

Issued by Purchasing/Property Governance – CGP-7



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**SUBJECT: BPI UPDATE 16-1, EFFECTIVE DATE 3/5/16**

An online copy of the Bonneville Purchasing Instructions (BPI) is available at <http://www.bpa.gov/Doing%20Business/purchase/Pages/default.aspx>. The online BPI is a conformed copy with all changes included as of the current date and is effective until superseded.

**SUMMARY OF SUBSTANTIVE CHANGES:**

Topic	BPI Section	Change	Clauses
Deviations Micro-purchase Definitions	BPI Part 1	Updated deviation requirements. New definitions introduced <ul style="list-style-type: none"> <li>• Delivery Order</li> <li>• Task Order</li> <li>• Micro-purchase</li> <li>• Micro-purchase threshold</li> </ul> Changed Clause 1-1 threshold from \$50K to \$10K	<u>Revised clause usage prescription:</u> 1-1 Applicable Regulations
CO Certification	BPI Part 2 BPI App-2A BPI App-2B	Updated certification program requirements, experience and continuous learning requirements.	N/A
Standards of Conduct	3.1.3 3.9.4.1	Clarified P-card holders who are required to make annual certification Updated clause usage prescriptions	<u>Revised clause usage prescription:</u> 3-1 Purchasing Standards of Conduct 3-10 Contractor Employee Whistleblower Rights
OGC Review of Purchasing Actions	BPI 4.3	Clarified policy language for legal sufficiency reviews for IT acquisitions	N/A
Privacy and Freedom of Information	BPI Part 5	Revised policy regarding protection of privacy and FOIA requirements New and revised clauses addressing privacy assurance, protection, and the Privacy Act	<u>Revised clause and usage prescription:</u> 5-1 Privacy Assurance  <u>New clauses and clause usage prescriptions:</u> 5-2 Privacy Protection 5-3 Privacy Act
Planning, Strategy and Requisitioning Requirements	6.4.1.1 6.4.4 6.13 6.15	Updated clause usage prescription regarding the use of alternatives to brand name requirements  New policy language	<u>Revised clause usage prescription:</u> 6-1 Alternative to Brand Name Requirement  <u>Revised clause and clause usage prescription:</u>

		<p>regarding use of PWS and SOO</p> <p>Clarified language requiring requisitioners to obtain BPA required approvals on purchases and updated policy references</p> <p>Relocated FISMA requirements to this part and clarified requirements</p> <p>Revised and restructured the policy requirements for when and how a strategy panel is to be conducted.</p>	6-3 Information Assurance
Supplier Diversity Program	8.3.1	Revised clause usage requirements on task and delivery orders and clarified the \$10,000 threshold requirement.	<u>Revised clause usage prescription:</u> 8-1 Supplier Diversity Program Award Representation
Contracting with Foreign Businesses	BPI Part 9	Revised policy to reflect changes to the trade agreements and thresholds.	<u>Revised clause usage prescriptions:</u> 9-8 Restrictions on Certain Foreign Purchases <u>Revised clauses and clause usage prescriptions:</u> 9-3 Buy American Act – Supplies 9-46 Required Use of American Iron, Steel, and Other Mfg Goods – Buy American Act – Construction Materials 9-48 Required Use of American Iron, Steel, and Other Mfg Goods – Buy American Act – Construction Materials Under Trade Agreements 9-49 Notice of Required Use of American Iron, Steel, and Other Mfg Goods – Buy American Act – Construction Materials Under Trade Agreements
Unique Source Purchasing	BPI 11.7.2	Clarified policy regarding unique source justifications applies to procurements over \$10K.	N/A
Excluded Parties List System Requirements	BPI 11.8	Clarified policy regarding when the EPLS must be checked and verify vendor status and it only needs to be referenced in the DAD or ROM.	Revised clause usage prescription: 11-7 Subcontracts with Debarred or Suspended Entities
Evaluation Process	BPI 12.5.1	Clarified policy regarding what information technical team members are provided during the	N/A

		evaluation process.	
Contract Documentation Requirements	12.8.2	Clarified policy regarding awards under the micro-purchase threshold and delivery and task orders	
COTR Requirements	BPI 14.2 Appendix 14-A	Revised policy to reinforce COTR requirements. Renamed Appendix 14-A	N/A
Environment, Safety and Security	BPI Part 15	Revised and restructured policy language to address environment, safety and security requirements in one location	<u>Revised clause and usage prescriptions:</u> 15-2 Drug-Free Workplace 15-4 Contractor Compliance with BPA Policies 15-14 Contractor Policy to Ban Text Messaging While Driving 15-15 Screen Requirements for Personnel Having Access to BPA Facilities 15-16 Access to BPA Facilities and Computer Systems  <u>Revised clause usage prescription:</u> 15-1 Clean Air and Water 15-7 Ozone-Depleting Substances 15-8 Refrigeration Equipment 15-9 Energy Efficiency in Energy Consuming Products 15-10 Recovered Materials 15-11 Bio-based Products
Inherently Governmental Functions	BPI Part 23	Revised and provided new policy language clarifying what is a personal service and prohibiting their use at BPA. In addition, new language has been incorporated to clarify how BPA determines what inherently governmental functions are.	N/A
Disclosure of Construction Project Size	BPI 24.4.3	Revised policy regarding notification of the magnitude of construction requirements above \$10K and required price ranges	N/A
P-Card Usage	BPI Part 26	Revised policy to reinforce the need to use the p-card to the maximum extent practicable. Established standard SPL and MPL of \$2.5K and \$5K, respectively.	
Emergency Purchases	BPI 27.2	Added definitions to clearly define what is an	

		emergency purchase, and distinguish between an urgent purchase which is not covered under Part 27.	
Commercial Purchasing	BPI Part 28 28.2.5	Restructured part 28 to clearly define the requirements for commercial purchases. Defines the separate requirement for contract file documentation	
Provisions and Clause Usage Requirements	BPI Part 35 Various	Relocates all provisions and clauses to one part.  Revised clause usage policy language throughout the BPI to clarify when clauses shall be used.	<b>All provisions and clauses prescriptions have been updated</b>

**Details of Substantive Changes and Instructions to the COs**

1. The BPI is reissued with new numbering and format schemes. All provisions and clauses are now located in Part 35 and are listed in numerical order. All prescriptions have been updated to reflect the new format changes and to provide clarity regarding usage. COs should read the entire BPI for familiarity of the changes. Solicitations and contracts issued after the effective date of this transmittal shall include new and revised clauses incorporated into this BPI Update.
2. **Deviations (Waivers):** Provides policy clarification as to when a CO must submit a deviation request to the HCA. Any deviations required for solicitations shall be reviewed and receive concurrence from the Director of Contracts and Strategic Sourcing. Deviation authorizations must be obtained when:
  - Use of a policy, procedure, solicitation provision, contract clause, acquisition method or practice that is inconsistent with the BPI.
  - Omission of any solicitation provision or contract clause when its prescription requires its use.
  - Use of any solicitation provision or contract clause with modification or alternative language with is not authorized by the BPI.
  - Any contracting process or controlling relationships on the contracting process which is not prescribed by the BPI.
3. **Micro-purchase and micro-purchase threshold:** acquisition of supplies or services for which the aggregate amount of which does not exceed the micro-purchase threshold. The micro-purchase threshold has been established at \$10,000, except for Wage Rate Requirements (Construction) \$2,000 and Service Contract Labor Standards \$2,500.
4. **CO Certifications Program:** The BPA Acquisition Workforce Contracting Certification Program has been updated in BPI Part 2 and Appendix 2-A.
  - To modernize and streamline the Contracting Certification program within BPA, the decision by the HCA is to discontinue “sunset” the BPAC-C certification program on September 30, 2020.
  - Introduces the Federal Acquisition Certification – Contracting (FAC-C) program
  - The NSS Organization is given the authority to manage the BPAC-C certification levels and assess the demonstrable proficiencies to include issuance of Contracting Certifications under this program until October 1, 2020.
  - Effective January 1, 2016 all newly employed BPA AWF members in the GS-1102 career series will be enrolled in the FAC-C certification program through FAITAS. New BPAC-C certifications will no longer be available/issued to these AWF members. This does not affect current BPA AWF members

- seeking higher BPAC-C levels; it only means that new GS-1102's to BPA will start their training career utilizing the FAI curriculum and the FAITAS system to work towards their FAC-C.
- Corrects training requirements to align with FAC-C program.
  - Establishes a Continuous Learning Point (CLP) Program
5. **BPA CO Appointment Instruction (Warrant Program):** Appendix 2-B is introduced to establish the requirements on how BPA Acquisition Workforce members are nominated and/or appointed as a warranted Contracting Officer (CO).
    - New authority categories and dollar authorities: Services/Supplies, Construction, Grants & Agreements, Ordering Authority against Existing BPA and FSS Schedules.
    - Standardized warrant nomination package
    - Warrants have been automatically converted to the new program as of January 19, 2016
  6. **Privacy and Freedom of Information:** Part 5 has been completely revised to apply best practices and the requirements of the Privacy Act of 1974. It also prescribes the procedures for complying with the Freedom of Information Act, as amended. Effective the date of this transmittal, the CO shall review requirements to determine which of the 3 new clauses is appropriate for use in solicitations and contracts. In addition, the CO shall ensure the SOW identifies the Privacy Act system of records and the work to be performed; and shall make available BPA policies and procedures implementing the Privacy Act.
    - Clause 5-1 Privacy Assurance is required in ALL solicitations and contracts, unless Clause 5-2 is used.
    - Clause 5-2 Privacy Protection is used in solicitations and contracts when the contractor receives or has access to sensitive PII or significant amounts of non-sensitive PII from BPA.
    - Clauses 5-2 and 5-3, Privacy Act, is required in solicitations and contracts when the work requires the contractor to design, develop, or operate a system that will maintain BPA Privacy Act records.
  7. **Safeguarding BPA's Information and Data (FISMA):** BPI 6.13 has been revised to reflect BPA's Office of Cyber Security's policies and processes for FISMA. Policy requires the requisitioner to complete the TAF and obtain approval of the SOW by Cyber Security prior to the CO soliciting or making an award. COs shall ensure BPA's information assurance requirements are included in SOWs and/or requirements documents if Cyber Security determines the category of "moderate" or "high".
  8. **Strategy Panels:** BPI 6.15 has been clarified to reinforce a strategy panel is to be held for purchases or groups of related purchases in excess of \$500,000 that pose significant risks and/or mission critical as determined by the CO, CO management, PM, Senior VP, Director of Contracts and Strategic Sourcing, CSCO, HCA, or the Administrator's Office. Change from CSCO to NSS (or designee) for chair of the strategy panel, and the chair has final authority to approve the procurement strategy.
  9. **EPLS Verification Requirement:** BPI 11.8 has been clarified regarding when the EPLS verification must occur. A CO shall provide evidence of verification in new awards (not for delivery and task orders) and when exercising a contract option. Referencing the check in the DAD is sufficient for documentation purposes.
  10. **Contract Documentation Requirements:** BPI 12.8.2.1 and 12.8.2.2 have been clarified regarding what documentation is required for awards. Added exception to the DAD and ROM requirement for pre-price task orders or delivery orders and new awards under the \$10,000 micro-purchase threshold. If a DAD or ROM is not required, the CO must ensure the official contract file contains evidence of obtained pricing.
  11. **Part 23 Service Contracts:** BPI Part 23.1.4 and 23.1.5 have been clarified regarding prohibited use of personal services and contracting for inherently government functions. Descriptive elements for defining personal services and examples of inherently governmental functions have been incorporated to assist personnel in identifying and actions for services which are prohibited. Prior to issuing a solicitation for expert/consultant services or supplemental labor, the CO shall receive a written determination prepared by the requisitioner and approved by the SLMO that none of the functions performed by the proposed contract are inherently governmental functions. BPI Part 23.1.5.1 adds new policy language for functions closely associated with performance of inherently governmental functions and required oversight of these functions to ensure they do not expand to include performance of inherently governmental functions.
  12. **Part 28 Commercial Acquisition:** BPI Part 28 was restructured to provide clarity regarding the process and procedures for commercial acquisitions. Part 28.2.5 is new policy requirements for contract types and documentation requirements to commercial acquisitions.

