPA mechanisms are being used for personal gain.

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## PART II - GUIDELINES AND PROCEDURES

### FILE DOCUMENTATION

FAR Part 13 requires that all purchase files provide documentation specific to the purchase. The purpose of acquisition documentation is to show that informed decisions have been made and to provide a history of the purchase for reviews and outside audits and investigations, and in case of litigation or congressional inquiry.

Although all purchases are unique, the acquisition file will contain required documentation for all orders. All acquisition files will contain:

- A Purchase Request
- Supporting Documentation for the Award, such as Competition, Clearances, Justifications to meet the requirements of the award
- A Copy of the Award
- Receiving Documentation

### PURCHASE REQUEST

The Purchase Request indicates what is needed and provides information for the purchaser. The request can be in any format, but specific elements are required to make the purchase request complete. Many Institutes or offices have a specified request form, so be sure to check the policy in your office. The NIH 1861-1 Purchase Request form (*see website listing for link to attachment*) is a suggested format.

A Purchase Request must contain either the **printed, typed or signed** name of the Requestor, and must be submitted to the Buyer prior to placement of an order. Purchase requests may also be used to document internal approvals. However, obtaining internal approvals (e.g., Lab and/or Branch Chiefs) does not eliminate the additional requirement for the Requester's printed, typed or signed name.

- a. Electronically transmitted forms are acceptable if the Institute or Center (IC) can ensure that the Requester actually made the request. In this case, each Requester must be assigned a unique password that may not be shared. IC's using the electronic forms must have a written policy available for review by Division of Simplified Acquisition Policy and Services (DSAPS) reviewers, or an outside auditor, explaining the internal controls which exist to ensure system security (e.g., how are passwords assigned; how are individuals notified that they must not share their password; how security is ensured so that non-Government employees are not assigned passwords).

- b. Internal controls must exist to ensure that non-Government employees do not function as Requesters. It is the responsibility of the Approvers in the Ordering Office to ensure that any approved request is generated by a Government employee who is authorized within the IC to request goods and services. When the end user is not a Government employee (e.g., Visiting Fellow, IRTA, Biotechnology Fellow, IPA from a non-Government agency), a Government employee must serve as the official Requester.

## **Records Retention and Disposal**

All acquisition award files are retained and disposed of under the authority of NIH Manual 1743 "Keeping and Destroying Records", "NIH Records Control Schedule", Item 2600-A-4, which indicates that records of acquisition transactions of \$100,000 or less and construction contracts under \$2,000 are destroyed three years after final payment.

## **Purchase Request Form**

Every acquisition file must contain a purchase request form. IC's should consider using the form NIH 1861-1, "Purchase Request" developed by the DSAPS. When used correctly, this form captures all of the documentation required on a purchase request by the FAR, and includes additional fields to capture other information which may be required. The form is available at <http://forms.cit.nih.gov>.



## Required Elements of a Purchase Request - FAR 13.303-5(e)

1. Requester's name or signature; if an electronic request is submitted, it must be password controlled.
2. Date of the request
3. Delivery point, including building and room number.
4. Delivery dates and performance periods
  - a. Date needed - This must be a specific date the item or service is needed (delivery or completion date). It must be realistic in terms of vendor delivery and processing times. "ASAP" is not acceptable; or
  - b. Performance period - The period of time the service is to be performed. Some orders may require that the service/items are delivered over a period of time and should include start date and end date. This information established the purchase as a bona fide need for the fiscal year and helps establish availability from any given vendor.
5. Recommend source(s), if known. If the requester indicates multiple sources, the information will assist the Buyer in obtaining any competition required for open market purchases over \$3,000 or best value determination for FSS orders over \$3,000 ensuring that the Government is obtaining supplies and services at fair and reasonable prices.
6. Description of item(s). Supplies and Services - (FAR 11.002, 11.1) It is the Requester's responsibility to provide a complete description of essential characteristics of the requirement. Though not ideal, catalog numbers (including catalog page) or brand names may be used to assist the Buyer with the flexibility to make the best buy based on the essential characteristics of the requirement. Exception: ISBN numbers must be used when ordering books. **See Brand Name - next page.**
7. Quantity and estimated price. The estimated price provides guidance to the Buyer regarding the need for obtaining competition.

## **Brand Names and Description of Items**

Although "Brand Y or equal" is an acceptable way of summarizing one's requirements, it should only be used when no other description is available. Also, when using "Brand Y or equal", the Requester should only list those characteristics of Brand Y needed to meet their minimum needs (and not all of the characteristics listed in the brand name literature). Product descriptions from catalogs may be attached to the purchase request to provide information on features of requested items.

**Services:** When practical, Statements of Work should be used (FAR Part 7.102). The Acquisition Planning and Specifications Branch (APSB), provides guidance on preparing specifications/SOWs regardless of the dollar amount of the purchase. Because the Metric System must be used in government specifications and Statements of Work, the APSB is available to assist in conversions and can be reached at (301) 496-4814.

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## ORDERING PROCEDURES

The following steps are general guidelines for Buyers when processing an award.

**A. Determine if the item or service requested is available from a Required (Priority or Mandatory) source** (see Required Sources page -Part II-27). If equipment is being purchased, determine if a "trade-in" is available and applicable. .

**B. Contact vendor(s)** to obtain information on price, availability and delivery. If delivery date is an evaluation factor it must be provided when quotes are requested.

**Note: Open Market orders greater than \$3,000 require competition. Reasonable competition means soliciting price quotations orally or in writing from three vendors (the suggested source and two others) and documenting those quotes in the acquisition file. Price quote should only be used if the item/service is available from the vendor. If practical, two sources not included in the previous solicitation should be requested to furnish quotations. Federal Supply Schedule orders over \$3,000 require price quotes from vendors on the same schedule or posting on the General Services Administration E-Buy in order to perform a price comparison.**

**C. Obtain Documentation for the Acquisition File** that explains and justifies the actions taken. Be sure that any justifications, competition, clearances (See Clearances, Part II-32), etc. are retained in the acquisition file prior to ordering.

**D. Enter the order into the NBS or other,** accurately completing all required fields.

**E. Obtain documentation for receipt of order.** All completed acquisition files must show evidence that the goods/services were received. Receiving documentation must be available in the acquisition file (see Receiving Documentation - Part III-51). Once good/services are received, the receiving information is entered into NBS to insure prompt payment.

## Required Sources

Far Part 8 requires that agencies satisfy their requirements for supplies and services through government sources before buying on the open market. Required government sources, also known as *mandatory* or *priority* sources :

- Are easier to obtain
- More cost-effective because of large volume discounts
- Provide stable prices over a long period of time
- Reduce administrative costs

### Required Sources for Supplies

- ◆ **Agency Inventory**
- ◆ **Excess from other agencies** (see FAR 8.1)
- ◆ **UNICOR** Federal Prison Industries, Inc. -- (see FAR 8.6)
- ◆ **Ability One (formerly known as JWOD)**
- ◆ Products available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see FAR 8.7)
- ◆ **Wholesale Supply Sources**
- ◆ **Mandatory Federal Supply Schedules** (see FAR 8.4)
- ◆ **Optional use Federal Supply Schedules** (see FAR 8.4)
- ◆ **Commercial sources** (Open Market, including educational and nonprofit institutions).

### Required Sources for Services

- ◆ **NIH Required Sources for Service**
- ◆ **Ability One** Services available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see FAR 8.7)
- ◆ **Mandatory Federal Supply Schedules** (see FAR 8.4)
- ◆ **Optional use Federal Supply Schedules** (see FAR 8.4)
- ◆ **UNICOR** Federal Prison Industries, Inc. (see FAR 8.6)
- ◆ **Commercial Sources** (Open Market, including educational and nonprofit institutions)

◆ **Agency Inventory**

Buyers are required to check agency inventory first to see if the product is available. Agency Inventory sources are:

**NIH Surplus Property** - Surplus property is obtained from The Property Management Branch, 6011 Executive Blvd., Suite 637- Room 645B, Phone: (301) 496-4548. (Type of items: Furniture, office equipment, scientific equipment and technical equipment). For an overview, visit the Surplus website.

**NIH Self Service Stores and Stock Catalog**

NIH Self Services Stores and the Stock Warehouse stock commonly used supplies. Each item has a National Stock Number (NSN), a description, a unit of issuance, and a unit cost. When ordering, pay close attention to the unit of issuance and the unit cost. Items provided here must be acquired from this source unless the item is not available or the item does not meet quality requirements.

**NIH Stock Catalog**

The NIH Central Stores Supply System maintains an extensive list of centrally stored, commonly used items such as chemicals, laboratory, photographic and office supplies. Items can be requested from the NIH Stock Catalog and will be delivered from the warehouse or can be picked up. If the item's quality or purity is not sufficient to meet specific requirements, or if the item(s) ordered from stock is back-ordered, and it is needed right away, the item may be ordered from another source. The acquisition file must contain an explanation as to why the item could not be ordered from NIH stock.

**Self Service Stores**

NIH Self Service Stores are located in Buildings 10, 31, and 35. Each laboratory/branch may be issued a charge card for use at the Self Service stores to purchase supplies. Items which may be available in the Self Service Stores include: Office supplies, laboratory supplies, new glassware, photographic supplies, hospital and surgical supplies, housekeeping and maintenance supplies, office supplies, chemical supplies, envelopes and forms, animal food and bedding, processed sterile glassware services.

**Service Supply Center**

A medical supply depot located in Perry Point, MD, the SSC is a long-standing component within the Department of Health and Human Service's Program Support Center. SSC is a full-service pharmaceutical, medical and dental-supply establishment, and the only FDA-registered drug repackaging facility that provides unit-of-use pharmaceutical prepacks to a wide variety of Federal customers. NIH has awarded Perry Point, SSC an NIH BPA and can be found on the NIH BPA Listing or you may contact them directly at (410) 642-2244.

## **NIH Mandatory Use Internal Task Orders/Delivery Orders (TO/DOs)**

NIH-wide Indefinite Delivery Requirements Contracts (IDCs) are contracts awarded by Offices of Acquisitions to open market businesses for items or services at fixed prices for which it is impractical to establish a delivery schedule. As specific requirements are identified, Task Orders/Delivery Orders (TO/DOs) that identify the specific item/services, quantity, delivery, price, etc., are awarded against these contracts. Internal TO/DOs are awarded against IDCs that were issued by NIH (e.g., NITAAC). External TO/DOs are awarded against IDCs that were issued by another Government agency (e.g., GSA's Federal Supply Schedule Contract).

### **◆ Excess From Other Agencies**

Definitions, policy and information on acquiring excess personal property from other agencies is addressed in FAR 8.1, "Excess Personal Property".

### **◆ Federal Prison Industries, Inc. (UNICOR) -*No longer mandatory at the Micro Purchase level***

UNICOR provides products and services made by inmates at Federal Prisons. (door signs, name plates, office accessories, and metal or wood executive and IT office furniture).

***For purchases over \$3,000, a waiver must be obtained or market research done to show why UNICOR was not selected before a purchase can be made from another lower-priority source. The waiver or market research conducted must be retained in the acquisition file (see the website listing for the UNICOR handout).***

ALL waiver requests shall be sent to the UNICOR web site or by fax to UNICOR Customer Service (859) 252-5318.

#### ***Requests for waivers must contain:***

- Complete mailing address with phone and fax numbers
- Description of the item(s)
- Price and quantity of the item
- Justification addressing why UNICOR products will not meet the requirement

UNICOR's website is recommended to request waivers because a waiver tracking number is provided. The turn-around time for approval/denial will be within 3-5 days. If a waiver request is not approved or denied within 5 business days, contact the UNICOR Sales Representative indicated on the website listing.

◆ **Ability One (formerly known as JWOD) - Javits-Wagner O'Day Act**  
Products Available From The Committee for Purchase From People Who are Blind or Severely Disabled

The Ability One Program is administered by the Committee for Purchase from People Who Are Blind or Severely Disabled, the National Industries for the Blind (NIB) and the National Industries for the Severely Handicapped (NISH). The Ability One program creates employment and training opportunities for people who are blind or who have other severe disabilities.

**Ability One is a mandatory source for office supplies.** If a Ability One product (SKILCRAFT name) is available for an office product, the purchaser should buy it if it meets the requirement. Purchasers should check for JWOD products first to meet their office supply needs.

Federal customers can purchase mandatory Ability One supplies from six national vendors under the Federal Schedule 75 III A and receive next-day, desk top delivery. Orders may be placed via website, telephone or FAX. Ability One vendors with Blanket Purchase Agreements (BPA's) should be checked first. For more information or to place an order, contact the vendor at the telephone numbers noted:

| Vendor                     | Telephone       |
|----------------------------|-----------------|
| Benjamin Office Supply     | (301) 937-3500  |
| Corporate Express          | (703) 293-6498  |
| Office Depot               | (800) 487-4585  |
| Staples National Advantage | (800) 538-2728. |
| WW Grainger                | (301) 459-7780  |

These vendors also offer products such as IT supplies and copier/printing paper and supplies.

The following nonprofit organizations have been approved by the Committee to furnish commodities to the Government:

**DCARC** - District of Columbia Association for Retarded Citizens, Inc.  
(202) 636-2950. The DCARC provides internal and external signs and rubber stamps which can be obtained through an NIH BPA.

**NIB** - National Industries for the Blind. For product and order information, call (703) 998- 0770.

**NISH** - National Industries for the Severely Handicapped. For product and order information, call the Contract Administration Office (571) 226-4660.

◆ **Wholesale Supply Sources**

The General Services Administration (GSA) is the buyer for the Federal Government. GSA competes vendors for commodities and enters into a contract with each vendor to provide goods/services to the government at substantial discounts. The vendor's products are available on the Federal Supply Schedule (FSS) or at a GSA Warehouse throughout the country. Purchasers can order supplies and services from:

- a. **GSA Stock** - items warehoused by GSA throughout the country. The Federal Supply Service, through its Stock Program, purchases frequently requested items and makes them available to customer agencies via a network of wholesale distribution centers. The GSA Customer Supply Catalog contains an alphabetical and Stock Number index, description, and a price list. The catalog can be ordered through GSA's website.

These items can (and should) be ordered using the GSA Advantage! website. GSA Advantage! Is the official federal source for government purchasing. Officials may purchase supplies using the Government Purchase Card.

- b. **Customer Service Center**
  - Defense Logistic Agency Stock Programs
  - Department of Veterans Affairs Stock Programs
- c. Military Inventory Control Points
- d. Other Government Agency Contracts

- ◆ **Federal Supply Schedules** - Purchasers buy directly from Vendors on a Federal Supply Schedule (*See Federal Supply Schedule - Part II*)

- ◆ **Commercial Sources** (Including Educational and Nonprofit Institutions) –NIH Nonmandatory IDC's and Open Market BPA's should be checked first.

***If a purchase is made from a Commercial (Open Market) source, the acquisition file must contain a justification to explain why a required source was not selected. The justification is required at all levels up to \$100,000.***



## Clearances

A clearance, also known as a waiver, is an approval to purchase. Clearances may be required to purchase specific products or services. For certain purchases, specific products/services must be obtained from a designated source and a clearance must be obtained from the source **before** purchasing from another source. The clearance documentation **must be obtained** before purchasing from another source and is retained in the acquisition file.

The NIH Manual Issuance 6307-3, "Special Clearance and Other Acquisition Procedures". is available on-line and describes commodities that require clearances and the points of contact to obtain the clearance. Clearances must be obtained in writing or on-line from the clearance office prior to placing the **(See the Clearance Manual website)**

***The Approver is responsible for insuring that clearances are obtained and documented in the acquisition file before the purchase is made from another source.***

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**Required Use, Exceptions, Clearances and Waivers –The following chart provides a list of use and exceptions for required supply sources:**

| <u>Source</u>                                                                   | <u>Required Use</u>                                                                                                                            | <u>Exceptions</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NIH or Other Agency Surplus Property (FAR 8.1)                                  | Mandatory. Use in preference to all other sources if available item is suitable.                                                               | <ol style="list-style-type: none"> <li>1) When reasonably expensive to repair the property to the needed condition.</li> <li>2) When transportation costs are excessive compared to the property's value.</li> </ol>                                                                                                                                                                                                                                                                             |
| NIH Stock (NIH Central Stores Supply System)                                    | Mandatory. A justification must accompany a request to purchase from another source.                                                           | <ol style="list-style-type: none"> <li>1) When an item ordered from stock is on back order and it is needed right away.</li> <li>2) If the stocked item's purity is not sufficient to meet specific requirements.</li> </ol>                                                                                                                                                                                                                                                                     |
| NIH mandatory Indefinite Delivery Contracts (IDCs)                              | Mandatory. An explanation must be put in the file and the IDC Contracting Officer notified when purchasing from another source.                | <ol style="list-style-type: none"> <li>1) When the contractor cannot furnish item in accordance with the contract requirements</li> <li>2) If genuine urgent delivery is required and contractor cannot meet delivery needs.</li> </ol>                                                                                                                                                                                                                                                          |
| UNICOR (FAR 8.6)                                                                | Mandatory. A UNICOR waiver is required for purchases over \$2500 prior to purchasing from another source, unless one or more exceptions apply. | <ol style="list-style-type: none"> <li>1) Public exigency requires immediate delivery or performance.</li> <li>2) Suitable used or excess supplies are available</li> <li>3) Purchases are made from GSA of less-than-car-load lots of common-use items stocked by GSA.</li> <li>4) Items are acquired and used outside the U.S.A.</li> <li>5) Orders are for listed items totaling \$2500 or less.</li> <li>6) Market research was conducted and a best value determination was made</li> </ol> |
| Committee for Purchase From People Who Are Blind or Severely Disabled (FAR 8.7) | Mandatory. A purchase exception from the non-profit agency is required before purchasing from another source.                                  | <ol style="list-style-type: none"> <li>1) Workshop cannot provide the supplies or services within the time required, and commercial services can provide them earlier in the quantities required; or</li> <li>2) The quantity required cannot be produced or provided economically by the JWOD agencies.</li> </ol>                                                                                                                                                                              |

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**Federal Supply Schedules**

### **Ordering from Federal Supply Schedules (FSS) and Documentation**

File documentation is required for all orders including those that are placed with Federal Supply Schedule vendors. To make such determination, Buyers may need a copy of the applicable contract(s).

### **Placing Orders with FSS Contractors**

OF 347, "Order for Supplies or Services", must reference the applicable FSS contract/schedule number in block 2 titled "Contract No." NBS will assign an order number in block 3, "Order No"

Purchasing Offices may negotiate a greater discount from the FSS contractor's price list on any particular order. Additional price reductions are authorized by GSA without the vendor being obligated to extend that same lower price to all future government sales. Purchasing offices should ask the vendor if they are willing to extend additional discounts prior to placing an order.

### **Purchases \$3,000 or Less**

- ▶ Purchasing Agents may place orders with **any** Federal Supply Schedule vendor without supplemental documentation. GSA has already determined the price to be fair and reasonable.

### **Purchases Greater than \$3,000 -**

- ▶ Selection of an FSS contractor should represent the best value and meet the customer's needs at the lowest overall cost (the price of the item plus administrative costs). ***The acquisition file must contain 3 vendor's prices.*** If a vendor with other than the lowest cost is selected, the acquisition file must be documented with the reason for the selection.

File documentation should include a copy of the order which includes the name and address of the contractor, the FSS contract number, the item purchased, the amount paid, and any support documentation including clearances and justifications, if required.

Before placing an order, Purchasers should:

- a. review schedule contractors' catalogs/price lists or use GSA Advantage!, an on-line shopping service; (see the website listing for GSA Advantage!).
- b. based upon the initial evaluation, generally seek price reductions from the schedule contractor(s) appearing to provide the best value (considering price and other factors);
- c. after price reductions have been sought, place the order with the schedule contractor that provides the lowest overall cost alternative. If further price reductions are not offered, an order may still be placed, if the ordering office determines that it is reasonable.
- d. If an automated information system is not available, review at least three (3) price lists.
- e. **Give preference to a small business when small and large business offerings are equal.**
- f. Not affix standard clauses that are normally applicable to open market purchase orders because the FSS contract contains all applicable terms and conditions. The Buyers should attach any information that provides invoicing information, the appropriate address for submitting invoices, NIH loading dock information, and special information required by the schedule.

### **Federal Supply Schedules and Best Value Determination**

The General Services Administration (GSA) has competed vendors on each schedule and determined that the price is fair and reasonable. For that reason, competition is not performed, but for purchases over \$3,000, a Best Value determination must be documented if the lowest priced vendor is not selected. When considering Best Value, the agency may consider such factors as:

- ◆ delivery schedule
- ◆ special features
- ◆ trade-in considerations
- ◆ probable life of the item
- ◆ warranty conditions
- ◆ maintenance availability
- ◆ past performance
- ◆ environmental and energy efficiency considerations. (see FAR 8.404).

## Selection of a Vendor through Best Value Determination

For purchases over \$3,000, when the lowest priced FSS vendor is not selected, the acquisition file must be documented to reflect that the selected vendor represents the **Best Value**. In the Government's estimation, the vendor should provide the greatest overall benefit in response to the requirement. (FAR 2.101). In determining Best Value, Buyers should perform the following analysis, and include documentation in the file.

- a. Consider reasonably available information about the supply or service offered under Multiple Award Schedule (MAS) contracts
- b. Review at least three schedule contractors' catalog or price lists. If three schedule price lists are not available, document the acquisition file to explain the basis for the selection.
- c. Select the delivery and other options available under the schedule that meet the agency's need
- d. Consider special features of the supply or service that are required in effective program performance and that are not provided by a comparable supply or service
- e. Consider trade-in options
- f. Consider the probable life of the item selected as compared with that of a comparable item
- g. Review warranty provisions
- h. Review maintenance availability
- i. Consider past performance
- j. Review environmental and energy efficiency considerations

## **Multiple Award Schedules**

When the contract is awarded to more than one vendor, the Buyer must select the *best value* vendor that meets the agency's needs at the lowest overall cost on that schedule. The Buyer must contact and obtain quotes/prices, special features, administrative costs, etc. from at least two other vendors on the same schedule in addition to the preferred vendor, to ensure that the best value is being received. The acquisition file **MUST** be documented with the names of the vendors that were contacted, telephone numbers and prices.

Federal Supply Schedule contracts are a required source.

Buyers must consider them before considering Open Market (Commercial) sources. If a FSS is not selected, the acquisition file must be documented with a justification explaining why this required source was not selected.

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## **Federal Supply Schedules Greater Than \$3,000**

Federal Supply Schedules must be considered as a required source, and the purchasing office must consider reasonably available prices and information about the products and/or services offered under Multiple Award Schedule (MAS) contracts. This standard is met by reviewing at least three (3) FSS vendor's price lists for purchases over \$3,000.

- a. Determine if the requirement can be met by an FSS contractor before considering open market commercial prices.
- b. Waivers to purchase from another source are not required. However, the decision to purchase from an open market source must be documented with justification for not purchasing from a required source (at all purchase levels) and with a best value determination for purchases over \$3,000.

## **Federal Supply Schedules for Supplies, and Services requiring a statement of work**

Ordering activities may place orders at or below, the micro-purchase threshold with any FSS contractor that can meet the agency's need.

For those orders exceeding the micro-purchase threshold but not exceeding the MOL, the ordering activity shall:

- ◆ develop a SOW in accordance with FAR 8.405-2(b)
- ◆ provide the RFQ (including the SOW and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs
- ◆ request that contractors submit firm-fixed prices to perform the services identified in the SOW (where practical)

## **Obtaining Federal Supply Schedule Information**

Information about Federal Supply Schedules, vendor catalogs, and price lists can be obtained from the following sources:

- a. Ordering offices may request copies of Federal Supply Schedules and the GSA Supply Catalog by completing GSA Form 457, "FSS Publications Mailing List" application and mailing it to:  
GSA Centralized Mailing List Service (7SM),  
P.O. Box 6477, Ft. Worth, TX 76115,  
Telephone: (817) 334-5215,  
Email: [CMLS@GSA.GOV](mailto:CMLS@GSA.GOV)

A copy of GSA Form 457 may be obtained by writing or calling the GSA Centralized Mailing List Service.

- b. For furniture sources or catalogs, visit the Federal Supply website, then click on Schedules-E Library.
- c.. Contact vendors directly and request catalogs and price lists.
- d. GSA Advantage! - an on-line ordering system that offers GSA products and services. The service offers all GSA products, descriptions, current prices, and delivery options. Users can browse, search on product information, review delivery options, and place an order. A Government Purchase Card is required. (See the GSA Advantage! website listing)

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## Open Market (Commercial) Sources

Prior to making purchases using open market sources, purchasers should make every effort to insure that the supply or service cannot be obtained from a required source. If a Required Source is not used, the acquisition file must contain a justification explaining why a Required Source did not meet the needs of the requirement (See page II-47 for Non-Priority Source Justifications)

## Small Business Set-Aside

Open market acquisitions **greater than \$3,000 but not exceeding \$100,000** are reserved by law, exclusively for small business concerns, regardless of the acquisition method used. All timely quotes from small business concerns must be considered. (FAR 13.003(b)(1)).

For acquisitions greater than \$3,000 but not exceeding \$100,000 the purchaser must solicit quotes from at least two technically qualified small businesses. If it can be demonstrated that there is no small business available to meet the government's needs, the purchasing agent must document the file accordingly, and then may solicit from a large business.

***For assistance in identifying potential small business sources visit the HHS Small Business website or the SBA (Small Business Administration) website***

## Buy American Act

The Buy American Act (41 U.S.C.10a-10d) states a preference for goods made in America. It applies to supplies acquired for use in the United States, including small business concerns **if the order exceeds \$3,000**. The Buy American Act is described in the Federal Acquisition Regulation (FAR) Subpart 25.101.

There are two exceptions to the Act:

- If a domestic product preference would be inconsistent with the public interest, and
- If the item/service is not available for purchase, or not available in sufficient quantities in the U.S.

The Buy American Act restricts (but allows) the purchase of supplies that are not domestic end products. To qualify as a domestic end product, the product must be manufactured in the U.S. and the cost of the domestic components must exceed 50% of the total cost of the item.

To purchase a foreign made product, purchasers must perform an analysis which adds a percentage increase to the price of the foreign made product. If the product is to be used in the U.S., the cost is over \$3,000, and the product is comprised of over 50% foreign made components, purchasers must perform a cost analysis as indicated below. The analysis determines if the cost of the foreign-made product is reasonable by comparison with the price of the domestic product. The comparison adds 6% or 12 % to the price of the **foreign-made** product, depending on the size of the domestic organization.

- **add 6%, if the domestic offer is from a large business concern**
- **add 12% if the domestic offer is from a small business concern**

The price of the domestic offer is reasonable if it does not exceed the new price of foreign-made product. For additional information, contact the Simplified Acquisition Help Line on 301-496-0400 or Email at [SimplifiedAcquisitionHelp@od.nih.gov](mailto:SimplifiedAcquisitionHelp@od.nih.gov).

#### **Price Reasonableness** (see FAR 13.106-3)

Purchasers must be confident that the price paid is Fair and Reasonable for **all** Open Market purchases. Before an order is placed, the Purchaser must determine if the price is fair and reasonable.

**Purchases not exceeding \$3,000** - If the Purchaser considers the price to be reasonable, purchases under \$3,000 may be made without securing competition. If the Purchaser suspects that the price may not be reasonable, or if the item has no comparable pricing information, then price reasonableness must be determined.

***Remember: Micropurchase sources must be rotated regardless of the mechanism.***

**Purchases exceeding \$3,000** - The determination that a price is reasonable should be based on competitive quotations when possible. If only one response is received, or the price variance among multiple responses reflects a lack of adequate competition, a statement shall be included in the file documenting how price reasonableness was determined. The process for determining that a price is fair and reasonable is called **price analysis**. Determinations of price reasonableness may be made using any of the methods on the next page.

## Price Reasonableness Determinations

- a. Competition - Price competition identifies that the price paid is fair and reasonable based on the competitive quotes. Any wide variances in quoted prices, however, should be more thoroughly reviewed.
- b. Market Research - Reviewing other current commercial sources price lists or advertisements for similar or like items
- c. Price History - Comparison of the proposed price with the price paid for a previous purchase for the same or similar product within the past 6 months. The previous order should be included in the file. If a history report is used, a copy of the relevant report page should be included in the order file.
- d. Comparison of the proposed price with
  - Current published price lists
  - Current catalogs
  - Current advertisements
  - Similar items in a related industry
- e. Independent Government Estimate - If the items are standard commercial items, the estimate will most likely be based on catalog or market prices or a price previously paid for the same or similar items. For a Government estimate to be used as a valid tool to determine price reasonableness, the estimate must be independent. The requester may use market research to develop the estimate. Contacting a vendor and using the vendor's quote is not considered an independent Government estimate.

Government estimates for an item that is one of a kind or for services for which there is no other method to determine price reasonableness should include a break down of labor hours and other costs needed to do the job. Buyers can ask vendors to provide a cost breakdown so pricing can be evaluated more carefully, with considerations for labor, materials, etc. to determine if the price is reasonable.
- f. Personal knowledge of the item being purchased - Generally this is a less reliable method for determining price reasonableness and should only be used if the Purchaser has the knowledge and experience to verify and document that the quotation is appropriate for the product.
- g. Any other reasonable basis

## **Procuring Electronic & Information Technology that is Accessible to Persons with (or without) Disabilities - Section 508 - (FAR 39.2)**

On August 7, 1998, Public Law 105-220 enacted the Rehabilitation Act Amendments of 1998 which significantly expanded and strengthened the technology access requirements of Section 508 of the Rehabilitation Act of 1973 (Section 508). Section 508 now requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (E&IT), they must ensure that the electronic and information technology is accessible to people with disabilities, with few exceptions. It then required that the Architectural and Transportation Barriers Compliance Board (Access Board) create new Federal standards for electronic and information technology (E&IT) products to make them more accessible by individuals with disabilities. The Access Board is an independent Federal agency established by Section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities.

***Federal employees and members of the public who have disabilities must have access to and use of information and services that is comparable to the same available to non-disabled Federal employees and members of the public.***

Section 508 aims to provide Federal employees with disabilities access to office systems and information equal to their non-disabled colleagues. It also assures that people in the general public who have disabilities, have equal access to Government information. The final Section 508 standards were issued on December 21, 2000 by the Access Board, an independent Federal agency devoted to accessibility for people with disabilities. Organizations were required to implement any necessary changes by June 21, 2001, when the six month grace period established by the mandate expired. The standards insure that Federal employees with disabilities have access to and the use of information and data, comparable to employees without disabilities and that members of the public seeking employment or simply seeking information have equal access to Federal opportunities/information.

The DHHS Office of the Secretary has required all employees complete Stage I training in Section 508. Stage I training is an introduction to the requirements of Electronic and Information Technology (EIT) Accessibility. The training is provided online at <http://intranet.hhs.gov/508/training>. Employees certificate of completion should be forwarded to the NIH Section 508 Coordinator, Gary Morin. In addition to Stage I training, all managers and supervisors are mandated to complete Stage II training of Section 508, which focuses on procurement and accountability for ensuring that all EIT is accessible.

Information about Section 508 can be found at <http://www.hhs.gov/od/> as well as at <http://www.section508.gov>

## **Energy Star Requirements**

Federal agencies are required to purchase energy-efficient computer equipment, which means, all new computer-related IT hardware acquisitions (computers, monitors and printers) must comply with Energy Star Computer Program requirements. The GSA builds Energy Star requirements into their applicable IT MAS contracts, hence, IT MAS contractors must provide Energy Star compatible items to schedule users. Information about NIH's Energy Star Requirements can be found at: <http://irm.cit.nih.gov/policy/energystar.html>

## **Recycled Content Products - Green Purchasing**

Under Section 6002 of the Resource Conservation and Recovery Act (RCRA), Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, and Federal Acquisition Regulation (FAR) Subpart 23.4, Federal Agencies are **required** to acquire items composed of the highest percentage of recovered/recycled materials, without adversely affecting performance requirements and while maintaining a satisfactory level of competition. In an effort to minimize waste going into landfills, the Environmental Protection Agency (EPA) has targeted eight product elements for use of recycled materials, including construction products, landscaping products, non-paper office products, paper and paper products, park and recreation products, transportation products, vehicular products and miscellaneous products such as signs.

To make acquisition of recycled materials easy, thousands of recycled and environmentally preferable products are available to procuring agencies and their contractors through established Federal Supply Sources. GSA has negotiated contracts to offer federal buyers over 2000 recycled content items. Computer paper, re-manufactured toner cartridges, memo sheets, recycled retractable pens, and writing pencils are just a few of the recycled products offered by GSA. A listing is available at the GSA website.

*All Approvers must complete a Green Purchasing course. The course is available via webcast. Refresher training is required every two years thereafter.*

## JUSTIFICATIONS

Justifications should fit the circumstances of the situation and include sufficient detail to support the action being taken. The examples provided are samples and are not the only justifications possible or acceptable.

### Justification for Use of Other Than Small Business

All acquisitions of supplies and services that have an anticipated dollar value exceeding \$3,000, but not over \$100,000 are automatically reserved exclusively for small business concerns. Therefore, any awards made to other than a small business between the above mentioned thresholds must reflect in the Purchase file sufficient documentation as to why an award was made (Listed below are **examples** only:)

- a. A market search did not locate a small business that is competitive in terms of fair market price. Price quotes were obtained from small businesses \_\_\_\_\_ and \_\_\_\_\_ (include vendor name, name of the vendor's representative, date and price quotes).
- b. The small business sources contacted do not make/offer the requested product/service. A change in who deals in this or similar product/service would affect ongoing laboratory research and threaten the investment already made. The small businesses contacted were \_\_\_\_\_ and \_\_\_\_\_ (include the vendor name, name of each vendor's representative to whom the buyer spoke, the date of contact).
- c. This large business could meet our need by the required delivery date \_\_\_\_\_. Those small businesses contacted which were unable to meet delivery or availability were \_\_\_\_\_ and \_\_\_\_\_ (include delivery dates and names of vendors checked).

### Justification For Sole Source

Open market purchases in excess of \$3,000, are subject to competition unless a sole source is justified in writing. (FAR 13.106-1b) Currently, any acquisition over \$3,000 that must be obtained from one specific vendor, regardless of business size, requires a justification. The most important elements to address in sole source acquisitions are:

- Why it is not feasible to obtain competition
- Why the requested source is the only one that can deliver or perform.

Justifications which focus on the product, without addressing the vendor as the sole available source, are not adequate.

Examples of Justification for Sole Source:

- a. The research of this lab involves (study title). The use of these particular radioisotopes from the vendor have been used over the past \_\_\_ years. We must continue to purchase these items in order to avoid the introduction of new variables into the experimental results and to avoid long delays resulting from retesting of products from other potential suppliers.
- b. Changing variables at this time would result in incorrect interpretation of the (study title) experiment(s) in progress. Reference to the specific use of this (these) items can be found in \_\_\_\_\_ (a manuscript in preparation, an annual report's title and ZO1 number, a protocol number, etc., must be cited in the justification.)
- c. We are replicating experimental procedures or protocols published in \_\_\_\_\_ (cite journal article) and the items specified in the procedures from this supplier must be used.
- d. In order to comply with our maintenance contract or warranty, the required parts and supplies must be purchased from this vendor. (Give Order number or equipment brand and model.)
- e. Replacement parts or accessories must be compatible with the existing equipment. (Give make and model of equipment, describe compatibility, and why it must be obtained from a single source or large business.)
- f. Because of limited space requirements, only this vendor's product will fit into the space available for this equipment. (Describe requirement and give required dimensions.)
- g. The features of this equipment (such as top loading, digital versus analog, double doors, temperature range, etc.) are necessary to perform \_\_\_\_\_ experiments and are not found among other brands such as \_\_\_\_\_ and \_\_\_\_\_. These features are necessary because\_\_\_\_\_.

## Non-priority Source Justification Listed

FAR Part 8 requires purchasing offices to satisfy their requirement for supplies and services through required sources before purchasing on the open market. The Purchasing Agent shall consider sources of supply in the order of priority set by the FAR. The file must contain a list of the sources that were checked by the Purchasing Agent. If an item can be obtained from a required source, and the source is not selected, depending on the requirements of a particular source, an explanation, purchase exception, waiver or clearance must be included in the purchase order file.

The following are examples of requests to purchase an item from an open market vendor instead of a priority source such as NIH Stock or FSS contract vendors. (Priority sources must be checked for all purchases.)

- a. The quality of the product carried in the NIH Stock or from an FSS firm is not sufficient for the experiments being conducted.
- b. NIH Stock is back ordered and the expected delivery in \_\_\_\_\_ days is not acceptable to continue the experiments uninterrupted.
- c. The FSS vendor(s) \_\_\_\_\_ could not meet the required delivery date of \_\_\_\_\_ or had a minimum order limit of \_\_\_\_\_ which is higher than the value of this order.
- d. These items are not available from the priority Source(s) \_\_\_\_\_ (NIH Stock, UNICOR, GSA, etc.) or the delivery cannot be made for several weeks (months) and we cannot wait because \_\_\_\_\_.
- e. The special features (e.g., \_\_\_\_\_) are not provided by comparable items from FSS firms. These features are necessary because \_\_\_\_\_.
- f. Identical item (same make and model) supplied by an FSS vendor is available from this vendor at a price lower than the schedule price. All factors such as delivery terms, shipping costs, and warranties have been considered.



## Personal Appeal Justification

Justifications are required for items which could be easily diverted for personal use, and items which an auditor from outside NIH might find questionable. These include such items as: cameras, cellular phones, hair dryers, film and video cassettes, beepers, laptops: Such justifications must provide an explanation as to the program's bona fide need for the item(s):

- a. The 35mm camera is necessary in order to take pictures of acrylamide gels of experimental results for inclusion in research notebooks.
- b. The microwave oven is necessary to melt agar gels for culture experiments. Microwave ovens provide slow even melting of the agar and consistent results in plating.
- c. The refrigerator is necessary to store DNA samples.

*See the February 05 memorandum or the OAMP Website regarding Appropriated Funds to purchase certain Kitchen Appliances*

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## **INSPECTION, ACCEPTANCE AND RECEIVING**

Inspection, Acceptance (or rejection), and Receiving are three components of the Receiving process. They have a direct impact on payments and any interest charges the Government may be required to pay under The Prompt Payment Act. The Prompt Payment Act specifies that invoices will be paid within thirty days of receipt of invoice, or acceptance of the goods or services, whichever is later.

### **Inspection**

Inspection is the process of examining what has been delivered or completed to determine if NIH has received what was ordered. If the item or the service satisfies the order, the next step is acceptance. Inspection includes, but is not limited to:

1. making sure that what was ordered is what was delivered;
2. verifying quantity;
3. inspecting for damage or breakage; and
4. checking for operability.

If the items delivered do not conform to the order, the Receiving Official must contact the Buyer, Approver or the individual who placed the order to decide if action should be taken to reject the order.

### **Acceptance**

Acceptance is the acknowledgment that the items or services delivered conform to the terms and conditions of the order. Once accepted, the Government has assumed responsibility for payment.

Ownership of goods, as well as liability, passes to the Government upon formal acceptance regardless of when or where the Government takes physical possession. The person who accepts the goods has the legal responsibility for the acceptance. It is imperative that he/she recognizes that responsibility and proceeds cautiously. An order cannot be rejected later unless it can be proved that the supplier intended to defraud the government, or a flaw or latent defect is discovered that could not have been found when the inspection was done properly.

1. Extended Acceptance

If the order explicitly includes requirements after delivery such as installation of the item(s), operational testing, or evaluation of the service, the vendor must fulfill these requirements before the Government's inspection and acceptance can occur. Once the vendor has fulfilled the requirements of the order, the Receiving Official has seven calendar days to perform inspection and acceptance. The IC individual who placed the order enters the date of

installation or the end of the period of operational testing or evaluation as the receiving date. Extended acceptance periods should not be a routine practice, but should be included in the order only when necessary to permit installation and proper Government inspection and testing of the items delivered or services rendered. The lack of planning is an unacceptable reason to withhold entry of receiving information.

## 2. Multiple Deliveries

If multiple deliveries are required, the Buyer is responsible for entering partial receiving into the NBS system showing the delivery date each time an item is received. Partial receiving must also be indicated in the IC acquisition file.

### **Receiving**

Once items are inspected and accepted, receiving information must be entered within seven calendar days from receipt of the goods or services. This will assure that the Government will have an opportunity to take full advantage of any additional discounts offered by vendors for prompt payment. If receiving is not entered promptly, the Government may be obligated to pay interest to the vendor according to the Prompt Payment Act which imposes interest penalties after 30 days from acceptance. Any interest paid will be charged to the organization placing the order.

**Note:** It is important that the final receiving is not entered until all of the requirements of the order have been fulfilled.

Receiving information must be entered in the NBS within seven calendar days of receipt (physical possession). For meat and meat products, the period for inspection, acceptance, and entry of receiving information is two calendar days and for perishable agricultural products, the period is three calendar days.

### **Global Receivers**

This user receives items in NBS on behalf of the Requisitioner - External or Buyer.

## Receiving Documentation

Receiving documentation to support payments shall comply with the FAR, HHSAR, and OMB Circular A-125. Receiving documents shall contain:

- the Receive date
- the Receiving Official's printed name or signature
- the Receiving Official's title, building, room and telephone number.

A packing slip or delivery ticket which includes this information should be retained in the acquisition file and will document acceptance and receipt. In the absence of a packing slip or delivery ticket, the back of the purchase order (OF 347) must be completed and dated by the Receiving Official and include a name or signature. If a packing slip or service report is not available, that fact should be noted on the purchase order when the authorized Receiving Official signs it.

## Electronic Receiving

A packing slip or delivery ticket is not required if the Receiving Official sends an email message to the individual who placed the order which includes the date of receipt of the item(s) or the date services were rendered . The only change to receiving information is that there would not be a written signature. The Receiving Official's name, title, building, room and phone number must also be included.

**Note:** It is important that the final receiving is not entered until all of the requirements of the order have been fulfilled.

***To reduce the possibility of fraud and in order to comply with OMB Circular A-123, "Internal Control Systems", the Approver and Buyer cannot be the Receiving Official.***

## Rejection

Rejection is the act which denies the responsibility of NIH to pay for something which has been delivered or work completed, and whenever possible, returns the item to the vendor. This is only done when an inspection proves that what was ordered was not received, or it does not comply with the specifications/SOW. Should this occur, every effort should be made to take immediate action to resolve the problem with the vendor. The Office of Financial Management (OFM), Commercial Accounts Section, must be notified to either hold the vendor's invoice until resolution of the matter, or to return the invoice to the vendor. Receiving information should not be entered into the NBS until the vendor has fulfilled the requirements of the order. For additional information contact the Office of Financial Management Customer Service at (301) 496-6088, or see the website for the Office of Financial Management

## **Receiving, Inspection and Acceptance for Federal Supply Schedule (FSS) Orders**

If in the performance of these functions discrepancies are noted, GSA has stated that complaints concerning material inspected at destination shall be resolved between the agency and Contractor in accordance with GSA Form 2891. Unresolved disputes shall be referred to the schedule contracting office for action.

When it is established that the Contractor is at fault for the deficiencies, the following options are available to the agency in regard to nonconforming supplies or services:

1. Nonconforming supplies or services may be corrected in place, or removed for correction, by and at the expense of the Contractor;
2. Nonconforming supplies or services may be accepted, and payment with an appropriate reduction in price may be accomplished; or
3. The Contractor may be declared in default on the particular order (see FAR 8.405-4 and 8.405-5).

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## **EXPENDITURE TYPE**

The NBS Expenditure type field (i.e. OC Code) identifies the product being purchased. Expenditure types, prescribed by the Office of Management and Budget, are used uniformly throughout the Government in submitting budget estimates and budget reports to OMB and Congress. The major expenditure types are further broken down into sub-expenditure types as prescribed by the DHHS Accounting Manual. This expenditure type structure is essential to the NIH Central Accounting System and appropriate expenditure types must be entered for every financial transaction.

Buyers and Approvers should check the accuracy of expenditure types assigned by the IC requesting office. If an error is discovered, the IC requesting office should be notified and the expenditure type discussed prior to any changes being made.

The NIH Accounting Manual, Chapter 1935, Object Classification Codes, contains a list of the codes i.e expenditure types currently in use. (See website listing for link to OC Code listings).

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### **Part III      BLANKET PURCHASE AGREEMENTS**

A Blanket Purchase Agreement (BPA) is an *agreement* between the Government and a vendor to provide supplies and/or services to the Government. It is the Government equivalent of a charge account with the vendor since it establishes no contractual obligation on either party to buy or sell until an order is placed.

A BPA simplifies paperwork and ordering procedures for both the Government and the vendor. These agreements are intended for use with a vendor from whom frequent, repetitive purchases are made, where the actual quantities or delivery schedules are not known in advance of placing an order.

BPA's have been established with Federal Supply Schedule vendors and with Open Market vendors.

Federal Supply Schedule vendors are required sources. If the item is available under Federal Supply Schedule (FSS), purchasing offices must consider it before considering open market sources. If the item being ordered is supplied by both Open Market and Federal Supply Schedule vendors, the Buyer must place the order with the FSS vendor, even if the Federal Supply Schedule vendor is a large business. If the FSS item(s) cannot meet the requirement, an explanation must be put in the purchase file as to why the schedule was not used. There are a few exceptions to these rules that are detailed in FAR 8.404.

## Establishment of NIH BPAs

While it is desirable to have as many vendors as possible from which to purchase, it is impossible to have an unlimited number of BPA sources. If a vendor does not have a BPA with NIH and it is determined that the supplies or services offered by that vendor would be beneficial to the NIH community, establishment of a BPA can be requested. If there are repetitive requirements from a BPA vendor, and the BPA does not cover the needed commodity, the addition of that commodity to the BPA also may be requested. In either case, please contact the BPA Program on 301-496-5212.

## Requirements and Restrictions

There are several important requirements and restrictions for using BPA. In addition to the following requirements and restrictions. (See Ordering Procedures - PII-26)

1. Splitting orders is not permitted by the Federal Acquisition Regulation and is considered an improper acquisition practice. A split order occurs when a purchase is divided and placed on several orders to avoid exceeding a dollar limitation, obtaining competitive quotes, or complying with various clearance and Small Business requirements.
2. Effort should be made to consolidate orders against a BPA to reduce the number of orders placed and obtain quantity discounts.
3. Some companies offer large discounts if a laboratory/branch signs an agreement to place a minimum order over a specified period of time (e.g., \$20,000) from the BPA. Such agreements are inappropriate because a commitment to purchase such a large amount from one source precludes fair and open competition. This should not be confused with consolidation of orders as an IC cost-saving measure. The BPA Program is actively engaged in negotiating large discounts from BPA vendors.

## Shipping and Handling

1. **Destination** - If the BPA source is coded FOB "D" (Destination), the vendor will prepay all freight charges to the final point of delivery at NIH. Excluded from this are special shipping charges, e.g., overnight express shipping. These charges **MUST** be shown as a separate line item(s) on the BPA Call



2. **Origin** - If the BPA source is coded FOB "O" (Origin), the NIH pays all freight charges from the point of origin of the shipment. Shipping charges NEED NOT be shown on the order.
3. **Special** - This coding indicates that special shipping arrangements have been made regarding shipping charge. Some items are FOB Origin and others are FOB Destination. Shipping charges NEED NOT be shown on the award
4. **"Handling Charges"** - include wet or dry ice packing, or the use of special containers. Such charges MUST be shown as separate line items on the BPA Call.

### **Unauthorized Purchases on BPAs**

Unauthorized purchases on BPA's include:

1. Controlled substances and DEA regulated chemicals.
2. Maintenance contracts for equipment (except for equipment available by task orders (TOs) IDC's) or copiers on Federal Supply Schedule BPA).
3. Equipment rentals, the purchase of any supply, service, or equipment not authorized by the BPA
4. Purchases made without an approved order.
5. Rent with option to purchase plans.
6. Orders not requiring immediate delivery.

## Termination of Blanket Purchase Agreements

A vendor's Blanket Purchase Agreement may be terminated under any of the following circumstances:

1. Upon written request of the vendor;
2. When orders total less than \$5,000 in one year;
3. When the vendor fails to abide by the terms and conditions of the BPA
4. Upon NIH's determination that the goods or services provided are not appropriate for a BPA;
5. Upon award of a mandatory NIH-wide requirements type contract for the same goods or services;
6. When the vendor consistently provides supplies or equipment of poor or inferior quality or goods that are damaged;
7. When the vendor consistently provides poor service;
8. If the vendor files fraudulent claims;
9. If the vendor demonstrates improper business practices or personal conflicts of interest;
10. If the vendor provides kickbacks or favors to Government employees in exchange for business;
11. Other circumstances that, in the view of the Chief, BPA Programs Branch, warrant termination after appropriate investigation and review.

Upon termination of a BPA, the vendor becomes ineligible for new BPA orders. BPA Calls placed with a vendor whose BPA has been terminated constitutes an *unauthorized commitment*. The vendor or the Buyer may be held liable for orders placed and accepted by the vendor after the termination date.

## **PURCHASE MECHANISMS**

### **BPA Call**

A BPA Call is a purchase mechanism used to procure goods or services from a vendor that has a Blanket Purchase Agreement (BPA). Orders placed as Calls can not exceed the maximum dollar limitations of the BPA. A vendor does not need to have a BPA to do business with NIH.

### **INTERNAL AND EXTERNAL TASK ORDERS/DELIVERY ORDERS (TOs/DOs)**

An Internal or External Task Order/Delivery Order is the purchase mechanism used to procure goods or services from a vendor that has been awarded a contract. NIH-wide Internal TOs/DOs also referred to as Internal Indefinite Delivery Contracts (IDC's) are contracts awarded to certain open market businesses for an indefinite delivery of items or services at a fixed price. IDC's are used for items or services that are needed on a continuous basis, or which are not stocked. NIH-wide Indefinite Delivery Contracts have been established with contractors for a number of goods and services and are available for use by the NIH community.

The NIH and other Federal agencies have established a number of "indefinite delivery /indefinite quantity" (IDIQ) and "multiple award contract" (MAC) vehicles which facilitate the acquisition of a number of items. The largest Information Technology (IT) MAC contracts are those awarded by the NIH Division of Information Technology Acquisition (DITA)'s. Information is available through the World Wide Web using the DITA website at <http://nitaac.nih.gov>

The mechanism used to place orders with an IDC vendor is Internal or External Task Order/Delivery Order

The Ordering Office can access the vendor catalog data electronically. Product information and prices may be obtained from each vendor by phone. Viewing the vendor product information on the internet, or calling the vendor for information and prices is one way of getting the best price to fulfill program needs. FAR requirements regarding fair opportunity must be followed (FAR Part 16.505 (b)).

Additional information on using IDC's, accessing vendor information and available products, see the "NIH Electronic Computer Store Ordering Guide." For more information contact the DITA Helpline, 1-888-773-6542.

## **PURCHASE ORDER**

A Purchase Order is a contractual document obligating funds for the purchase of services, supplies or equipment.

The purchase order shall

- specify the quantity of supplies or scope of services ordered
- contain a determinable date by which delivery of the supplies or performance of the services is required
- provide for inspection as prescribed in FAR Part 46, When inspection and acceptance will be performed at destination, advance copies of the purchaser order or equivalent notice shall be furnished to the consignee(s) for material receipt purposes. Receiving shall be accomplished immediately upon receipt and acceptance of supplies
- specify f.o.b. destination for supplies to be delivered unless there are valid reasons to the contrary and;
- include any trade and prompt payment discounts that are offered, consistent with the applicable principles in FAR14.408-3.

## **PURCHASE ORDER FOR PROFESSIONAL SERVICES**

A Purchase Order for professional services is an acquisition to acquire non-personal professional services. These services are provided by an individual/vendor who engages in a vocation or occupation requiring advanced education and training. Examples of such disciplines are medicine, law, engineering, and teaching.

This acquisition is primarily used to procure the services of guest speakers and lecturers for seminars, workshops, or meetings held primarily to exchange scientific information, and services performed by review groups, advisory committees, etc.

A purchase order for Professional Services placed by a non Office of Acquisition cannot exceed \$3,000. Purchases greater than \$3,000 require that a Purchase Request be sent to a Office of Acquisition for purchasing.

The order must contain three basic line items which shall include: honorarium, travel and per diem

Honorarium: This is the fee paid to a guest speaker, lecturer or participant for

a seminar, workshop, or meeting held primarily to exchange scientific information. The current daily rate of "\$200" is the NIH ceiling for consultants and experts. Request to pay greater than \$200/day requires advance approval.

A purchase order for professional services which has Honorarium must contain a brief Statement of Work identifying the vendor, and the qualification as a professional, date(s) of service, purpose and price (see Statement of Work, Part III)

### **Purchase Order for Professional Services Documentation**

Purchase Order for Professional Services files must contain required documentation as identified in Simplified Acquisition Procedures (see File Documentation - Part II) In addition to required acquisition file documentation, Purchase Order Professional Services files must also contain additional support documentation.

### **Purchase Order for Non-Professional Services**

Non-professional service is a term used to refer to technical services. These services include, but are not limited to, routine laboratory analyses, editorial services, manuscript services, temporary services, repair services, interpreters, personnel services, and cleaning services. These types of non-professional services may be acquired through the BPA Call mechanism, TO/DOs or other purchasing mechanisms.

### **Drug-Free Workplace Act (FAR Clause 52.223-6)**

As required by FAR 23.505(a)(1), the Purchase Order for Professional Services acquisition file must contain evidence that the vendor has been notified of the provisions of the Drug-Free Workplace Act prior to acceptance of an order. The Federal Acquisition Regulation (FAR Clause 52.223-6) must be attached to the order and sent to the vendor, and a copy of the clause retained in the acquisition file.

If the clause is not contained within the acquisition file, it must be noted that the clause has been transmitted to the vendor. If the notification is verbally transmitted, the acquisition file must be documented to include the name of the individual who made the call, the individual contacted, and the date of the call.

## **Purchase Order Terms and Conditions and Invoice and Payment Provisions**

The appropriate terms, clauses, provisions, etc for purchasing mechanisms is located in the Prism Library. The Invoice Payment and Provisions form provides payment information for the vendor and explains procedures for billing. The forms can be attached while completing the award package. The Purchase Order Terms and Conditions, Invoice Payment Provisions and other clauses are located within the Prism Library. For more information on attaching various Terms and Conditions, Clauses or other documents (**see the website listing for NBS Desk Manual for Buyers - Acquisition/Inventory**)

## **Statement of Work**

All Purchase Orders for Professional Services require a Statement of Work, (SOWs). The Statement of Work should address the following questions:

- What service will be performed ?
- Where will the service be performed?
- When will the service be performed?
- How will the service be performed?
- What special equipment or procedures will be used?
- What deliverables are expected, if any?

## Ordering Procedures for Purchase Orders for Professional Services

Simplified acquisition procedures must be followed: Purchase Order for Professional Services must be clearly defined in a Statement of Work, services over \$3,000 must be competed or a sole source justification documented in the file, and a determination that the costs are fair and reasonable if competition is not performed.

A purchase order for Professional Services must be entered in a prescribed format to include three line items only. The prescribed format is:

- Honorarium or Fee for Service (whichever is applicable)
- Per Diem
- Transportation and Other Expenses

These line items specifically identify the amount to be paid to the individual by the OFM. In accordance with the Federal Tax Regulations, Title 26, Code Section 1.6041.1, the Office of Financial Management is required to report to the Internal Revenue Service all salaries, wages, commissions, fees, reimbursements for per diem and travel expenses, and other forms of compensation for services rendered aggregating \$600 or more during a calendar year.

Purchase Order for Professional Services which include travel and/or per diem must be in accordance with the Federal Government's Joint Travel Regulations (see FTR website). Cost for airline tickets may be verified directly by the airlines or by the Government Travel Contractor. Airfares may not exceed the cost for business/coach class. First Class travel is not acceptable without justification. Per diem rates for lodging and meals must be equal or less than the Government rates for the area. Transportation cost must be evaluated to ensure the price paid is fair and reasonable.

***For questions pertaining to receiving or payment of Purchase Order for Professional Services, contact the Office of Financial Management (301) 402-1595.***

*Professional Services in which there is no honorarium are to be processed as invitational travel. (See OFM Transmittal #293-Processing of Transportation and Travel Expenses for Invitational Travelers, dtd, 6/26/07). Any non Federal person who is authorized to conduct official business on behalf of the NIH and who is NOT receiving an honorarium or fee for service, must be placed on a Travel Authorization in automated travel system. In this way, all related transportation and travel expenses are being captured under the appropriate expenditure type or sub object class code (21.XX). (See NIH Manual Chapter 1500-12-01).*

## Purchase Orders for Professional Services greater than \$3,000

All purchase orders for Professional Services greater than \$3,000 are required to be processed by one of the Offices of Acquisition.

### Price Reasonable Determination for Purchase Orders for Professional Services (Check ALL that apply)

The following checklist may be used when determining price reasonableness for honorarium or fee for service when the Purchase Orders for Professional Services is greater than \$3,000:

- Honorarium is considered reasonable based on comparison of the current hourly rate of a GS-15 government employee. (See Delegations of Authority Database, DOA No. 5 to pay greater than \$200.00 per day). NIH has established \$200/day or less as the rate paid to individuals under professional service orders/contracts.
- Compared to the federal government grade of (*Indicate Grade*\_\_\_\_\_) for a government employee matching this vendor's expertise and experience, the Fee for Service at the associated rate of *dollars per hour: (\$\_\_\_\_\_)*times the associated work hours (*total hours:\_\_\_\_\_*) this price of (*\$\_\_\_\_\_*) is determined to be fair and reasonable.
- Comparison of this request to previous order(s) (*Cite Previous Order Number(s); Previous Order(s) must Show Cost Breakdown*) for similar services with individuals that have the same/similar credentials, this price is determined to be fair and reasonable.
- Compared to the current market standard of (*Indicate Market Standard*) for this profession, and given the similarity of expertise and experience, this price is determined to be fair and reasonable.
- Per Diem rates are considered reasonable based on the maximum subsistence rates for travel set forth in the current Federal Travel Regulations. [*Reference The Federal Travel Regulation (FTR) Website*]
- Travel costs are considered reasonable based upon standard coach air fares, taxis, or limo rates and the maximum allowable mileage as determined by current DHHS travel policy. [*Reference the Federal Travel Regulation Website*]



## Purchase Order for Professional Services Checklist

The following will assist in determining whether the request should be processed as a Purchase Order for Professional Services **or** if the service request is **personal** and could result in an employer-employee relationship. Review the service to verify if the request can be processed as a Purchase Order for Professional Services. Orders for personal services are illegal.

**Note:** **Yes** to any the questions [except for item **a**] denotes that a Professional Service Purchase Order may **not** be the appropriate mechanism to use for the services being acquired.

- a. Does the service require professional expertise? The skills involved would typically require an advanced degree in the field, certification or a professional license (e.g., physician, lawyer, etc.).
- b. Would the service be more appropriately performed under a temporary personnel mechanism (e.g., intermittent or temporary consultant appointment)?
- c. Is the service something that should be handled with a Government travel order (e.g., pre-employment interviews)?
- d. Is the service something that should be performed or coordinated with an NIH component (e.g., Veterinary Research Program (VRP) for veterinary services)?
- e. Is the service complex and does it require negotiation? If so, refer to one of the Office of Acquisitions.
- f. Would the service be reoccurring, therefore more appropriate to process as a purchase order above \$3,000 or a contract?

For services that do not fall into any of the previous categories, the following factors should be considered. ***The frequency of "yes" responses increases the possibility of an employer-employee relationship and indicates that the service may be personal and not appropriate.*** The acquisition file must be documented as needed to clarify any "yes" responses.

**The Acquisition ...**

- | YES | NO  |                                                                                                                                       |
|-----|-----|---------------------------------------------------------------------------------------------------------------------------------------|
| ___ | ___ | a. requires on-site performance.                                                                                                      |
| ___ | ___ | b. requires that the principal tools and equipment be furnished by the Government.                                                    |
| ___ | ___ | c. work is an integral part of the assigned mission or function of NIH.                                                               |
| ___ | ___ | d. work is the type ordinarily performed by Civil Service personnel.                                                                  |
| ___ | ___ | e. can reasonably be expected to last beyond one year.                                                                                |
| ___ | ___ | f. requires Government approval for hiring and removal of key contract employees.                                                     |
| ___ | ___ | g. requires the Government to prepare schedules for individual contract employees.                                                    |
| ___ | ___ | h. requires the Government to control the method of contract performance.                                                             |
| ___ | ___ | i. allows the contract tasks to be defined on a day-to-day basis.                                                                     |
| ___ | ___ | j. provides payment for time worked rather than accomplished result (this statement should only be considered for questionable cases) |
| ___ | ___ | k. work requires Government personnel to manage the contractor employee's daily work.                                                 |

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## **Payment of Honorarium or Fee for Service to a Foreign Traveler on a B1 VISA**

The International Services Branch (ISB) has outlined that payment can be remitted for Honorarium or Fee for Service to a B-1/B-2 VISA-holder on a Professional Service Order. A B1/B2 VISA is granted to a foreign (alien) visitor for official business. Specific requirements must be met for the B-1 VISA holder to receive Honorarium or Fee for Service on a Professional Service Order.

- The activity will last no longer than nine days at any single institution or organization.
- Payment is offered by an institution or organization described in INA 212(p) -- an institution of higher education, a related or affiliated nonprofit entity, or a non-profit research organization or a Governmental research organization.
- The honorarium is for services conducted for the benefit of the institution or entity.
- The alien has not accepted such payment or expenses from more than five institutions or organizations over the previous six months.

### ***If the visit will be more than nine days, a foreign traveler must have a J-1 VISA.***

A J1 VISA is a visa for foreign individuals invited to NIH for lectures or short-term consultations that are sponsored by NIH or by an outside organization. Previously, B-1 VISA holders could be reimbursed only for per diem, travel and incidental expenses. To pay an Honorarium or Fee for Service on a Professional Service order, the foreign traveler had to possess a J1 VISA.

ISB states, "You may wish to pay an honorarium to a short-term Foreign visitor on a B-1/B-2 Visitors Visa (or from a Visa Waiver country who enters the US without a visa). Allowing for payment of honoraria to individuals on Visitors visas/Visa Waiver Program will put the NIH in line with most academic institutions, which now provide for such payments."

***For additional information, visit the International Services Branch, ORS website***

### **VISA Application and Issuance Fees**

NIH may reimburse peer reviewers for VISA application and issuance fees. According to the Comptroller General, VISA application and issuance fees are a permissible travel expense for individuals on official temporary duty Government travel. Thus, peer reviewers traveling under a B-1 Visitor's VISA may be reimbursed for VISA applications

and issuance fees that are reasonable business expenses. There may be applicability to members of the intramural Boards of Scientific Counselors, but the majority of those affected will be reviewers of intramural grant applications.

### **Payment Procedures for Purchase Order for Professional Services**

Before the Purchase Order for Professional Services can be processed for payment, the Buyer and Approver must ensure

- the service has been rendered in its entirety
- the acquisition file contains required documentation including receiving documentation (and required lodging and travel receipts,)
- receiving information is entered in the NBS system.

New vendors must be registered in CCR with a valid DUNS or DUNS +4 before the order is placed. Purchasers should allow additional lead-time and planning to allow for CCR registration to avoid situations that would disrupt research or would lead to unauthorized procurements

The first point of contact for requirement activities is the IC Administrative Officer. Within the Office of Financial Management (OFM), contact the Government Accounting Branch at (301) 435-3505.

*The information above is partially excerpted from the Office of Financial Management Policy Memo, "Electronic Payments" dated September 10, 1997 from Chief Financial Officer, NIH to all NIH employees regarding electronic payments.*

### **UNPRICED PURCHASE ORDERS**

An unpriced purchase order is an order for supplies or services, the price of which is not established at the time of the issuance of the order

Unpriced purchase orders may be used only when it is impractical to obtain pricing in advance of the issuance of the purchase order; and the purchase is for;

1. Repairs to equipment requiring disassembly to determine the nature and

- extent of repairs
- 2. Material available from only one source and for which cost cannot readily be established
- 3. Supplies or services for which prices are known to be competitive, but exact prices are not known

### **NIH-Wide Maintenance Contracts**

NIH has established Indefinite Delivery Contracts (See Internal and External Task Orders/Delivery Orders III-58) with some of the major scientific equipment manufacturers.

These full-service contracts provide routine preventive maintenance as well as unlimited emergency repair. Also included are provisions to cover packing/crating and installation charges. The Task Order/Delivery Order is used to obligate funds and is usually entered at the beginning of a quarter or semi-annually as specified in the contract. Task and Delivery Order Contracting for obtaining goods and/or services from established Indefinite Delivery Contracts awarded by the Office of Acquisitions and Logistics Management are discussed in the Manual Chapters website referenced above.

The Buyer must understand the terms of the contract and any special reporting requirements applicable to the specific contract.

Equipment not included under a NIH-wide maintenance contract should be referred to SEIB for repair *prior* to awarding a purchase order. If the item is not available for repair with a NIH-wide maintenance contract, or SEIB is unable to repair the equipment, the Buyer is allowed to award a purchase order for the services..

## **Equipment Trade-in**

Some companies selling scientific and office equipment to NIH will accept used equipment, regardless of condition, for trade-in against the purchase of new equipment. Trade-ins can only be made for items of a similar nature. Items are considered similar when both fall within a single Federal Supply Classification Group. Therefore, property in FSC Group 66 (scientific equipment) may apply towards the acquisition of other property in FSC Group 66.

NIH maintains a database of surplus scientific instruments. Laboratories can usually benefit when claiming a new instrument for use over an older existing instrument. Newer instruments have more capabilities, take less space, and cost less to maintain than older ones. Instruments listed on the database are also available for trade-in when buying new instruments on the Open Market or on the Federal Supply Schedule. Any type of laboratory instrument can be traded in for another.

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## **Requesting Office Responsibilities**

Requesting Office Responsibilities The Property Administration Branch (PAB), Property Utilization Section (PUS) (301-496-4247), should be contacted to see if surplus items are available for trade in. Office machines and scientific equipment that do not meet the trade-in requirements and are excess property should be transferred to the PAB, PUS, using Form NIH-649. For accountable and non-accountable property, the Property Custodial Officer transmits the NIH-649 on-line through the SUNFLOWER Asset Management System.

NIH Form 1872 (Rev. 3/94), Request for Trade-in or Exchange of Government-owned Property, must be completed and approved prior to award of any acquisition involving the trade-in of Government Equipment by the Chief, Property Administration Branch, Bldg. 6011, Rm. 637, Phone: (301) 496-5711.

Whenever possible, these requests should be submitted 5 work days prior to the award. This will allow other NIH and HHS activities to request the item in lieu of a new acquisition. Should a requirement surface, the activities may work together to agree on compensation. Instruments and other equipment may be used while the trade-in documentation works through the approval cycle. Status of these requests can be obtained by calling the IC Property Management Liaison at (301) 496-5711.

NIH-owned equipment can not be used as a trade-in to reduce the cost of a leasing arrangement. Government-owned property can only be traded on the purchase of a similar item. Leases must stand by themselves. Property regulations allow offices to borrow equipment from a vendor for trial periods before entering into a lease or purchase agreement. For details contact DLS on (301) 496-5711

## **Leased Equipment**

NIH-owned equipment can not be used as a trade-in to reduce the cost of a leasing arrangement. Government-owned property can only be traded on the purchase of a similar item. Leases must stand by themselves. Property regulations allow offices to borrow equipment from a vendor for trial periods before entering into a lease or purchase agreement. For details contact DLS on (301) 496-5711.

## **PURCHASE ORDER-INVOICE-VOUCHER (SF-44)**

The "Purchase Order-Invoice-Voucher" (SF-44) is a cash purchase procedure designed for purchases when the vendor will not accept any other acquisition mechanism, such as a BPA Call, purchase order, or Government purchase card. A SF-44 cannot be used outside the local area unless the vendor refuses to accept a Government purchase order or a Government purchase card. In this situation, that fact must be noted on the SF-44.

In most cases, the total dollar amount of the purchase cannot exceed \$1,500. In rare instances, SF-44 purchases are authorized over \$1,500 up to \$2,500 but must be signed by a warranted Contracting Officer, designated by one of the Office of Acquisitions. This individual must be on record with the Agent Cashier, through the filing of an NIH 2393, "Authorization to Approve Payment Vouchers."

### **Appropriate Use and Restrictions**

#### **1. Appropriate Use of the SF-44:**

- a. Purchasing supplies or non-personal services from local vendors who will only accept a draft (check) or cash.
- b. Purchasing supplies or non-personal services from vendors outside the local area who will only accept Cash/Check on Delivery (COD).
- c. Purchasing pamphlets (initial reprints/publication costs), journals, subscriptions or periodicals where the publisher requires advance payment, and no other acquisition mechanism will be accepted.
- d. Paying fees to volunteers or donors of blood, blood products, bone marrow, etc., for research studies. (See Page III-78)

#### **2. Inappropriate Use of the SF-44:**

- a. Services that require a statement of work, consultant services, professional or personal services, lease or rentals, maintenance agreements, construction architectural and engineering services.
- b. Travel including airfare, hotels, entertainment, or meals.



- c. Tuition, registration fees, or enrollment cost for training.
- d. Items that are governed by a statute that prohibits the use of appropriated funds for the purchase.

## **Responsibilities**

The SF-44 is a controlled form, and as such, the booklet of SF-44 forms should be kept under lock and key at all times. A record of all transactions must be logged in the booklet. Once filled out, the SF-44 cannot be changed or altered, otherwise the bearer may be liable for the total cash received. Authorized individuals issuing SF-44's are responsible for the following:

- a. Purchasing the SF-44 forms through the NIH Supply Warehouse via an Internal Requisition
- b. Securing and ensuring the SF-44s are kept in a locked cabinet or safe.
- c. Recording all transactions on the "Record of Purchases" log inside the cover of the SF-44 book.
- d. Ensuring all support documentation/information is kept with the appropriate SF-44 records.
- e. Maintaining transaction records, including canceled or voided vouchers for a period of 3 years after payment of the item.

## **Delegation of Authority**

An SF-44 cannot exceed \$1,500 . For purchases over \$1,500, but less than \$2,500 the SF-44 must be signed by a warranted Contracting Officer who has been designated by the Chief Contracting Officer in one of the Office of Acquisitions. The Contracting Officer must be registered with OFM's Agent Cashier through the filing of an NIH 2393, "Authorization to Approve Payment Vouchers."

## General Procedures

### Acquisition Procedures

Before issuing an SF-44, the Approver must:

1. verify the authority was granted for SF-44s with the issuance of a Contracting Officer warrant;
2. verify the card NIH 2393, "Authorization to Approve Payment Vouchers", is on file with the NIH Cashier's Office; and
3. adhere to the acquisition procedures outlined below.
  - a. Verify that the purchase of supplies or non-personal services is in compliance with FAR Part 13.2, Actions At or Below The Micro-Purchase Threshold, e.g., required sources of supply or services have been checked, orders are equally distributed among qualified suppliers.
  - b. If applicable, verify a justification has been obtained and is included on the SF-44 (or a copy is attached to each copy/part of the SF-44). A justification is required for such things as purchasing subscriptions, journals, personal appeal items (the legitimate NIH purpose must be demonstrated).
  - c. If applicable, verify clearance(s) has been obtained and included on the SF-44. All clearances that are required for simplified acquisitions at NIH must be obtained prior to purchase.

The type of clearance(s), the official's name, signature and date should be typed on the SF-44. If space does not allow for clearance information, the purchase request (NIH 1861) should be used to obtain the clearance(s) required, and a copy of the purchase request that includes the clearance(s) is attached to each copy of the form.

### Fees for Protocol Volunteers

- a. With Protocols and informed consent forms already approved by an

#### Institute-specific Institutional Review Board (IRB):

- i. For Labs with protocols approved by applicable IRB, drawing blood from participating volunteers, may be permissible.
  - ii. The volunteer's name must be typed in the Payee section of the SF-44, which is signed by an authorized Approver.
- b. Without an Institute-specific IRB-approved protocol, NIH investigators may use the Clinical Center Department of Transfusion Medicine's IRB-approved protocol, #99-CC-1068, entitled "Collection and Distribution of Blood Components from Healthy Donors for In Vitro Research Use."
- . For Labs without approved medical protocols, component collection may be done by the Department of Transfusion Medicine. The researcher must submit a brief memo describing the research study; type and quantity of blood product (e.g., whole blood, platelets, etc.); when to start, frequency; CAN and AO name, Bldg/Rm, phone; contact's name and phone number; and submit to Chief, Blood Services Section (Dr. Susan Leitman), Department of Transfusion Medicine, Bldg.10, Rm. 1C711, x69702. The preferred method of submission is by email.  
(sleitman@mail.cc.nih.gov)

The SF-44 will be prepared by the Department of Transfusion Medicine. The volunteer's name must be typed in the Payee section of the authorized Approver

#### **Cashier Draft Procedures**

Before preparing the SF-44, the vendor must be informed that they will receive a draft as payment; and, since the NIH is exempt from paying taxes, the purchase price shall not include sales tax. Also, a verbal agreement should be made on the price of the goods, the refund or exchange policy for the receipt of unacceptable items, and the acceptability of a draft. In most instances the vendor should not object to receiving a draft, especially since the draft is made out for the exact amount of the purchase. If vendors do object, see "Procedures for Cash Pick-up" below.

Since the SF-44 cannot be altered once approved, it is important that the exact amount of the purchase be known before issuing it. In cases where the draft is issued for less than the purchase price, the purchase cannot be made. The draft must be returned

promptly to the Cashier. The original SF-44 is canceled by the issuer and a new SF-44 is prepared for the correct purchase price.

**Note:** If the draft is mailed to the vendor (see note on pre-payments under "Condition of Use" above), upon the receipt of item(s) the packing slip is signed and dated by the Requester and submitted to the SF-44 Approver for their files. When the item(s) received is not accompanied by a packing slip, the Requester must sign and date the green copy of the SF-44 that is retained by the SF-44 Approver.

### **Procedures for Cash Pick-up**

In the rare instance a vendor refuses to accept a draft or the exact amount of the purchase cannot be determined in advance, the general procedures for cash pick-up are as follows:

- a. **"Messenger Pick-up"** must be typed in the Payee section of the SF-44 instead of the vendor's name and address. Please keep in mind, the draft will be made payable to the Messenger who is required to show identification when presenting the SF-44 at the Cashier's Office.
- b. When the Cashier issues the draft made out to the Messenger in the dollar amount stated on the SF-44, the messenger must cash the draft at the NIH Federal Credit Union before making the purchase. The un-receipted SF-44 (see note below) and any unused cash must be returned to the Cashier upon completion of the purchase.

**Note:** The Messenger is personally liable for the face value of the SF-44 until it is signed by the vendor and Requester (receipted) as a completed transaction and returned to the Cashier with the receipt. This entire transaction should be completed within 5 days of issuance of the draft.

### **Procedures for Cash/Check on Delivery (COD)**

Cash/Check on Delivery (COD) is defined as collection of payment by a delivery/courier service (e.g., UPS) for items ordered from a vendor, that require payment upon delivery to premises. COD is used when the item needed is from a vendor that is not located in the local area and the vendor will not accept any other acquisition mechanism. The SF-44 is completed in its entirety by the Authorized Issuer as indicated. In addition, a separate line item must be included on the SF-44 for the actual cost of the COD processing fee (no estimates). Generally a fee is charged by the delivery service for handling the COD shipment and this fee is passed on to the Government. Special procedures for COD orders are as follows:

- a. The SF-44 must include the statement "**COD Transaction -Receipt And The Signed White Copy of The Sf-44 Will Be Returned Within 10 Days of Issuance of The Check**".
- b. Requester presents draft to delivery person instead of vendor.
- c. Delivery person signs white copy of SF-44 in space marked "vendor".
- d. The signed white copy and receipt are returned to the Cashier within 10 days after issuance of the check for CODs instead of 5 days.

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## Review Process

The Office of Financial Management forwards all blue copies of SF-44 transactions to the Acquisition Services and Review Branch, (ASRB), Division of Simplified Acquisitions Policy and Services (DSAPS) to review for compliance with acquisition policies and procedures. A written notification will be sent to the SF-44 Approver when the order is not in compliance with the guidelines in this memorandum. Also, a copy of the notification will be retained in the Approver's file.

## Terms and Conditions for Use of SF-44

The Approver must abide by these instructions and the following conditions:

- A. All purchases will be for official use only; no purchase for personal use will be made.
- B. Responsibility for assuring that purchases are authorized and in accordance with FAR, HHSAR, NIH policies and procedures, rests with the Approver. In cases where doubt exists over the legitimacy of a purchase, the Approver is responsible for seeking advice from the ASRB, in advance. The ASRB has the final authority to determine the legitimacy of any item purchased. Questions may be referred to the Simplified Acquisition Helpline at (301)496-0400 or the Simplified Acquisition email at [SimplifiedAcquisitionHelpline@od.nih.gov](mailto:SimplifiedAcquisitionHelpline@od.nih.gov)
- C. If the SF-44 is lost or stolen, the Approver agrees to follow the prescribed reporting instructions without delay.
- D. The Approver will surrender his/her approving authority upon misuse of SF-44s at any time upon request of the Chief Cashier, OFM.

## Completing the SF-44

The SF-44 must be completed as described below and all copies of the form must be legible. To ensure legibility, the form should be typed.

1. **Date of Order:** Type the effective date of the order.
2. **Name and Address of Seller:** Type the complete name and address of the vendor. For cash pick-ups, type "MESSENGER PICK-UP" instead of vendor's information.

3. **Furnish Supplies or Services to:** Type the Name, Building, and Room Number of the Requestor.
4. **Supplies or Services:** Type a specific description of each item. Add a separate line item for COD or shipping charges, if appropriate.
5. **Quantity:** Type the number of units ordered for the line item.
6. **Unit Price:** Type the unit price of the line item.
7. **Amount:** Type the total price of the line item.
8. **Total:** Type the order total.
9. **Ordered by:** Type the name and title of the SF-44 Issuer and obtain signature.
10. **Purpose and Accounting Data:** Type the purpose of the SF-44, the Project Number, Expenditure Type, and the IC.
11. **Justification (if required):** Justification can be typed on the SF-44 (if space allows) or on a separate piece of paper, and attached to **each** copy of the form.
12. **Clearance(s) (if required):** The type of clearance(s), the official's name (typed), signature and date should be on the SF-44. If space does not allow for clearance(s), the purchase request should be used to obtain the clearance(s) required, and a copy of the purchase request that includes the clearance must be attached to each copy of the form.

## PAYMENT PROCEDURES

### Automated Clearing House (ACH)

Effective January 1, 1998, vendors will be paid by Electronic Funds Transfer (EFT), which is defined as any transfer of funds by means other than paper. The Automated Clearing House (ACH) is the method by which payment will be made to vendors .

***ACH is the primary system*** used to transfer payments directly into the accounts of vendors and others through an electronic funds transfer system on the payment due date. All vendors and Contractors must be registered in the Central Contractor Registration (CCR) along with a DUNS or DUNS +4 unless exempt by FAR 4.1102(a).

In accordance with the Federal Acquisition Regulation (FAR), all simplified acquisitions which...

- ▶ will not be paid through the use of the Government-wide commercial purchase card and...
- ▶ which are not otherwise excepted from the payment requirements as set forth in FAR 32.1103...

...must contain the clause at FAR 52.232-34, "Payment By Electronic Funds Transfer- Other Than Central Contractor Registration (May 1999)." (As prescribed in FAR 32.1110(a)(2)).

Before an order can be processed for payment, be sure that:

- receiving is complete, or identify what items have been received
- receiving documentation is in the acquisition file
- receiving information is entered in the NBS

Buyers should verify that vendors have CCR information on file and that it is correct before sending an order to the vendor. New vendors or vendors who have not registered in CCR must register prior to an award. Additional lead-time and planning may be required all for the enrollment form to be processed and avoid situations that might disrupt research or would lead to Unauthorized Procurements.

Questions regarding payment procedures should be directed to the Purchaser's Administrative Officer or the Office of Financial Management (OFM), Government Accounting Branch:

Government Accounting Branch,  
(301) 435-3505



*The information above is partially excerpted from the Office of Financial Management Policy Memo, "Electronic Payments", dated September 10, 1997, from Chief Financial Officer, NIH, to all NIH Employees; Subject: Electronic Payments*

**Exceptions:**

- Foreign vendors who do not have a bank that is domesticated in the United States are exempt from ACH requirements. These vendors will be paid by US Treasury check.
- Patient contributors or volunteers for research, blood draws, etc. These individuals are paid by check.
- Individuals awarded a Purchase Order for Professional Services are **not** required to register in the Central Contractor Registration (CCR) until after two times. They must be initially set up as Non-CCR vendors.

***Please see the website listing for link to attachment for the "Temporary Policy for Professional Services" or visit the Division of Simplified Acquisition Policy & Services homepage.***

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## Unpaid Invoices

Buyers **and** Approvers are responsible for reviewing the reporting tools weekly to ensure that the vendor is paid and avoid interest penalty charges.

If a vendor has not conformed with the requirements of the order and an invoice has been sent to OFM, the Buyer should notify OFM to return the invoice to the vendor for noncompliance. Receiving information is not entered into the NBS until the vendor has fulfilled the requirements of the order. The Buyer should document the acquisition file accordingly.

Questions concerning payment status, the unpaid invoice reports, and/or problem invoices should be directed to The Customer Service Section, Commercial Accounts Branch, at 301- 496-6088. Hours of Operation: Monday through Friday 8:30 am to 4:30 pm.

The Customer Service Section has a customer viewer which allows NIH personnel to view and obtain images of invoices received by the NIH.

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## Vendor Payment Information through the PAID Website

The Debt Collection Act requires all vendors conducting business with the Federal Government to provide banking information to each Federal agency for electronic payments.

The U.S. Treasury developed the PAID System at the website as a method to assist vendors with identifying payments deposited into their accounts. Information is provided for the agency, order number, invoice number, and the amount of the invoice.

Vendors must complete an on-line registration form, providing name, password, and tax identification number (TIN) to log into the PAID System. All information on the website is available within 24 hours from the date of payment and retained for two months thereafter. For any questions about the PAID System, vendors can contact the OFM Customer Service Office at 301-496-6088.

Buyers should make vendors aware of this website so they can access payment information online instead of calling OFM or the Requestor/Buyer. ***Vendors are encouraged to select notification via email, which contacts the vendor when payment is rendered and references information about the payment.***

**PAID Website:**                      <http://fms2.treas.gov/paid/>

## Central Contractor Registration (CCR)

Effective October 1, 2003, the Central Contractor Registration (CCR) is the primary vendor database for the Federal Government. It collects and disseminates information on vendors who do business with the Government. All acquisition mechanisms, with the exception of purchase cards, when they are used as both a purchasing and payment mechanism, require that the vendor register in the (CCR).

This new requirement was published in the Federal Register on October 1, 2003. The purpose of CCR is to increase the visibility of vendor sources and establish a common source of vendor data for the Government. The CCR will allow individuals and companies to provide basic business capabilities and financial information to the Government one time instead of each time they are interested in a Government requirement. Vendors will be responsible for updating the CCR annually, or as key information changes.

All Blanket Purchase Agreement (BPA) vendors who accept BPA Calls have already been registered. Future BPA vendors will be asked to register by the BPA Program at the time the BPA is established. Therefore, BPA calls can be placed against a BPA without any further CCR activity. Purchasing agents in the centralized and decentralized areas will need to verify that the vendor is registered prior to placing an order.

The CCR System requires that the vendor supply the following information. For more information, see page 105.

**General Information**

- \* Data Universal Numbering System (DUNS) Number
- \* Legal Business Name and Doing Business as (DBA)
- \* US Federal TIN
- \* Business Street Address
- \* City, State, Zip
- \* County
- \* Date Business Started
- \* Fiscal Year End Close Date
- \* Average # of Employees and Annual Revenue

**Corporate Information** (Type of Organization)

- \* Sole Proprietorship
- \* Corporate Entity (Not Tax Exempt)
- \* Corporate Entity (Tax Exempt)
- \* Partnership
- \* Other

**Goods/Services**

- \* North American Industry Classification System (NAICS) Codes
- \* Standard Industrial Classification (SIC) Codes

**Financial Information** (Electronic Funds Transfer (EFT) Data)

- \* ABA Routing Number
- \* Account Number, Type, & Lockbox Number
- \* Automated Clearing House
- \* Remittance Information
- \* Accounts Receivable
- \* Credit Card Information

**Point of Contact**

- \* Registrant Name: Also known as the CCR POC
- \* Alternate Contact

***For registration assistance, the CCR Customer Assistance Center has a toll free number and email***

**Phone: 1-888-227-2423**

**email: [ccr@dlis.dla.mil](mailto:ccr@dlis.dla.mil)**

## To Register in the CCR:

Vendors can register online at no charge at [www.ccr.gov](http://www.ccr.gov) Click on the tab at the top of the web page to download the **CCR Handbook** which provides information for vendors and ordering officials regarding the CCR.

Prior to registering in the CCR, vendors must obtain a **Data Universal Numbering System** (DUNS) number. **A DUNS number is obtained via telephone at 1-866-705-5611.** A DUNS number will be provided at no charge and will be effective within 24 hours after application is made.

When registering, if the vendor is an individual rather than a company, select **Sole Proprietorship** for the type of organization.

## NAICS Codes

NAICS codes identify the industry classification for vendors. Vendors can identify up to five **NAICS** codes to identify their business type. The NAICS website provides a search by keyword or by NAICS code.

The North American Free Trade Agreement (NAFTA), 1993, stimulated interest in eliminating barriers to cross-national flow of goods, services and capital investment for the North American countries. Along with this interest, a need for a common industry classification system and a U.S. effort already underway to revise the outdated U.S. Standard Industrial Classification System (SIC Code), a coordinated effort among U.S., Canada and Mexico took shape to explore new approaches to classifying economic activity.

Effective October 1, 2000, the new NAICS will be applied to procurement actions solicited and awarded for industry and size related classification purposes. The Small Business Administration, charged with establishing size standards against industry classifications, established size standards based on number of employees or average annual sales or assets or electric output for determining business size.

The NAICS system, similar in hierarchical structure to the SIC Code system, includes 20 Sectors and 1,170 industries in NAICS U.S. The first 2 of the 6 digit structure represents the sectors of economic activity, the third digit designates the sub sector, the fourth digit designates the industry group, the fifth digit designates the NAICS industry and the sixth digit designates the national industry. A zero sixth digit generally indicates that the NAICS and U.S. industries are the same. There are approximately 150 new NAICS capturing new sectors such as Information, Professional, Scientific and Technical Service, Arts, Entertainment and Recreation.

## **Departmental Contracts Information System (DCIS)**

The DCIS mission is to provide data collection and reporting capabilities needed to enable HHS to comply with the reporting requirements mandated by Public Law 93-400 for the reporting of procurement actions. DCIS provides a single system capability within HHS that collects, edits and stores information on individual procurement and contracting actions executed by the Operating Divisions (OPDIVs) and other HHS offices. It creates a HHS-wide database of the collected information; forwards selected information about HHS procurement and contracting actions reportable under Public Law 93-400 to the Federal Procurement Data System (FPDS) operated by the Federal Procurement Data Center (FPDC) of the General Services Administration (GSA); and reports on selected contract actions and data to specified organizations within HHS.

The HHS organizations required to report to DCIS are the Administration for Children and Families (ACF), the Agency for Health Care Research & Quality (AHRQ), Centers for Disease Control & Prevention (CDC), Centers for Medicare and Medicaid Systems (CMS), Food and Drug Administration (FDA), Health Resources & Services Administration (HRSA), Indian Health Service (IHS), National Institutes of Health (NIH), Program Support Center (PSC), and Substance Abuse & Mental Health Services Administration (SAMHSA), (collectively referred to as the HHS Operating Division (OPDIVs)).

All technical questions regarding DCIS should be referred to the DCIS Helpline at 301-451-2771.

## **Radioisotopes**

Radioisotopes are Radioactive materials. All radioisotopes are delivered to Building 21, Room 107. The Radiation Safety Branch (RSB) will deliver them to the authorized user after inspection of the item.

Radioisotope orders are placed with a Purchase Card. Purchasers should confirm the following delivery address with the vendor:

Radiation Safety Branch, Authorized User Name and Number  
21 Wilson Dr.  
Bldg 21, Room 107  
Bethesda MD 20892-6780

Form NIH-88-1 must be submitted by FAX, email, Web Portal or interoffice mail before the material arrives at the Radiation Safety Branch (see the Division of Safety website).

## **Radioactive Materials**

All Purchase Requests for radioactive materials shall be approved by RSB. Be sure the order's "ship to:" address is Radiation Safety Branch, Bldg 21 (Or Radio) Room 107.

Frequently, orders specify the requestor's site as the Ship To: point. It is important that the vendor delivers to the Radiation Safety Branch and not the final destination address. Purchasers should provide only the Requestor's name, Authorized User Number or Clearance Number.

Purchase Requests are forwarded to Radiation Safety with the NIH 88-1 form. The purchase request must be approved by Mr. Israel Putnam (or his designee), Chief, Materials Acquisition Unit, Radiation Safety Branch (RSB), NIH



## Purchase Cards and Radioisotopes

NIH Manual Issuance 26013-2 was changed in May, 2000, to authorize cardholders to purchase radioisotopes directly. The Purchase Cardholder may place radioactive material orders directly from the vendor. Purchase Cardholders must comply with the following requirements:

- With the exception of NIEHS, Rocky Mountain Laboratory (NIAID), Phoenix Epidemiology and Clinical Research Branch (NIDDK), and Fort Detrick, Maryland, **all radioactive material must be delivered only to Building 21, Room 107**. All NIH operations listed above as exceptions will adhere to previously established procedures at their individual locations.
- The packing slip or shipping document must include the ordering Authorized User's name and the RSB ID (clearance number). Contact 301-496-3277 to obtain an RSB clearance number.
- Radioactive materials **and** Non-Radioactive supplies can not be placed on the same order. When ordering both Radioactive and Non-Radioactive items from the same vendor, two orders must be placed. However, special discounted prices negotiated for the vendor's BPA shall also apply to purchase card orders.
- Standing orders, which are orders that require multiple delivery dates, are prohibited unless the entire order is delivered within 60 days.
- Any other requirements established by the RSB for the acquisition of radioactive material must be observed.

It is the Card Approving Officials' responsibility to ensure that Cardholder's comply with Simplified Acquisition Procedures and Purchase Card responsibilities when purchasing Radioactive materials.

## **NIH Specific BPA Services**

The following is a list of BPA services and their ordering procedures.

### **Shipping / Local Delivery**

Local same-day messenger/courier services within the Washington, DC metropolitan area may be obtained through the vendors listed in the NIH-Wide BPA Listing. Within one day of placing the order with the vendor, a BPA Call must be entered in the NBS for all pickups and deliveries made during that particular day. One line item must be entered for each pickup and delivery and should include the delivery ticket number. *It is not necessary to enter receiving information* into the NBS. However, the acquisition file must contain appropriate receiving documentation. A BPA Call should not be used as a "standing order" for an extended period of time, such as, several months to one year. However, a BPA Call may be used for a maintenance agreements covering up to one year.

### **Federal Supply Schedule (FSS) Full Service Copier Maintenance**

There are FSS BPAs available for copier maintenance. Before purchasing full service FSS maintenance contracts on BPA, it is suggested that the Buyer obtain a copy of the FSS contract from the vendor. This will ensure that the Buyer will be able to determine what service is provided, what response time is expected, what charges may be incurred, and when credits may be due from the contractor. The following are general guidelines for the acquisition of full service maintenance contracts when using FSS BPA:

A BPA Call for full service copier maintenance is entered into the NBS on October 1st, to cover the entire fiscal year. The period of performance for these orders cannot exceed September 30th. Orders for copier maintenance agreements after the beginning of the fiscal year (October 1st) are charged on a prorated basis. Several FSS BPA vendors also offer additional discounts for consolidation of multiple copier machines on one Call, where possible (i.e., one Call issued for multiple copier machines).

**Note:** For copiers that have not been continuously covered under a full service maintenance contract since the end of the warranty period, the Government must pay the vendor for inspection of the equipment and repair of any current defects before a new maintenance contract can be procured. Therefore, a separate Purchase Request must be submitted to one of the Offices of Acquisition to fulfill this requirement.

The product service code D302 is used on all full service copier maintenance orders. The period of performance is typed in the header or text field.

The description for supplies and services should clearly state that the order is for copier maintenance. It is suggested that for each copier three separate line items be entered as described below:

- Line one: For the renewal of an existing copier maintenance, the description field should include the copier's model number, serial number, previous purchase order number, and building and room location.. .
- Line two: If there are additional accessories (e.g., sorter, etc.) the description of the feature(s) and serial number (if any) are also entered in the field.
- Line three: Excess copy/meter charges are entered as one charge for the whole year. This estimate should be based on past experience.

If the vendor's billing cycle is monthly, a "12" is entered in the quantity field (unless the time is less than 12 months) and months in the UNIT: field. If the billing cycle is quarterly, then a "4" is entered in the quantity field and "QTR" (quarterly) is entered in the UNIT: field.

As required by the FAR.8.404(2)(I-vii), whenever a FSS order exceeds \$3,000, a justification must be provided to ensure that the selection/award represents the "best value" and meets the agency's needs at the lowest overall cost.

If the order exceeds \$500,000 for a FSS order on a BPA, a purchase request must be submitted to one of the Offices of Acquisition for processing.

FSS contracts require the vendor to receive a copy of the order, therefore, the Buyer must mail or fax a copy of the approved BPA Call to the FSS BPA vendor, making sure if the order has already been given verbally, this copy is labeled "confirming" to avoid duplication.

### **Cancellation of Maintenance**

Full service copier maintenance orders can be canceled without penalty. The IC must notify the FSS vendor in writing 30 days before cancellation even if the order expires at the end of the fiscal year. Failure to do so will possibly result in additional charges.

### **Reporting Requirements**

Under the terms of the FSS contract, the Government is required to provide the vendor with timely meter readings on copier equipment so that charges can be correctly calculated. Each IC is responsible for designating an individual to report their copier(s) meter readings to the IC Buyer, FSS BPA Vendor.

### **Receiving**

The Buyer enters partial receiving at the end of each month or quarter (depending on the vendor's billing cycle) for the basic maintenance fee and any additional features. In addition, excess copier charges (if any) must be partial received by dollar amount monthly. Final receiving is entered at the end of the fiscal year for all line items.

At the end of each month, the FSS BPA vendor is provided with the meter reading. Some vendors require this information by telephone while others require a meter amount card to be returned to the vendor. This requirement is necessary prior to invoicing so that any excess copy charges will be included by the vendor. If the meter reading is not provided, an estimated amount of excess copy charges will be provided by the vendor.

## Temporary Administrative and Clerical Support Services

BPA's have been established with temporary help service firms for the brief or intermittent use of the skills of private sector temporaries. FAR 37.112 exempts these services from normal prohibitions on personal services arrangements. Outlined below are the general guidelines for the use of private sector temporaries:

The Buyer must obtain a purchase request which includes a justification describing the purpose for acquiring temporary services, and Statement of Work (SOW) which clearly defines the services needed. The SOW should address questions such as:

- What types and levels of skills are required?
- What are the most important tasks to be performed?
- What is the starting date, work hours, length of service, location of work assignment and the individual to whom the temporary employee must report?
- When is receiving information required (weekly, biweekly, or monthly)? This can be obtained from vendors and will avoid the potential for payment problems.

Note: The Office of Personnel Management authorizes Federal agencies to use private sector temporaries for 120 workdays instead of 120 calendar days. This rule also allows for an additional 120 workdays without prior approval within a 24 month period.

### Time Limitations and Extensions

A temporary (particular individual) may work for up to 240 workdays within a 24 month period (the 24 month period begins on the first workday). This period includes an extension for an additional 120 workdays beyond the original 120 day order, if the IC makes a determination (in writing) that using the services of the same individual for the same situation would prevent a significant delay.

The Buyer's Office forwards the request and support documentation to the IC Personnel Office for approval (see approval requirements below).

Upon approval from the IC Personnel Office or the re-delegated certification point, the Buyer places the order in accordance with the Federal Acquisition Regulation (FAR). Each order over \$3,000 must be competed or otherwise justified, the file must contain a written fair and reasonable price determination, and small business should be utilized or justified.

**Note: The Service Contracting Act-Wage Determinations are indicated on the vendor's BPA.**

## **IC Personnel Approval for Temporary Help Services**

IC Personnel Offices are responsible for developing internal procedures and some form of approval which permits the Offices of Acquisitions or Non Office of Acquisitions to purchase temporary services. IC certification points are responsible for reviewing and approving (or disapproving) all requests for private sector temporaries in accordance with applicable laws and regulations. The Buyers are required to have a copy of the approval before placing an order for temporary services. The approval should be retained in the purchase file.

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## **PURCHASING BUSINESS CARDS**

The Manual Issuance on PROCEDURES FOR PURCHASING BUSINESS CARDS, released 7/20/1998, is being cancelled. Instructions for ordering Business Cards are available on the OLAO Website under acquisition sources.

The guidance to be used by ICs to authorize business cards is as follows:

**Professional Staff**      The position has significant and continuous interaction with non-agency organizations or the position by its nature requires significant interaction with the non-agency organizations, and providing a business card will facilitate communication.

**Support Staff**      If the individual functions as an extension of her or his supervisor in dealing with non-agency organizations, where the supervisor meets the criteria for authorization of business cards for professional staff, or the position by its nature requires significant interaction with the non-agency organizations, and providing a business card will facilitate communication.

The standard business card format must have identifiers for HHS and NIH. Each card must include references to the Department of Health and Human Services and National Institutes of Health, either in text or logo. The card may also include the IC logo and other basic information such as name, business title, address, fax number, voice and email address.

NIH employees who are not eligible to use appropriated funds to obtain business cards or who would like personal business cards for private outside activities must purchase them using their own funds. Cards must meet the requirements referenced above and are subject to the approval of the appropriate IC.

Business cards can be purchased using any of the following procedures:

1. Employee business cards for Institute personnel can be purchased through the NIH Printing Branch, Division of Medical Arts and Printing Services, ORS (NIH Printing Branch) (301/496-3881). If the NIH Printing Branch is not used, then the purchase must be made from the Lighthouse for the Blind (LB), Seattle, Washington, unless a purchase exception exist under FAR 8.706 (41 CFR 51-5.4). LB is a mandatory source via the Javits-Wagner-O'Day Act. The General Services Administration has issued the LB a Federal Supply Schedule contract to supply employee business cards to Federal employees.
2. Employee business cards for Center or other NIH component's personnel **MUST** be purchased through the NIH Printing Branch.

The NIH Printing Branch will only accept Central Services Accounting (CSA) requests for the purchase of employee business cards. Requestors must also go to the website address: [www.nih.gov/od/ors/dss](http://www.nih.gov/od/ors/dss) to place orders. Contact the NIH Printing Branch at (301) 496-3881 for more information.

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## **PART IV - MISCELLANEOUS INFORMATION**

### **UNAUTHORIZED COMMITMENTS AND RATIFICATION**

An unauthorized commitment (sometimes referred to as an Unauthorized Procurement Action or UPA), is an agreement that is not binding because the Government's representative who made the agreement lacked the authority to enter into that agreement on behalf of the Government.

An unauthorized commitment typically occurs when:

- Orders are placed by someone other than the person authorized to place and/or approve an order. For example, a commitment by a program official without acquisition authority;
- BPA Call orders are placed by telephone to vendors who do not have a valid BPA or IDC with the NIH;
- Orders are placed without approval
- Orders are placed with a vendor without a valid purchase order, or other approved purchase instrument;
- Orders are made in excess of the dollar limitations of the acquisition mechanism, or the Approver's Authority;
- New work is added without modification to an order or changes occur to the terms and conditions of a purchase order or Indefinite Delivery Contract (IDC).

#### **Ratification of Unauthorized Commitments**

The FAR 1.602-3(a), defines a ratification as the act of approving an unauthorized commitment by an official who has the authority to do so. Effective June 03, 2008, the Head of the Contracting Activity (HCA) delegated to the Chief Contracting Officers the authority to review and ratify unauthorized commitments up to and including \$100,000 for the IC they support. For ICs that do not have a Chief Contracting Officer with authority to ratify unauthorized commitments, requests for ratification not exceeding \$100,000 should be forwarded for processing to the Chief Contracting Officer within the Office of Acquisition that handles their workload. Ratification requests greater than \$100,000 must be submitted to the Director, Division of Acquisition Policy and Evaluation, OAMP, (301) 496-6014.

## Requests For Ratification of an Unauthorized Commitment

When an unauthorized commitment is created, the Contracting Officer of the Purchasing Office involved shall coordinate the processing of the action and ensure that required documentation is prepared in a timely manner. For ratification requests being sent to the Director, Division of Acquisition Policy and Evaluation, OAMP, or to the Chief Contracting Officer of their Office of Acquisitions, for review, the IC Administrative Officer will coordinate the processing of the action and forward all required documents to the appropriate person.

The individual(s) who made the unauthorized commitment must submit a complete written statement of facts describing the circumstances that led to the action to the appropriate Contracting Officer or IC Administrative Officer. The Contracting Officer or the Administrative Officer must sign off on the statement for concurrence. The statement shall reference:

- The reason a covering order is required to purchase, and the item's benefit to the Government
- A list of sources and the reason the vendor was selected
- A description of the product or service
- Price and a price reasonableness determination
- Receiving date for the product or service
- Project Number, and availability of funds
- Any additional records or documents related to the action
- The vendor's invoice
- The Purchase Request, with identification that the Purchase Request *is a Request for Ratification of an Unauthorized Commitment*
- The specific steps that will prevent a recurrence of the situation

A request for approval of an unauthorized commitment does not guarantee ratification. The explanation of the action must be complete and all circumstances concerning the action fully discussed.

Requests for ratification up to \$100,000 must be submitted to the Chief Contracting Officer of their Office of Acquisitions. Requests greater than \$100,000 must be submitted to the HCA for review.

If ratification is approved, the Chief Contracting Officer of their Office of Acquisitions will execute a purchase order to cover the unauthorized commitment and forward the vendor's invoice to the Office of Financial Management (OFM) for payment.

If the request is not approved, the request with supporting documents, and a copy of the decision to disapprove is returned to the requesting Contracting Officer or IC Administrative Officer.

A memorandum shall be prepared in sufficient detail to support the recommended action. In difficult or unusual cases, legal review and concurrence may be sought from the Office of General Counsel, Business and Administrative Law Division.

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***Until an unauthorized commitment has been ratified, the individual responsible for the unauthorized acquisition may be legally and financially liable and/or subject to disciplinary action. Cases that can not be ratified may be subject to resolution as recommended by the General Accounting Office under its claim procedure. Refer to FAR Subpart 1.602-3(d) for guidance. If repeated violations leading to unauthorized commitments persist, action to limit or rescind acquisition activities in an IC may be taken.***

## ON-SITE REVIEW

Federal Acquisition Regulation (FAR) subpart 13.303-6 requires the review of random order files **at least annually** to ensure that Simplified Acquisition Procedures are being followed. The purpose of the review is to determine the quality of the Buyer's purchasing file and to assist in correcting any deficiencies discovered during the review. The integrity of the NIH acquisition program is important and the ordering process must avoid instances and appearances of fraud, waste, and abuse.

Another important purpose of the review process is to meet with Buyers and Approvers from each IC, discuss changes to the area of simplified acquisition and make sure all officials have a clear understanding of appropriate acquisition practices and implementation procedures.

The following procedures were developed as a guide to assist in conducting on-site reviews and preparing required documentation. IC Buyers can review the procedures for information on the review process. On-site reviews will be conducted on all Buyers and Approvers annually.

**Note:** The Office of Financial Management (OFM), The Division of Acquisition Programs and Evaluations (DAPE) and the HHS Small Business Office (SBO) may also participate in a sampling of on-site reviews for compliance purposes.

The purpose of this section is to provide a set of procedures and a process for conducting on-site reviews, which will serve as a general guide for review reports. This will create a sense of uniformity in the structure of reviews completed by the Acquisition Services and Review Branch (ASRB). It provides guidance to ensure that all applicable aspects of the current acquisition process and any future changes are reviewed thoroughly.

### Review Process

Each review requires several steps to be completed. Upon completion of the review, the review report details the status of the orders and any findings, the quality of the acquisition files, an explanation of regulatory and procedural findings, and requirements to bring the buyer to compliance. Regulatory findings identify requirements of the Federal Acquisition Regulation (FAR), Health and Human Services Acquisition Regulation (HHSAR) that have not been met. Procedural findings identify NIH requirements that have not been met.

Within two to four weeks following the review, an acquisition quality assessment report is issued by the ASRB. If OFM, DAPE and the HHS SBO participated in the review with the buyer, OFM, DAPE and HHS SBO will issue their individual review file report.

## **Assignment of Purchase Files for Review and Follow-up**

At the beginning of each fiscal year, files for review are assigned to a specific Reviewer. It is the reviewer's responsibility to schedule reviews in accordance with stipulated review cycles. Every effort is made to conduct the reviews during the first three quarters of the fiscal year. As new Buyers and Approvers are established they will be assigned to a reviewer and added to the review list.

The reviewer responsible for the purchase file review is the lead analyst and is responsible for all tasks associated with the review. In the event that an Approver or one of his/her Buyers fails a review, the follow-up review may be performed by the same reviewer or assigned to another reviewer.

## **Review Frequency**

Approvers and their Buyers will be reviewed annually. If they do not pass the review, they will be reviewed again in 90 days from issuance of the report. The review cycle will not be affected by follow-up reviews, as follow-up reviews are limited to only files within the problem areas found in the previous review, and are not as broad in scope as the routine reviews.

## **Sampling Strategy**

A sampling of acquisition files will be reviewed from the previous 90 days acquisition activity. In the event there has been a low volume of orders over the previous 90 day period, a longer period may be reviewed.

This sampling strategy pertains mainly to Buyers that usually process a variety of orders. The various order types and the minimum number of files to be systematically selected for buyers are as follows:

- The reviewer will select Open Market (OM) and Federal Supply Schedule (FSS) BPA Calls at or above \$3000
- Internal/External Task Orders/Delivery Orders at or above \$3000
- Purchase Order files at or below \$3,000
- SF44s (Cash Vouchers)

**Note:** In the event there are insufficient number of a specific order type, these numbers may vary accordingly to meet the total number of orders to be reviewed.

The reviewer ensures that there is order representation from each Buyer.

To assess the files performance, the orders will be reviewed to ensure split orders are not occurring, orders are properly recorded into DCIS and that sources are being rotated. In the event that improper acquisitions are noted, additional orders will be reviewed during the on-site review.

An exception to the selection of acquisition files is made for buyers with repetitive purchases. When all actions are of a repetitive nature, by the reviewer discretion, may request from the Chief, Acquisition Services and Review Branch, to review a smaller representative sample of orders.

The sample size for the follow up reviews is determined by the types of problems found in the previous review. For follow up reviews, as many as practical of the same type as those found with problems, will be reviewed by the analyst from the previous 90 day period.

The reviewer will provide the buyer with a list of order files to be reviewed at least 24 hours in advance of the scheduled review. This notification will be in the most expeditious manner, such as facsimile or E-mail.

### **Pre-Review Preparation**

The reviewer is responsible for the following actions prior to the on-site visit for the review:

- a. The reviewer shall contact the Buyer(s) and Approver planned to be reviewed and set-up a mutually agreed upon date and time to conduct the on-site review. Using the appropriate standard letter, the reviewer will email a letter to the Approver and Buyer to confirm the prearranged date and time for the on-site review. Once that date is agreed upon, the Buyer and/ or the reviewer may not request changes unless there is an emergency. A change due to unforeseen and unavoidable circumstances is acceptable.
- b. At the end of each month, the reviewer shall provide the Branch Chief, ASRB with the schedule of reviews to be performed during the next month. This

information shall contain:

- date and time of review
  - Buyers and Approvers
  - IC
  - whether it is a routine review or a follow-up review.
- c. The reviewer uses nVision to request the necessary reports from the NBS and DCIS.
- d. The reviewer examines the applicable files containing the previous reviews and other pertinent information.
- e. The reviewer reviews the training and authorities reports and associated files regarding the Approver(s) and Buyers(s).
- f. As previously discussed, the reviewer selects the acquisition files to be reviewed. The order numbers are compiled and sent to the Buyer to pull the orders for the review. This listing is to be sent to the Buyer and Approver at least 24 hours in advance. If the Buyer(s) and Approvers are in separate buildings, the listing will be sent at least two working days prior to an on-site review. This information will usually be sent via E-mail. The reviewer should ensure that the transmission of the information was received. (In the event of a typographical error in a file review number, the Buyers and Approvers must inform the reviewer Immediately and a new number will be selected.)
- g. The reviewer chooses the checklists, according to the orders to be reviewed. The reviewer prepares questions, as necessary, e.g. regarding authorities and training. The questions are based on the information analyzed prior to the onsite review.
- h. The reviewer examines various documents prior to conducting the on-site review, depending on the individual circumstances of the file. The following is a general list of the documents to be examined:
- The Approvers Warrant and Buyers REQUEST FOR BUYER'S ACQUISITION AUTHORITY-FORM NIH 2604-1 indicates order limitations and whether authority is full or interim.

- The LIST OF TRAINING REPORT provides a list of training courses completed by each Approver and Buyer.
- The nVision report system provides NBS and DCIS purchasing history of a specified Buyer(s) and their Approver(s) for the current and previous fiscal year. The report includes number of actions and number of line items.

### **Conducting the On-Site Review**

Upon entering the office, the reviewer(s) are introduced and will explain the nature of the visit. Before beginning the review, the reviewer will inform the Buyer(s) that an exit briefing will be conducted, and that the Approver(s) should be present.

#### **Review**

Reviews will be performed by the Acquisition Services and Review Branch (ASRB). On-site reviews will be conducted primarily on Monday, Tuesday, Wednesday, and Thursday. The actual length of the review process cannot be determined, as it depends on the number of acquisition files to be reviewed and the quality of those files. In order to avoid duplicated work, review of receiving information and other payment related issues will be addressed solely by OFM.

When possible, the review should be conducted by a reviewer other than the one who performed the last review. This is to reduce the incidence of familiarity with the Approvers and Buyers and maintain maximum objectivity for the reviewer.

It is requested that the Approver have the requested acquisition files ready and provide an area/room in which the review will be conducted.

The reviewer will use the appropriate regulatory and procedural checklist in reviewing the acquisition files.



## **The Exit Briefing**

To assure an effective exit briefing, the Approver and Buyer are to be present. The discussion begins with an explanation of the purpose of the review (ascertaining the quality of their acquisition operation) and that ASRB is available to assist in making sure that the acquisition operation is in accordance with regulation, policies, and procedures

The reviewer addresses training records for the Buyer and the Approver. The individuals will be provided an opportunity to explain training records and address circumstances that have prevented completion of mandatory training.

Each of the review findings is identified, indicating how many files were reviewed and from what period they were pulled. The types of orders reviewed will be identified. Each of the findings is explained, including improper purchasing, how to avoid such purchase errors, and corrections. Feedback will be provided regarding appropriate purchases. The exit briefing will be in order of the types of findings (regulatory findings followed by procedural findings). The appropriate folder containing the finding is given to the Approver and Buyer so they can examine the finding and review specific incidents where the acquisition file did not meet regulatory or procedural compliance. The reviewer will provide training in an area requiring correction. Within two to four weeks, the Approver and Buyer will receive a report, which details the findings, and the procedures to follow review: Pass, follow-up required, or corrective action plan (CAP). The reviewer may offer to return at a later date to provide further training. Regulatory and procedural concerns will be included in the report sent to the IC Executive Officer (EO), and will be listed in the review file maintained in the Acquisition Services and Review Branch.

Procedural findings that impact regulatory compliance and that continue to occur and affect the quality of the IC's acquisition program will be addressed in the report to ensure that corrective actions occurs. Additionally, if there has been a breach of the NBS security by the sharing of Ids and Keywords, this will be addressed in the report. A copy of this written list will be provided to the Approver and Buyer.

## **The Review Report**

The reviewer is responsible for developing and preparing the review report using all of the information obtained from the pre-review and on-site review. If more than one reviewer participated in the on-site review, the lead reviewer assigned the review is responsible for developing and preparing the review report. The time involved in preparing the content and actually writing the report will depend on the complexity of the findings. A final report will be submitted to the Chief, Acquisition Services and Review Branch, within five working days of the on-site review. Every effort shall be made to ensure the final report is issued within two to four work weeks from the on-site review. The report is to be addressed to the Approver responsible for their respective buyer(s), with a copy to the IC EO.

In the event the results of the review reflect that there were no deficiencies, a separate letter shall also be sent to the IC EO congratulating the IC on the excellent performance of the Approving Official and their Buyer(s).

The report shall be written in the following format:

- a. Acquisition Review Methodology provides an explanation of the total number of orders for the period followed by the number of orders per category that were reviewed.
- b. Comparison to Previous Review is a brief discussion of how this review compares to the review performed previously in terms of type and number of findings. Additionally, it should be noted whether the findings from this review are the same as those found in the review, in order to address continuing problems that may require special assistance to correct. The comparison should include the previous initial and follow-up review(s), if applicable.
- c. Training and Staffing is a discussion of whether there have been any staff changes since the previous review, because this may have an impact on any changes in compliance of the acquisitions. Additionally, training records are discussed, specifically identifying Approvers and Buyers lacking mandatory training. (See - *Requiring Follow-up* - for more discussion on training.)
- d. Summary of Findings is a chart of the findings and categorizes the concerns into standardized (individualized, if necessary) findings and lists the applicable files with that deficiency. This chart also indicates why the finding is a concern. Additionally, at the end of the attachment, those acquisition files that were reviewed but no issues/concerns were found are listed as "no problems found", to provide examples of acquisition files that are considered proper.
- e. Summary and Conclusion is a discussion of the significant findings of the review. It should cite examples of the problem, why it is considered a problem and recommended corrective actions to prevent it from occurring again in the future. The findings are addressed in order of importance with the most significant first to the least significant finding last. Additionally, this section includes the determination of whether the buyer passed or failed the review and if they failed, that a follow-up review will be performed in 90 days or if a Corrective Action Plan is required (See below).

## Routing Process

The review report is addressed to the Buyer and their Approver(s). It is initiated by the reviewer and then routed through the 1) Chief, Acquisition Services and Review Branch, DSAPS, OAMP, OD and 2) Director, Division of Simplified Acquisition Policy and Services, OAMP, OD for reviews that require follow-up or a Corrective Action Plan (CAP).

## Copies of the Report

Copies of the review report are to be provided to the following individuals/offices:

Office of Acquisition Management and Policy (OAMP)

Office of Financial Management (OFM)

IC Chief AO and Executive Officer (EO)

Director, Division of Simplified Acquisition Policy and Services,  
(DSAPS)\*

\*Copy to DSAPS only if signed by Director

The Yellow Box Concurrence copy will be maintained in the Buyer's file maintained in the ASRB office files.

## Results of the Review

The review of a Buyer will result in one of the following actions:

### Pass

There were no findings, the findings were primarily procedural in nature, or there were three or less *significant* regulatory findings, (which are regulatory findings in multiple acquisition files). The next review will be during the next cycle - in approximately one year.

### Requiring Follow-up

Three to four *significant* regulatory findings identified in the review require follow-up. The individual will be provided with an opportunity to correct the problems in the acquisitions during the next 90 day period. A follow-up review will be conducted limited to acquisitions of the type found with problems that were processed during the 90 day period after the review report is issued. The purpose of the follow-up review is to ensure the office has corrected previously noted deficiencies. If new errors are identified, another follow-up review may be scheduled. Follow-up review strategy is determined by the errors identified in the initial review. Approximately 20 files will be reviewed from the previous 90 day period.

### Training Followup

As mentioned in Acquisition Training and Certification Requirement in an effort to provide continuing education to everyone in the Delegated Procurement Authority acquisition area, there are six mandatory advanced seminars and the NIH Simplified Acquisition Delegated Procurement mandatory training:

1. "Buying from Businesses on the Open Market"
2. "Consolidated Purchasing Through Contracts"
3. "Federal Supply Schedules"
4. "Price Reasonableness in the Award of Simplified Acquisitions"
5. "Negotiation Techniques for Simplified Acquisitions"
6. "Appropriation Law for Simplified Acquisitions"

Completion of these seminars is mandatory and seminars must be completed within six to twelve months and completion of the NIH Simplified Acquisition Delegated Procurement mandatory training must be completed within six months, for ALL Approvers and Buyers. If during a review, an Approver or their Buyer has a reoccurring regulatory finding, (a finding which was cited in the previous year's review findings), the reviewer will carefully examine the training of the Buyer and Approver. If the specific training seminar relating to the finding was cited in the previous review as incomplete and rains incomplete for any Buyer or Approver, they will automatically fail the review. (Note: this does not apply to individuals that are new to the Approver). The reviewer will not return until the next regularly scheduled annual review. This will give the individuals the opportunity to take the course and understand the regulatory procedures.

### **Requiring Corrective Action Plan**

This indicates that corrective action must be taken. This action will be indicated when it is determined there were three or more significant regulatory findings identified in the review or a follow-up review discovered that deficiencies continue to occur with little or no improvement. The review report will contain an additional attachment with a series of questions to assist the IC in drafting a Corrective Action Plan (CAP). Additionally, the reviewer will arrange to meet with the Approver, Buyer(s) and any other IC staff to discuss establishing the Corrective Action Plan. At the discretion of the Director, Division of Simplified Acquisition Policy and Services, other alternative actions may occur in lieu of a Corrective Action Plan.

## Corrective Action Plan

A meeting with the Executive Officer and responsible Approver(s) will be scheduled within 30 days from the date of the report requiring that an IC prepare a proposed corrective action plan. Following the meeting, the IC has 30 days to finalize and submit the plan to the Director, DSAPS, OAMP, OD for concurrence. A comprehensive follow-up review will be conducted in 60 days from concurrence with the CAP to ensure that corrective action has been taken. Action may be taken to refer the Approver(s) warrant be recommended for reduction of the rescinded if substantial improvement is not made.

## ASRB Review Files

The reviewer shall include all working papers, notes, etc. in addition to the dated yellow box copy of the review report, in the official buyer review files. This includes any work sheets, handwritten notes, or other documentation related to the review.

## Reference Materials

1. The Federal Acquisition Regulation (FAR) contains all of the government acquisition regulations.
2. The Health and Human Services Acquisition Regulation (HHSAR) contains all of the HHS supplemental regulations to the FAR.
3. NIH Delegated Acquisition Training Program Guide, a reference guide for Buyers and Approvers contains all acquisition procedures, mechanisms, and miscellaneous information associated with the Delegated Procurement Authority
4. The Review Checklist has been developed to assist the reviewers in examining the acquisition file(s) and recording the results of the review by order number and finding. **(See website listing for link to Regulatory and Procedural Findings Checklist)**
5. A calendar may be required to verify approval and receipt dates.
6. Pertinent manual Issuances may be required to verify use of proper acquisition methods, policies, and procedures.

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