

FOREWORD

The Department of Treasury Acquisition Regulation (DTAR) is published by the Department of the Treasury's Senior Procurement Executive (Director, Office of Procurement). It is issued under the authority of the Federal Acquisition Regulation and Treasury Directive 76-01, but as a separate regulation which need not be retained in Treasury Directives binders.

The DTAR contains Treasury acquisition and procurement policy and procedures that implement and supplement the Federal Acquisition Regulation (FAR). This 1998 edition of the DTAR replaces the Treasury Acquisition/Procurement Regulation (TAPR) version issued on July 31, 1992, which should be retained for reference purposes. This edition is effective on July 1, 1998 and is current through Federal Acquisition Circular 97-04.

All Treasury bureaus and offices, except the United States Mint, are required to adhere to the policies and procedures of the FAR and the DTAR. This requirement applies to all actions, whether appropriated or non-appropriated funds are used.

The DTAR has been rewritten concisely to support the Government's regulatory reduction effort. This revision carefully tracks to the FAR numbering system, and must be read in conjunction with the FAR. Each part has been indexed to the subsection level to facilitate use of the DTAR with the FAR.

The DTAR has been written using the philosophical guidelines established in the National Performance Review and guiding principles for the Federal Acquisition System. Authority and decision-making have been delegated to significantly lower levels. Greater flexibility has been given to allow more creative solutions to business problems. Along with greater flexibility comes a mandate for all acquisition personnel to take personal responsibility for their actions, and to be accountable for them.

Senior Procurement Executive

Department of the Treasury Acquisition Regulation (DTAR)

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[Department of the Treasury Acquisition Regulation]

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- (a) The DTAR is issued for Departmental

Subpart 1001.1 -- Purpose, Authority, Issuance

1001.102 Statement of Guiding Principles for the Federal Acquisition System.

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

1001.106 OMB Approval Under the Paperwork Reduction Act.

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

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

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

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

Subpart 1001.3 -- Agency Acquisition Regulations

1001.301 Policy.

guidance in accordance with the policy cited in FAR

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

1001.303 Publication and codification.

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

1001.304 Agency control and compliance procedures.

(a) The DTAR is under the direct oversight and control of MMK, which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance. The Treasury DTAR Council will review new legislation, statutes, Executive Orders, and FAR changes, and recommend implementing language for the DTAR. Each BCPO may implement and supplement the DTAR. Implementation and supplementation should be kept to a minimum. Bureaus proposing to issue regulatory supplements or use solicitation and/or contract clauses on a repetitive basis shall forward them to the SPE for concurrence prior to publication in the *Federal Register*.

(c) This is the responsibility of the SPE.

Subpart 1001.4 -- Deviations From the FAR

1001.403 Individual deviations.

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

(3) The chief of an acquisition field office, without redelegation, is authorized to ratify unauthorized commitments at or below 10 percent of the

1001.404 Class deviations.

The SPE will transmit a copy of each approved deviation to the FAR Secretariat.

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

Subpart 1001.6 -- Career Development, Contracting Authority, and Responsibilities

1001.601 General.

Authority and responsibility vested in the Secretary to manage the acquisition function has been delegated to the AS(M) under Treasury Order 101-30, ADesignation of Head of Agency= for Procurement Matters,@and, in turn, to the SPE and HCAs by Treasury Directive No. 12-11, AProcurement Authority.@

1001.602 Contracting officers.

1001.602-3 Ratification of unauthorized commitments.

(a) Definitions

ACommitment@includes the issuance of Aletters of intent@and arrangements for Afree@vendor services or use of equipment with the promise or the appearance of commitment that a contract, modification, or order will be awarded.

(b) Policy

simplified acquisition threshold. Unauthorized commitments up to the simplified acquisition threshold may be ratified by BCPOs in writing on an individual

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basis. Unauthorized commitments exceeding the simplified acquisition threshold must be reviewed and approved by the SPE.

(c) Limitations

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

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

1001.603 Selection, appointment, and termination of appointment.

1001.603-1 General.

Heads of bureaus or their designees are authorized to select and appoint contracting officers and terminate their appointment.

The Department's Procurement Career Management Program is applicable to all personnel who are in Civil Service classification series 1102 and 1105, or other series when 50% or more of duties and responsibilities involve contracting and purchasing functions, and to all personnel issued a Certificate of Appointment (SF 1402). The Program is described in detail in TD P 76-01.G, *Procurement Career Management Handbook* (June, 1992).

Requisitioning offices shall nominate to the contracting officer an individual to act as a representative in the administration and monitoring of a contract. Selection is to be based on the technical, professional, and administrative qualifications of the individual, as described in TD P 76-01.D, *Contracting Officers' Technical Representative's Handbook* (September,

1001.603-2 Selection.

(a) Experience requirements are listed in TD P 76-01.G. Experience is to be at the level of procurement transactions for which the individual is being delegated contracting authority. Exceptions to the qualifications standards may be granted on an individual basis by the SPE, as provided in TD P 76-01.G.

(e) Required training is listed in TD P 76-01.G.

1001.603-3 Appointment.

(a) Certificates shall be numbered using a prefix of AT, followed by a hyphen, the bureau's solicitation prefix (see DTAR 1004.7000), a hyphen and number serially assigned beginning with 1 or 001 (e.g., T-A-001). Any limitations on authority shall be clearly stated on the SF 1402. Monetary limitations shall be stated as dollar ceilings; including the total estimated amount of the contract with options. For example, an individual with a limit of \$100,000 may not sign a contract for \$90,000 if the contract contains an option for an additional \$90,000, as the total estimated amount (including options) exceeds \$100,000. However, the same individual may sign the exercise of the \$90,000 option or any other modification which does not commit or obligate the Government for an amount greater than his/her warrant level.

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

1001.670 Selection, appointment, and termination of appointment of contracting officer's technical representatives (COTR's).

1001.670-1 General.

1997).

1001.670-2 Appointment.

(a) BCPO's or chiefs of an acquisition field office, with redelegation to no lower than the CO, will appoint COTR's and provide certificates of

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appointment. No individual may serve as a COTR on any contract without the requisite training and signed COTR certification. Under special circumstances, the BCPO may appoint COTR-s without the required training and certification for up to 120 days. COTR-s shall be designated in writing in the contract schedule at the time of contract award, including the scope and limitations of their authority.

1001.670-3 Appointment

Insert a clause substantially similar to 1052.201-70, Contracting Officer-s Technical Representative (COTR) Designation and Authority,@ in all solicitations and contracts.

Subpart 1001.7 -- Determinations and Findings

1001.704 Content.

The following format is to be used for all determinations and findings (D&Fs), unless otherwise specified in the FAR. Insert specific information indicated in brackets.

Determination and Findings

Under [Citation of the appropriate statute and/or regulation upon which the determination and findings is based], the Department of the Treasury, [Insert contracting activity], is granted authority to [Nature and/or description of the action being approved].

Findings

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

Determination

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

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

Signature of Authorized Official

Date

[Name]

[Title]

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

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

1001.7000 Coordination and approval.

- (a) Documents requiring SPE approval.

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

- (b) Documents requiring AS(M) approval.

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

1001.7001 Content.

2 PART 1002 -DEFINITIONS OF WORDS AND TERMS

Subpart 1002.1 -- Definitions
1002.101 Definitions.

Subpart 1002.70 -- Abbreviations
1002.7000 Abbreviations.

Subpart 1002.1 -- Definitions

1002.101 Definitions.

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

“Bureau Chief Procurement Officer” means the senior acquisition person at each bureau’s headquarters. Within the Internal Revenue Service,

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this may be the Assistant Commissioner (Procurement) or the Deputy Assistant Commissioner (Procurement).

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

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

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

“**Legal counsel**” means the Treasury or bureau office providing legal services to the contracting activity.

“**Legal review**” means review by legal counsel.

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

“**Senior procurement executive**” (SPE) for the Department of the Treasury is the Director, Office of Procurement.

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

Subpart 1002.70 -- Abbreviations

1002.7000 **Abbreviations.**

3 PART 1003 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1003.1 -- Safeguards

1003.101	Standards of conduct.
1003.101-3	Agency regulations.
1003.104	Procurement integrity.
1003.104-10	Violations or possible violations.

Subpart 1003.2 -- Contractor Gratuities To Government Personnel

1003.203	Reporting suspected violations of the Gratuities clause.
1003.204	Treatment of violations.

Subpart 1003.3 -- Reports of Suspected Antitrust Violations

1003.301	General.
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Subpart 1003.4 -- Contingent Fees

1003.405	Misrepresentations or violations of the Covenant Against Contingent Fees.
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Subpart 1003.5 -- Other Improper Business Practices

1003.570 Contractor publicity.

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

1003.602 Exceptions.

Subpart 1003.7 -- Voiding and Rescinding Contracts

1003.705 Procedures.

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

1003.804 Policy.

1003.806 Processing suspected violations.

1003.870 Treasury Deviations of FAR provision and clause.

Subpart 1003.9 -- Whistleblower Protections for Contractor Employees

1003.901 Definitions.

Subpart 1003.1 -- Safeguards

1003.101 Standards of conduct.

1003.101-3 Agency regulations.

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

1003.104 Procurement integrity.

1003.104-10 Violations or possible violations.

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

(a)(3) Forward such information to the BCPO after legal review.

(b) Submit information per 1001.7000(a).

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

(f) Submit notification per 1001.7000(b).

(DTAR Change 98-11,4/19/00)

Subpart 1003.2 -- Contractor Gratuities to Government Personnel

1003.203 Reporting suspected violations of the Gratuities clause.

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

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

1003.204 Treatment of violations.

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

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

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

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

Subpart 1003.3 -- Reports of Suspected Antitrust Violations

1003.301 General.

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

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Subpart 1003.4 -- Contingent Fees

1003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

- (a) Reports shall be in writing.
- (b) The BCPO will consult with legal counsel and the OIG, or other investigatory organization, to determine a course of action.
- (b)(4) Submit referrals per 1001.7000(a).

Subpart 1003.5 -- Other Improper Business Practices

1003.570 Contractor publicity.

The provisions of 31 U.S.C. 333 prohibit the use of the words >Department of the Treasury= or >Treasurer of the United States= or the title of any other Treasury Employee, or any abbreviations or initials for any of the above, symbols or emblems in a manner which could reasonably be interpreted or construed as conveying the false impression that advertisements, solicitations, business activities or products are in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department, its bureaus, officers or employees. All possible violations relating to Bureau acquisitions shall be referred through the BCPO to legal counsel.

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

1003.602 Exceptions.

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

Subpart 1003.7 -- Voiding and Rescinding Contracts

1003.705 Procedures.

(a) The BCPO shall make the required report to the SPE. The SPE shall notify the Department of Justice.

(b) The decision shall be rendered by the SPE.

(c) The SPE will follow the procedures at FAR 3.705(c), (d), and (e).

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

1003.804 Policy.

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

1003.806 Processing suspected violations.

Refer to the OIG, or other investigatory organization.

1003.870 Treasury Deviations of FAR provision and clause.

(a) Insert the provision 52.203-11, ACertification and Disclosure Regarding Payments to Influence Certain Federal Transactions (DEVIATION),@ in lieu of the FAR provision.

(b) Insert the clause 52.203-12, ALimitation on Payments to Influence Certain Federal Transactions (DEVIATION),@in lieu of the FAR clause.

Subpart 1003.9 -- Whistleblower Protections for Contractor Employees

1003.901 Definitions.

AHead of agency or designee.@ For the purposes of this Subpart, all references to required actions by the head of the agency or designee shall be accomplished by the SPE.

(DTAR Change 98-11,4/19/00)

**4 PART 1004 -
ADMINISTRATIVE MATTERS**

Subpart 1004.1 -- Contract Execution

- 1004.101 Contracting officer's signature.
- 1004.103 Contract clause.

Subpart 1004.4 -- Safeguarding Classified Information within Industry

- 1004.402 General.
- 1004.403 Responsibilities of contracting officers.
- 1004.470 Investigative Requirements for Contractors.
 - 1004.470.1 General.
 - 1004.470.2 Responsibilities of contracting officers.

Subpart 1004.6 -- Contract Reporting

- 1004.602 Federal Procurement Data System.
- 1004.670 TADS and other reports.
- 1004.671 Procurement Register Form TD F 76-01.7.

Subpart 1004.8 -- Government Contract Files

- 1004.805 Storage, handling, and disposal of contract files.

Subpart 1004.70 -- Numbering of Solicitations, Contracts, and Orders

- 1004.7000 Prefixes.
- 1004.7001 Numbering.

Subpart 1004.71 -- Legal Review

- 1004.7100 Threshold.
- 1004.7101 Timeframes for review.
- 1004.7102 Threshold exceptions.
- 1004.7103 Documentation.
- 1004.7104 Legal review comments.

Subpart 1004.72 -- Staff Review

- 1004.7200 General.

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1004.7201 Departmental review.
1004.7202 Departmental review comments and approval.

Subpart 1004.73 -- Evaluation and Certification of Treasury Procurement System

Subpart 1004.74 -- Procurement Automation

1004.7401 Policy.
1004.7402 Departmental review of automated acquisition systems and applications.

Subpart 1004.1 -- Contract Execution

1004.101 Contracting officer-s signature.

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

1004.103 Contract clause.

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

Subpart 1004.4 -- Safeguarding Classified Information within Industry

1004.402 General.

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

1004.403 Responsibilities of contracting officers.

(a) Presolicitation phase.

(2) The instructions provided in Chapter IV of TD P 71-10 shall apply.

(b) Solicitation phase.

(DTAR Change 98-11,4/19/00)

(1) The instructions provided in Chapter IV of TD P 71-10 shall apply.

(c) Award phase.

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

1004.470 Investigative Requirements for Contractors

1004.470.1 General.

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

1004.470.2 Responsibilities of contracting officers.

(a) Presolicitation phase.

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

(b) Solicitation phase.

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

Subpart 1004.6 -- Contract Reporting

1004.602 Federal Procurement Data System (FPDS).

(c) MMK oversees the Treasury Procurement Data System (TPDS), which provides the Department-s input to the FPDS.

1004.670 TADS and other reports.

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

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Data System (TADS) User Manual

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

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

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

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

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

1004.671 Procurement Register Form TD F 76-01.7.

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

Subpart 1004.8 -- Government Contract Files

1004.805 Storage, handling, and disposal of contract files.

(a) Contract and order files shall be disposed of in accordance with TD 25-02, Records Disposition Management Program and Removal of Papers (April 7, 1992), as supplemented by bureau directives; however, in no case shall files be destroyed before the times specified in FAR 4.805.

(DTAR Change 98-11,4/19/00)

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Subpart 1004.70 -- Numbering of Solicitations, Contracts, and Orders

1004.7000 Prefixes.

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

Bureau	Solicitation	Contract	Delivery Order/ Purchase Order
Departmental Offices	A-	Tos-	DO-
Bureau of Alcohol, Tobacco and Firearms	BATF-	Tatf-	AT-
Comptroller of the Currency	CC-	Tcc-	CC-
U.S. Customs Service	CS-	Tc-	CS-
Bureau of Engraving and Printing	BEP-	Tep-	EP-
Federal Law Enforcement Training Center	FTC-	Tftc-	FT-
Financial Management Service	FMS-	Tfms-	FM-
Internal Revenue Service	IRS-	Tir-	IR-
Office of Thrift Supervision	OTS-	Totc-	TS-
United States Mint	USM-	Tm-	MT-
Bureau of the Public Debt	BPD-	Tpd-	PD-
U.S. Savings Bonds Division	USM-	Tm-	MT-
U.S. Secret Service	USSS-	Tss-	SS-

1004.7001 Numbering.

Following the prefix, insert the last two digits of the fiscal year in which the solicitation is issued or contract awarded, preceded and followed by hyphens and followed by sequential numbering each year (e.g., solicitation USM-97-1). Bureaus having field contracting offices shall assign alphabetic or numeric designations after the bureau prefix and the fiscal year (DTAR Change 98-11,4/19/00)

(e.g., contract CS-97-I-00123). If needed, special characters should be added to the right of the purchase order/delivery order (e.g., CS-97-I-00123-1-XXX). Hyphens and special characters are not required when entering the above numbers into automated procurement tracking and reporting systems. A separate series of numbers shall be used for solicitations and contracts.

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Subpart 1004.71 -- Legal Review

1004.7100 Threshold.

Legal review is required for solicitations (including letter RFPs), contracts (including letter contracts), contract modifications, basic ordering agreements or orders issued thereunder where the acquisition value, including options for additional quantities or extended terms, is estimated at \$10,000,000 or more, or when source selection procedures are employed for acquisition actions over \$5,000,000. All interagency agreements in excess of \$10,000,000, whereby one party agrees to provide contracting support for another, shall be reviewed by legal counsel.

1004.7101 Timeframes for review.

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

1004.7102 Threshold exceptions.

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

1004.7103 Documentation.

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

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

1004.7104 Legal review comments.

The documentation of legal comments received or a statement from legal counsel that the procurement document has been reviewed and found to be legally sufficient shall be placed in the contract file. The CO is responsible for assuring that all legal comments are responded to in the contract file.

Subpart 1004.72 -- Staff Review

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1004.7200 General.

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

1004.7201 Departmental review.

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

1004.7202 Departmental review comments and approval.

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

Subpart 1004.73 -- Evaluation and Certification of Treasury Procurement System

Pursuant to EO 12352 dated March 17, 1982, the Department has established a set of criteria for review and improvement of Treasury procurement operations and for enhancing competition in the acquisition process. TD P 76-01.E, *Handbook for Procurement System Evaluation*, (September, 1985) contains these criteria.

(DTAR Change 98-11,4/19/00)

BCPOs are responsible for conducting similar evaluations of their offices, including field locations.

Subpart 1004.74 -- Procurement Automation

1004.7401 Policy.

(a) The Department encourages the use of automated acquisition and exchange of information among all bureaus. The objective is to automate acquisition processes to the extent that it is efficient and effective to do so, while maximizing the use of existing automated systems and software.

(b) The Department requires that acquisition automation be developed with consideration for potential to integrate, interface, or coordinate with related functions such as finance, accounting, internal control, property, and personnel.

1004.7402 Departmental review of automated acquisition systems and applications.

(a) Bureaus shall obtain SPE approval - prior to developing or obtaining any automated acquisition system or application, or any portion thereof, or for any substantive change to a development plan previously approved.

(b) Requests for approval of automated acquisition systems or applications shall include at least the following information:

(1) Background and Purpose. Name of the system, its purpose and uses, and projected date of implementation. Include information about any manual or automated systems it will replace, and how it will improve present processes.

(2) Integration. Describe any expected integration with the TPDS, or other automation systems, (e.g., accounting, property).

(3) Configuration. Provide the data elements to be included in the system and anticipated hardware and software application and/or programming language to be

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used. Describe any telecommunications requirement.

(4) Standards. Indicate standards, such as American National Standards Institute (ANSI) standards used for transfer of data.

(5) Security. Describe security measures planned to safeguard unauthorized access to the system or unauthorized use of electronic signature, certification, or other approval reserved for designated officials.

(6) Cost. Indicate whether the system is to be developed in-house or contracted out. Provide anticipated cost, listing development and maintenance costs separately. For systems or applications to be developed in-house, estimate staff years and cost for development and maintenance.

(7) Existing Systems. Describe extent to which other bureaus have been canvassed for availability of systems or information that could assist in the design or planning of the contemplated system or application. Discuss the effort made to utilize existing Treasury bureau systems or applications, and justify any plan to develop or acquire a new system or application not currently in use within Treasury.

(8) Risk. Discuss the risk involved in automating and safety measures planned, such as use of parallel systems pending new system validation.

(9) Availability. Discuss whether system software will be available to other Treasury bureaus to copy for their own use after implementation, or to access under a cross-servicing arrangement.

(10) Contact Person. Provide name and phone number of person in acquisition office to contact for additional information.

(c) The acquisition of information systems hardware, software, and services is controlled by Treasury Directive 83-01, *Acquisition of Federal Information Processing Resources* (December 3, 1991) and TD P 83-01, *Guidelines for Acquiring Federal Information Processing Resources* (October, 1994, Rev. 1).

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**5 PART 1005 - PUBLICIZING
CONTRACT ACTIONS**

Subpart 1005.2 -- Synopses of Proposed Contract Actions

1005.202 Exceptions.
1005.207 Preparation and transmittal of synopses.

Subpart 1005.3 -- Synopses of Contract Awards

1005.301 General.

Subpart 1005.4 -- Release of Information

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

Subpart 1005.5 -- Paid Advertisements

1005.502 Authority.

Subpart 1005.2 -- Synopses of Proposed Contract Actions

1005.202 Exceptions.

(a) A copy of the determination will be retained in the contract file.

(b) Authority to make the required determination is delegated to the SPE. Submit requests per 1001.7000(a). Retain determination in the contract file.

(1) The Department has waived the requirement for advance CBD notices for small business set-asides between \$25,000 and the simplified acquisition threshold, where the following circumstances apply:

(i) the acquisition is for services, of which supply items are expected to constitute less than 20 percent of the value of the contract;

(ii) a minimum of five small businesses, which includes, if available, at least one small disadvantaged and one women-owned firm, are solicited; and

(a) Other statutes or laws may grant separate authority for paid advertisements. Heads of

(iii) if practicable, two sources not included in the previous solicitation for the same services are solicited. (See PIM 98-11, including the SPE waiver dated December 30, 1998)

1005.207 Preparation and transmittal of synopses.

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

Subpart 1005.3 -- Synopses of Contract Awards

1005.301 General.

(a) Document the contract file if the CO decides not to synopsise an award not likely to result in the award of subcontracts.

(b) Document the contract file with the reason why a contract award was not synopsized.

Subpart 1005.4 -- Release of Information

1005.403 Requests from Members of Congress.

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

1005.404 Release of long-range acquisition estimates.

1005.404-1 Release procedures.

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

Subpart 1005.5 -- Paid Advertisements

1005.502 Authority.

bureaus or their designees are authorized to approve procurement of paid advertising for supplies or services.

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Paid advertising for personnel recruitment notices shall have the concurrence of the bureau personnel officer or designee. No advertisement shall be placed in a newspaper published and printed in the District of Columbia unless the supplies or services will be furnished, or labor performed, in the District of Columbia or adjoining counties in Maryland or Virginia.

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**6 PART 1006 - COMPETITION
REQUIREMENTS**

**1.1 Subpart 1006.2 – Full and Open
Competition after Exclusion of Sources**

1006.202 Establishing or maintaining alternate sources.

**1.2 Subpart 1006.3 – Other Than Full and
Open Competition**

1006.302 Circumstances permitting other than full and open competition.

1006.302-7 Public interest.

1006.303 Justifications.

1006.303-2 Content.

1006.304 Approval of the justification.

**1.3 Subpart 1006.5 – Competition
Advocates**

1006.501 Requirements.

1006.502 Duties and responsibilities.

**1.4 Subpart 1006.2 – Full and Open
Competition After Exclusion of
Sources**

**1006.202 Establishing or maintaining
alternative sources.**

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

**1.5 Subpart 1006.3 – Other Than
Full and Open Competition**

**1006.302 Circumstances permitting other
than full and open competition.**

1006.302-7 Public interest.

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

1006.303 Justifications.

1006.303-2 Content.

(a) Documentation of justification.

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

1006.304 Approval of the justification.

(a)(3) HCA’s must make such approvals.

**1.6 Subpart 1006.5 – Competition
Advocates**

1006.501 Requirements.

Bureau heads will appoint competition advocates. A copy of each appointment will be submitted to the Departmental Advocate for Competition.

1006.502 Duties and responsibilities.

(a) Bureau competition advocates must submit annual reports to the Departmental Advocate for Competition by November 30. Reports will cover the previous October 1 through September 30.

(b) The Departmental Advocate for Competition will submit an annual departmental report to the Procurement Executive by January 31.

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**7 PART 1007 - ACQUISITION
PLANNING**

Subpart 1007.1 -- Acquisition Plans

1007.103 Agency-head responsibilities.

1007.104 General procedures.

Subpart 1007.4 -- Equipment Lease or Purchase

1007.401 Acquisition considerations.

Subpart 1007.5 -- Inherently Governmental Functions

1007.503 Policy.

Subpart 1007.1 -- Acquisition Plans

1007.103 Agency-head responsibilities.

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

BCPOs shall identify all mission critical requirements to the SPE.

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

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

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

1007.104 General procedures.

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

Subpart 1007.4 -- Equipment Lease or Purchase

1007.401 Acquisition considerations.

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

Subpart 1007.5 -- Inherently Governmental Functions

1007.503 Policy.

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

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**8 PART 1008 - REQUIRED
SOURCES OF SUPPLIES AND
SERVICES**

Subpart 1008.4 -- Federal Supply Schedules

1008.404 Using schedules.
1008.404-3 Requests for waivers.

**Subpart 1008.8 -- Acquisition of Printing and
Related Supplies**

1008.802 Policy.

**Subpart 1008.9 -- Financial Management Systems
Software (FMSS) Mandatory Multiple Award
Schedule (MAS) Contracts Program**

1008.903 Exceptions.

Subpart 1008.70 -- Purchase of Motor Vehicles

1008.7000 General.

**Subpart 1008.4 -- Federal Supply
Schedules**

1008.404 Using schedules.

1008.404-3 Requests for waivers.

BCPOs are authorized to submit requests for waivers.

**Subpart 1008.8 -- Acquisition of Printing
and Related Supplies**

1008.802 Policy.

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

**Subpart 1008.9 -- Financial Management
Systems Software (FMSS) Mandatory
Multiple Award Schedule (MAS)**

Contracts Program

1008.903 Exceptions.

(c)(2) Submit requests per 1001.7000(a).

**Subpart 1008.70 -- Purchase of Motor
Vehicles**

1008.7000 General.

(a) Each fiscal year, Treasury bureaus receiving appropriations for the purchase of motor vehicles (e.g., law enforcement, administrative, and special-purpose type) shall forward their requisitions for these vehicles to the Office of Real and Personal Property Management (MMM) in accordance with annual deadlines. MMM will develop standards for automobiles and necessary justifications. MMM will transmit consolidated requirements, and requisitions to GSA. (See 41 CFR 101-26.501.)

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

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**9 PART 1009 - CONTRACTOR
QUALIFICATIONS**

Subpart 1009.1 -- Responsible Prospective Contractors

1009.105 Procedures.
1009.105-1 Obtaining information.

Subpart 1009.2 -- Qualifications Requirements

1009.202 Policy.
1009.204 Responsibilities for establishment of a qualification requirement.
1009.206 Acquisitions subject to qualification requirements.
1009.206-1 General.

Subpart 1009.4 -- Debarment, Suspension, And Ineligibility

1009.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
1009.405 Effect of listing.
1009.406 Debarment.
1009.406-1 General.
1009.406-3 Procedures.
1009.407 Suspension.
1009.407-1 General.
1009.407-3 Procedures.

Subpart 1009.5 -- Organizational And Consultant Conflicts of Interest

1009.503 Waiver.

Subpart 1009.1 -- Responsible Prospective Contractors

1009.105 Procedures.

1009.105-1 Obtaining information.

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

Subpart 1009.2 -- Qualifications

1009.406-1 General.

Requirements

1009.202 Policy.

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

(b) Submit determination per 1001.7000(a).

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

1009.204 Responsibilities for establishment of a qualification requirement.

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

1009.206 Acquisitions subject to qualification requirements.

1009.206-1 General.

(b) Submit determination per 1001.7000(a).

Subpart 1009.4 -- Debarment, Suspension, and Ineligibility

1009.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

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

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

1009.405 Effect of listing.

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

1009.406 Debarment.

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

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

1009.406-3 Procedures.

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

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

(b)(2)(I) The hearing shall be conducted by the DO or designee.

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

1009.407 Suspension.

1009.407-1 General.

(a) The SPE is the suspension official (SO).

(d) The SO is authorized to make the required statement.

1009.407-3 Procedures.

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

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

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

Subpart 1009.5 -- Organizational and Consultant Conflicts of Interest

1009.503 Waiver.

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

10 PART 1010 - MARKET RESEARCH

There is no text implementing or supplementing Part 10.

**11 PART 1011 - DESCRIBING
AGENCY NEEDS**

Subpart 1011.1 -- Selecting and Developing

Requirements Documents
1011.103 Market acceptance.

**Subpart 1011.2 -- Using and Maintaining
Requirements Documents**

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1011.202 Maintenance of standardization documents.

Subpart 1011.5 -- Liquidated Damages

1011.502 Policy.

Subpart 1011.1 -- Selecting and Developing Requirements Documents

1011.103 Market acceptance.

(a) BCPOs may require offerors to make the required demonstrations.

Subpart 1011.2 -- Using and Maintaining Requirements Documents

1011.202 Maintenance of standardization documents.

(a) Submit through the SPE.

Subpart 1011.5 -- Liquidated Damages

1011.502 Policy.

(d) The SPE may make such recommendation.

12 PART 1012 - ACQUISITION OF COMMERCIAL ITEMS

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

Items

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

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

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

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**13 PART 1013 - SIMPLIFIED
ACQUISITION PROCEDURES**

Subpart 1013.1 -- Procedures

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

Subpart 1013.2 Actions at or Below the Micro-Purchase Threshold

- 1013.2 Actions at or Below the Micro- Purchase Threshold.
- 1013.201 General.

Subpart 1013.3 -- Simplified Acquisition Methods

- 1013.3 Simplified Acquisition Methods.
- 1013.301 Government-wide Commercial Purchase Card.
- 1013.305 Imprest funds and third party drafts.
- 1013.305-2 Agency responsibilities.
- 1013.305-3 Conditions for use.
- 1013.306 SF 44, Purchase Order--Invoice-- Voucher.
- 1013.307 Forms.

Subpart 1013.1 -- Procedures

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

(b) Information shall be recorded on Treasury Form TD F 76-01.1, APurchase/Delivery Order/BPA Record,@(August, 1996).

Subpart 1013.2 - Actions at or Below the Micro-Purchase Threshold

- 1013.2 Actions at or below the micro-purchase threshold**
- 1013.201 General.**
- (a) Bureaus shall establish procedures to

train any purchasers at or below the micro-purchase threshold in the Simplified Acquisition Methods that they are authorized to use.

Subpart 1013.3 - Simplified Acquisition Methods

1013.3 Simplified Acquisition Methods.

1013.301 Government-wide commercial purchase card.

(b) Treasury procedures governing the Government-wide purchase card are defined in TD 76-04, AGovernment Purchase Card for Small Purchasing,@(December 15, 1993).

1013.305 Imprest funds and third party drafts.

1013.305-2 Agency responsibilities.

(c) Each bureau shall establish procedures covering designation of personnel authorized to make purchases using imprest funds or third party drafts and documentation of purchases using imprest funds or third party drafts.

1013.305-3 Conditions for use.

(a) Requests to exceed the \$500 transaction ceiling shall be submitted in accordance with 1001.7000(a).

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

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

(d) Bureaus shall establish procedures, that require approval of the BCPO. Procedures shall include: maintenance of a list of authorized individuals; controls for issuance; review of purchase transactions; and requirements for competition for purchases exceeding the micro-purchase threshold or a sole source justification to be included in the acquisition file.

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1013.307 Forms.

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

14 PART 1014 - SEALED BIDDING

Subpart 1014.4 -- Opening of Bids and Award of Contract

- 1014.404 Rejection of bids.
- 1014.404-1 Cancellation of invitations after opening.
- 1014.407 Mistakes in bids.
- 1014.407-3 Other mistakes disclosed before award.
- 1014.407-4 Mistakes after award.

Subpart 1014.4 -- Opening of Bids and Award of Contract

- 1014.404 Rejection of bids.**
- 1014.404-1 Cancellation of invitations after opening.**

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

- 1014.407 Mistakes in bids.**
- 1014.407-3 Other mistakes disclosed before award.**

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

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

- 1014.407-4 Mistakes after award.**
- (b) COs are authorized to make the determinations.

NEGOTIATION

15 PART 1015 - CONTRACTING BY

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Subpart 1015.2 -- Solicitation and Receipt of Proposals and Information

1015.204 Contract format.

Subpart 1015.3 -- Source Selection

1015.303 Responsibilities.
1015.304 Evaluation factors and significant subfactors.
1015.305 Proposal evaluation.

Subpart 1015.4 -- Contract Pricing

1015.404-2 Information to support proposal analysis.
1015.404-4 Profit.
1015.406-1 Prenegotiation objectives.
1017.407-4 Should-cost review.

Subpart 1015.6 -- Unsolicited Proposals

1015.606 Agency procedures.

Subpart 1015.1 -- Solicitation and Receipt of Proposals and Information

1015.204 Contract format.

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

Subpart 1015.3 -- Source Selection

1015.303 Responsibilities.

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

1015.304 Evaluation factors and significant subfactors.

(c)(3)(ii) Bureaus should develop phase-in schedules that meet or exceed the schedule to have past performance considered in negotiated competitive acquisitions issued on or after January 1, 1999, for acquisitions expected to exceed \$100,000.

1015.305 Proposal evaluation.

(a)(4) Cost information should be provided to members of the technical evaluation team at the outset of the

evaluation.

Subpart 1015.4 -- Contract Pricing

1015.404-2 Information to support proposal analysis.

(a) Requests for audit services shall be in accordance with TD 76-06, Request for Contract Audit Services, (October 5, 1992).

1015.404-4 Profit.

(b) COs shall use a structured approach for determining the profit or fee, in contract actions requiring cost analysis. The objective shall be documented on TD F 76-01.2.

1015.406-1 Prenegotiation objectives.

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

1015.407-4 Should-cost review.

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

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

(70) Results of the review, including proposed versus recommended hours, tasks, or issues. Discuss each cost element in terms of review method, finding, and proposed or recommended cost. Do not accumulate the dollar value of individual recommendations into a recommended total price. Indicate

team members available to support negotiations;

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

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

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(73) Attachments, including letters recommending changes, implementing plans, prenegotiation objectives, and price negotiation memorandum.

Subpart 1015.6 -- Unsolicited Proposals

1015.606 Agency procedures

- (a) Bureaus shall establish procedures.
- (b) Bureaus shall establish bureau points of contact.

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16 PART 1016 - TYPES OF CONTRACTS

Subpart 1016.2 -- Fixed-price Contracts

1016.203 Fixed-price contracts with economic price adjustment.
1016.203-4 Contract clauses.

Subpart 1016.4 -- Incentive Contracts

1016.406 Contract clauses.

Subpart 1016.5 -- Indefinite-delivery Contracts

1016.501-2 General.
1016.505 Ordering.

Subpart 1016.6 -- Time-and-materials, Labor-hour, and Letter Contracts

1016.603 Letter contracts.
1016.603-2 Application.

Subpart 1016.2 -- Fixed-price Contracts

1016.203 Fixed-price contracts with economic price adjustment.

1016.203-4 Contract clauses.

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

Subpart 1016.4 -- Incentive Contracts

1016.406 Contract clauses.

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

Subpart 1016.5 -- Indefinite-delivery Contracts

1016.501-2 General.

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

1016.505 Ordering.

(b)(4) The BCPO shall designate an ombudsman.

Subpart 1016.6 -- Time-and-materials, Labor-hour, and Letter Contracts

1016.603 Letter contracts.

1016.603-2 Application.

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

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**17 PART 1017 - SPECIAL
CONTRACTING METHODS**

Subpart 1017.2 -- Options

1017.202 Use of options.
1017.204 Contracts.

Subpart 1017.4 -- Leader Company Contracting

1017.402 Limitations.

**Subpart 1017.5 -- Interagency Acquisitions Under The
Economy Act**

1017.503 Determinations and findings
requirements.

Subpart 1017.2 -- Options

1017.202 Use of options.

(c)(70) COs shall not use unpriced options.

1017.204 Contracts.

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

**Subpart 1017.4 -- Leader Company
Contracting**

1017.402 Limitations.

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

**Subpart 1017.5 -- Interagency Acquisitions
Under The Economy Act**

**1017.503 Determinations and findings
requirements.**

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

**Subpart 1017.7 -- Interagency
Acquisitions Not Under the Economy
Act**

**1017.570 Determinations and findings
requirements.**

Follow the procedures at 1017.5 for all other
interagency acquisitions that are not covered under the
Economy Act.

18 PART 1018

[RESERVED]

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19 PART 1019 - SMALL BUSINESS PROGRAMS

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 - 1019.201 General policy.
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- 1019.800 General.
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 - 1019.805 Competitive 8(a).
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 - 1019.811-1 Sole source.
 - 1019.811-2 Competitive.
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Contract administration.
1019.812-70 Information.

Subpart 1019.12 -- Small Disadvantaged Business Participation Program

Consideration in developing an evaluation factor or subfactor.

1019.000 Scope of part.

(a) TD P 76-01.B, "Small Business Program Handbook," (January, 2000), provides detailed information.

Subpart 1019.2 -- Policies

1019.201 General policy

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

(c) The AS(M) is the Director, Office of Small and Disadvantaged Business Utilization (OSDBU). The Director, OSDBU has designated a Director, Office of Small Business Development (OSBD), located in MMD, with duties and functions including those specified at FAR 19.201(c).

(d) BCPO's will appoint Small Business Specialists (SBS) in accordance with TD P 76-01.B.

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

1019.202 Specific policies

1019.202-1 Encouraging small business participation in acquisitions.

(c) CO's may negotiate payment terms less than 30 calendar days to encourage small business participation. A period of less than seven days shall not be prescribed. See FAR 32.906(b). The CO shall make the determination in consultation with the bureau finance office. See 1032.903(b), for comments on restructuring these two provisions, which would be

preferable to merely adding to the existing language in 1019.202-1(c).

1019.202-4 Solicitation.

(b) To encourage small business participation, particularly where subcontracting opportunities exist or teaming arrangements are feasible, the CO may provide a copy of the Solicitation Mailing List concurrently with the solicitation, or provide a copy to any small business requesting the List. Do not process such requests under FOIA.

Subpart 1019.202-70 The Treasury Mentor-Protégé Program

1019.202-70.1 General.

(a) The Mentor-Protégé Program is designed to motivate and encourage firms to assist small businesses (SB), including HUBZone small businesses (HUBZone), small disadvantaged businesses (SDB), and women-owned small businesses (SWOB). The program is also designed to improve the performance of Department of the Treasury contracts and subcontracts, foster the establishment of long-term business relationships between these entities and Treasury prime contractors, and increase the overall number of these entities that receive Treasury contract and subcontract awards.

(b) Phase I began in March 1999 under PIM 99-6. Phase I consists of a Treasury/SBA partnership in which firms already designated by the SBA as 8(a) contractors serve as Treasury prime contractors and another firm, typically a much larger firm, would mentor the 8(a) prime contractor.

(c) Phase II of the mentor-protégé program encourages agreements between a large or small prime contractors who act as mentors, and an eligible small business protégés. Phase II is implemented by this subpart of the DTAR.

(d) Phase III of the Mentor-Protégé program is Treasury's participation in the HUBZone program, effective October 1, 2000. The HUBZone program encourages Federal procurement from small businesses located in economically distressed areas.

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1019.202-70.2 Definitions.

- (a) Small Disadvantaged Business concern (SDB), as used herein, means small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by FAR 19.001.
- (b) Small Business (SB), as used herein, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business in their primary SIC code under the criteria and size standards in 13CFR Part 121 and as described in FAR 19.102.
- (c) Small Woman-Owned Small Business (SWOB), as used herein, means a small business concern where ownership and controlling interest (at least 51%) in the company is held by a woman or women as defined by FAR 19.001.
- (d) HUBZone Small Business Concern, as used herein, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA.
- (e) Mentor, as used herein, means a prime contractor who elects, on a particular contract, to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the protégé. Mentors must be deemed eligible as a mentor as described in 1019.202-70.7.
- (f) Protégé, as used herein, means a small business as defined in paragraphs (a) through (d) above who is the recipient of developmental assistance pursuant to a mentor-protégé arrangement on a particular contract. Protégés must be deemed eligible as described in 1019.202-70.8.
- (g) OSBD, as used herein, means the Office of Small Business Development, designated by the Department of the Treasury Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) to assist and advise small, small disadvantaged, and women-owned small business concerns on procedures for doing business with Treasury.

1019.202-70.3 Non affiliation.

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

1019.202-70.4 General policy.

- (a) Eligible large business prime contractors, not included on the "Parties Excluded from Procurement Program" list, that are approved as mentor firms will enter into agreements with eligible protégés, as defined in 1019.202-70.02. Mentors provide appropriate developmental assistance to enhance the capabilities of Protégés to perform as contractors or subcontractors.
- (b) A firm's status as a protégé under a Treasury contract shall not have an effect on the firm's eligibility to seek other prime contracts or subcontracts.

1019.202-70.5 Incentives for prime contractor participation.

- (a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), Treasury is authorized to provide appropriate incentives to encourage subcontracting opportunities consistent with the efficient and economical performance of the contract. This authority is limited to negotiated procurements. FAR 19.202-1(d) provides additional guidance.
- (b) Before awarding a contract that requires a subcontracting plan, the existence of a mentor-protégé arrangement, and performance (if any) under an existing arrangement, may be considered by the Contracting Officer in: evaluating the quality of a proposed subcontracting plan under FAR 19.704-5; and
- (c) Assessing the prime contractor's compliance with the subcontracting plans submitted in previous contracts as a factor in determining contractor responsibility under FAR 19.705-5(a)(1).
- (d) Mentor-protégé arrangements may provide the Government with greater assurance that a protégé subcontractor will be able to perform under the

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contract than a similarly situated non-protégé subcontractor.

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

1019.202-70.6 Measurement of program success.

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

The increase in the number and dollar value contracts awarded to protégé firms under Department of the Treasury contracts from the date the protégé enters the program.

The increase in the number and dollar value of contracts and subcontracts awarded to the protégé under other Federal agencies and commercial contracts.

An increase in the quality of the technical capabilities of the protégé firm.

Mentor firms.

A mentor firm may be either a large or small business, eligible for award of a Government contract that can provide developmental assistance to enhance the

capabilities of protégés to perform as subcontractors. Mentors will be encouraged to enter into arrangements with protégés in addition to firms with whom they have established business relationships.

1019.202-70.8 Protégé firms.

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

- (1) A SB, SWOB, SDB, or HUBZone as those terms are defined in 1019.202-70.2;
- (2) Small in the SIC code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and
- (3) Eligible for receipt of government contracts. Except for SDB firms, a protégé firm may self-certify

to a mentor firm that it meets the requirements set forth in paragraph (a) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. SDB status eligibility and documentation requirements are determined according to FAR 19.304.

Protégés may have multiple mentors. Protégés participating in mentor-protégé programs in addition to the Treasury program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

1019.202-70.9 Selection of protégé firms.

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

Mentor firms may have multiple protégés.

The selection of protégé firms by mentor firms may not be protested, except that any protest

regarding the size or eligibility status of an entity selected by a mentor to be a protégé shall be

handled in accordance with the FAR and small Business Administration regulations.

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

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

A proposed mentor shall submit the information listed in 1019.202-70.12 for inclusion in a mentor-protégé agreement.

1019.202-70.11 OSBD review of agreement.

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(a) OSBD will review the information specified in Section 1019.202-70.10 to ensure the mentor and protégé are eligible, the information listed in section 70.12 is complete, and will consult with the Contracting Officer on the adequacy of the proposed mentor-protégé arrangement. The OSBD review will be completed no later than 30 calendar days after receipt by OSBD.

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

The agreement defines the relationship between the Mentor and Protégé firms only. The agreement itself does not create any privity of contract between the Mentor or Protégé and the Department of the Treasury.

1019.202-70.12 Agreement contents.

The contents of the agreement should contain:

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

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

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

(d) A description of the type of developmental program that will be provided by the mentor firm to the protégé firm, to include a description of the subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégé's developmental success;

(e) A listing of the number and types of subcontracts to be awarded to the protégé firm;

(f) Program participation term;

(g) Termination procedures;

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

(i) Other terms and conditions, as appropriate.

1019.202-70.13 Developmental assistance.

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

(a) Management guidance relating to --

Financial management

Organizational management

(3) Overall business management/planning and

(4) Business development; and

(5) Technical assistance.

(b) Loans;

(c) Rent-free use of facilities and/or equipment;

(d) Property;

(e) Temporary assignment of personnel to protégé for purpose of training; and

(f) Any other types of mutually beneficial assistance.

1019.202-70.14 Obligation.

Mentor or protégé firms may voluntarily withdraw from the program. However, in no event shall such withdrawal impact the program mission and contract requirements under the prime contract.

(b) Annual reports shall be submitted by the mentor and protégé firms to the OSBD on program progress as it pertains to their mentor-protégé agreement. Large business mentors may submit these reports as part of their Small/Small Disadvantaged Business Plan submission in accordance with the due date on the SF295.

The Department of the Treasury will evaluate these reports by considering the following:

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

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

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

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

The Department of the Treasury OSBD will submit the reviewed annual reports to the cognizant contracting officer regarding participating prime contractor(s) performance in the program. The cognizant contracting officer shall forward a copy of the annual reports to the

bureau small business specialist for their files.

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

1019.202-70.15 Internal controls.

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

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

Subpart 1019.3 -- Determination of Status as a Small Business Concern

Protesting a small business representation.

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

and the OSBD.

Subpart 1019.4 -- Cooperation with the Small Business Administration

1019.401 General.

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

Small Business Administration
procurement center representatives.

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

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

Subpart 1019.5 -- Set-Asides for Small Business

1019.501 General.

(c) CO's shall make available for review by the SBS all proposed open market acquisitions in excess of \$2,500 which have not been unilaterally set-aside for small business. Requisitions shall be provided to the SBS for review upon receipt in the contracting office.

 If the CO rejects an SBS recommendation, written notice shall be provided to the OSBD within 5 working days.

(d) CO's shall make available for review by the PCR all proposed open market acquisitions in excess of \$100,000 which have not been unilaterally set-aside for small business or the 8(a) program, and shall make available any other such proposed acquisitions exceeding the micro-purchase threshold at the request of the PCR.

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

(a) Once a product or service has been acquired successfully on a set-aside basis, all future

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requirements of that office for that product or service must be set-aside.

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

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

SIC Code Service	Service Code Group*	Category**
Business services, including ADP	73	A, D, J, N, R, T, U, V
Engineering, Accounting, Research, Management and Related services	87	A, B, C, R, U
Housekeeping services	73	S
Maintenance and repair of equipment	75,76	J, K
Motion picture production	78	T
Motor freight transportation and warehousing	42	V, R
Printing and publishing	27	T
Training	82	U
Transportation services	47	V

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

SIC Code Construction	Service Code Group*	Category **
Building	15	Y, Z
Special trades	17	Y, Z

* Reference: 13 CFR Part 121 or FAR Subpart 19.102

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

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

1019.505 Rejecting Small Business Administration recommendations.

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

1019.506 Withdrawing or modifying set-asides.

The SBS shall forward the written notice to the OSDBU.

(b) Withdrawal or modification of class set-asides in 1019.503(a) and (c)(1) shall be forwarded through the SBS for approval by the OSDBU.

Subpart 1019.6 -- Certificates of Competency

1019.602 Procedures.
1019.602-1 Referral.

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

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

Issuing or denying a certificate of competency (COC).

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

Resolving differences between the

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agency and the Small Business Administration.

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

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

Subpart 1019.7 -- Subcontracting with Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns

Responsibilities of the contracting officering under the subcontracting assistance program.

1019.705-2 Determining the need for a subcontracting plan.

Submit determinations that no

subcontracting possibilities exist for a contract, through the SBS and PCR, to the OSBD for approval at least 10 workdays prior to solicitation release.

1019.705-3 Preparing the solicitation.

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

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

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

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

(71) The offeror's prior performance on its

subcontracting plans shall account for half of the total number of points available for that factor.

(72) CO's shall consult with the SBS prior to incorporating subcontracting plans as an evaluation factor for award.

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

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

(70) For contractors with individual plans, including master plans with individual goals, a semiannual SF 294. This report is required to be submitted to the CO, who shall forward a copy to the OSBD. An annual SF 295 is required to be submitted to the OSBD.

1019.705-4 Reviewing the subcontracting plan.

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

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

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

1019.705-7 Liquidated damages.

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

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

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

Solicitation provisions and contract clauses.

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

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

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

1019.800 General.

CO's may contract directly with 8(a) program participants. A contract may be awarded directly to an 8(a) firm on a sole source or competitive basis. (See PIM 98-06, including Memorandum of Understanding between the SBA and the Department that establishes streamlined procedures for expediting the award of 8(a) requirements.)

1019.803 Selecting acquisitions for the 8(a) program

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

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

prior to proceeding with the procurement on another basis.

1019.803-71 Simplified Procedures for 8(a) Acquisitions Under MOUs.

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

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

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

a current program participant.

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

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

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

(i) a copy of the purchase order; and

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

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contractor and the Treasury CO are notified that the 8(a) contractor is ineligible for award.

1019.804 Evaluation, offering and acceptance

1019.804-2 Agency offering.

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

1019.804-3 SBA acceptance.

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

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

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

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

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

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

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

(g) The CO shall forward to the SBA District Office service the 8(a) firm a copy of the contract with offer and acceptance letter, or modifications within five days after they are issued.

1019.805 Competitive 8(a).

1019.805-1 General.

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

1019.805-2 Procedures.

(a) 8(a) acquisitions may be conducted using simplified acquisition procedures (see FAR Part 13).

(a)(1) For requirements exceeding \$100,000 processed under DTAR 1019.800, the CO shall submit the name, address, and telephone number of the low offeror (in sealed bid acquisitions) or the apparent successful offeror (in negotiated acquisitions) to the SBA Business Opportunity Specialist at the field office

servicing the identified 8(a) firm. The SBA shall determine the eligibility of the firm(s) and advise the CO within two working days of receipt of the request. If the firm is determined to be ineligible, the CO shall submit information on the next low offeror or next apparent successful offeror, as applicable, to the cognizant SBA field office.

1019.806 Pricing the 8(a) contract.

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

1019.808 Contract negotiation.

1019.808-1 Sole source.

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

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

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1019.811 Preparing the contracts.

1019.811-1 Sole source.

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

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

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

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

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

1019.811-2 Competitive.

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

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

1019.811-3 Contract clauses.

(d)(3) The CO shall insert the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, with its Alternate III (Deviation), when the acquisition is processed under DTAR 1019.800.

(f) The CO shall insert the clause at DTAR 1052.219-72, Section 8(a) Direct Award, in solicitations and contracts that exceed \$100,000 and are processed under DTAR 1019.800. The clauses at FAR 52.219-11, Special 8(a) Contract Conditions; 52.219-12, Special 8(a) Subcontract Conditions; and 52.219-17, Section 8(a) Award, shall not be used.

1019.812 Contract administration.

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

1019.812-70 Information.

CO's shall promptly notify the SBA, and inform the SBS of 8(a) contractor performance

problems.

Subpart 19.12 -- Small Disadvantaged
Business Participation Program

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

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

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21 PART 1021

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

Subpart 1022.1 -- Basic Labor Policies

- 1022.101 Labor relations.
- 1022.101-3 Reporting labor disputes.
- 1022.101-4 Removal of items from contractors=
facilities affected by work stoppages.
- 1022.103 Overtime.
- 1022.103-4 Approvals.

**Subpart 1022.3 -- Contract Work Hours And Safety
Standards Act**

- 1022.302 Liquidated damages and overtime pay.

**Subpart 1022.4 -- Labor Standards For Contracts
Involving Construction**

- 1022.404 Davis-Bacon Act wage determinations.
- 1022.404-6 Modifications of wage determinations.
- 1022.406 Administration and enforcement.
- 1022.406-8 Investigations.
- 1022.406-13 Semiannual enforcement reports.

**Subpart 1022.6 -- Walsh-Healey Public Contracts
Act**

- 1022.604 Exemptions.
- 1022.604-2 Regulatory exemptions.
- 1022.608 Procedures.

Subpart 1022.8 -- Equal Employment Opportunity

- 1022.803 Responsibilities.
- 1022.804 Affirmative action programs.
- 1022.804-2 Construction.
- 1022.805 Procedures.
- 1022.807 Exemptions.

**Subpart 1022.10 -- Service Contract Act of 1965, as
Amended**

- 1022.1011 Response to Notice by Department of
Labor.
- 1022.1011-2 Requests for status or expediting of
response.

**Subpart 1022.13 -- Disabled Veterans and Vietnam
Era Veterans**

- 1022.103-4 Approvals.**

- 1022.1303 Waivers.
- 1022.1306 Complaint procedures.

Subpart 1022.14 -- Employment of the Handicapped

- 1022.1403 Waivers.
- 1022.1406 Complaint procedures.

Subpart 1022.1 -- Basic Labor Policies

- 1022.101 Labor relations.**

- 1022.101-3 Reporting labor disputes.**

COs shall make reports to the BCPO and legal
counsel. Reports shall include at a minimum:

- o The nature of the potential or actual dispute,
including whether a strike, lockout, slow-down, shut-
down, or picketing is involved and the degree of
emergency presented;

- o The character, quantity, and importance and
delivery dates and their relationship to the total
acquisition program;

- o The identity and location of the parties to the
dispute and their representatives, including the
approximate number of employees involved;

- o The need for and availability of alternative
resources to furnish the items involved within the time
required;

- o Any critical items that should be removed from
the plant or work site or should continue to be processed
there with the consent of the parties to the dispute; and

- o Recommended action to be taken by Treasury.

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

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

- 1022.103 Overtime.**

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

**Subpart 1022.3 -- Contract Work Hours
And Safety Standards Act**

1022.302 Liquidated damages and overtime pay.

(c) The SPE is authorized to take the actions prescribed.

(d) Bureaus may establish procedures for disposing of funds.

**Subpart 1022.4 -- Labor Standards for
Contracts Involving Construction**

1022.404 Davis-Bacon Act wage determinations.

1022.404-6 Modifications of wage determinations.

(b)(6) BCPOs may request extensions.

1022.406 Administration and enforcement.

1022.406-8 Investigations.

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

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

1022.406-13 Semiannual enforcement reports.

Reports shall be due to MMK 20 days after the end of the reporting period.

**Subpart 1022.6 -- Walsh-Healey Public
Contracts Act**

1022.604 Exemptions.

1022.604-2 Regulatory exemptions.

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

1022.608 Procedures.

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

(b) There are no additional agency procedures.

**Subpart 1022.8 -- Equal Employment
Opportunity**

1022.803 Responsibilities.

(d) Submit questions per 1001.7000(a).

1022.804 Affirmative action programs.

1022.804-2 Construction.

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

1022.805 Procedures.

(b) The poster (NSN 7690-00-926-8988) may be ordered directly from the nearest regional GSA supply depot.

1022.807 Exemptions.

(a)(1) The AS(M) is authorized to make the determination.

(c) Submit requests per 1001.7000(a), or for (a)(1), per 1001.7000(b).

**Subpart 1022.10 -- Service Contract Act
of 1965, as Amended**

1022.1011 Response to Notice by Department of Labor.

1022.1011-2 Requests for status or expediting of response.

Authority is granted to COs.

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**Subpart 1022.13 -- Disabled Vietnam and
Vietnam Era Veterans**

1022.1303 Waivers.

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

1022.1306 Complaint procedures.

COs shall directly forward complaints.

**Subpart 1022.14 -- Employment of the
Handicapped**

1022.1403 Waivers.

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

1022.1406 Complaint procedures.

COs shall directly forward complaints.

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

**Subpart 1023.1 -- Pollution Control and Clean Air
and Water**

1023.104 Exemptions.
1023.107 Compliance responsibilities.

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Subpart 1023.4 -- Use of Recovered Materials
1023.404 Procedures.

Subpart 1023.5 -- Drug-free Workplace
1023.501 Applicability.
1023.506 Suspension of payments, termination of contract, and debarment and suspension actions.

Subpart 1023.7 -- Contracting For Environmentally Preferable And Energy-efficient Products And Services
1023.704 Policy.

Subpart 1023.1 -- Pollution Control And Clean Air And Water

1023.104 Exemptions.
(c) Submit requests per 1001.7000(b).
1023.107 Compliance responsibilities.

The CO shall notify the SPE in writing, who shall make further notification.

Subpart 1023.4 -- Use of Recovered Materials

1023.404 Procedures.
(b)(2) Acquisition specifications and/or work statements will specify minimum standards for EPA-designated items when purchasing products that are or can be made with recovered materials.
(b)(3) The Deputy Assistant Secretary (Management and Operations) is the Departmental Environmental Executive, and may make such determinations.

Subpart 1023.5 -- Drug-free Workplace

24 PART 1024 - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

1023.501 Applicability.
(d) Heads of bureaus, without redelegation, are authorized to make the required determination.
1023.506 Suspension of payments, termination of contract, and debarment and suspension actions.
(e) Submit requests per 1001.7000(b).

Subpart 1023.7 -- Contracting for Environmentally Preferable and Energy-efficient Products and Services

1023.704 Policy.
(a) BCPOs shall establish required programs.

Subpart 1024.1 -- Protection of Individual Privacy
1024.102 General.
1024.103 Procedures.

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Subpart 1024.2 -- Freedom of Information Act

1024.202 Policy.

Subpart 1024.1 -- Protection of Individual Privacy

1024.102 General.

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

1024.103 Procedures.

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

Subpart 1024.2 -- Freedom of Information Act

1024.202 Policy.

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

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

25 PART 1025 - FOREIGN ACQUISITION

Subpart 1025.1 -- Buy American Act -- Supplies

1025.102 Policy.

1025.105 Evaluating offers.

1025.108 Excepted articles, materials, and supplies.

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Subpart 1025.2 -- Buy American Act -- Construction Materials

1025.202 Policy.
1025.205 Postaward determinations.
1025.206 Noncompliance.

Subpart 1025.3 -- Balance of Payments Program

1025.302 Policy.
1025.304 Excess and near-excess foreign currencies.

Subpart 1025.4 -- Trade Agreements

1025.402 Policy.

Subpart 1025.9 -- Additional Foreign Acquisition Clauses

1025.901 Omission of audit clause.

Subpart 1025.10 -- Implementation of Sanctions Against Countries That Discriminate Against United States Products or Services in Government Procurement

1025.1002 Trade sanctions.

Subpart 1025.1 -- Buy American Act -- Supplies

1025.102 Policy.

(a) Submit requests under FAR 25.102(a)(2) and (a)(3) per 1001.7000(a).

1025.105 Evaluating offers.

The SPE is authorized to make the determinations prescribed in this Subpart.

1025.108 Excepted articles, materials, and supplies.

(b) BCPOs shall provide copies of determinations to the SPE.

(c) BCPOs shall submit such information to the SPE.

(c) HCAs are authorized to make the required determination.

Subpart 1025.4 -- Trade Agreements

Subpart 1025.2 -- Buy American Act -- Construction Materials

1025.202 Policy.

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

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

(a)(3) Submit requests per 1001.7000(a).

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

1025.205 Postaward determinations.

The SPE shall authorize any consideration less than the differential in FAR 25.202(a)(1), in accordance with FAR 25.102(b).

1025.206 Noncompliance.

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

Subpart 1025.3 -- Balance of Payments Program

1025.302 Policy.

The SPE shall make the determinations prescribed in this section.

1025.304 Excess and near-excess foreign currencies.

1025.402 Policy.

(a)(1) The SPE will issue a Procurement

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Instruction Memorandum (PIM) for changes to the threshold.

Subpart 1025.9 -- Additional Foreign Acquisition Clauses

1025.901 **Omission of audit clause.**

(c) Submit requests per 1001.7000(a).

Subpart 1025.10 -- Implementation of Sanctions Against Countries That Discriminate Against United States Products or Services in Government Procurement

1025.1002 **Trade sanctions.**

(c)(1) The AS(M) is authorized to make the determination.

(c)(2) The AS(M) shall make the required notification.

26 PART 1026 - OTHER SOCIOECONOMIC PROGRAMS

There is no text implementing or supplementing Part 26.

**27 PART 1027 - PATENTS, DATA
AND COPYRIGHTS**

Subpart 1027.2 -- Patents

- 1027.203 Patent indemnification of Government by contractor.
- 1027.203-6 Clause for Government waiver of indemnity.

- 1027.205 Adjustment of royalties.
- 1027.208 Use of patented technology under the North American Free Trade Agreement.

Subpart 1027.3 -- Patent Rights Under Government Contracts

- 1027.303 Contract clauses.
- 1027.304 Procedures.

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- 1027.304-1 General.
- 1027.304-5 Appeals.
- 1027.306 Licensing background patent rights to third parties.

Subpart 1027.4 -- Rights in Data And Copyrights

- 1027.404 Basic rights in data clause.
- 1027.409 Solicitation provisions and contract clauses.

Subpart 1027.2 -- Patents

- 1027.203 Patent indemnification of Government by contractor.**

- 1027.203-6 Clause for Government waiver of indemnity.**

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

- 1027.205 Adjustment of royalties.**

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

- 1027.208 Use of patented technology under the North American Free Trade Agreement.**

(f) COs shall ensure compliance.

Subpart 1027.3 -- Patent Rights under Government Contracts

- 1027.303 Contract clauses.**

Subpart 1027.4 -- Rights in Data and Copyrights

- 1027.404 Basic rights in data clause.**

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

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

- 1027.304 Procedures.**

- 1027.304-1 General.**

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

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

(b) Submit requests per 1001.7000(a).

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

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

- 1027.304-5 Appeals.**

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

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

- 1027.306 Licensing background patent rights to third parties.**

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

(b) The SPE shall make the required determination.

- 1027.409 Solicitation provisions and contract clauses.**

Alternate IV of FAR clause 52.227-14 shall be included in solicitations and contracts, unless BCPO approval is obtained. Additional alternates may be used, as long as they do not conflict.

28 PART 1028 - BONDS AND INSURANCE

Subpart 1028.1 -- Bonds

1028.101 Bid guarantees.
1028.101-1 Policy on use.
1028.106 Administration.
1028.106-6 Furnishing information.

Subpart 1028.2 -- Sureties and Other Security for Bonds

1028.203 Acceptability of individual sureties.
1028.203-7 Exclusion of individual sureties.
1028.204 Alternatives in lieu of corporate or individual sureties.

Subpart 1028.3 -- Insurance

1028.307 Insurance under cost-reimbursement contracts.
1028.307-1 Group insurance plans.
1028.310 Contract clause for work on a Government installation.
1028.310-70 Contract clause.

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

1028.307 Insurance under cost-reimbursement contracts.

1028.311-1 Contract clause.

1028.307-1 Group insurance plans.

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

Subpart 1028.1 -- Bonds

1028.101 Bid guarantees.

1028.310 Contract clause for work on a Government installation.

1028.101-1 Policy on use.

1028.310-70 Contract clause.

(c) Class waivers require approval by the SPE.

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

1028.106 Administration.

1028.106-6 Furnishing information.

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

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

1028.311-1 Contract clause.

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

Subpart 1028.2 -- Sureties and Other Security for Bonds

1028.203 Acceptability of individual sureties.

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

1028.203-7 Exclusion of individual sureties.

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

1028.204 Alternatives in lieu of corporate or individual sureties.

BCPOs shall establish required safeguards.

Subpart 1028.3 -- Insurance

29 PART 1029 - TAXES

Subpart 1029.3 -- State and Local Taxes

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

Subpart 1029.3 -- State and Local Taxes

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

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

**30 PART 1030 - COST ACCOUNTING
STANDARDS ADMINISTRATION**

**Subpart 1030.2 -- CAS PROGRAM
REQUIREMENTS**

1030.201	Contract requirements.
1030.201-5	Waiver.
1030.202	Disclosure requirements.
1030.202-2	Impracticality of submission.

**Subpart 1030.2 -- CAS Program
Requirements**

1030.201 **Contract requirements.**

1030.201-5 **Waiver.**

Submit waiver requests per 1001.7000(a), for review and transmittal to the CASB.

1030.202 **Disclosure requirements.**

1030.202-2 **Impracticality of submission.**

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

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**31 PART 1031 - CONTRACT COST
PRINCIPLES AND PROCEDURES**

Subpart 1031.1 -- Applicability

1031.101 Objectives.

Subpart 1031.1 -- Applicability

1031.101 Objectives.

Submit deviations per 1001.7000(a).

32 PART 1032 - CONTRACT

FINANCING

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

Subpart 1032.1 -- Non-commercial Item Purchase Financing

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

Subpart 1032.2 -- Commercial Item Purchase Financing

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

Subpart 1032.4 -- Advance Payments for Non-commercial Items

1032.402 General.
1032.407 Interest.
1032.409 Contracting officer action.

Subpart 1032.8 -- Assignment of Claims

1032.803 Policies.

Subpart 1032.9 -- Prompt Payment

1032.903 Policy.

Subpart 1032.10 -- Performance-based Payments

1032.1006 Agency approvals.

1032.003 Simplified acquisition procedures financing.

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

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

1032.006-1 General.

1032.202-4 Security for Government financing.

(b) The required determination shall be made by the AS(M)

1032.006-2 Definitions.

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

1032.006-3 Responsibilities.

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

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

Subpart 1032.1 -- Non-commercial Item Purchase Financing

1032.102 Description of contract financing methods.

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

1032.113 Customary contract financing.

The specified arrangements are considered customary within Treasury.

1032.114 Unusual contract financing.

Deviations shall be approved by the SPE.

Subpart 1032.2 -- Commercial Item Purchase Financing

1032.202 General.

1032.202-1 Policy.

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

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

Payments

1032.1006 Agency approvals.

Submit requests to the BCPO and prior to inclusion in any contract.

Subpart 1032.4 -- Advance Payments For Non-commercial Items

1032.402 General.

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

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

1032.407 Interest.

(d) The SPE shall make the authorization.

1032.409 Contracting officer action.

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

Subpart 1032.8 -- Assignment of Claims

1032.803 Policies.

(d) Submit determination per 1001.7000(a).

Subpart 1032.9 -- Prompt Payment

1032.903 Policy.

(b) The HCA may make the determination in consultation with the finance office.

Subpart 1032.10 -- Performance-based

33 PART 1033 - PROTESTS, DISPUTES, AND APPEALS

Subpart 1033.1 -- Protests
1033.101 Definitions.
1033.102 General.

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

Subpart 1033.2 -- Disputes and Appeals

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

Subpart 1033.1 -- Protests

1033.101 Definitions.

Where Agency Board of Contract Appeal appears, it shall be deemed to mean the General Services Administration Board of Contract Appeals (GSBCA). The GSBCA is the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of CO's filed by contractors pursuant to FAR Subpart 33.2, except for contracts of the Comptroller of the Currency. Appeals shall be governed by the Rules of the GSBCA (48 CFR Chapter 61, Part 6101).

1033.102 General.

(b) Such determinations may be made by the SPE.

1033.103 Protests to the agency.

(d)(1) Upon receipt of an agency protest, the CO shall immediately notify the BCPO and legal counsel, providing the latter with a copy.

(d)(4) Independent reviews will be conducted by MMK. Solicitations shall specify availability.

1033.104 Protests to GAO.

(a)(3)(i) The report shall be appropriately titled and dated, cite the GAO file number, and be signed by the CO. Reports shall be coordinated with legal counsel. The

(a)(4)(v) Include specific reference to the GSBCA and its address at 18th and F Streets, NW, Room 7024, Washington, DC 20405.

1033.212 Contracting officer's duties upon

report shall contain either a statement regarding any urgency for the acquisition and extent to which a delay in award may result in significant performance difficulties and/or additional Government expense, or a statement giving an estimate of the length of time an award may be delayed without difficulty in performance or significant expense.

(a)(3)(ii) Reports to GAO shall be transmitted by the Deputy Assistant Secretary for Administration for Departmental offices, or by BCPO's for the Bureaus.

(a)(4)(i) The protestor's copy shall be handcarried or express mailed (regular mail will not suffice).

(a)(7) MMK is Treasury's GAO point-of-contact.

(b)(1) The HCA shall obtain review by legal counsel.

(c)(2) The HCA shall obtain review by legal counsel.

Subpart 1033.2 -- Disputes and Appeals

1033.203 Applicability.

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

1033.209 Suspected fraudulent claims.

CO's shall refer matters to the OIG, or other investigatory organization.

1033.210 Contracting officer's authority.

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

1033.211 Contracting officer's decision.

appeal.

Legal counsel is responsible for representing the Department before the GSBCA. Legal counsel will prepare all correspondence in connection with the appeal

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with the assistance of the CO and other appropriate personnel. COs shall prepare the appeal files as prescribed in Rule 4 of the Rules of Procedure of the GSBCA. The file shall be forwarded to the bureau legal counsel within 15 days from receipt of notice. The bureau legal counsel shall have 15 days to review the file, and file the appeal file with the Board.

1033.213 Obligation to continue performance.

Alternate I of FAR clause 52.233-1, ADisputes, may be used at the discretion of the CO.

34 PART 1034 - MAJOR SYSTEM ACQUISITION

Subpart 1034.0 -- General

- 1034.003 Responsibilities.
- 1034.004 Acquisition strategy.

Subpart 1034.0 -- General

1034.003 Responsibilities.

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

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Circular A-109.

1034.004 **Acquisition strategy.**

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

**35 PART 1035 - RESEARCH AND
DEVELOPMENT CONTRACTING**

1035.003 Policy.
1035.010 Scientific and technical reports.

1035.003 Policy.

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

1035.010 Scientific and technical reports.

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

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**36 PART 1036 - CONSTRUCTION
AND ARCHITECT-ENGINEER
CONTRACTS**

Subpart 1036.2 -- Special Aspects of Contracting for Construction

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

Subpart 1036.6 -- Architect-Engineer Services

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

Subpart 1036.2 -- Special Aspects of Contracting for Construction

1036.201 Evaluation of contractor performance.

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

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

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

1036.209 Construction contracts with architect-engineer firms.

BCPOs shall submit requests to the SPE for approval, and include the reason(s) why award to the design firm is required; an analysis of the facts involving

potential or actual organizational conflicts of interest including benefits and detriments to the Government and prospective contractor; and measures to be taken to avoid, neutralize, or mitigate conflicts of interest.

Subpart 1036.6 -- Architect-Engineer Services

1036.602 Selection of firms for architect-engineer contracts.

1036.602-1 Selection criteria.

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

1036.602-2 Evaluation boards.

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

1036.602-3 Evaluation board functions.

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

1036.602-4 Selection authority.

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

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

Bureaus are authorized to use either process.

1036.603 Collecting data on and appraising firms' qualifications.

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

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1036.604 Performance evaluation.

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

1036.605 Government cost estimate for architect-engineer work.

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

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**37 PART 1037 - SERVICE
CONTRACTING**

(a) The SPE may make the required waiver.

Subpart 1037.1 -- Service Contracts -- General

- 1037.103 Contracting officer responsibility.
- 1037.104 Personal services contracts.
- 1037.112 Government use of private sector temporaries.
- 1037.113 Severance payments to foreign nationals.
- 1037.113-1 Waiver of cost allowability limitations.

**Subpart 1037.2 -- Advisory and
Assistance Services**

**1037.204 Guidelines for determining
availability of personnel.**

Determinations shall be made by the BCPO.

Subpart 1037.2 -- Advisory And Assistance Services

- 1037.204 Guidelines for determining availability of personnel.

**Subpart 1037.1 -- Service Contracts --
General**

1037.103 Contracting officer responsibility.

(a) COs shall ensure that service contracts comply with Office of Federal Procurement Policy Letters 89-1, Conflict of Interest Policies Applicable to Consultants; 91-2, Service Contracting; 92-1, Inherently Governmental Functions; and, 93-1, Management Oversight of Service Contracts.

1037.104 Personal services contracts.

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

**1037.112 Government use of private sector
temporaries.**

All actions shall be coordinated with the bureau personnel officer.

**1037.113 Severance payments to foreign
nationals.**

**1037.113-1 Waiver of cost allowability
limitations.**

**38 PART 1038 -FEDERAL SUPPLY
SCHEDULE CONTRACTING**

There is no text implementing or supplementing Part 38.

**39 PART 1039 - ACQUISITION OF
INFORMATION TECHNOLOGY**

Subpart 1039.1 -- General
1039.101 Policy.

Subpart 1039.1 -- General

1039.101 Policy.

Information concerning the acquisition of FIP resources is contained in TD 83-01, *Acquisition of Federal Information Processing Resources* (December 3, 1991), and Publication TD P 83-01, *Guidelines for Acquiring Federal Information Processing Resources* (October, 1994, Rev.1).

40 PART 1040

[RESERVED]

**41 PART 1041 - ACQUISITION OF
UTILITY SERVICES**

Subpart 1041.1 -- General

1041.103 Statutory and delegated authority.

Subpart 1041.1 -- General

1041.103 Statutory and delegated authority.

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

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**42 PART 1042 - CONTRACT
ADMINISTRATION AND AUDIT
SERVICES**

1042.000 Scope of part.
1042.002 Interagency Agreements

**Subpart 1042.1 -- Interagency Contract
Administration and Audit Services**

1042.101 Policy.

Subpart 1042.7 -- Indirect Cost Rates

1042.703 General.
1042.703-2 Certificate of indirect costs.

**Subpart 1042.15 -- Contractor Performance
Information**

1042.1502 Policy.

1042.000 Scope of part.

The Contracting Officer's Technical Representative's (COTR) Handbook, TD P 76-01.D, (September, 1997) provides the duties and responsibilities of the CO and COTR.

1042.002 Interagency agreements

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

**Subpart 1042.1 -- Contract Audit
Services**

**1042.101 Assignment of contract audit
services.**

(a) Requests for audit services shall be in accordance with TD 76-06, Request for Contract Audit Services, (October 5, 1992).

Subpart 1042.7 -- Indirect Cost Rates

(DTAR Change 98-11, 4/19/00)

1042.703 General.
1042.703-2 Certificate of indirect costs.

(b) BCPOs may waive certification requirements.

**Subpart 1042.15 -- Contractor
Performance Information**

1042.1502 Policy.

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

**43 PART 1043 - CONTRACT
MODIFICATIONS**

Subpart 1043.1 -- General

1043.102 Policy.

Subpart 1043.2 -- Change Orders

1043.205 Contract clauses.

Subpart 1043.1 -- General

1043.102 Policy.

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

Subpart 1043.2 -- Change Orders

1043.205 Contract clauses.

COs may vary the 30-day period in those clauses specified in FAR 43.205 that permit such a variation.

**44 PART 1044 - SUBCONTRACTING
POLICIES AND PROCEDURES**

**Subpart 1044.3 -- Contractors' Purchasing Systems
Reviews**

1044.302 Requirements.

**Subpart 1044.3 -- Contractors'
Purchasing Systems Reviews**

1044.302 Requirements.

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

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**45 PART 1045 - GOVERNMENT
PROPERTY**

Subpart 1045.3 -- Providing Government Property to Contractors

1045.302 Providing facilities.
1045.302-1 Policy.

Subpart 1045.4 -- Contractor Use and Rental of Government Property

1045.403 Rental - Use and Charges clause.
1045.407 Non-Government use of plant equipment.

Subpart 1045.6 -- Reporting, Redistribution, And Disposal of Contractor Inventory

1045.608 Screening of contractor inventory.
1045.608-6 Waiver of screening requirements.
1045.610 Sale of surplus contractor inventory.
1045.610-2 Exemptions from sale by GSA.

Subpart 1045.3 -- Providing Government Property to Contractors

1045.302 Providing facilities.

1045.302-1 Policy.

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

Subpart 1045.4 -- Contractor Use And Rental of Government Property

1045.403 Rental - Use and Charges clause.

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

1045.407 Non-Government use of plant equipment.

(a) The SPE is authorized to make the

required approval.

Subpart 1045.6 -- Reporting, Redistribution, and Disposal of Contractor Inventory

1045.608 Screening of contractor inventory.

1045.608-6 Waiver of screening requirements.

Submit requests per 1001.7000(a).

1045.610 Sale of surplus contractor inventory.

1045.610-2 Exemptions from sale by GSA.

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

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46 PART 1046 - QUALITY ASSURANCE

Subpart 1046.4 -- Government Contract Quality Assurance

1046.401 General.

Subpart 1046.6 -- Material Inspection and Receiving Reports

1046.670 Inspection and receiving report.
1046.671 Acceptance report.
1046.672 Inspection, Acceptance and Receiving Report.

Subpart 1046.7 -- Warranties

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

Subpart 1046.4 -- Government Contract Quality Assurance

1046.401 General.

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

Subpart 1046.6 -- Material Inspection And Receiving Reports

1046.670 Inspection and receiving report.

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

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

1046.671 Acceptance report.

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

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

1046.672 Contract file documentation -- Inspection, Acceptance and Receiving Report.

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

Date:

Contract Number:

Order Number:

Modification Number:

Contractor's Name:

Date items received or date recurring payment due:

Location where items were delivered or contractor's performance:

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

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

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Total amount of deductions:

Title of authorized government representative:

Signature of authorized government representative:

Date signed:

Subpart 1046.7 -- Warranties

1046.704 Authority for use of warranties.

COs are authorized to approve the use of warranties.

1046.708 Warranties of data.

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

47 PART 1047 - TRANSPORTATION

**Subpart 1047.5 -- Ocean Transportation by U.S. -
Flag Vessels**

1047.506 Procedures.
1047.507 Contract clauses.

**Subpart 1047.5 -- Ocean Transportation
by U. S. - Flag Vessels**

1047.506 Procedures.

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

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**48 PART 1048 - VALUE
ENGINEERING**

1048.001 Definitions.

Subpart 1048.1 -- Policies and Procedures

1048.102 Policies.

1048.103 Processing value engineering change proposals (VECP-s).

Subpart 1048.70 -- Reporting

1048.001 Definitions.

Value engineering@ includes technology refreshment and technology enhancement.

**Subpart 1048.1 -- Policies And
Procedures**

1048.102 Policies.

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

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

1048.103 Processing value engineering change proposals (VECP-s).

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

(b) Bureaus shall establish systems to track VECP-s.

Subpart 1048.70 -- Reporting

Bureaus are to submit annual value engineering reports to the SPE by November 15 using the reporting format provided by MMK.

**49 PART 1049 - TERMINATION OF
CONTRACTS**

Subpart 1049.1 -- General Principles

1049.106 Fraud or other criminal conduct.

Subpart 1049.1 -- General Principles

1049.106 Fraud or other criminal conduct.

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

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**50 PART 1050 -EXTRAORDINARY
CONTRACTUAL ACTIONS**

Subpart 1050.1 -- General

- 1050.104 Reports.
- 1050.105 Records.

**Subpart 1050.2 -- Delegation of And Limitations on
Exercise of Authority**

- 1050.201 Delegation of authority.

Subpart 1050.3 -- Contract Adjustments

- 1050.305 Processing cases.

Subpart 1050.4 -- Residual Powers

- 1050.402 General.
- 1050.403 Special procedures for unusually hazardous or nuclear risks.
- 1050.403-2 Action on indemnification requests.

Subpart 1050.1 -- General

1050.104 Reports.

- (a) The report shall be prepared by the SPE.

1050.105 Records.

The records shall be maintained by MMK.

**Subpart 1050.2 -- Delegation of And
Limitations on Exercise of Authority**

1050.201 Delegation of authority.

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

Subpart 1050.3 -- Contract Adjustments

1050.305 Processing cases.

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

Subpart 1050.4 -- Residual Powers

1050.402 General.

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

1050.403 Special procedures for unusually hazardous or nuclear risks.

1050.403-2 Action on indemnification requests.

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

**51 PART 1051 - USE OF
GOVERNMENT
SOURCES BY CONTRACTORS**

There is no text implementing or supplementing Part 51.

52 PART 1052

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2 -- Texts of Provisions and Clauses

- 1052.201-70 Contracting Officer's Technical Representative (COTR) Designation and Authority.
52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.203-12 Limitation on Payments to Influence Certain Federal Transactions
52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (Deviation).
1052.219-70 SF 294 and SF 295 Reporting.
1052.219-71 Subcontracting Plan.
1052.219-72 Section 8(a) Direct Awards.
1052.219-73 Department of the Treasury Mentor-Protégé Program.
1052.219-75 Mentor Requirements and Evaluation.
1052.228-70 Insurance Requirements.

Subpart 1052.2 -- Texts of Provisions and Clauses

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

As prescribed in 1001.670-3, insert the following clause:

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) DESIGNATION AND AUTHORITY (SEP 1997)

(a) The contracting officer's technical representative is - [insert name, address and telephone number].

(b) Performance of work under this contract shall be subject to the technical direction of the COTR identified above, or a representative designated in

1052.203-11 Certification and Disclosure

writing. The term "technical direction" includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.

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

- (1) constitutes a change of assignment or additional work outside the specification(s)/work statement;
(2) constitutes a change as defined in the clause entitled "Changes";
(3) in any manner causes an increase or decrease in the contract price, or the time required for contract performance;
(4) changes any of the terms, conditions, or specification(s)/work statement of the contract;
(5) interferes with the contractor's right to perform under the terms and conditions of the contract;
or,
(6) directs, supervises or otherwise controls the actions of the contractor's employees.

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

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

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

(End of clause)

Regarding Payments to Influence Certain Federal

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Transactions (DEVIATION).

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

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

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

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

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

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

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

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or

amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

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

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

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

(a) Definitions.

“Agency”, as used in this clause, means executive agency as defined in 2.101.

“Covered Federal action”, as used in this clause, means any of the following Federal actions:

- (a) The awarding of any Federal contract.
- (b) The making of any Federal grant.
- (c) The making of any Federal loan.
- (d) The entering into of any cooperative agreement.

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

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

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

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

“Officer or employee of an agency,” as used in this

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clause, includes the following individuals who are employed by an agency:

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

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

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

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

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

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

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

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

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

days.

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

(b) Prohibitions.

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

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

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

(I) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(I)(A) of this clause, providing any information specifically

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requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action: (1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

(c) Disclosure.

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

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

(I) A cumulative increase of \$25,000 or more in

the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

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

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

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

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

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

(e) Penalties.

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

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

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

(End of clause)

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

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

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

1052.219-70 SF 294 and SF 295 Reporting.

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

SF 294 AND SF 295 REPORTING (XXX 1997)

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

ADDRESSEE	SUBMIT SF 294	SUBMIT SF 295
Contracting Officer (Address shown on front of contract)	Original	Original
Small Business Specialist [Insert Bureau name and address]	Copy	Copy
Department of the Treasury Office of Small Business Programs (MMD) 1500 Pennsylvania Avenue, NW Room 6100 - Annex Washington, DC 20220	N/A	Copy

(End of clause)

Department of the Treasury Acquisition Regulation (DTAR)

1052.219-71 Subcontracting Plan.

As prescribed in 1019.708(b)(71), insert the following provision:

SUBCONTRACTING PLAN (JUL 1998)

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

(End of provision)

1052.219-72 Section 8(a) Direct Awards

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

Section 8(a) Direct Awards (May 1998)

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

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

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

(c) The contractor agrees:

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

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

(End of clause)

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

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

Department of the Treasury Mentor Protégé Program (January 2000)

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

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

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

(End of Provision)

1052.219 Mentor Requirements and Evaluation

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

**Mentor Requirements and Evaluation
(January 2000)**

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

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

(End of clause)

1052.228.70 Insurance Requirements.

As prescribed in 1028.310-70 and 1028.311-2, insert a clause substantially as follows: The contracting officer may specify additional kinds (e.g., aircraft public or passenger liability, vessel liability) or increased amounts of insurance.

INSURANCE (JUL 1998)

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

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

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

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

(End of clause)

53 PART 1053 - FORMS

Subpart 1053.1 -- GENERAL

1053.101 Requirements for use of forms.

1053.103 Exceptions.

Subpart 1053.2 -- PRESCRIPTION OF FORMS

1053.270 Department of the Treasury forms (TD F).

Subpart 1053.3 -- ILLUSTRATIONS OF FORMS

1053.303 Agency forms.

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

1053.103 Exceptions.

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

**Subpart 1053.2 -- PRESCRIPTION OF
FORMS**

1053.270 Department of the Treasury forms (TD F).

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

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

(c) TD F 76-01.7, **Procurement Register** - This form may be used in accordance with DTAR 1004.671.

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

**Subpart 1053.3 -- ILLUSTRATIONS OF
FORMS**

1053.303 Agency forms.

This section illustrates agency-specified forms:

TD F 76-01.1 [ADD FORM]

TD F 70-06.6 [ADD FORM]

TD F 70-06.7

TD F 76-01.2

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APPENDIX A

Reporting Requirements

REPORT NAME	DUE	COMMENTS
SF 279, Individual Contract Action Report (ICAR)@	January 15th April 15th July 15th October 31st All data must be entered by the 15th day after the end of each quarter.	Input on-line to TADS, or via batch input See most current FPDS Reporting Manual ,TADS User Manual
SF 281, AFPDS Summary Contract Action Report (\$25,000 or Less)@	January 15th April 15th July 15th October 31st	Input on-line to TADS See most current FPDS Reporting Manual ,TADS User Manual
SF-295, FPDS Summary Subcontract Report	March 15 th (Include only reports for previous fiscal year)	Input on-line to TADS See most current FPDS Reporting Manual ,TADS User Manual
Contractor Performance System (CPS)	December 31 st (annual /interim reports) 30 days after contract completion	Input on-line to CPS
CICA	Annual report due to SPE January 31st.	See Treasury Handbook TD P 76.01F. Report must be signed by Bureau Competition Advocate.
Davis Bacon	April 15th (for the period 10/1 - 3/31) October 15th (for the period 4/1 - 9/30)	Due to MMK. See Treasury Handbook TD P 76-01.H and PIM 97-02.
Metrics	December	Dept. of Treasury will request from bureaus, if required.
Protests	Reports to MMK are no longer required. When data is needed, bureaus will be contacted.	Reporting requirement deleted with PIM 94-22.
Purchase Card	November 30th *Actions taken to assure oversight of purchase card.	See TD 76-04.
RCRA	December/January	Dept. of Treasury will request from bureaus, if required.
Value Engineering	November 15th	See DTAR 1048.70.