

U.S. Department of Agriculture  
Washington, D.C. 20250

<b>DEPARTMENTAL REGULATION</b>		DR Number: <b>5000-4</b>
SUBJECT:  <b>Legal Review of Contractual Actions</b>	DATE: April 4, 2012	
	OPI: Office of Procurement and Property Management	

1. PURPOSE

The purpose of this directive is to establish procedures for determining when to request legal review of contractual actions.

2. SPECIAL INSTRUCTIONS/CANCELLATION

This regulation cancels Departmental Regulation (DR) 5000-4, dated September 10, 1997. The purpose of this cancellation and reissuance is to restate more clearly the existing policy. It does not make any other changes.

3. POLICY

The complexity of issues that arise during the acquisition process do not relate necessarily to the estimated value of the acquisition. In fact, issues that warrant legal review may arise in acquisitions that do not involve negotiations, and at any dollar threshold.

Contracting officers are in the best position to determine whether legal advice should be sought during the acquisition process. Therefore, contracting officers will decide if contractual actions, regardless of dollar value or complexity, require legal review.

Contracting officers are encouraged, on a case-by-case basis, to request legal advice at any phase of the acquisition process. Both the Federal Acquisition Regulation and the Department of Agriculture acquisition guidance contain requirements for legal review and advice.

#### 4. RESPONSIBILITIES

- a. Contractual actions that may need legal review include solicitations, contract awards, license agreements, or any other contractual document or issue as deemed necessary by the contracting officer.
- b. As appropriate, contracting officers should include a brief statement in the contract file describing the reason for their decision not to obtain legal review.
- c. Contracting officers must submit sufficient information to the Office of the General Counsel (OGC) to facilitate legal review.
- d. OGC shall review the package and determine if it is legally sufficient. If OGC is unable to provide a determination within 10 working days from receipt of request, the contracting officer should annotate the file and continue the procurement process.
- e. Recommendations received from OGC are advisory. Final disposition rests with the contracting officer. Contracting officers should document the file if there are major differences between OGC's recommendations and their final decisions or actions.

#### 5. INQUIRIES

Direct all inquiries regarding this DR through agency channels to the Office of Procurement and Property Management (OPPM), Procurement Policy Division (PPD) by email to [procurement.policy@dm.usda.gov](mailto:procurement.policy@dm.usda.gov).