

# Department of the Treasury Acquisition Procedures

**FY22 Edition**

**Version 1.7.1**

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## FOREWORD

The Department of the Treasury's Senior Procurement Executive publishes and maintains the Department of the Treasury Acquisition Procedures (DTAP) as authorized by the Federal Acquisition Regulation (FAR), specifically [FAR 1.301\(a\)\(2\)](#), under delegated concurrent authority as the Deputy Chief Acquisition Officer and Director of the Office of the Procurement Executive. The DTAP provides binding internal Treasury guidance including designations and delegations of authority, assignments of responsibilities, workflow procedures, internal reporting requirements, and other procedures governing Treasury procurement.

The DTAP applies to all acquisitions of supplies and services with appropriated or non-appropriated funds performed by any Treasury office or bureau. The DTAP must be used in conjunction with the DTAR and FAR to ensure adherence to Treasury procurement policy, procedure, and federal procurement regulations.

The DTAP is a supplement to the [Department of the Treasury Acquisition Regulation](#) (DTAR), FAR, and other agency regulations and statutory requirements. The arrangement of this edition corresponds to the FAR and DTAR, with subchapters, parts, subparts, sections, and subsections corresponding to their FAR and DTAR counterparts.

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## **Summary of Changes**

The following reflects the technical amendments made under this version of the subject edition, including those associated with Federal Acquisition Circular (FAC) 2022-05.

- General:
  - Updated, as applicable, existing hyperlinks
  - Added, as applicable, hyperlinks to referenced online resources
  - Removed where applicable references/hyperlinks to Treasury HUB

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## **PART 1001—DEPARTMENT OF THE TREASURY ACQUISITION PROCEDURES SYSTEM**

### **Subpart 1001.1—Purpose, Authority, Issuance**

#### **1001.101 Purpose.**

See [DTAR 1001.101](#) for Treasury's requirement. The Department of Treasury Acquisition Procedures (DTAP) is issued by the Senior Procurement Executive (SPE). The DTAP establishes Treasury's uniform department-wide acquisition policies and procedures, which implement or supplement the [Federal Acquisition Regulation \(FAR\)](#), [Department of the Treasury Acquisition Regulation \(DTAR\)](#), and other agency regulations and statutory requirements. The DTAP is not a complete system of policies and procedures and shall be used in conjunction with the FAR, DTAR and other agency regulations and statutory requirements.

#### **1001.102 Statement of guiding principles for the Federal Acquisition System.**

(e) The FAR, DTAR, and the supplemental DTAP are to be construed liberally to achieve optimum benefit and maximum value for all Treasury acquisitions, and subsequent actions pursuant thereto should be consistent with statutory and regulatory requirements, policy, and sound business judgment.

#### **1001.102-2 Performance standards.**

(b)(2) The Office of the Procurement Executive (OPE) strongly encourages and supports innovation when using the FAR system for Treasury acquisitions (see Office of Federal Procurement Policy (OFPP) memorandum dated March 9, 2016 entitled, "[Acquisition Innovation Labs & Pilot for Digital Acquisition Innovation Lab](#)"). An Acquisition Innovation Advocate (AIA) has been designated within Treasury to review Treasury personnel ideas and information they have submitted on innovative ways to improve the acquisition process within Treasury and Government-wide. Treasury personnel can submit ideas directly to the AIA or to the OPE's e-mail at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

#### **1001.103 Authority.**

(a) The DTAP is issued pursuant to [Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#).

#### **1001.104 Applicability.**

See [DTAR 1001.104 Applicability](#) for Treasury's requirement. The DTAP applies to all acquisitions involving the obligation of appropriated or non-appropriated funds.

#### **1001.105-1 Publication and code arrangement.**

See [DTAR 1001.105-1 Publication and code arrangement](#) for Treasury's requirement. The DTAP is issued electronically and available at <http://www.treasury.gov>.

#### **1001.105-2 Arrangement of regulations.**

See [DTAR 1001.105-2 Arrangement of regulations](#) for Treasury's requirement. DTAR supplemental numbering follows 1001.105-270(b)(3).

### **1001.105-270 Arrangement of the DTAP.**

(a) General. The DTAP is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, sections, and subsections.

(b) Numbering. (1) The DTAP conforms to the arrangement and numbering system prescribed by [FAR 1.105](#).

(2) DTAP coverage is identified by the prefix “10” and followed by the complete DTAP citation which may be down to the subparagraph level (e.g., DTAP 1001.105-3(a)(1)). See paragraph (c) below for example of citations.

(3) Coverage in the DTAP that supplements the FAR will use subchapter, part, subpart, section and subsection numbers ending in “70” and up (e.g., DTAP 1001.202-70). To avoid confusion, FAR and DTAR paragraphs and subparagraphs to the extent possible are not supplemented and instead text is numbered as if it were implemented (e.g., FAR 19 is implemented as 1019). Examples of supplemental numbering are—

(i) part would be DTAP part 1070.

(ii) subpart would be DTAP subpart 1001.70.

(iii) section would be DTAP 1001.101.

(iv) subsection would be DTAP 1001.105-370.

(4) Coverage in the DTAP, other than that identified with a “70” or higher number, that implements the FAR or DTAR will use the identical number sequence and title of the FAR or DTAR segment being implemented which may be down to the subparagraph level (e.g., DTAP 1001.105-3(a)).

(c) References and citations.

(1) Unless otherwise stated, cross-references indicate parts, subparts, sections, subsections, paragraphs, subparagraphs, or subdivisions of this document. Cross references to the FAR, DTAR, or other Treasury requirements will be cited by “FAR”, “DTAR”, or “the Treasury requirement title” followed by its numbered citation. As an electronic document, the DTAP contains many hyperlinks to the word or term referenced in the text.

(2) The DTAP may be referred to as the Department of the Treasury Acquisition Procedure or the DTAP.

(3) Using the DTAP coverage at 1001.105-3(a) as a typical illustration, reference to the—

(i) part would be “DTAP part 1001” outside the DTAP and “part 1001” within the DTAP.

(ii) subpart would be “DTAP subpart 1001.1” outside the DTAP and “subpart 1001.1” within the DTAP.

(iii) section would be “DTAP 1001.105” outside the DTAP and “1001.105” within the DTAP.

(iv) subsection would be “DTAP 1001.105-3” outside the DTAP and “1001.105-3” within the DTAP.

(v) paragraph would be “DTAP 1001.105-3(a)” outside the DTAP and “1001.105-3(a)” within the DTAP.

(4) Citations of authority (e.g., statutes or Executive orders) in the DTAP shall follow the Federal Register format guidance’s.

### **1001.105-3 Copies.**

(a) See [DTAR 1001.105-3 Copies](#) for Treasury's requirement. The DTAR and DTAP are issued electronically and a loose-leaf versions may be downloaded at <http://www.eCFR.gov> and <http://www.treasury.gov>, respectively. No hardcopy distribution of the DTAR or DTAP will be made.

#### **1001.106 OMB approval under the Paperwork Reduction Act.**

See [DTAR 1001.106 OMB Approval under the Paperwork Reduction Act](#) for Treasury's requirement. Bureaus seeking to establish an information collection other than those prescribed by the [DTAR 1001.106](#) shall submit a request for review and approval to the SPE in accordance with [1001.7000\(a\)\(2\)](#). Bureau information collections established prior to October 1, 2017, must be submitted for SPE approval prior to their renewal in accordance with [1001.7000\(a\)\(2\)](#).

### **Subpart 1001.2—Administration**

#### **1001.202-70 Departmental Compliance with the FAR, DTAR, and DTAP.**

- (a) Agency compliance with the DTAR and DTAP (see [1001.304](#)) is the responsibility of the SPE.
- (b) Treasury personnel with questions concerning the FAR, DTAR, and DTAP may contact the OPE at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

### **Subpart 1001.3—Agency Acquisition Regulations**

#### **1001.301 Policy.**

- (a)(1) See [DTAR 1001.301 Policy](#) for Treasury's requirement.
- (2) The DTAP establishes internal Treasury acquisition policies and procedures for all acquisition activities in Treasury. If there is any conflict between the codified FAR and the language in the DTAP, the codified FAR takes precedence. If there is any conflict between the codified DTAR and the language in the DTAP, the codified DTAR takes precedence.
- (i) Treasury acquisition resources that do not meet the criteria in paragraphs (a)(1) or (2) of this section are available at [Treasury OPE SharePoint](#).
- (b) Proposed Bureau acquisition regulations shall be submitted to the SPE for approval and determination if publication in the Federal Register is required (see [1001.370](#)).

#### **1001.301-70 Amendment to the DTAR.**

#### **1001.301-7001 Definition.**

“Acquisition Bulletin (AB)” means a document signed by the SPE for the purposes of amending the DTAR prior to formal publication and codification of the agency requirement as prescribed by [FAR 1.301](#) or the issuance of a deviation as defined in [FAR 1.401](#) in order to address an agency requirement or direction by the Civilian Agency Acquisition Council (CAAC) Chair.

#### **1001.301-7002 General.**

- (a) The SPE will issue ABs as determined to be necessary to address agency needs.
- (1) Effective date. ABs will contain the effective date of the amendment to the DTAR.

(2) AB numbering. ABs will be numbered consecutively on a fiscal year basis beginning with number "01" prefixed by the fiscal year (e.g., 15-01).

(b) Treasury personnel may submit recommendations for the purpose of amending the DTAR to the [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

#### **1001.301-71 Amendment to the DTAP.**

##### **1001.301-7101 Definition.**

“Acquisition Procedure Updates (APU)” means a document signed by the SPE for the purposes of amending the DTAP prior to the issuance of a new edition of the DTAP.

##### **1001.301-7102 General.**

On an annual basis, the OPE will review the DTAP for purposes of: ensuring currency, accuracy, and continued necessity of a policy or procedure; inclusion of innovative practices; incorporation of any ABs or APUs issued since the issuance of the current edition of the DTAP; and make other amendments as deemed necessary. Bureaus may be provided an opportunity to review a draft of the proposed new edition of the DTAP prior to its release. Once the DTAP is revised to incorporate ABs or APUs, those documents become obsolete and are promptly removed from Treasury websites.

(a) The SPE will issue APUs as determined to be necessary to address agency needs. APUs remain in effect until otherwise canceled, superseded or included within a future edition of the DTAP.

(1) Effective date. APUs will contain the effective date of the amendment to the DTAP.

(2) APU numbering. APUs will be numbered consecutively on a fiscal year basis beginning with number "01" prefixed by the fiscal year (e.g., 15-01).

(b) Treasury personnel may submit recommendations for the purpose of amending the DTAP to [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

##### **1001.301-72 Other methods of communication.**

The SPE may elect to use other means (e.g., group e-mail) to convey important or interesting acquisition information to Treasury personnel. This may include coordinating with other Treasury offices to issue joint memorandum that establishes requirements in advance of the issuance of an AB, APU, amendments to the DTAR or issuance of a new DTAP edition. Policies conveyed by email or other informal means will be incorporated into any appropriate policy documents as earlier as practicable.

##### **1001.303 Publication and codification.**

The DTAR is codified under chapter 10 in Title 48, Code of Federal Regulations. Bureau supplements to FAR, DTAR or DTAP requirements must parallel the same numbering as its FAR, DTAR or DTAP counterpart, except Bureau supplemental numbering shall use numbering of 90 and up, instead of 70 and up. Bureau implementation of a FAR, DTAR or DTAP requirement must parallel the same numbering as its FAR, DTAR or DTAP counterpart. Examples would be FAR 19 implemented as 1019 and supplemented as 1019-90 within a Bureau supplement to the FAR. See [1001.370](#).

#### **1001.304 Agency control and compliance procedures.**

(a) See [DTAR 1001.304 Agency control and compliance procedures](#) for Treasury's requirements. The DTAP is under the direct oversight and control of the OPE, which is responsible for the evaluation, review, and issuance of all Treasury-wide acquisition regulations, policies, procedures, and guidance. Treasury's goal is to ensure the DTAR and DTAP are consistent with the FAR unless the FAR prescribes otherwise. Due to the lead-time necessary to implement FAR changes, conflict or inconsistency may exist. In those cases, the FAR takes precedence over the DTAR and DTAP, unless a deviation is approved.

(c) The SPE is responsible for recommending regulations or clauses for inclusion into the FAR. BCPOs are responsible for evaluating their respective Bureau acquisition regulations, policies and procedures, and guidance to determine if any could apply to other agencies or Treasury-wide. Coverage not peculiar to a Bureau or Treasury as a whole, particularly those involving uniform and policies and procedures with potential for implementation on a federal government-wide basis, shall be forwarded to OPE at

[OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov) for consideration. Possible coverage that might apply Treasury-wide shall be forwarded to OPE at

[OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov) for consideration. For purposes of submission to OPE, [Treasury Standard Form \(SF\) 1070](#), Business Case for proposed amendment to the FAR or DTAR, shall be used. Technical edits do not require use of this form and can be submitted directly to the point of contact provided in this paragraph.

#### **1001.370 Bureau acquisition regulations, procedures, and guidance.**

(a) Arrangement. Bureau acquisition regulations and procedures shall conform to [FAR 1.105-2](#) and [DTAP 1001.303](#).

(b) Bureau control and compliance procedures. Under the authorities of [FAR 1.301\(d\)](#), Bureaus shall control and limit issuance of Bureau acquisition regulations and, in particular, local Bureau policies and procedures and other guidance that restrain the flexibilities found in the FAR, DTAR, and DTAP and shall establish formal procedures for the review of these documents to assure compliance with the FAR, DTAR, and DTAP. See [1001.301](#) in the event of any conflict between a Bureau regulation, policy, procedure, or guidance and the FAR, DTAR, or DTAP.

(c) Bureau acquisition regulations.

(1) A Head of the Contracting Activity (HCA) may issue acquisition regulations as necessary to implement or supplement the FAR, DTAR, DTAP, or Bureau regulations. Prior to establishing such acquisition regulations, the Bureau shall forward the proposed Bureau acquisition regulations to the SPE for review and approval in accordance with [1001.7000\(a\)\(1\)](#). The submission shall use [Treasury SF 1071](#), Business Case for Proposed Bureau Regulations. The Bureau can reach out to OPE for assistance in completing the form.

(2) Bureau acquisition regulations shall—

(i) Pertain only to the Bureau;

(ii) Be limited to those necessary to implement FAR, DTAR, or DTAP policies and procedures within the agency;

(iii) Be limited to those additional policies, procedures, solicitation provisions, or contract clauses that supplement the FAR, DTAR, or DTAP to satisfy the specific needs of the Bureau;

(iv) Be reviewed regularly, no less than annually, for currency, accuracy and continued necessity, and approved in accordance with Bureau procedures;

(v) Be consistent with the policies and procedures of the FAR, DTAR, and DTAP and other Treasury guidance and follow the format, arrangement, and numbering as specified in [1001.105-270](#) and [1001.303](#); and

(vi) Be electronically accessible to the public. OPE's preference is for the Bureau regulation to be posted on the Bureau's public website related to Bureau acquisition office.

(3) The HCA is responsible for ensuring a plan is established for developing, maintaining, and ensuring Bureau compliance with Bureau issued acquisition regulations.

(d) Bureau acquisition procedures.

(1) BCPOs may issue local acquisition procedures unique to the Bureau to supplement the FAR, DTAR, DTAP or Bureau regulation as necessary for the sound functioning of its acquisition function. Bureau acquisition procedures shall-

(i) Be developed only to the extent necessary to fully implement and execute FAR, DTAR, DTAP and Bureau regulatory requirements;

(ii) Contain no material which duplicates, unless necessary for clarity, repeats, paraphrases, restates, or is inconsistent with content contained in the FAR, DTAR, DTAP or Bureau regulations;

(iii) Contain no content except as required by law or as provided in [FAR 1.4](#), that is in conflict or inconsistent with content contained in the FAR, DTAR or DTAP;

(iv) Be reviewed regularly, no less than annually, for currency, accuracy and continued necessity, and approved in accordance with Bureau procedures;

(v) Be consistent with the policies and procedures of the FAR, DTAR and DTAP and other Treasury guidance and follow the format, arrangement, and numbering as specified in [1001.105-270](#) and [1001.303](#); and

(vi) Be electronically accessible to the public. OPE's preference is for the Bureau procedure to be posted on the Bureau's public website related to Bureau acquisition office.

(2) The HCA is responsible for ensuring that BCPOs comply with paragraph (d)(1) of this section and have an established plan for developing, maintaining, and ensuring compliance with Bureau issued acquisition procedures.

(e) Bureau acquisition guidance.

(1) Bureaus may issue acquisition guidance unique to the Bureau to supplement the FAR, DTAR, DTAP, OPE guidance, Bureau regulations or Bureau procedures as necessary for the sound functioning of its acquisition function. Bureau acquisition guidance shall-

(i) Be developed only to the extent necessary to support the implementation and execution of FAR, DTAR, DTAP, OPE guidance, and Bureau regulation and procedure requirements;

(ii) Contain no material which duplicates, unless necessary for clarity, repeats, paraphrases, restates, or is inconsistent with content contained in the FAR, DTAR, DTAP OPE guidance, or Bureau regulation or procedure; and

(iii) Be reviewed regularly, no less than annually, for currency, accuracy and continued necessity, and approved in accordance with Bureau procedures.

(f) General.

(1) Bureaus shall in developing acquisition regulations, policies, procedures and other such guidance comply with—

(i) The [Plain Writing Act of 2010](#) signed on October 13, 2010, which requires Agencies to use "clear Government communication that the public can understand and use" and



(A) [PlainLanguage.gov](http://PlainLanguage.gov) provides tips and examples and numerous other resources for use.

(ii) [Executive Order 13563](#) of January 18, 2011, Improving Regulation and Regulatory Review", which states that "[our regulatory system] must ensure that regulations are accessible, consistent, written in plain language, and easy to understand."

## **Subpart 1001.4—Deviations from the FAR**

### **1001.403 Individual deviations.**

See [DTAR 1001.403 Individual deviations](#) for the designated approving authority of individual deviations. BCPO shall submit FAR, DTAR and DTAP individual deviation requests, inclusive of all supporting documentation, to the SPE in accordance with [1001.7000\(a\)\(1\)](#) using the format prescribed by [1001.470](#). Copies of current Treasury individual deviations are located at [Treasury OPE SharePoint](#).

### **1001.404 Class deviations.**

Copies of current Treasury class deviations are located at [Treasury OPE SharePoint](#).

(a) See [DTAR 1001.404 Class deviations](#) for the designated approving authority for class deviations. The SPE shall appropriately consult with the Chairperson of the Civilian Agency Acquisition Council (CAAC) and furnish a copy of each approved FAR class deviation to the FAR Secretariat. BCPOs shall submit FAR, DTAR and DTAP class deviation requests, inclusive of all supporting documentation, to the SPE in accordance with [1001.7000\(a\)\(1\)](#) using the format prescribed by [1001.470](#).

### **1001.470 Deviation request format.**

A deviation request shall clearly set forth the—

- (a) Identification of the citation of the specific part of the FAR, DTAR, or DTAP from which a deviation is needed;
- (b) Recommended revisions to the FAR, if any;
- (c) Nature of the deviation, including, if applicable, what contract(s) or contractor(s) involved;
- (d) Reasons for the action requested (e.g., avoidance or correction of a problem or undesirable situation);
- (e) Circumstances under which the deviation will be used;
- (f) Proposed wording of the deviation and associated Bureau regulation, procedure or other acquisition guidance, if applicable;
- (g) Intended impact of the deviation;
- (h) Identification if the request is an individual or class deviation request;
- (i) Indication which paragraphs of [FAR 1.401](#) best categorized the deviation;
- (j) Period of applicability; and
- (k) Bureau legal counsel comments and disposition of their comments.

## **Subpart 1001.6—Career Development, Contracting Authority, and Responsibilities**

### **1001.601 General.**

[Treasury Order 101-30, Designation of “Head of Agency” for Procurement Matters](#), delegates authority from the Secretary to the Assistant Secretary for Management and Chief Financial Officer (ASM/CFO) as Head of the Agency. [Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#), in turn, re-delegates certain authorities from the ASM/CFO to the SPE.

The SPE hereby re-delegates procurement authority, except where prohibited by law, regulation, or policy to the Bureau HCAs as set forth in Table 1 below. The Bureau HCA is responsible for the operation and oversight of a procurement system that is in compliance with applicable laws, regulations, policies, standards, and performance goals to carry out their delegated procurement authority to support the office or offices designated in Table 1 below. Each HCA, in consultation with the SPE, will appoint a single BCPO as the senior procurement official at their Bureau. The BCPO shall be responsible for executing the procurement authority assigned to the HCA in Table 1 below except for functions retained by the HCA, or except where prohibited by law, regulation, or policy, or otherwise delegated pursuant to 1001.603-3(b). The HCA shall hold the BCPO accountable for performance commitments furnished by the SPE. The HCA may re-delegate authority of the acquisition system to officials at a level not lower than the BCPO. The HCA shall be the recommending or approving authority for BCPO performance unless a different arrangement is authorized by the SPE in writing. Any request for procurement support to be provided by other than the contracting activity designated in Table 1 below shall be executed in accordance with subpart [1017.5](#).

The changes in delegation address procurement authority only and are not intended to involve or require the transfer of budgetary resources. For a Bureau HCA fulfilling these responsibilities on behalf of another component of Treasury, HCA duties will be performed on a reimbursable basis unless other arrangements are made through the budget process.



**Table 1**

<b><u>Bureau HCA</u></b>	<b><u>Authority and Designated Contracting Office<sup>1</sup></u></b>
Comptroller of the Currency (OCC)	Authority conferred through <a href="#">12 U.S.C. 5416</a> to award and administer contracts on behalf of the OCC
Deputy Director, Chief Administration Officer, Bureau of Engraving and Printing (BEP)	Award and administer contracts on behalf of BEP, excluding Information Technology (IT) contracts
Deputy Commissioner for Operations Support, Internal Revenue Service (IRS)	Award and administer contracts on behalf of the IRS and Departmental Offices (DO) <sup>2</sup> Award and administer IT contracts on behalf of BEP.
Director, United States Mint	Award and administer contracts for products and services unique to U.S. Mint operations and programs in accordance with the 12 <sup>th</sup> proviso of <a href="#">31 U.S.C. 5136</a> .
Deputy Commissioner Accounting and Shared Services, Bureau of the Fiscal Service (BFS)	Award and administer contracts on behalf of BFS, FinCEN, and TTB  Award and administer contracts on behalf of U.S. Mint for products and services that are not unique to U.S. Mint operations and programs pursuant to the 12 <sup>th</sup> proviso of <a href="#">31 U.S.C. 5136</a>  Award and administer contracts on behalf of other Treasury bureaus and other Agencies pursuant to the Franchise Fund ( <a href="#">31 U.S.C. 322</a> note)
Inspector General (OIG)	Award and administer contracts on behalf of the OIG
Special Inspector General for Troubled Asset Relief Program (SIGTARP)	Authority conferred through <a href="#">12 U.S.C. 5231</a> to award and administer contracts on behalf of the SIGTARP
Treasury Inspector General for Tax Administration (TIGTA)	Award and administer contracts on behalf of the TIGTA
<sup>1</sup> Delegated authority does not preclude awarding contracts on behalf of other agencies or organizations pursuant to the Economy Act ( <a href="#">31 U.S.C. 1535</a> ) or similar authority. <sup>2</sup> For historical reasons the following DO organizations obtain procurement support and are aligned with the HCA of the Bureau of the Fiscal Service: Community Development Financial Institutions (CDFI), Office of Financial Research (OFR), Office of Financial and Information Technology (OFIT), and the Financial Stability Oversight Council (FSOC). <sup>3</sup> Unique U.S. Mint operations and programs are those related to the production, administration, distribution, marketing, purchase, sale, and management of coinage and numismatic items, and the protection and safeguarding of assets. Non-unique products and services generally include Telecommunications and Communications; Office Supplies and Equipment; Administrative, Management, and Technical Support Services; and IT Hardware Software, and Support Services. The U.S. Mint HCA, or designee, in consultation with the SPE, shall determine which specific contracts or class of contracts is for products and services unique to U.S. Mint operations and programs.	

Procurement authority may be vested in Treasury employees either through warrants (i.e., [SF 1402, “Certificate of Appointment”](#)) or through written delegation of procurement authority (DPA). A [SF 1402](#) is required for procurement authority exceeding the micro-purchase threshold. A written DPA is required for micro-purchase authority (i.e., governmentwide commercial purchase cardholder, convenience check holder) and ordering officer.

#### **1001.602 Contracting officers.**

##### **1001.602-1 Authority.**

(a) An example of CO authority is a CO awarding a BPA shall have a warrant covering the total value of the BPA, while a CO issuing an order against the BPA need only have a warrant covering the total value of the order.

##### **1001.602-2 Responsibilities.**

(d) See [1001.670](#) for Treasury’s requirements regarding the selection, appointment and termination of a Contracting Officer’s Representative (COR).

##### **1001.602-3 Ratification of unauthorized commitments.**

(b)(2) Unauthorized commitments at and below the simplified acquisition threshold (SAT) may be ratified by the BCPO. The BCPO for the IRS may delegate authority, without re-delegation, to the Area Chief Procurement Officers to ratify unauthorized commitments at or below \$15,000. Unauthorized commitments exceeding the SAT may be ratified by the SPE.

(i) Ratifications exceeding the SAT shall be reviewed and approved by the Bureau head (e.g., for Departmental Offices, the Director) where the unauthorized commitment was made, and the HCA being asked to perform the ratification prior to being submitted to the SPE.

(ii) Legal counsel review and concurrence shall be obtained for all ratifications exceeding \$15,000.

(b)(4) The CO shall use [Treasury SF 1030](#), Request for Ratification of an Unauthorized Commitment and [Treasury SF 1031](#), Determination and Findings - Ratification of an Unauthorized Commitment for the purposes of processing unauthorized commitments.

(c)(7)(i) Case file. For purposes of processing the ratification of an unauthorized commitment a case file shall be prepared by the CO with information provided by the responsible program office for all ratifications exceeding the micro-purchase threshold. The case file shall be reviewed and approved by an individual within the responsible program office at a sufficiently high level to ensure that appropriate administrative and/or disciplinary actions are carried out. The case file shall demonstrate that the circumstances set forth in [FAR 1.602-3\(c\)\(1\) through \(c\)\(6\)](#) are met and include—

(A) All relevant documents and facts concerning the unauthorized commitment;

(B) The proposed modification/award with supporting documentation;

(C) [Treasury SF 1030](#), Request for Ratification of an Unauthorized Commitment; and

(D) [Treasury SF 1031](#) Determination and Findings - Ratification of an Unauthorized Commitment.

(ii) Record keeping. BCPOs shall maintain a log on both approved and unapproved requests for ratification of unauthorized commitments. The log shall include at a minimum—

- (A) Date of and dollar amount of the unauthorized commitment;
- (B) Name of the individual who committed the unauthorized commitment;
- (C) Indication if the unauthorized commitment was approved or unapproved;
- (D) Name of the ratifying official; and
- (E) Name of the vendor.

### **1001.603 Selection, appointment, and termination of appointment for contracting officers.**

#### **1001.603-1 General.**

[Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#), delegates to the SPE authority and responsibility for establishing and maintaining a procurement career management program and a system for the selection, appointment, and termination of appointment of COs. The Bureau HCA with authority to delegate no lower than the BCPO is authorized via [1001.601](#) to select and appoint COs and to terminate such appointments. BCPOs are responsible for establishing Bureau procedures concerning CO nomination, selection, and termination process. BCPOs shall also establish internal controls to ensure individuals appointed as COs continue to fulfill all requirements and that systems (e.g., contract writing systems) are promptly updated to reflect changes in CO appointments.

(a) Paragraphs (a)(1) thru (a)(4) of this subsection are the warrant levels established by the SPE for use in the appointment of COs. These warrant levels require the individual to meet the standards described in [1001.603-2](#) and [1001.603-5](#) for purposes of obtaining and maintaining a warrant respectively. The Bureau HCA, or designated BCPO, may further limit procurement authority at their discretion.

- (1) **LEVEL 1** - Acquisitions up to the SAT;
- (2) **LEVEL 2** - Acquisitions up to \$1 million;
- (3) **LEVEL 3** - Acquisitions greater than \$1 million and up to \$25 million; and
- (4) **LEVEL 4** - Acquisitions greater than \$25 million and up to no monetary limitations (also known as an unlimited warrant).

(b) The goal is not to have all contracting professionals obtain warrants; instead, Bureaus are strongly encouraged to consider the breadth and depth of the organizational need; thereby ensure the Bureau has the appropriate number, type (e.g., permanent vs. temporary) and mix (e.g., dollar threshold and complexity) of warranted individuals to meet the organizational needs. See OFPP memorandum dated May 18, 2018 entitled, "[Federal Acquisition Certification in Contracting \(FAC-C\) in Digital Services](#)". An individual shall meet the requirements prescribed in [FAR 1.603-2](#) and [1001.603-2](#) for consideration of becoming a CO.

#### **1001.603-2 Selection.**

Procurement authority shall be delegated only when valid organizational need can be demonstrated. Furthermore, the ability for an individual to obtain or hold a FAC-C certification does not in itself equate to an individual being selected for or even appointed as a CO or delegated procurement authority. Additionally, the level of FAC-C certification achieved by an individual does not necessarily correspond to the warrant level or dollar limit

that may be approved by the appointing official. The appointing official shall ensure the candidate meets the following requirements consistent with the warrant level being sought. See the [Department of the Treasury Acquisition Certification Management Program Handbook](#) for details on FAC-C certification requirements.

LEVEL 1 - GS-1102 and GS 1105 series employees ONLY. The education, experience, mandatory training, and elective training requirements for FAC-C Level I must be met, and the individual shall be FAC-C Level I certified.

LEVEL 2 - GS-1102 series employees ONLY. The education, experience, mandatory training, and elective training requirements for FAC-C Level II must be met, and the individual shall be FAC-C Level II certified.

LEVEL 3 - GS-1102 series employees ONLY. The education, experience, mandatory training, and elective training requirements for FAC-C Level III must be met, and the individual shall be FAC-C Level III certified.

LEVEL 4 - GS-1102 series employees ONLY. The education, experience, mandatory training, and elective training requirements for FAC-C Level III must be met, and the individual shall be FAC-C Level III certified.

#### **1001.603-3 Appointment.**

(a) [SF 1402s](#) and associated Delegation of Authority letters shall be re-issued when there is any change to the appointment (e.g., name change, dollar limitation). No pen and ink changes are allowed. The Delegation of Authority letter is a binding authorization and requires an original acknowledgement signature and date from the individual.

(1) Record keeping. The BCPO shall maintain a warrant file for each CO. The warrant file shall, at a minimum, contain: a copy of the [SF 1402](#) and the Delegation of Authority letter, including any revisions; any documentation regarding the individual's performance while serving within this role; and copy(ies) of the FAC-C certificate. Warrant files regarding terminated COs shall also be maintained for at a minimum of two (2) years from termination. Bureaus may establish a longer time period for warrant file retention.

(b) See [1001.671](#) for agency procedures regarding the appointment of Ordering Officers and [1001.672](#) for appointment of Purchase Cardholders

#### **1001.603-4 Termination.**

Other reasons for termination are for discontinuance of the organization's need for the appointment, failure to comply with applicable laws and regulations, failure to complete the CLP requirements prescribed by the [Department of the Treasury Acquisition Certification Management Program Handbook](#), or violation of the standards of conduct for employees of the executive branch (see [5 C.F.R. part 2635](#)).

#### **1001.603-5 Skills currency.**

COs shall complete the CLP requirements prescribed by the [Department of the Treasury Acquisition Certification Management Program Handbook](#) along with any Bureau established requirements in order to maintain their warrant. See [1001.603-4](#) for the consequence for failing to complete the CLP requirements.

**1001.603-6 Review and Certification.**

(a) The BCPO shall periodically examine, no less than on an annual basis, those individuals issued warrants in order to identify any changes that need to be made (e.g., termination, decrease in warrant); thereby ensuring the Bureau has the appropriate number, type (e.g., permanent vs. temporary) and mix (e.g., dollar threshold and complexity) of warranted individuals required to support the Bureau's mission going forward. The SPE may request the results of these reviews.

(b) The BCPO shall submit to the OPE designated Acquisition Career Manager (ACM) by February 15<sup>th</sup> of each fiscal year, unless another timeframe is prescribed by the ACM, a certification using the below format.

**BCPO WARRANT CERTIFICATION**

This is to certify that I have completed a review of all individuals issued a warranted within *[insert name of Bureau]* and that, to the best of my knowledge and belief individuals holding a warrant effective *[insert day after review has been completed]* are in compliance with all the requirements prescribed in the [Department of the Treasury Acquisition Certification Management Program Handbook](#), DTAR and DTAP, and are the appropriate number, type and mix of warranted individuals required to support the Bureau's mission going forward.

Bureau \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date of execution \_\_\_\_\_

**1001.604 Contracting Officer's Representative (COR).**

The COR contract file contains records relating to their COR duties during the life of a contract and shall be maintained either in hard copy, electronically, or both. The COR is charged with safeguarding all procurement sensitive, business sensitive, and proprietary information related to the requirement/related contract, whether or not included in the COR contract files. The COR shall retain COR contract files in accordance with FAR 4.805 and as directed by the CO, in accordance with records retention periods and requirements.

(d) Copy of the contract and/or delivery or task order and all modifications;

(e) Quality assurance records, along with results or action taken based on results of surveillance;

(f) Contract personnel security information, non-disclosure agreements;

(g) Contractor reports and data deliverables;

(h) Documentation pertaining to the COR's receipt, inspection, and acceptance (or rejection) of services performed and/or supplies delivered, including receipts, reports, test results, and other supporting data;

- (i) Correspondence, reports, and other documentation or data (e.g., meeting minutes, site visit, telephone conversation log) concerning performance of the contract; and
- (j) Other pertinent documentation.

### **1001.670 Selection, appointment, and termination of appointment for Contracting Officer's Representatives.**

#### **1001.670-1 General.**

The [Department of the Treasury Acquisition Certification Management Program Handbook](#), provides the policy and procedures concerning the competencies, training, experience, continuous learning requirements, and other requirements for becoming a certified COR (i.e., FAC-COR). BCPOs may establish Bureau supplemental procedures for the nomination, appointment, and termination of CORs.

(a) A CO may retain and execute the contract administration functions in accordance with [FAR 42.3](#). This may be appropriate when administration of the contract does not require complex technical knowledge or when the CO has sufficient time and the necessary capabilities and resources to personally monitor contract performance.

#### **1001.670-2 Nomination.**

A COR shall be nominated by their supervisor or for Bureaus providing acquisition support on behalf of other agencies by an individual authorized by the requiring activity (see [FAR 1.602-2\(d\)\(6\)](#)). COR nominations shall be submitted as soon as practicable during the procurement process, but no later than prior to contract award. Nominations may include a primary and secondary COR based on the needs of the acquisition (e.g., complexity of the duties and responsibilities to be delegated or availability of the personnel). The supervisor or the individual performing the nomination on behalf of the requiring activity is responsible for—

(a) Determining that the nominee's qualifications are adequate for performance of the duties and responsibilities with respect to the acquisition they are being nominated for (see [FAR 1.602-2\(d\)\(3\)](#));

(b) Ensuring the nominee's FAC-COR certification is current or if the individual does not have the FAC-COR will be able to obtain it prior to award (see [FAR 1.602-2\(d\)\(2\)](#));

(c) Ensuring the nominee has sufficient time available to adequately perform the COR duties and responsibilities and will be afforded the necessary resources (e.g., equipment, supplies, and training) to adequately perform such duties and responsibilities as well as to maintain their FAC-COR certification during contract performance;

(d) Assessing the nominee's performance as a COR, with input from the CO as part of the individual's annual performance assessment; and

(e) Using the Bureau established process for purposes of submitting the nomination (e.g., via a written form or electronic submission, or via a requisition). The submission shall include, at a minimum, the nominee's name, contact information and indication if they are to serve as the primary or secondary COR.

#### **1001.670-3 Appointment.**

(a) In accordance with [FAR 1.602-2\(d\)](#), CORs shall be formally appointed in writing by the CO to each contract for which they will be delegated COR duties and responsibilities (see paragraph (c) of this subsection). COR duties and responsibilities shall be tailored to the



requirements of each contract and identified in the written appointment (see [FAR 1.602-2\(d\)\(7\)](#)). Prior to appointment, the CO shall—

(1) Ensure the nominee has a current FAC-COR certification that is commensurate of the duties and responsibilities to be delegated (e.g., currently there are three levels of FAC-COR certification). Only individuals having a FAC-COR certification can be appointed as a COR (see [FAR 1.602-2\(d\)\(2\)](#)), unless waived in accordance with Chapter 5 section 9 of the [Department of the Treasury Acquisition Certification Management Program Handbook](#).

(2) Ensure, if applicable, the nominee has completed any necessary specific training related to their appointment and has the necessary experience to perform the COR duties and responsibilities (see [FAR 1.602-2\(d\)\(3\)](#)) being delegated;

(3) Review with the nominee the duties and responsibilities being delegated.

(b) Once the CO has completed the actions described in paragraph (a) of this subsection, the nominee shall either sign the appointment letter acknowledging their acceptance of the appointment or notify the CO that they do not accept the appointment.

(c) Form.

<https://my.treasury.gov/Collab/OPE/Acquisition%20Workforce/Career%20Management%20Policy/Forms/AllItems.aspx>, Contracting Officer's Representative designation, appointment and authority letter shall be used for purposes of appointing a COR. This form may be modified by the CO to reflect specific duties and responsibilities or other requirements applicable to the appointment. For instances, where there will be a primary and secondary COR appointed, the appointment letter shall clearly describe any differences between the duties and responsibilities or other requirements of the primary and secondary COR.

(e) BCPOs shall establish within Bureau procedures mechanisms to—

(1) Ensure individuals who are serving as CORs have current FAC-COR certifications (see [FAR 1.602-2\(d\)\(2\)](#)), unless waived in accordance with Chapter 5 section 9 of the [Department of the Treasury Acquisition Certification Management Program Handbook](#)); and

(2) To promptly notify COs of individuals currently appointed as CORs whose FAC-COR certification is soon to expire (e.g., in the next 60 days) as well as has expired. This will enable for the CO to take appropriate action (e.g., appoint another COR);

(3) Track and monitor performance of individuals serving as CORs to ensure that such individuals are successfully performing their role as a COR. Examples, of successful performance are—

(i) Compliance with the requirements of the appointment letter;

(ii) Timeliness and quality of completing CPAR;

(iii) Timeliness of notification of contract issues;

(iv) Timeliness of performing receipt and acceptance of supplies and services; and

(v) Timeliness of reviewing and approving or rejecting invoices, if applicable.

(f) See [FAR 1.602-2\(d\)\(7\)](#) for distribution requirements concerning the COR appointment letter. A copy of the COR appointment letter shall be placed in the contract file.

(g) CORs do not have the authority to re-delegate their appointment.

(h) If there is a change in personnel performing as the COR, prior to contract close-out, the CO shall—

(1) Determine if another individual needs to be appointed as COR;

(2) Terminate the current COR appointment (see [1001.670-4](#)) and notify the contractor within five (5) days after termination. Notification shall inform the contractor if the Government intends to appoint another individual to serve as the COR or take other

action as well as who the contractor is to contact until such time a new COR is appointed; and

(3) If a new COR will be appointed—

(i) Request the nomination of another qualified individual to serve as the COR;

(ii) Issue a new appointment letter to the new COR, and

(iii) Modify the contract to reflect the change in the individual serving as the COR

(e.g., modifying the clause at [DTAR 1052.201-70, Contracting Officer's Representative \(COR\) Appointment and Authority](#)).

#### **1001.670-4 Termination of appointment.**

(a) A COR appointment is automatically terminated when the individual departs the organization or position which they held at the time of appointment or at the conclusion of the contract. Termination may also be for reasons such as reassignment, unsatisfactory performance in serving as a COR, ethics (e.g., conflicts of interest), failure to complete the CLP requirements prescribed by the [Department of the Treasury Acquisition Certification Management Program Handbook](#) or determination by the CO prior to contract close out.

(b) The CO shall promptly notify the individual of their termination along with the reason why, unless the appointment is being terminated due to the individual's departure or the appointment contains additional provisions for automatic termination. See [1001.670-3\(h\)](#) for instances where there is a change in personnel performing as the COR, prior to contract close-out.

#### **1001.670-5 Continuous learning requirements.**

Individuals serving as CORs are required to complete the continuous learning requirements as specified in the [Department of the Treasury Acquisition Certification Management Program Handbook](#) along with any Bureau established requirements in order to maintain their FAC-COR certification. See [1001.670-4](#) for the consequence for failing to complete the CLP requirements.

#### **1001.670-6 Contract clause.**

See [DTAR 1001.670 Contract clause](#) for Treasury's requirements.

### **1001.671 Selection, appointment, and termination of appointment for Ordering Officers.**

#### **1001.671-1 General.**

This policy applies only to non-GS-1102 Treasury employees.

(a) HCAs may determine that the appointment of individuals to serve as ordering officers is essential for the operation of the Bureau's contracting mission. The authority to appoint ordering officers may be further delegated by the HCA to no lower than the BCPO.

(b) Authority to appoint ordering officers is limited solely to blanket purchase agreements (BPAs) and indefinite delivery vehicles (IDVs) that permit the ordering of defined items of supplies or services for use by Treasury at fixed prices set forth in the agreement or contract, and that have terms and conditions that permit the placement of orders by individuals other than a CO. Ordering officers are not authorized to negotiate, determine price reasonableness, modify or interpret terms and conditions of the agreement or contract, or determine best value. Ordering officers are not COs.



(c) Ordering officer DPAs cannot exceed the SAT, except for Providing Treasury Enterprise Cybersecurity Technology & Services (PROTECTS) BPAs, the DPA cannot exceed \$1M.

(d) Unless, otherwise prescribed by the vehicle's ordering procedures, the contractor shall be provided written notification of the name(s) of individuals appointed as ordering officers for purposes of placing orders against the assigned agreement or contract.

#### **1001.671-2 Selection.**

(a) In selecting ordering officers, the appointing official shall ensure that individuals nominated to serve as ordering officers possess the necessary skills, training, and experience to successfully perform the assigned duties. The appointing official shall consider the complexity and dollar value of the vehicle(s) to be assigned, the anticipated duties of the ordering officer, and the candidate's experience, education and training. Examples of selection criteria include—

- (1) Experience in or knowledge of Government contracting and administration;
- (2) Education or special training in business administration, law, accounting, engineering, or related fields;
- (3) Knowledge of acquisition policies and procedures; and
- (4) Knowledge of the supplies and services to be assigned.

(b) Minimum requirements for ordering officers are prescribed in the [Department of the Treasury Acquisition Certification Management Program Handbook](#). The HCA has the authority to establish additional requirements, which are considered relevant to meet Bureau needs or a particular contract or group of contracts where ordering officers will be appointed.

#### **1001.671-3 Appointment.**

(a) General.

(1) Ordering officers shall be appointed via issuance of a DPA, which shall contain but not limited to—

- (i) The name of the individual;
- (ii) The scope of the ordering officer's responsibilities;
- (iii) The vehicle being assigned;
- (iv) Award details such as but not limited to: items authorized to be ordered, item information (e.g., CLIN, SIN or Category), special instructions (e.g., documentation or review requirements), and vehicle ordering instructions/procedures;
- (v) Any limitation on the scope of authority to be exercised other than those limitations contained in applicable law or regulation; and
- (vi) The dollar amount of the procurement authority being delegated.

Procurement authority can also include limitations such as monthly limits.

(2) Bureaus may use the form located at [1053.201-2\(b\)](#) for purpose of issuance of the DPA.

(3) DPAs shall be re-issued when there is any change to the delegation (e.g., name change, limitation or duties). No pen and ink changes are allowed. The DPA is a binding authorization and requires an original acknowledgement signature and date from the individual.

(4) Individuals appointed as ordering officers shall be provided a copy of their DPA and be briefed at the time of their appointment regarding the specifics of their responsibilities

and of the vehicle(s) they are being assigned. Ordering officers do not have the authority to re-delegate their DPA.

(b) For a DPA exceeding the micro-purchase threshold, when determined by the appointing official to be appropriate in certain limited circumstances, the appointing official shall—

(1) Justify the need for delegation of procurement authority exceeding the micro-purchase threshold to a non-GS-1102;

(2) Determine that delegation of procurement authority exceeding the micro-purchase threshold is the method that is most advantageous to the Government for procuring the items needed;

(3) Describe the methods to be used to monitor the individual's purchases to ensure compliance with applicable procurement regulations and the requirements of the assigned vehicle(s), and to assess periodically the need for continuation of their delegated procurement authority; and

(4) Appoint a CO or establish an organization to work with the individual to provide direction and oversight, such as performing periodic assessments of file documentation, use of Treasury and integrated acquisition environment systems (e.g., FPDS), compliance with the assigned vehicle's requirements, and compliance with all FAR, DTAR and DTAP requirements applicable to above the micro-purchase threshold purchases.

(c) Prior to the establishment of a vehicle that can be used by other Bureaus, the contracting activity shall include requirements within the vehicle that describes the roles and responsibilities of other Bureaus and any other applicable requirements (e.g., a Bureau may have specific terms and conditions).

#### **1001.671-4 Surveillance and compliance.**

Bureau policies and procedures shall include at a minimum—

(a) A requirement for, at a minimum, an annual inspection of all orders issued by ordering officers to ensure compliance with all requirements, they are operating within the scope and limitations of their delegated authority, and demonstration of sound business judgment;

(b) Record keeping requirements concerning inspections and assessments, resultant findings, and of any actions taken as a result of those findings;

(c) Description of action(s) to be taken if an ordering officer is found not to be properly performing assigned duties or is failing to take prompt action to correct deficiencies noted in inspections or reviews; and

(d) Description of the internal controls and the responsibilities of the CO or organization assigned to the vehicle(s) for which ordering officers have been assigned. This is particularly important in instances where ordering officers are able to order against a vehicle issued by another agency or Bureau.

#### **1001.671-5 Termination.**

(a) An ordering officer appointment is automatically terminated when the individual departs the organization or leaves the position they held at the time of appointment, fails to comply with the CLP requirements (see [1001.671-6](#)), or the DPA otherwise terminates in accordance with its terms. Other reasons for termination are discontinuance of the organization's need for the appointment; failure to comply with applicable laws and regulations; violation of the standards of conduct for employees of the executive branch (see [5 C.F.R. part 2635](#)); or unsatisfactory performance.

(b) The individual serving as an ordering officer is to be promptly notified of their termination along with the reason why their appointment is being terminated unless the appointment is being terminated due to the individual's departure or the appointment contains additional provisions for automatic termination.

#### **1001.671-6 Continuous learning requirements.**

Individuals serving as ordering officers are required to complete any continuous learning requirements as specified by the Bureau or the vehicle to which orders are being issued against. See [1001.671-5](#) for the consequence for failing to complete CLP requirements.

#### **1001.671-7 Documentation and record keeping.**

- (a) BCPOs shall maintain files for all appointments that include, at a minimum—
  - (1) A copy of the DPA, including any revisions;
  - (2) Any documentation regarding the individual's performance serving within this role; and
  - (3) Copies of training certificates and any other information deemed relevant.
- (b) BCPOs shall maintain files regarding individuals nominated as well as terminated appointments for a time period established by Bureau policy.

#### **1001.672 Selection, appointment, and termination of appointment for Governmentwide Commercial Purchase Cardholders.**

##### **1001.672-1 General.**

- (a) Governmentwide commercial purchase card authority shall be made by issuance of a DPA by the BCPO or for IRS and BFS an official designated by the HCA.
- (b) The scope of delegated procurement authority shall be limited to only: those actions necessary to support the program office to which the individual is assigned, dollar limitations based upon verifiable relevant experience and be subject to Bureau procurement office oversight, specifically concerning actions exceeding the micro-purchase threshold.
- (c) Treasury policies and procedures governing the use of the Governmentwide commercial purchase card are prescribed by the Treasury Charge Card Management Plan

##### **1001.672-2 Selection and nomination.**

Refer to the Treasury Charge Card Management Plan for the procedures for selection and nomination.

##### **1001.672-3 Appointment.**

- (a) General.
  - (1) The DPA shall contain but not be limited to—
    - (i) The name of the individual;
    - (ii) Dollar limits on transaction authority (e.g., single purchase limit and monthly purchase limit);
    - (iii) Description of the scope of duties including any Bureau-specific limits on types of purchases; and
    - (iv) Any other limitations on the scope of authority to be exercised other than those contained in applicable law or regulation.

(2) Bureaus may use the form located at [1053.201-2\(a\)](#) for purpose of issuance of the DPA.

(3) DPAs shall be re-issued when there is any change to the delegation (e.g., name change, limitation or duties). No pen and ink changes are allowed. The DPA is a binding authorization and requires an original acknowledgement signature and date from the individual being issued the DPA.

(4) Individuals shall be provided a copy of their DPA.

(5) An [SF 1402](#) is required when Governmentwide commercial purchase card procurement authority exceeds the micro-purchase threshold.

(b) For a DPA exceeding the micro-purchase threshold when determined to be appropriate in certain limited circumstances, the appointing official shall—

(1) Justify the need for delegation of procurement authority exceeding the micro-purchase threshold to a non-GS-1102;

(2) Determine that delegation of procurement authority exceeding the micro-purchase threshold is the method that is most advantageous to the government for procuring the items specified;

(3) Describe the methods to be used to monitor the individual's purchases to ensure compliance with applicable procurement regulations, and to assess periodically the need for continuation of their delegated procurement authority; and

(4) Appoint a CO to work with the individual to train, oversee and periodically assure timely and appropriate file documentation, including appropriate use of Treasury and integrated acquisition environment systems and compliance with all FAR, DTAR and DTAP requirements applicable to procurements above the micro-purchase threshold.

#### **1001.672-4 Termination.**

(a) A purchase card holder appointment is automatically terminated when the individual leaves the position they held at the time of appointment or fails to comply with continuous learning requirements (see [1001.672-5](#)), or when the DPA otherwise terminates in accordance with its terms. Other reasons for termination are discontinuance of the organization's need for the appointment; failure to comply with applicable laws and regulations; violation of the standards of conduct for employees of the executive branch (see [5 C.F.R. part 2635](#)); or unsatisfactory performance in serving as a purchase cardholder.

(b) The individual serving as a purchase cardholder is to be promptly notified of their termination along with the reason why their appointment is being terminated.

#### **1001.672-5 Continuous learning requirements.**

Individuals serving as purchase cardholders are required to complete the continuous learning requirements as provided in the [Department of the Treasury Acquisition Certification Management Program Handbook](#) along with any Bureau established requirements in order to maintain their DPA. See [1001.672-4](#) for the consequence for failing to complete the continuous learning requirements.

#### **1001.672-6 Documentation and record keeping.**

(a) BCPOs or for IRS an official designated by the HCA shall maintain a Governmentwide commercial purchase card DPA file for each individual issued a DPA. The file shall, at a minimum, contain—

(1) The DPA, including any revisions;

- (2) If applicable, the associated [SF 1402](#), or DPA, including any revisions
  - (3) Associated Approving Official/Alternate Approving Official appointment letters.
  - (4) Any documentation regarding the individual's performance serving within this role; and
  - (5) Copies of training certificates and any other information deemed relevant.
- (b) Files regarding terminated DPAs and, if applicable, associated [SF 1402s](#) shall be maintained for a time period established by Bureau policy.

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

#### **1001.7000 Coordination and approval.**

- (a) Documents requiring SPE approval.
  - (1) Requests shall be prepared in writing by the CO, reviewed by legal counsel, and submitted through the BCPO to the SPE for approval. Submissions done via e-mail are to be sent to: [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).
  - (2) Requests shall be prepared in writing by the CO and submitted through the BCPO to the SPE for approval. Submissions done via e-mail are to be sent to: [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).
- (b) Documents requiring Agency Head or other designated authority approval. Requests shall be prepared in writing by the CO, reviewed by legal counsel, and submitted through the BCPO to the SPE for review. Transmittal to the Agency Head or other designated authority for approval will be done by the OPE unless otherwise required. Submissions done via e-mail are to be sent to: [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).
- (c) Documents or circumstances requiring SPE or Agency Head notification. Notifications to the SPE or Agency Head shall be provided within the timeframes required by the applicable FAR, DTAR or DTAP requirement and include all necessary supporting documentation and/or information to the notification. Submission done via e-mail are to be sent to: [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).
- (d) Buy American Act and Made in America Office waivers requiring SPE approval. Requests shall be prepared in writing by the CO, reviewed, approved, and submitted by the BCPO to the SPE for review. Transmittal of approved waivers to MadeinAmerica.gov via [SAM.gov](http://SAM.gov) will be completed by the CO unless otherwise specified. Submissions are to be sent via email to: [waiverreview@treasuryecm.gov](mailto:waiverreview@treasuryecm.gov).

## PART 1002—DEFINITIONS

### Subpart 1002.1—Definitions

#### 1002.101-70 DTAP Definitions.

See [DTAR 1002.101 Definitions](#) for Treasury's requirement.

(a) A word or a term, defined in this section, has the same meaning throughout this document, unless—

(1) The context in which the word or term is used clearly requires a different meaning; or

(2) Another FAR or DTAR or DTAP part, subpart, or section provides a different definition for the particular part or portion of the part.

(b) If a word or term that is defined in this section is defined differently in another part, subpart, or section of this document, the definition in—

(1) This section includes a cross-reference to the other definitions; and

(2) That part, subpart, or section applies to the word or term when used in that part, subpart, or section.

“Acquisition Innovation Advocate (AIA)” is the individual designated within an agency who encourages testing of new ideas and better ways of executing existing acquisition practices and working with OMB and other agencies to share best practices and lessons learned. For Treasury the AIA is the SPE. See OFPP memorandum dated March 9, 2016, entitled “[Acquisition Innovation Labs & Pilot for Digital Acquisition Innovation Lab](#)”

“Bureau Chief Procurement Officer (BCPO)” means the senior 1102 acquisition official at each headquarters office or Bureau as appointed by the HCA. Within the Internal Revenue Service, this may be the Director, Procurement or the Deputy Director, Procurement. See [1001.601](#).

“Bureau Senior Accountable Official (SAO)” means individuals designated in writing to implement management controls, policies, and oversight at their Bureau to ensure responsible stewardship of delegated procurement authorities. SAOs shall be at a sufficiently high level within their Bureau to ensure that appropriate administrative and/or disciplinary actions are carried out to protect the Department against fraud, waste, and abuse.

“Chief Acquisition Officer (CAO)” for Treasury is the ASM. CAO responsibilities are delegated to the SPE (see [1001.601](#)).

“Cognizant Inspective General (IG) authority” means the Bureau cognizant IG authority. TIGTA is the cognizant IG authority for IRS, SIGTARP is the cognizant IG authority for the Troubled Asset Relief Program (TARP) and the OIG is the cognizant IG authority for all other Bureaus and for the consolidated Department of Treasury.

“Commercial supplier agreements” means terms and conditions customarily offered to the public by vendors that meet the definition of commercial product or commercial service set forth in FAR 2.101 and intended to create a binding legal obligation on the end user.

Commercial supplier agreements (CSA) are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply or service. The term applies-

(a) Regardless of the format or style of the document. For example, a CSA may be styled as standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of an offer or quotation responding to a solicitation;

(b) Regardless of the media or delivery mechanism used. For example, a CSA may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction. “Environment, Health & Safety (EHS) concerns” include environmental, health and safety issues or risks which could impact the environment and/or human health and safety and are determined by the designated EHS professional, as enumerated in [Sustainability Program.](#)” Procurement requirements or potential procurements that have EHS concerns, include but are not limited to: hazardous materials, equipment with moving parts, construction, installation of equipment or electronics, and contract actions (as defined at FAR 23.101) for materials, supplies, products or services for which sustainable acquisition requirements under [FAR part 23](#) are relevant

“Head of the Agency” for Treasury is the AMS/CFO as designated by [Treasury Order 101-30, Designation of "Head of Agency" for Procurement Matters.](#)

“Head of the Contracting Activity (HCA)” for each Bureau with delegated procurement authority is delineated in [1001.601](#). The Treasury HCA Guide is available at [Treasury OPE SharePoint](#).

“Independent Government Cost Estimate (IGCE)” means the Government’s estimate of the projected price or cost that a contractor would incur in the successful performance of the contract.

“Legal Counsel” means the Treasury or Bureau office assigned to provide legal services to the contracting activity.

“Major Acquisition” means a planned or existing procurement action meeting at least one of the criteria listed in [1046.7001\(a\)](#).

“Office of the Procurement Executive (OPE)” is the Treasury office responsible for Treasury’s acquisition system, including: policy development; establishment of acquisition goals; evaluation and monitoring of bureau organizations; category management, managed spend, governance of federal-wide and Treasury procurement systems; career management; and continuous improvement of the acquisition environment. OPE supports the use of streamlined, cost effective, best value procurement strategies while encouraging achievement of socio-economic goals.

“Senior Procurement Executive (SPE)” for Treasury is the Director of the OPE. The SPE leads the OPE.



“Treasury Mandatory Source” means a contract vehicle or agreement determined by the SPE to be a mandatory source for all Treasury contracting activities [Treasury OPE SharePoint](#) or a contract vehicle that the Office of Management and Budget (OMB) has made mandatory for use by federal agencies unless determined otherwise by the SPE (see [Acquisition Gateway](#)).

## **Subpart 1002.70—Abbreviations**

### **1002.70-1 Abbreviations.**

See [DTAR 1002.70 Abbreviations](#) for Treasury’s requirement.

(a) An abbreviation, defined in this section, has the same meaning throughout this document, unless—

(1) The context in which the abbreviation is used clearly requires a different meaning; or

(2) Another FAR or DTAR or DTAP part, subpart, or section provides a different definition of the abbreviation for the particular part or portion of the part.

ASM	Assistant Secretary for Management
BCPO	Bureau Chief Procurement Officer
CFO	Chief Financial Officer
CIO	Chief Information Officer
CO	Contracting Officer
COR	Contracting Officer’s Representative
D&F	Determination and Findings
DTAR	Department of Treasury Acquisition Regulation
DTAP	Department of Treasury Acquisition Procedures
EHS	Environment, Health & Safety
E.O.	Executive Order
FAR	Federal Acquisition Regulation
FITARA	Federal IT Acquisition Reform Act
GPE	Governmentwide Point of Entry
GSA	General Services Administration
HCA	Head of the Contracting Activity
HUBZone	Historically Underutilized Business Zone
IT	Information Technology
ICT	Information and Communication Technology
OSDBU	Office of Small and Disadvantaged Business Utilization
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
OPE	Office of the Procurement Executive
PBA	Performance-Based Acquisition
PSC	Product or Service Code
SAT	Simplified Acquisition Threshold
SPE	Senior Procurement Executive
SDVOSB	Service-Disabled Veteran-Owned Small Business
SBS	Small Business Specialist
SDB	Small Disadvantaged Business



WOSB	Women-Owned Small Business
VOSB	Veteran-Owned Small Business

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

### **Subpart 1003.1—Safeguards**

#### **1003.101-3 Agency regulations.**

(a) Government-wide and Treasury regulations governing the conduct and responsibilities of employees are contained in [5 CFR Parts 2635](#) and [3101](#).

#### **1003.104-1 Definitions.**

As used in this section—

“Agency ethics official” The designated agency ethics official (DAEO) for Treasury is the Assistant General Counsel for General Law, Ethics, and Regulation (AGC-GLER). The alternate designated agency ethics official (ADAEO) is the Deputy Assistant General Counsel (Ethics) (see [Treasury Order 61-01, “Ethics in Government Act of 1978, As Amended”](#) and [Treasury Directive 61-06, “Responsibilities of the Designated Agency Ethics Official”](#)).

#### **1003.104-7 Violations or possible violations.**

(a)(1) The CO shall forward the information concerning the violation or possible violation along with the documentation supporting the CO’s determination that there is no impact on the procurement, after legal counsel review, to a level above the CO for concurrence.

(b)(3) Refer the information to the cognizant Inspector General (IG) authority.

(5) The HCA shall make the recommendation to the SPE.

(d)(2)(ii)(B) The SPE shall make this determination.

(f) The CO shall prepare a memorandum of the facts and circumstances for the HCA’s signature and place the signed document in the contract file. The HCA shall notify the SPE before authorizing the CO to make award or execute a modification (see [1001.7000\(c\)](#)).

### **Subpart 1003.2—Contractor Gratuities to Government Personnel**

#### **1003.203 Reporting suspected violations of the Gratuities clause.**

(a)(1) The report shall be in writing and state the circumstances surrounding the incident and including, but not limited to: date(s), location(s), and name(s) of parties involved.

(b)(1) The CO shall submit the report to the BCPO, who shall consult with legal counsel, and determine if the case warrants submission to the cognizant IG authority, or other investigatory organization, and the SPE for further action.

#### **1003.204 Treatment of violations.**

The SPE is the authorized designee for the purposes of making the determinations prescribed by [FAR 3.204](#).

(b)(1) The contractor shall be provided with a written notice which summarizes the events involving the suspected violation and reminds the contractor of the procedural protections listed in [FAR 3.204\(b\)](#). The notice shall contain a 30-day, time limit for reply and be sent by certified mail; return receipt requested.

### **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 to the cognizant IG authority.

### **Subpart 1003.4—Contingent Fees**

#### **1003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.**

(a) Reports shall be in writing and state the circumstances surrounding the matter and including, but not limited to: date(s), location(s), and name(s) of parties involved.

(b) Prior to taking or directing one or more of the following, or other, actions, the BCPO shall consult with legal counsel and the cognizant IG authority to make that determination.

(b)(4) A copy of the referral shall be concurrently submitted to the SPE.

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

#### **1003.602 Exceptions.**

Requests for an exception to the policy in [FAR 3.601](#) shall be submitted to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

### **Subpart 1003.7—Voiding and Rescinding Contracts**

#### **1003.700 Scope of subpart.**

(a)(2) The SPE is the authorized designee who can make this determination.

#### **1003.703 Authority.**

(a) The SPE is the authorized designee to make these decisions.

#### **1003.704 Policy.**

The SPE is the authorized designee to take the actions prescribed by [FAR 3.704\(a\)](#) and [\(c\)](#).

#### **1003.705 Procedures.**

(a) The BCPO shall promptly report the facts concerning any final conviction for any violation of [18 U.S.C. 201-224](#) involving or relating to agency contracts to the SPE for their consideration. The SPE shall promptly notify the Civil Division, Department of Justice that the action is being considered under this subpart.

(b) The SPE is the authorized designee to make these decisions.

## **Subpart 1003.8—Limitations on the Payment of Funds to Influence Federal Transactions**

### **1003.806 Processing suspected violations.**

Information regarding suspected violations of [31 U.S.C. 1352](#) shall be reviewed by legal counsel and forwarded to the BCPO. A copy of the information provided to the BCPO shall be provided also to the SPE and to the cognizant IG authority.

## **Subpart 1003.9—Whistleblower Protections for Contractor Employees**

### **1003.905 Procedures for investigating complaints.**

The HCA is delegated the responsibilities at [FAR 3.905](#).

### **1003.906 Remedies.**

The HCA is delegated the authorities at [FAR 3.906](#).

### **1003.907-6 Remedies and enforcement authority.**

The SPE is delegated the head of agency authorities identified in [FAR 3.907-6](#).

### **1003.908 Pilot program for enhancement of contractor employee whistleblower protections.**

The SPE is delegated the head of agency authorities identified in [FAR 3.908](#).

## **Subpart 1003.70—Prohibition on Recommending or Requiring Submission of Political Information**

### **1003.7001 Purpose.**

The purpose of this subpart is to implement provisions from Section 735 of the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 13-235](#)) and any other Act, wherein such prohibition is included.

### **1003.7002 Policy.**

For solicitations requesting offers for a federal contract that will use funds made available by the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)) or any other Act, unless otherwise stated therein, neither CO nor ordering officers shall recommend or require any entity to disclose any of the following information as a condition of submitting the offer:

(a) Any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the entity, its officers or directors, or any of its affiliates or subsidiaries to a candidate for election for Federal office or to a political committee, or that is otherwise made with respect to any election for Federal office.

(b) Any disbursement of funds (other than a payment described in paragraph (a) of this section) made by the entity, its officers or directors, or any of its affiliates or subsidiaries to any person with the intent or the reasonable expectation that the person will use the funds to make a payment described in paragraph (a) of this section.

(1) In this section, each of the terms “contribution”, “expenditure”, “independent expenditure”, “electioneering communication”, “candidate”, “election”, and “Federal office” has the meaning given such term in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

## **PART 1004—ADMINISTRATIVE MATTERS**

### **Subpart 1004.1—Contract Execution**

#### **1004.103 Contract clause.**

Bureaus shall establish procedures for when the clause at [FAR 52.204-1, Approval of Contract](#) shall be included in solicitations and contracts.

### **Subpart 1004.4—Safeguarding Classified Information within Industry**

#### **1004.402 General.**

(a) Personnel security requirements are derived from Executive Order (E.O.) 10450; [OMB Circular A-130, “Management of Federal Information Resources”](#); [TD 15-71, Department of the Treasury Security Manual](#), Chapter II Section 2 and Chapter IV; and Titles 5 and 44 of the U.S. Code.

(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 71-10, "Department of the Treasury Security Manual"](#). The manual is not proprietary and may be provided to contractors upon their request.

#### **1004.403 Responsibilities of contracting officers.**

(a) Presolicitation phase. The requiring activity, in coordination with the CO and cognizant security officer, is responsible for determining whether access to classified information may be required by offerors, or by a contractor during contract performance.

(2) The CO shall refer to the instructions provided in Chapter IV of [TD 71-10, "Department of the Treasury Security Manual"](#) for Treasury procedures.

(b)(1) The CO shall refer to the instructions provided in Chapter IV of [TD 71-10, "Department of the Treasury Security Manual"](#) for Treasury procedures.

(c)(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 to the contractor. The completed DD Form 254 shall be forwarded to the contractor, as well.

#### **1004.470 Security requirements for access to unclassified facilities, Information Technology resources, and sensitive information.**

##### **1004.470-1 General.**

Contractors, including contractor and subcontractor employees requiring access to unclassified information, facilities and/or IT resources shall meet the investigative requirements of Chapter II, Section 2 of [TD 71-10, “Department of Treasury Security Manual.”](#)

#### **1004.470-2 Responsibilities of Contracting Officers.**

(a) Pre-solicitation phase. For contractors, including contractor and subcontractor employees, requiring access to unclassified information, facilities and/or IT resources the instructions provided in Chapter II, Section 2 of [TD 71-10, "Department of Treasury Security Manual"](#) apply.

(b) Solicitation phase. For contractors, including contractor and subcontractor employees, requiring access to unclassified information, facilities and/or IT resources the instructions provided in Chapter II, Section 2 of [TD 71-10, "Department of Treasury Security Manual"](#) apply.

(c) Award Phase-Nondisclosure Agreement for Sensitive Information. COs should consult with requiring activity, cognizant security office, and legal counsel to determine whether contractor access to sensitive information warrants execution of a nondisclosure agreement(s). A sample nondisclosure agreement is available at Attachment 1, Chapter II, Section 2 of [TD 71-10, "Department of Treasury Security Manual."](#)

#### **1004.471 Insider Threat Program Requirements.**

##### **1004.471-1 Scope.**

The scope of this section is to implement Treasury's requirement for Insider Threat Awareness training as prescribed by [Treasury Order 105-20, "Insider Threat Program."](#)

##### **1004.471-2 Applicability.**

This requirement only applies to Treasury requirements.

##### **1004.471-3 Policy.**

(a) [E.O. 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information](#), dated October 7, 2011 requires heads of agencies that operate or access classified computer networks implement an insider threat detection and prevention program.

(b) [Treasury Order 105-20, "Insider Threat Program"](#), establishes Treasury's insider threat detection and prevention program.

(c) [TD 71-10, "Department of the Treasury Security Manual"](#) serves as Treasury's policies and procedures with respect to security programs.

##### **1004.471-4 Procedure.**

(a) The CO shall coordinate with the requiring activity and, as applicable, a representative from the respective security office to ensure they have appropriately considered the need for a position to require clearance is based on the duties and responsibilities of the position to be assigned. If the determination is that a position to be performed by contractor personnel will require access to classified information, then the CO shall insert the clause provided in [1004.471-5](#).

#### **1004.471-5 Contract clause.**

Insert the clause at [1052.204-70, Insider Threat Awareness Training](#), in solicitations and contracts, including solicitations and contracts for the acquisition of commercial items, requiring contractor access to classified information.

### **Subpart 1004.5—Electronic Commerce in Contracting**

#### **1004.502 Policy.**

(b) The SPE is delegated in accordance with [Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#) the authority to ensure that information systems, technologies, procedures, and processes used by the Treasury to conduct electronic commerce standards are met as specified by [FAR 4.502\(b\)\(1\) thru \(5\)](#). The SPE will coordinate any such determinations with the Treasury CIO. See [subpart 1004.74](#).

(c) The Treasury CIO is responsible for ensuring that the agency systems are capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information, before using electronic commerce.

(d) Treasury authorizes the use of electronic signatures, including digital signatures (see, Treasury Enterprise Identity Credential and Access Management – Digital Signature Guidelines, Version 1.2 (third draft release, September 2013) and [Treasury Directive 87-05, Electronic Commerce Initiatives](#)). The terms “electronic signature” and “digital signature” are often mistakenly used interchangeably. “Electronic signatures” represent a broad category that consists of many proprietary or *ad-hoc* types, such as a symbol, a click, a voiceprint, or typed notations such as /s/ Jane Doe, provided they are expressed within an electronic medium. On the other hand, “digital signatures” are a subcategory of electronic signatures, supported by cryptographic standards to provide greater security features. Unlike electronic signatures, digital signatures are easily transportable as signatures created by users within a software application (e.g., Microsoft Word and Adobe Acrobat) that can be validated by using those same software applications. Bureaus are therefore encouraged to allow acquisition personnel the ability to use digital signatures as part of the acquisition process, including on award documents, modifications, justifications, determinations, acquisition plans, as well as those documents that are created to accompany such documents internally (such as routing sheets and any other document indicating concurrence or approval) and externally. Bureaus that provide the use of digital signature shall establish procedures so that whenever a digital signature is used it has the full force and effect as a handwritten signature.

### **Subpart 1004.6—Contract Reporting**

#### **1004.602 General.**

(c)(2)(i) Helpful documents. The following are helpful documents available at <https://www.fpds.gov> that may be used to support the entry of data into Federal Procurement Data System (FPDS)—

- (A) FPDS Data Element Dictionary;
- (B) FPDS Data Validations; and



(C) FPDS User Manual.

(ii) These helpful documents do not relieve individuals from reviewing regulations, policies and procedures which form the basis and set the context for FPDS data entry requirements. See [1004.606-70](#) for information on Treasury FPDS reporting requirements and a link to Treasury's common FPDS reporting mistakes guidance.

(iii) Reporting technical issues. FPDS technical issues are to be reported to the Bureau designated FPDS system administrator prior to contacting the FPDS Help Desk or the Treasury designated FPDS system administrator. The Bureau FPDS system administrator will provide direction in terms of resolving the issue since after consultation it may be determine it is not an FPDS technical issue, but user error or another type of issue.

**1004.603 Policy.**

(d) Bureaus using non-appropriated or revolving funds shall report contract actions in [FPDS](#). The OPE has provided the notification required in [FAR 4.606\(b\)\(2\)](#).

**1004.604 Responsibilities.**

(a)(1) BCPOs are responsible for—

(i) Developing and monitoring a process to ensure timely and accurate reporting of their Bureau respective contract actions to FPDS. This process shall also ensure the quality of data and information reported to FPDS (e.g., COs provide a clear description of the requirement within the description field). This includes using reports, data and information provided by FPDS, OPE or a designated third-party vendor to ensure corrections and other actions (e.g., training) are made in a timely fashion;

(ii) Ensuring all applicable actions are reported to FPDS pursuant to [FAR 4.604\(b\)](#); and

(iii) Designating a system administrator and notifying OPE in writing of the designation. Bureau system administrators are responsible for training Bureau personnel in preparation of upcoming system updates/changes; taking steps to identify trends or other areas where Bureau personnel need training or support on; providing first level system user support; registering new users; ensuring departing employees accounts are closed; ensuring the validity of the information that is entered into FPDS (see paragraph (a)(1)(i) of this section); and other related tasking.

(2) Bureaus should make the process for reporting contract actions to FPDS seamless by establishing connectivity and integration to its contract writing system, thereby avoiding duplicative data entry and improving FPDS data accuracy.

(i) The Bureau system administrator shall establish mechanisms (e.g., monthly report) to ensure the timely and accurate reporting of contractual actions to FPDS. These mechanisms shall provide the timely identification of reporting inaccuracies (e.g., incorrect North American Industrial Classification System (NAICS) or Product or Service Code (PSC) selection) as well as trends and other issues (e.g., noncompliance with reporting requirements such as 1004.606-70) so that prompt corrective action (e.g., correction of the contract action report or training) can be completed.

(3) In lieu of including the actual physical paper copy of the electronically submitted contract action report (CAR) in the contract file, a CO may, per Bureau procedures: reference the CAR approval date on the contract file checklist, make reference to the contract writing system in the associated contract file if the Bureau has integrated FPDS data entry into its

contract writing system, or include the hyperlink in the contract file that directs one to the CAR available in FPDS. Either of these actions satisfies contract file documentation requirements of [FAR 4.803\(a\)](#).

(c) The SPE is responsible for submission of the report required by [FAR 4.604\(c\)](#).

(1) Bureau responsibilities. To support the annual certification of FPDS data as required by [FAR 4.604\(c\)](#), BCPOs shall—

(i) Conduct an annual Verification & Validation (V&V) exercise in accordance with OPE V&V guidance. This requirement includes the submission to OPE of a V&V report. Unless otherwise requested, Bureau V&V reports are due to OPE each year on the last workday on or before December 15<sup>th</sup>.

(ii) Ensure that all personnel with FPDS data entry and review functions have timely completion and data accuracy evaluation factors in their performance appraisal and receive appropriate management feedback for their role in promoting and maintaining procurement data integrity;

(iii) Implement, if applicable, agreed upon corrective action plans as identified in the V&V report; and

(iv) Provide status updates to OPE on a quarterly basis. The status update is due on the last workday of each quarter.

(2) OPE responsibilities. The OPE shall—

(i) Define the scope of each Bureau V&V review no later October 30<sup>th</sup> of each year;

(ii) Review Bureau V&V reports and approve, if applicable, the recommendations and proposed corrective action plans; and

(iii) Track and monitor completion and accuracy by Bureau.

#### **1004.605 Procedures.**

(a) See [1004.16](#) for Treasury's requirement.

(e) Office codes. See [1004.605-70](#) for Treasury's implementation of this FAR requirement.

#### **1004.605-70 Activity Address Codes.**

In accordance with [FAR 4.605\(e\)](#), Bureaus shall use the assigned contracting/funding office Activity Address Codes (AACs) for all contract actions reported to FPDS. See [FAR 2.101](#) for definition of AAC.

(a) Responsibilities. BCPOs shall designate a primary and alternate designee responsible for establishing and maintaining contracting/ funding offices and ensuring contracting/ funding offices are current and accurate in FPDS. BCPOs shall notify OPE's Integrated Award Environment (IAE) Program Manager in writing of the designation and provide notification of any changes. Bureau designees will be identified to the GSA as Agency Designated Change Approvers and will have the authority to coordinate with GSA to establish/maintain AACs for their respective Bureau.

(1) Definition of Office. As used in this section an "office" means the smallest organizational unit that has responsibility of either providing the predominance of funding for or acting as the contracting activity for the contract action.

(2) Identifying and assigning AACs for new offices. Bureaus shall coordinate with the office of their CFO when identifying new contracting/ funding offices. When a new

contracting or funding office is identified, the Bureau shall submit to GSA's Order Management at [ordermgmt@gsa.gov](mailto:ordermgmt@gsa.gov) or (800) 927-7622, the office name, mailing address, and Bureau major command (MAJCOM) (see paragraph (a)(2)(i) of this subsection) for entry into the Department of Defense AAC database. GSA will then assign an AAC to the new contracting/ funding office and make it available in FPDS.

(i) For purposes of the AAC database, each Bureau is designated as a "MAJCOM" and assigned a code as specified below—

- (A) Alcohol and Tobacco Tax and Trade Bureau - 22
- (B) BEP - 41
- (C) BFS - 36
- (D) Community Development Financial Institution Fund - 66
- (E) Departmental Offices - 01
- (F) Financial Crimes Enforcement Network - 26
- (G) OIG – 04
- (H) IRS – 50
- (I) OCC – 46
- (J) SIGTARP – 83
- (K) TIGTA – 14
- (L) United States Mint - 44

(3) Shared Services. Serviced Bureaus are responsible for identifying their Bureau's funding offices. Servicing Bureaus shall coordinate with the serviced Bureau to receive a listing of the serviced Bureau's funding offices.

(4) Data Quality. As part of the Annual Verification and Validation (see [1004.604\(c\)\(1\)](#)), Bureaus shall review the accuracy of reporting by contracting personnel, specifically the selection of the correct contracting/ funding offices. Bureaus shall also perform annual reviews of contracting/ funding offices to ensure all offices listed are current and accurate.

#### **1004.606 Reporting Data.**

(a)(1) The [FAR 4.606\(a\)](#) requirement for reporting actions over the micro-purchase threshold in FPDS includes instances where the Governmentwide commercial purchase card is used as a form of payment or as the method of purchase.

(b)(1) Add Description of Requirement Instructions (FPDS Data Dictionary)

#### **1004.606-70 Requirements for reporting FPDS data.**

To ensure consistent, uniform and accurate reporting of Treasury actions in FPDS, Treasury has established the reporting requirements in paragraphs (a) thru (d) of this subsection and developed guidance on how to avoid common FPDS reporting mistakes (e.g., reporting the wrong reference IDV). This guidance is available at [Treasury OPE SharePoint](#). Additionally, OPE and third-party vendors may provide Bureau's data and information reflecting potential FPDS errors (i.e., those not identified by FPDS) that BCPOs must ensure are addressed in a timely manner.

(a) Agreements.

(1) When reporting the initial award of an agreement (e.g., BPA and basic ordering agreement), the CO shall enter in the—

(i) 'Base and all Options Value' FPDS field the total estimated ceiling amount of the agreement or the total anticipated dollar amount of all orders/calls that may be placed against the agreement.

(ii) 'Ordering Procedure' FPDS field information that describes whether the vehicle is Treasury-wide, Bureau only, etc. The purpose of this field is to indicate exactly which organization outside or within Treasury can order under this vehicle.

(2) Calls/orders under single award Agreements. Unless the call/order issued under the Agreement is competed then "1" shall be entered in the 'Number of Offers Received' FPDS field.

(b) Indefinite Delivery Vehicles.

(1) When reporting the initial award of an indefinite delivery vehicle (e.g., BPA and basic ordering agreement), the CO shall enter in the 'Ordering Procedure' FPDS field information that describes whether the vehicle is Treasury-wide, Bureau only, etc. The purpose of this field is to indicate exactly which organization outside or within Treasury can order under this vehicle.

(c) Bridge contracts. See [1017.7005\(c\)](#) for the requirements for reporting of these types of contracts.

(d) Product or Service code. See 1004.606-71 for the requirement for reporting this data element.

#### **1004.606-71 FPDS requirements for reporting Product or Service Code.**

Consistent and accurate FPDS reporting combined with successful implementation of category management, including increasing Spend Under Management and BIC solution utilization, requires the consistent application and accurate selection of PSCs.

(a) COs shall choose the PSC that represents the predominant amount of supplies or services being procured in consideration of the NAICS code and the Government-wide category structure (see PSC Category Alignment available at [https://www.acquisition.gov/PSC\\_Manual](https://www.acquisition.gov/PSC_Manual)) under which the requirement falls. For example, if the predominate amount of services being acquired is IT, then the PSC shall be selected from the IT PSC category and be associated with an IT NAICS code (see paragraph (b) of this subsection).

(1) COs shall coordinate, as appropriate, with the requiring activity to select the correct PSC that will be used for the acquisition and reported in FPDS. The requiring activity shall include the PSC within the procurement request for new awards. The PSC manual is available at <https://www.acquisition.gov/PSC-manual>, and can aid in the proper selection of the PSC as well.

(b) IT acquisitions.

(1) When an IT acquisition aligns with more than one PSC, the PSC that represents the predominant aspect of the IT being acquired shall be used.

(2) Acquisitions to achieve Cyber Security objectives shall use IT Security PSC 5810 or 5811 regardless of the product/service type;

(3) Acquisitions to achieve Telecommunications objectives shall use the appropriate Telecommunications PSC regardless of the product/service type; and

(4) Acquisitions that include both hardware and software shall use the PSC based on the highest cost product type.

(c) Disagreements concerning the selection of the proper PSC may be raised one level above the CO for resolution.

## **Subpart 1004.8—Government Contract Files**

### **1004.802 Contract files.**

(a)(4) The COR working file containing contractor performance information and other information related to the COR's responsibilities. Formal records and documents from the COR working file shall be incorporated into the official (contracting office) contract file prior to closeout. If the files are not integrated and retained and stored separately in accordance with governing policy, both the CO and COR files shall cross reference each other and their respective location.

### **1004.802-70 Electronic contract files.**

Bureaus may maintain contract files in electronic media provided all documentation is maintained as required by [FAR 4.8](#). Electronic contract files dispersed in multiple locations, or maintained with no naming convention or filing structure, do not constitute adequate electronic records. See [FAR 4.802\(f\)](#). Electronic contract files meeting the conditions of this subsection will be considered the official contract file.

(a) Bureaus shall establish a naming convention and electronic filing structure to ensure proper naming of and filing of contractual documents that are uploaded into an electronic contract filing system.

(b) Documents uploaded to the electronic contract filing system are a part of the contract file (see [FAR 4.8](#)). Bureaus shall ensure the electronic contract filing system provides, at a minimum, safeguards for accessing the system; safeguards for accessing information that is deemed too sensitive for widespread distribution (e.g., personally identifiable information), as well as provides for procedures on handling attachments that cannot be practicably converted to electronic format (e.g., samples, drawings, and models).

(c) Bureaus are responsible, at a minimum, for ensuring the following—

(1) The timely filing and distribution of documents;

(2) That internal controls are in place to ensure that—

(i) The electronic version of a document in the electronic contract filing system is an accurate representation of the document;

(ii) The contract data in the electronic contract filing system is an accurate representation of the underlying contract;

(iii) The deletion or modification of a document or data is restricted to only those circumstances when it is determined necessary. In addition, when deletions or modifications occur an electronic record is kept that identifies information such as date and time when the document was deleted or modified and the individual who deleted or modified the document; and

(iv) The naming and filing structure is adhered to.

(3) That there is a capability to search for and download documents maintained in the electronic contract filing system;

(4) That procedures, inclusive of file checklists, reflect what documentation is being maintained, where it is being maintained, and in what medium it is being maintained (see [FAR Parts 4.802 and 4.803](#)). For example, a contract file checklist indicates whether the

documentation is being maintained in paper copy (e.g., the document is oversized or too voluminous that it cannot be scanned into the electronic contract file system); in the electronic contract filing system; and another system (e.g., FPDS for a copy of the CAR); and

(5) That documents, particularly those that contain handwritten signatures, needing to be scanned into the electronic contract filing system are legible and complete.

#### **1004.803 Contents of contract files.**

(b)(70) Award fee or award term plans and documentation supporting the determination to award an award fee or award term.

(d) Refer to [1001.604](#) for contents of a COR contract file.

#### **1004.804 Closeout of contract files.**

Resources for supporting closeout are available at [Treasury OPE SharePoint](#).

#### **1004.805 Storage, handling, and contract files.**

(a) Contract and order files shall be disposed of in accordance with [Treasury Directive 80-05, Records and Information Management Program](#), as supplemented by other internal bureau directives such as the Departmental Offices Records Management Handbook located at the following website:

<https://my.treasury.gov/Collab/PTR/opttr/treasuryrecords/Training/ICRM-Handbook-v2013-10-01.pdf#search=records%20management%20handbook>. In no case are files to be destroyed before the retention times specified in [FAR 4.805](#).

#### **1004.805-70 Storage, handling, and disposal of Governmentwide Commercial purchase card records.**

Governmentwide commercial purchase card records (for other than construction orders) shall be retained for six (6) years after final payment. Governmentwide commercial purchase card records for construction orders shall be retained for six (6) years after final payment.

### **Subpart 1004.11—System for Award Management**

#### **1004.1102 Policy.**

(a)(4)(i) Includes contracts with individuals performing some services in the U.S., provided that the U.S.-based services are only incidental to the underlying contract requirements. Requiring activities shall clearly identify requirements with a dominant focus abroad, to allow COs to make final determinations regarding exemption applicability.

### **Subpart 1004.13—Personal Identity Verification**

#### **1004.1302 Acquisition of approved products and services for personal identity verification.**

(a) Procurements for services and products involving Physical Access Control Systems (PACS) or Logical Access Control Systems (LACS) shall be in accordance with all applicable Federal Homeland Security Presidential Directive-12 (HSPD-12) policy and the FAR (see [Treasury Directive 71-12, Homeland Security Presidential Directive 12 Policy](#)). Additionally, in order to ensure governmentwide interoperability, OMB memorandum M-6-



18 entitled, [“Acquisition of Products and Services for Implementation of HSPD-12”](#) requires agencies to acquire products and services that are approved as compliant with Federal policy, standards and supporting technical specifications. PACS and LACS are defined as follows:

(1) PACS. An electronic system that controls the ability of people or vehicles to enter a protected area, by means of authentication and authorization at access control points. System components may include, but not limited to, the following: card readers, control panels, servers and software.

(2) LACS. Systems which authenticate and authorize an individual to access federally controlled information systems. System components may include, but are not limited to, the following: laptops, desktops, servers, mobile devices and software.

(b) When procuring products and services in support of HSPD-12 to—

(1) Enable all new PACS and LACS under development to use Personal Identity Verification (PIV) credentials, in accordance with National Institute of Standards and Technology (NIST) guidelines, prior to being made operational; or

(2) Upgrade existing PACS and LACS to use PIV credentials in accordance with NIST guidelines, prior to agency using development and technology refresh funds to complete other activities. All solicitations and contracts that require a contractor to provide one or more of the systems and/or equipment defined in [1004.1302\(a\)](#) shall contain in the requirement that contractor and subcontractor products and services provided in support of the implementation of HSPD-12 are approved as compliant with Federal Information Processing Standards Publication (FIPS PUB) Number 201-1 and NIST standards (as applicable). The requirement shall specify how the systems and/or equipment will be used in support of HSPD-12 implementation and require contractors to notify the CO if the statement of work, performance-based work statement or specification does not conform to FIPS PUB 201 and NIST standards.

### **Subpart 1004.16—Unique Procurement Instrument Identifiers**

#### **1004.1601 Policy.**

(a) Ensure that the identifier for each solicitation, contract, agreement, or order is unique Government-wide, and will remain so for at least 20 years from the date of contract award in accordance with [FAR 4.1601](#).

(b) For the purpose of [FAR 4.1601\(b\)](#), “new contract awards” includes delivery and task orders issued against an IDV and orders and calls issued against agreements awarded prior to October 1, 2017.

(c) Bureaus shall maintain the 2013 PIID format for all solicitations and awards issued prior to October 1, 2017. Transition instructions are located on the [Treasury OPE SharePoint](#).

(d) Bureaus shall revise current policies and procedures to comply with FAR and DTAP requirements.

#### **1004.1602 Identifying the PIID and supplementary PIID.**

(c) If Bureaus require additional bureau specific information in solicitations, contracts, or other related instruments for administrative purposes, separate the additional information from the PIID and clearly identify it.

#### **1004.1603 Procedures.**

(a)(2) Positions 7 through 8 shall be the last two digits of the Fiscal Year (FY) in which the instrument is issued or awarded.

(3) Indicate the type of instrument using the letter designations as identified in [FAR 4.1603](#). Bureau utilization of letters reserved for agency use as prescribed by [FAR 4.1603\(a\)\(3\)](#) is prohibited unless approved by the OPE IAE Program Manager. All requests to use a reserved letter shall be submitted by the BCPO to the OPE IAE Program Manager. The request will identify the letter the Bureau is requesting to use and include a description of the type of instrument and a business justification for using the reserved letter. Once a reserved letter has been assigned to a specific type of instrument, all Bureaus shall use the same letter designation for instruments of the same type.

(4) Positions 10 through 14 shall be the sequential number assigned by the issuing Bureau beginning with 00001.

(b)(2)(ii) Positions 2-6 of the supplemental PIID shall be the sequential number assigned by the issuing Bureau beginning with 00001.

### **Subpart 1004.70—Small Business Review Procedures**

#### **1004.7000 Scope of subpart.**

This subpart establishes Treasury's review policies and procedures for providing maximum practicable opportunities in Treasury acquisitions to small businesses (see [FAR 19.201\(c\)\(10\)](#) and [19.202](#)).

#### **1004.7001 Purpose.**

The purpose of reviewing acquisitions is to ensure Treasury provides maximum practicable opportunities in its acquisitions to small businesses (see [FAR 19.201\(a\)](#)). These reviews may be in addition to other FAR requirements concerning small businesses (e.g., release of a requirement from the 8(a) program).

#### **1004.7002 Applicability.**

(a) This subpart applies to all acquisitions except-

(1) Orders (also known as Calls) placed under existing agreements entered into pursuant to [FAR 16.7](#) that were previously reviewed by the Small Business Specialist (SBS);

(2) Orders placed under existing indefinite-delivery contracts that were entered into pursuant to [FAR 16.5](#) that were previously reviewed by the SBS; and

(3) Orders placed under existing contracts or agreements entered into pursuant to [FAR 8.4](#) that were previously reviewed by the SBS.

(a) The SBS and Office of Small and Disadvantaged Business Utilization (OSDBU) reserve the right to request the acquisitions in paragraph (a) of this section to be submitted for review.

#### **1004.7003 General.**

(a) Treasury's OSDBU assists, counsels, and advises small businesses of all types (e.g., 8(a), SDB, WOSB, SDVOSB and HUBZone) on procedures for contracting with Treasury. In support of the FAR and as part of its mission, OSDBU requires that for acquisitions



exceeding a certain dollar value, meeting certain criteria (e.g., sole source set-aside), or that involve consolidation, bundling, or substantial bundling are submitted as described in 1004.7004 for review.

(b) Treasury has developed a web based automated solution, called the electronic small business review system (SBRS), to support small business review processing within Treasury (see 1004.7004). SBRS enables the CS, CO, SBS, the Director of OSDDBU, OSDDBU representative, SBA procurement center representative (PCR) (or, if an SBA PCR is not assigned see [FAR 19.402](#)) and other selected individuals to electronically review acquisitions. SBRS is available at <https://doappsdigital.service.treasury.gov/DOLogin.html>.

(c) SBRS Registration. BCPOs are responsible for ensuring acquisition personnel requiring access to the SBRS are registered.

#### **1004.7004 Small Business Review Requirements.**

(a) The Director of OSDDBU may establish a written agreement with Bureaus that implements different dollar thresholds or criteria than what is prescribed by this section in order to accommodate Bureau specific needs (e.g., number of Bureau contracting actions) or other requirements. The Director of OSDDBU shall provide a copy of the agreement to the SPE. These small business review requirements do not impact the SBA's PCR authority to request review of acquisitions as prescribed by [FAR 19.501\(d\)](#).

(1) General review requirements. For purposes of satisfying the following small business review requirements, COs shall complete the [Treasury SF 1010, Market Research Summary Report](#) (see 1010.002(e)).

(i) Greater than micro-purchase threshold and up to \$25,000. At the request of the OSDDBU or Bureau SBS, the CO shall make available for review all proposed acquisitions in excess of the micro-purchase threshold and up to \$25,000 that have not been unilaterally set-aside for small business.

(ii) Greater than \$25,000 and up to the SAT. All proposed acquisitions in excess of \$25,000 and up to the SAT that have not been unilaterally set-aside for small business shall be reviewed by the Bureau SBS.

(iii) Greater than SAT. All proposed acquisitions in excess of the SAT that have not been unilaterally set-aside for small business shall be submitted in the SBRS for review. The CO is responsible for entering the required information into the SBRS as well as uploading and providing all necessary documentation needed for review.

(2) Consolidation, Bundling, and Substantial bundling review requirements. All proposed acquisitions regardless of dollar value involving consolidation, bundling, or substantial bundling (see FAR 7.107) shall be submitted in the SBRS for review (see [1007.107](#) for the standard form that COs are to complete in addition to any other requirements).

(b) A copy of the completed SBRS review shall be placed in the contract file.

#### **1004.7005 SBRS documentation requirements.**

(a) The CO is responsible for entering the required information into the SBRS as well as uploading and providing all necessary documentation needed for review. The Bureau SBS is responsible for ensuring all required documents are uploaded into the SBRS and have been signed by the appropriate authorities. The Bureau SBS shall promptly notify the CO if there are any issues with their submission.

(b) The CO shall defer to OSDBU policies and procedures for a listing of required documentation to be uploaded into the SBRS.

**1004.7006 SBRS review timeframes.**

(a) The SBRS review shall be completed within five (5) calendar days after receipt.

(b) The SBA PCR SBRS review shall be completed within five (5) calendar days after receipt.

(c) The CO may contact the Director, OSDBU if after ten (10) calendar days the OSDBU and SBA PCR SBRS reviews have not been completed. The CO may contact the Bureau SBS regarding any questions they may have about the SBRS review process or specific submission.

(d) If an OSDBU review is not required, the Bureau can determine the timeframe to complete the small business review (not to exceed five (5) calendar days after receipt).

**1004.7007 Rejection of SBS or OSDBU recommendations.**

(a) If the CO rejects a recommendation of the SBS or the OSDBU, the CO shall provide written notice to the OSDBU within five (5) calendar days of the CO's receipt of the recommendation (see [FAR 19.202](#)).

**Subpart 1004.71—Review and Approval Procedures**

**1004.7100 Policy.**

Each Bureau is responsible for establishing an internal review and approval system to ensure high quality, regulatory compliant, and legally sufficient procurement actions. All review comments and a record of their disposition must be contained in the contract file.

**1004.7101 General Procedures.**

(a) General. The internal review and approval system Bureaus established shall include at a minimum—

(1) Description of the action (e.g., pre-award) or document (e.g., limited-source justification) to be reviewed;

(2) Dollar threshold or other criteria demonstrating the need for review;

(2) Role (e.g., Reviewer or Approver); and

(4) Title (e.g., BCPO and CO).

(b) Comments. Review comments should be designated as either “Mandatory Change/Actions” or “Recommendations” so there is a distinction of the action being requested and the disposition required by the reviewer. The disposition of comments received from a reviewer is as follows:

(1) Mandatory Changes/Actions. These comments shall be incorporated into the documentation or the requested action taken, in order for the action to be completed or approval provided.

(2) Recommendations. These comments are suggestions that the reviewer believes will improve the document. These comments can be accepted or rejected by the author of the document.

**1004.7102 Legal Counsel review procedures.**

#### **1004.7102-1 General.**

(a) The FAR, DTAR, DTAP and Bureau supplemental acquisition policies and procedures prescribe various instances where legal counsel assistance (e.g., compliance review) and guidance shall be required or sought for legal sufficiency. Outside of those instances, legal counsel assistance and guidance may still be necessary regardless of the dollar value or other established criteria. As a result, COs shall seek legal counsel assistance and guidance based on the risk as well as when deemed necessary (e.g., due to complexity or sensitivity of issues of the acquisition) at critical junctures during the acquisition life cycle, such as for: difficult downselect or competitive range determinations, and questions as to the scope of an existing contract.

(b) In addition, to the instances prescribed by the FAR, DTAR, DTAP and Bureau supplemental acquisition policies and procedures legal counsel review is required for the following actions.

Policies and (1) Modifications, other than exercise of options evaluated and included as part of the initial award or those that pertain only to administrative matters (e.g., funding modifications), that increase the total value of a contract, agreement, task order, or delivery order in excess of 10 percent, except when the new overall total dollar amount of the award remains under the SAT.

(i) Exceptions. Change orders may be issued without legal counsel review, if it is determined in writing by the CO that there are urgent circumstances that require its immediate issuance. In these instances, the change order shall be submitted no later than three (3) business days after issuance to legal counsel for review and approval by the BCPO.

(2) Acquisitions regardless of dollar value that include award fee or award term as an incentive;

(3) Justifications or determinations, or findings related to a pre-award or post-award protest. See [FAR 33.103](#) and [1033.103](#); and

(4) Ratification of unauthorized commitments exceeding \$15,000. See [1001.602-3\(b\)\(2\)\(i\)](#).

(c) The CO shall provide legal counsel with any supporting documentation and information requested for purposes of supporting legal counsel's review.

#### **1004.7102-2 Timeframe for review.**

A copy of each acquisition document that requires legal counsel review pursuant to 1004.7102-1 shall be forwarded to legal counsel at least ten business days prior to becoming final. To the extent feasible, legal counsel will conduct its review within this time period, or if unable to do so, negotiate an alternative review schedule or process with the CO. In urgent situations, solicitations may be forwarded for review concurrently with release to the public, provided that the BCPO has given adequate notice to legal counsel.

#### **1004.7102-3 Legal Counsel review comments.**

All comments received from legal counsel and a record of their disposition shall be contained in the contract file. If legal counsel concurs without comment, the file shall be documented to show the review date and the name of the attorney who reviewed the documents with a statement that the review found documents to be "legally sufficient."

## **1004.7103 SPE review procedures.**

### **1004.7103-1 General.**

Unless, otherwise prescribed by the FAR, DTAR or DTAP, Bureau contracting activities are not generally required to submit procurement actions for SPE review. The SPE reserves the right to require submission of procurement actions for review and approval. All procurement actions to be reviewed by the SPE shall first be reviewed by the BCPO or authorized designee to ensure accuracy and completeness of the documents prior to submission. Evidence of this Bureau-level review shall be documented in the contract file.

### **1004.7103-2 Timeframe.**

When acquisition documents are required to be submitted for SPE review, one copy of each relevant document from the contract file shall be included in the review package and forwarded by the BCPO to the SPE. Documents to be reviewed shall be forwarded at least ten business days prior to becoming final. In urgent situations, a solicitation may be forwarded concurrently with release to the public, provided that the BCPO has given adequate written notice to the SPE. Pertinent documentation from the contract file shall accompany any acquisition document when submitted for SPE review.

## **1004.7104 Contract Review Board review procedures.**

### **1004.7104-1 General.**

The BCPO shall establish procedures to review all acquisitions, including all standalone contracts, task orders, delivery orders, and purchase orders that are sensitive, highly visible, complex, or over Bureau-established dollar thresholds through a Contract Review Board (CRB) or similar review process. At a minimum, Bureaus must have at least two major review stages, pre-solicitation and pre-award. In the absence of specific written guidance, Bureaus will follow the procedures listed below.

### **1004.7104-2 Review Requirements.**

(a) The CRB shall review documents at two points in time prior to issuance of the solicitation: After first draft of the acquisition plan, i.e., well in advance of the planned solicitation; and after final drafts of the solicitation documents are completed. The review may take place prior to or after quality assurance and/or legal counsel reviews in accordance with Bureau procedures. The CRB review is in addition to required pre-award review (see [1004.7100\(a\)](#)).

(1) During the first review, the CRB shall review, at a minimum, the contents of the acquisition plan developed consistent with [FAR 7.1](#). The CRB review should focus on small business, performance-based contracting, competition, and post-award management, including avoiding unnecessary follow-on sole sources.

(2) The second review, performed prior to issuance of the solicitation, shall include at a minimum a review of the solicitation document and evaluation plan.

(3) A response shall be provided for all CRB review recommendations and comments, and the record of their disposition shall be contained in the contract file. If the CO determines not to take action regarding direction requested by the CRB the CO shall include an explanation why they made such a determination.

(b) Membership. The CRB membership shall include at a minimum the BCPO whose procurement authority is being used and two other members, preferably with strong procurement technical experience and/or subject matter expertise surrounding the supplies or services being acquired. The other members may be from different Bureaus or organizations, especially in cases of shared services acquisitions.

(c) Timeframes. Bureau policies shall establish timeframes for conducting CRB reviews for incorporation into acquisition plan milestones.

### **Subpart 1004.72—Bureau Controls**

#### **1004.7200 Cost reimbursable, time-and-material and labor-hour control requirements.**

(a) Given the high risk that cost reimbursable, time-and-material and labor-hour contracts present, Bureau contracting activities are responsible for establishing internal controls regarding their use. The purpose of these internal controls is to ensure, at a minimum-

(1) Contracting personnel understand the proper prescription of use for each contract type, inclusive of the risks involved;

(2) Proper monitoring and oversight are established and maintained throughout the life of these contracts;

(3) Bureaus are proactive in taking action early within the acquisition planning process for future requirements for the same or similar items in maximizing the use of fixed-price contracts or orders; and

(4) That contract files are properly documented in describing why the contract type was selected and if applicable within the D&F why actions were not taken to transition to a fixed-price contract or order on future acquisitions for the same or similar item (see [1016.601\(d\)\(1\)](#)).

### **Subpart 1004.73—Evaluation and Certification of Treasury Procurement Functions**

#### **1004.7300 General.**

[Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#), delegates to the SPE responsibility for monitoring and evaluation of the Department-wide procurement function. This may include a broad review of a Bureau contracting organization or a targeted review of a specific Bureau, program, initiative, or focus area. [OMB Memorandum “Conducting Acquisition Assessments under OMB Circular A-123” dated May 21, 2008](#) and [OMB Circular A-123](#) may be used as a guide, as appropriate. The SPE will notify Bureaus of its intent to conduct such review.

#### **1004.7301 Bureau Responsibilities.**

(a) The HCA is responsible for monitoring and evaluation of their Bureau-wide procurement function. The HCA shall establish an appropriate mechanism to accomplish this. [OMB Memorandum “Conducting Acquisition Assessments under OMB Circular A-123” dated May 21, 2008](#) and [OMB Circular A-123](#) may be used as a guide, as appropriate, in supporting such monitoring and evaluations. The HCA may re-delegate monitoring and evaluation authority of the acquisition system to officials at a level not lower than the BCPO.

- (b) The following are areas of importance—
- (i) Contract actions effectively implement approved acquisition strategies (e.g., use of Treasury Mandatory Sources);
  - (ii) Negotiations and contract actions result in fair and reasonable pricing;
  - (2) Negotiations and contract actions are consistent with laws, regulations, and policies; and,
  - (3) File documentation is readily available and maintained in accordance with [FAR 4.8](#) and [1004.8](#).
- (c) Results may be used to identify trends, areas of improvement, best practices, training needs, possibly changes to Bureau or Treasury policy and procedures.
- (d) Bureaus shall submit to the OPE copies of all audits or assessments done on their procurement organization. Copies are to be submitted to OPE at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

### **Subpart 1004.74—Procurement Automation**

#### **1004.7401 Policy.**

- (a) The use of automated acquisition and exchange of information among all Bureaus is highly encouraged. The objective is to automate acquisition processes to the extent that it is efficient and effective. OPE requires that acquisition automation be developed with consideration for potential to integrate, interface, or coordinate with related functions such as finance, accounting, internal control, property, and personnel, and to the enterprise level.
- (b) All Bureaus are required to use the systems available through the IAE.

#### **1004.7402 Collaboration on automated acquisitions systems and applications.**

Bureaus shall notify the SPE as soon as possible of their intent to develop or obtain any significant automated acquisition system or application, or to make any substantive change to a current system or application. Bureaus shall collaborate with the Treasury Acquisition Systems User Group during such initiatives. Acquisition of, or substantive changes to, any significant automated acquisition system or application shall be approved by the SPE. Requests for approval shall address at a minimum the following points, as well as those prescribed by the Bureau's local Office of the Chief Information Officer (OCIO)—

- (a) Purpose;
- (b) Integration and Interfacing with the IAE systems;
- (c) Integration with financial system(s);
- (d) Return on Investment;
- (e) Configuration;
- (f) Standards;
- (g) Security;
- (h) Market Research;
- (i) Strategic IT Planning;
- (j) Risks;
- (k) Maintenance; and
- (l) Training.



## **Subpart 1004.75—Procure-STAT Program**

### **1004.7500 General.**

(a) This subpart prescribes policies and procedures related to OPE’s Procure-STAT program.

(b) Unless otherwise specified, Bureau level goals are established and managed by OPE through the Procure-STAT program.

(c) Specific guidance regarding goals or acquisition improvement initiatives related to the Procurement-STAT program will be provided by the OPE.

(d) BCPOs will ensure, when applicable, that annual performance plans and appraisals for all contracting staff address elements specified by the SPE at the beginning of each calendar year and that all employees receive appropriate guidance and feedback for their role in promoting the specified initiatives.

### **1004.7501 Responsibilities and accountability.**

(a) OPE governance and reporting. The OPE is responsible for—

(1) Maintaining oversight of Treasury’s achievement of the goals and other related enterprise-wide acquisition improvement efficiencies.

(2) Preparing a Monthly Scorecard (Dashboard) showing Bureau- and Department-level progress toward meeting assigned goals and will submit the Dashboard for review by the Chief Acquisition Officer (CAO) and Deputy Secretary.

(b) Bureau.

(1) BCPOs are responsible for implementing and managing acquisition improvement initiatives and goals in accordance with SPE and other executive guidance.

(2) BCPOs are accountable for providing the leadership and direction which drives Bureau achievement of these goals.

## **Subpart 1004.76—Treasury IT Acquisition Tracker**

### **1004.7601 Scope.**

(a) The [Treasury IT Acquisition Tracker](#) (Tracker) provides the Treasury Chief Executive Officers (CXOs) and the SPE visibility into all current year IT acquisition actions from planning to award stages as mandated by Federal IT Acquisition Reform Act (FITARA).

(b) Registration is required to access and enter data into the Tracker (see [How to Register](#) at [OPE’s SharePoint](#) site).

### **1004.7602 Definition.**

As used in this subpart—

“Acquisition action” means an acquisition operation that requires action from a CO that includes contract awards, exercise of options, other non-administrative contract modifications (e.g., addition or de-obligation of funds), interagency modifications as well as zero-dollar awards, and excludes administrative modifications and acquisitions below the purchase card limit.

### **1004.7603 Applicability.**

The Tracker applies to all Treasury IT Acquisitions. IT acquisition actions for non-Treasury customers shall not be entered into the Tracker.

#### **1004.7604 Procedures.**

Additional procedures on and requirements surrounding the use of the Tracker can be found in the Tracker's [Job Aid](#).

(a) COs shall work with CORs and program offices to ensure all IT acquisitions actions have been uploaded into the Tracker through the bulk download process.

(b) CORs are responsible for ensuring information in Tracker is accurate, current, and complete.

(c) COs shall ensure COR designation letters include the responsibility for ensuring the information in Tracker is accurate, current and complete.

### **Subpart 1004.77—Records Management**

#### **1004.7700 Scope of subpart.**

This subpart prescribes acquisition policies and procedures in support of Treasury's records management program.

#### **1004.7701 Policy.**

(a) The Treasury Senior Agency Official for Records Management (SAORM) has agency wide responsibility and accountability for Treasury's record management program. This includes ensuring that Treasury efficiently and appropriately complies with all applicable records management statutes, regulations, NARA policy and OMB policy.

(b) Contractors including subcontractors, who create, work with, or otherwise handle Federal records, regardless of the medium in which the record exists shall comply with Treasury record management requirements.

#### **1004.7702 Definitions.**

As used in this subpart—

“Federal record” as defined in 44 U.S.C. 3301, includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them. For example, Federal record applies to records created, received, or maintained by a contractor pursuant to their contract or those records provided by the Government to the contractor. However, Federal record does not include personal materials.

“Records management” means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations (see 44 U.S.C. § 2901(2)).



#### **1004.7703 Authorities.**

- (a) Federal Records Act (44 U.S.C. Ch. [21](#), [29](#), [31](#), [33](#))
- (b) Freedom of Information Act (FOIA) ([5 U.S.C. 552](#)), as amended
- (c) Privacy Act of 1974 (5 U.S.C. 552a), as amended
- (d) OMB Circular No. A-130, "[Managing Information as a Strategic Resource](#)"
- (e) OMB Memorandum No. M-19-21, "Transition to Electronic Records"
- (f) Treasury Directive 80-05, "[Records and Information Management Program](#)"
- (g) NARA Bulletin AC-27.2017 [Memorandum on Records Management Contract](#)

#### **Language**

General Websites:

- [Freedom of Information Act \(FOIA\) | National Archives](#)
- [Records Management Regulations, Policy, and Guidance | National Archives](#)

#### **1004.7704 Requiring activity representative/ COR responsibilities.**

The requiring activity representative/ COR shall—

(a) Coordinate with their cognizant records management representative to assess whether or not a requirement involves the creation of, working with, or otherwise handling of Federal records. If the determination is that it does, they must work together to identify and include any additional record management requirements beyond those in 1004.7705(c) within the requirements document.

(b) Ensure contractors whose employees are required to take privacy training, inclusive of initial and refresher training are aware of the due dates for completion of mandatory records management training and coordinate with the cognizant records management representative in supporting this requirement, as well as the requirement to take action if contractor or subcontractor employees fail to take this mandatory training.

(1) Bureaus shall coordinate with their records management representative(s) to determine how the mandatory records management training will be provided to contractors and identify the ramifications for failing to complete the training within the timeframe required.

#### **1004.7705 Contracting officer responsibilities.**

(a) The CO shall insert language similar to what is provided in paragraph (c) of this section, formatted and revised according to its placement, in all solicitations and resulting contracts where contractors will create, work with, or otherwise handle Federal records, regardless of the medium in which the Federal record exists.

(b) The CO may consult the records management representative concerning whether or not a contract will involve the creation of, working with, or otherwise handling of Federal records. The CO may also consult the records management representative to properly tailor the language in paragraph (c) of this section to meet the needs of the requirement.

(c) Treasury's records management requirement language.

#### **Treasury records management requirements.**

Definition. As used in this contract "Federal record" is as defined in 44 U.S.C. §3301, which includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate

successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them.

The Contractor shall comply with all applicable records management laws and regulations, as well as National Archives and Records Administration (NARA) records policies, including but not limited to the Presidential and Federal Records Act Amendments of 2014, as amended (44 U.S.C. Ch. 21, 29, 31, 33), NARA regulations at [36 CFR Chapter XII](#) Subchapter B, and those policies associated with the safeguarding of records covered by the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

These policies include the preservation of all records, regardless of form or characteristics, mode of transmission, or state of completion.

In accordance with [36 CFR 1222.32\(b\)](#), all data created for Government use and delivered to, or under the legal control of, the Government under this contract are Federal records subject to the provisions of 44 U.S.C. chapters 21, 29, 31, and 33, as amended, the Freedom of Information Act (FOIA) (5 U.S.C. 552), as amended, and the Privacy Act of 1974 (5 U.S.C. 552a), as amended and shall be managed and scheduled for disposition in accordance with Federal law.

The Contractor shall not retain, use, sell, or disseminate copies of any deliverable that contains information covered by the Privacy Act of 1974, as amended. Other deliverables will be treated as required or permitted by other provisions of this contract. If no other contract provision applies, the Contractor shall not retain, use, sell, or disseminate copies of any deliverable without the written permission of the Contracting Officer.

The Contractor shall ensure contractor employees, including subcontractor employees, under this contract who create, work with, or otherwise handle Federal records successfully complete initial records management training and annual records management training thereafter.

The Contractor shall include the substance of this requirement in all subcontracts under this contract, when subcontractor employees will create, work with, or otherwise handle Federal records.

## **Subpart 1004.78—Acquisition Management Review**

### **1004.7800 Scope of subpart.**

This subpart establishes Acquisition Management Review (AMR) requirements.

### **1004.7801 Definition.**

“Major investment” means an investment with over \$10 million annual Development, Modernization, Enhancement (DME) and/or Operations and Maintenance (O&M) costs or that requires special management attention based on it being a significant program or having policy implications; important to mission or function to the Treasury; high executive visibility; or unusual funding mechanism. See Treasury’s Capital Planning and Investment Control (CPIC) process.

“Major acquisition” has the same meaning as 1046.70.

“Acquisition Management Review (AMR)” means a meeting conducted by the Program Manager or COR in concert with the CO(s) and other key stakeholders (e.g., contractor representative) concerning a contract or group of contracts that support a major investment or is considered a major acquisition. AMRs should be conducted on a regular basis (semi-annually or annually) for major investments, development type programs or those critical to the mission delivery of the Treasury.

“Program” means a collection of projects or acquisitions that are managed as a group.

### **1004.7802 Purpose.**

The purpose of an AMR is to discuss—

- (a) The status of program-level milestones, schedule, deliverables and other key items;
- (b) The status of key contract milestones, schedules, deliverables, and other key items;
- (c) Contractor performance (e.g., metrics outlined in a quality assurance surveillance plan (QASP));
- (d) Problems and/or risks (i.e., cost overruns, timing, resources, dependencies, IT, security, etc.), if any, and develop appropriate plans of action as necessary;
- (e) Changes that have occurred since the last AMR that impact the major investment, major acquisition, or contract (e.g., budget, changes in resources, delays, customer feedback); and
- (f) Any other items.

### **1004.7803 Requirements.**

(a) As part of the acquisition planning process, requirements supporting a major investment or major acquisition shall be identified by the requiring activity/COR as part of the procurement request submission. This is to include whether the requirement will be covered by an AMR.

(b) The degree and type of contractor involvement in an AMR shall be considered by the requiring activity/COR in collaboration with the CO during the acquisition planning stage. Any necessary elements needed to support the AMR shall be appropriately incorporated within the Performance Work Statement (e.g., identify QASP metrics that are tied to key program requirements).

(1) Contractor attendance is encouraged, though not required. Contractor attendance can ensure all parties are fully engaged in the successful execution of the program, specifically in instances where their attendance is necessary (e.g., the Program Manager/COR requires the contractors to discuss a complex deliverable or tasking; or provide explanation of their performance concerning an established QASP metric).

(2) Since an AMR may involve discussion of competition-sensitive and/or government sensitive information, the Program Manager/ COR needs to collaborate with the CO to ensure the appropriate safeguards are in place to avoid disclosure of such sensitive information in the event a contractor will attend an AMR.

(c) The CO shall document the file (see FAR 7.105(b)(19)) as to whether the resultant award will be covered by an AMR.

(d) Since an AMR can involve the discussion of a contract or group of contracts the Program Manager/ COR shall notify the CO(s) and other stakeholders that will be involved in the AMR in advance of scheduling an AMR. This enables for everyone to prepare and be able to provide the information and data needed to support the AMR.

(e) An AMR shall cover the items prescribed by 1004.7802. The Program Manager/ COR is responsible for developing the agenda, prescribing the format (e.g., teleconference, onsite meeting), and scheduling (see 1004.7804) of the AMR.

#### **1004.7804 Frequency of AMR.**

An AMR might be conducted at a specific milestone on a program or on a predictable schedule (e.g., monthly, quarterly, or annually). However, at a minimum, an AMR shall be held at least once during a twelve-month period and cover the topics described in 1004.7802. The schedule for conducting an AMR is set by the Program Manager/ COR in coordination with the CO and is dependent on the criticality and complexity of the major investment or major acquisition.

## **PART 1005—PUBLICIZING CONTRACT ACTIONS**

### **1005.003 Governmentwide point of entry.**

Posting information (e.g., proposed contract action, pre-solicitation notice) on a Bureau website or other location does not satisfy the requirement to publicize contract actions and other information through the Governmentwide point of entry (GPE). In addition, the use of online procurement services for open market procurements, such as reverse auction, does not fulfill the responsibility to disseminate information as required by [FAR 5.1](#). COs shall ensure that all required information, such as the brand name justification or documentation required by [FAR 5.102\(a\)\(6\)](#), is included and posted on as required by the FAR through the GPE.

## **Subpart 1005.2—Synopsis of Proposed Contract Actions**

### **1005.202 Exceptions.**

(a)(1) In order to use the exception prescribed by [FAR 5.202\(a\)\(1\)](#), a BCPO shall have an established procedure that is reviewed and concurred by the SPE. In instances, where a CO determines the use of the exception prescribed by [FAR 5.202\(a\)\(1\)](#), the CO shall submit the determination to the BCPO for review and concurrence.

(i) BCPOs shall submit a semi-annual report to OPE at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov). The report shall include information about each instance that the exception prescribed by [FAR 5.202\(a\)\(1\)](#) was used.

(b) The SPE is authorized to make the written determination required by FAR 5.202(b). The CO shall submit requests for exception to the notice required by [FAR 5.201](#) to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

### **1005.205 Special situations.**

(e) See [1007.370](#) for information on the prohibition of the use of funds appropriated or otherwise made available in the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)) or any other Act, unless otherwise stated therein.

## **Subpart 1005.3—Synopsis of Contract Awards**

### **1005.301 General.**

(a)(3) The Bureau and CO shall follow the requirements and procedures described in [1005.202\(a\)\(1\)](#) for the purpose of using the exception prescribed by [FAR 5.301\(a\)\(3\)](#).

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

## **Subpart 1005.4—Release of Information**

### **1005.403 Requests from Members of Congress.**

BCPOs shall notify the SPE within twenty-four hours of receipt of a Congressional inquiry regarding an acquisition (see [1001.7000\(c\)](#)).

**1005.404-1 Release procedures.**

The authorities under [FAR 5.404-1\(a\) and \(b\)](#) are delegated to the BCPO. BCPOs shall notify the SPE of any release of long-range acquisition planning estimates at least two weeks in advance of release (see [1001.7000\(c\)](#)). The BCPO, as applicable, shall ensure these long-range acquisition planning estimates are reported in accordance with [1046.7000](#).

**Subpart 1005.5—Paid Advertisements****1005.502 Authority.**

(a) The BCPO is the delegated authority to approve the publication of paid advertisements in newspapers.

(b) The BCPO is the delegated authority to determine if advanced written authorization prior to placement of advertisements in media other than newspapers is required.

## **PART 1006—COMPETITION REQUIREMENTS**

### **Subpart 1006.2—Full and Open Competition After Exclusion of Sources**

#### **1006.202 Establishing or maintaining alternative sources.**

(b)(1) Determination & Findings (D&F) for establishing or maintaining alternative sources as prescribed by [FAR 6.202](#) shall be submitted to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

### **Subpart 1006.3—Other Than Full and Open Competition**

#### **1006.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.**

(b)(4) The SPE has the authority to make the determination in [FAR 6.302-1\(b\)\(4\)](#) (see [1001.7000\(a\)\(1\)](#)). For requirements involving IT, the SPE will coordinate, as necessary, with the Treasury CIO.

#### **1006.302-2 Unusual and compelling urgency.**

(c)(1)(i) For instances when the preparation and approval of the justification prior to award would unreasonably delay the acquisition, the CO shall provide notification to the approving official(s) of the urgent need to make award. If the approval official is the CO, the CO shall provide the notification to their immediate supervisor and to one level above their supervisor. The purpose of the notification is to make the approving official(s) or other individuals aware of the urgent circumstances and the CO's intended action to proceed with award without preparation and approval of the justification.

(d)(1)(ii) The HCA has the authority to make the determination in [FAR 6.302-2\(d\)\(1\)\(ii\)](#).

#### **1006.302-7 Public interest.**

(c)(1)(ii) The CO shall prepare a written request for approval and submit it in accordance with [1001.7000\(b\)](#). The request shall include a D&F for the head of the agency's signature that contains all pertinent information to support the justification for exercising the exemption to competition under the authority of [41 U.S.C. 3304\(a\)\(7\)](#). The request shall also include the date the CO expects to award the contract.

#### **1006.304 Approval of the justification.**

(a)(2) For a proposed contract over \$15 million, but not exceeding \$75 million, the Bureau CIO must review and consent to the approval of the justification prior to approval by the approving authorities prescribed by [FAR 6.304\(a\)](#). The Bureau CIO may delegate their authority for proposed contracts over \$5 million, but not exceeding \$15 million to Associate Bureau CIO(s).

(a)(4) For a proposed contract exceeding \$75 million the Treasury CIO must review and approve the justification prior to submission of the justification to the SPE for approval. See paragraph (d) of this section. This authority is not delegable.

(c) Class justifications shall be approved by the same approval authority(ies) as for individual justifications (see [FAR 6.3](#)).

(d) For justifications that include the purchase of IT, the IT signature requirement prescribed in paragraphs (a)(2) and (a)(4) of this section reflect only the portion of the acquisition that is IT. The justification shall clearly state the portion of the proposed contract that is IT as well the overall dollar value of the proposed action.

(e) All justifications submitted to SPE for approval shall be accompanied by the approved acquisition plan and any other supporting documentation.

#### **1006.305 Availability of the justification.**

(d)(2) [Treasury OPE SharePoint](#) provides a link to the GPE for accessing these justifications.

(f) The CO shall document the contract file explaining how the posting of the justification would disclose the agency's needs and disclosure of such needs would compromise national security or create other security risks.

### **Subpart 1006.5—Advocates for Competition**

#### **1006.501 Requirement.**

[Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#), delegates to the SPE authority and responsibility for designating an advocate for competition for Treasury. Treasury's advocate for competition is located in the OPE. Bureau HCAs shall designate in writing a Bureau advocate for competition pursuant to [41 U.S.C. 1705](#). A copy of the designation letter shall be submitted to OPE's e-mail address at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov) and the Treasury advocate for competition. A list of the individuals serving as Advocate for Competition is available on [OPE's Public Site](#).

#### **1006.502 Duties and responsibilities.**

Treasury's guide for advocates for competition is available at [Treasury OPE SharePoint](#).

(c) Bureau advocates for competition shall—

(1) Work with the Bureau SBS or Treasury's OSDDBU to ensure that small businesses and agency small business goals are considered when addressing limited competition, justifications for an exception to fair opportunity or other types of sole source requests;

(2) Review proposed acquisitions valued at greater than \$750,000 and recommend actions for optimal competition;

(3) Recommend to the BCPO areas for acquisition policy, training, or other outreach methods to optimize competition and acquisition of commercial items;

(4) Monitor Bureau competition levels for achievement of Treasury and Bureau goals for optimal competition and, if applicable, acquisition of commercial items;

(5) Recommend to the BCPO methods to incentivize and motivate program managers, COs, and others to promote and increase competition and acquisition of commercial items;

(6) Validate Bureau FPDS competition data;

(7) Participate in meetings or events as requested by the BCPO or agency advocate for competition and;



(8) Establish a Bureau plan for optimizing competition (e.g., this could include a review of Bureau contracting operations to assess the achievement of optional competition) and acquisition of commercial items. At a minimum, the plan shall include the following:

(i) The methodologies to be used to integrate and promote the acquisition of commercial items and full and open competition within their organization as well as to obtain the endorsement and support of their organization;

(ii) A discussion of the obstacles to competition faced by the Bureau and proposed approaches for overcoming them;

(iii) A discussion of the obstacles to the acquisition of commercial items faced by the Bureau and proposed approaches for overcoming them; and

(iv) Discussion of the methods to be used for increasing competition and the acquisition of commercial items.

(9) Support, as applicable, the preparation of the annual Treasury Advocates for Competition report.

## PART 1007—ACQUISITION PLANNING

### Subpart 1007.1—Acquisition Plans

#### 1007.101 Definitions.

As used in this subpart

“Program/System acquisition plan” means a written acquisition plan that includes more than one acquisition under an overarching Treasury-wide or Bureau specific program/system or common requirement. For example, when several Treasury Bureaus purchase the same supplies or services, the requirement can be covered within a single program/system acquisition plan.

#### 1007.102 Policy.

- (a)(4) See [1008.002](#) for Treasury Mandatory Source requirements;
- (5) Implementation of best practices; and
- (6) Appropriate consideration of use of reverse auction (see [1007.105\(b\)\(5\)\(v\)](#)).

#### 1007.103 Agency-head responsibilities.

(e) In addition to the [FAR 7.103\(e\)](#) requirement for written acquisition plans to be prepared for cost reimbursement and other high risk contracts (e.g. other than firm-fixed price contracts), individual written acquisition plans, unless one of the exceptions provided in paragraphs (e)(1) and (e)(3) of this section apply, are required for any acquisition, including interagency agreements, expected to exceed the SAT, inclusive of all options or award terms offered as incentives. [Treasury SF 1011, Acquisition Plan](#), or Bureau template that addresses the minimum requirements at [FAR part 7](#), shall be used for the preparation of the written acquisition plan. Bureaus may use the [SF 1011](#) or develop a streamlined version for actions at or below the SAT and for the purposes described in paragraphs (e)(1) through (e)(3) of this section. The requirement for a written AP does not satisfy Treasury’s requirement for Bureaus to have an acquisition planning program.

(1) Delivery and task orders issued under a Treasury Mandatory Source, Department-wide or Bureau-wide contract where a written program/system acquisition plan (see [1007.105-70](#)) was established that fully addresses the requirement and anticipated orders or calls. A streamlined acquisition plan may be completed to address specific [FAR 7.105](#) acquisition plan requirements (e.g., security considerations) that otherwise do not require the program/system acquisition plan to be revised.

(2) Orders/calls issued under a Treasury Mandatory Source, Department-wide or Bureau-wide agreement where a written program/system acquisition plan (see [1007.105-70](#)) was established that fully addresses the requirement and anticipated orders or calls. A streamlined acquisition plan may be completed to address specific [FAR 7.105](#) acquisition plan requirements (e.g., security considerations) that otherwise do not require the program/system acquisition plan to be revised.

(3) Emergency acquisitions as prescribed by [FAR 18](#).

(f) See [subpart 1007.70](#) for Treasury’s guidance on cost estimates.

(g) See [1007.105-70](#) for content requirements for program/system acquisition plans.

(j) The HCA may establish additional review and approval criteria (e.g., thresholds) for acquisition plans than those prescribed by [FAR 7.103\(j\)](#) or the [SF 1011](#). The CO shall refer

to the CIO business process for review and approval criteria and thresholds for acquisition plans, inclusive of program/system acquisition plans that include IT.

(1) Acquisition plan revisions that involve a revision to the acquisition strategy, increase in the dollar value or other elements of [FAR 7.105\(b\)\(1\) through \(b\)\(5\)](#) are subject to the same review and approval process as the original acquisition plan. In instances where a revision exceeds the original approval level, the acquisition plan revision shall be submitted according to the current applicable approval requirements based on the revised criteria and threshold requirements. All other acquisition plan revisions require, at a minimum, the signature of the CO and the COR.

(i) Unless otherwise deemed necessary by the CO, acquisition plan revisions are to be accomplished by addressing only the change(s) to the acquisition plan section/subsection being made under the revision. A complete revision of the acquisition plan itself should only be necessary when there are significant changes to the acquisition that cannot be clearly explained otherwise. At a minimum acquisition plan revision shall—

(A) Identify the document as “Acquisition Plan Revision” along with a revision number and effective date of the revision on the front page of the document;

(B) Include a description on the front page of the document the rationale or circumstances supporting the need to revise the acquisition plan;

(C) Be placed in the contract file with the original acquisition plan.

(m) The HCA may establish waiver requirements on the detail and formality in planning for acquisitions having compressed delivery or performance schedules because of the urgency of the need.

(u) To support [FAR 7.103\(u\)](#) requirements, the requiring activity and CO shall, to the maximum extent practicable, involve the Bureau SBS early in the acquisition planning process.

(1)(i) Structuring contract requirements to facilitate competition by and among small business concerns as well as enabling for subcontracting possibilities (see [subpart 1019.7](#)) is of specific importance when considering use of a Treasury Mandatory Source or other preexisting vehicles and establishment of a new Treasury Mandatory Source.

#### **1007.103-70 HCA responsibilities.**

(a) In accordance with [FAR 7.1](#), the HCA shall develop an acquisition planning program for all requirements to ensure that its needs are met in the most effective, economical, and timely manner. This program shall include the requirement for the preparation of a list of planned and expiring acquisitions as far in advance of each fiscal year as possible.

(b) HCAs have the flexibility to develop acquisition planning programs, policies and procedures that are best suited to their individual Bureau needs. Practices that have been shown to improve acquisition outcomes include:

(1) Enhancing upfront planning to align program requirements and acquisition strategies and to make sure acquisition requirements are clearly specified

(2) Increasing the amount of attention paid to market analysis, cost estimates, and choice of contract types and incentives, to achieve excellence and cost-effective performance;

(3) Increasing the amount of attention paid early in the acquisition process to ensure that sufficient internal capacity is or will be in place to effectively manage and oversee contract performance and mitigate risks after award;

(4) Instituting peer or other types of reviews at critical stages during the acquisition process to bring the best expertise to bear to ensure effective execution of acquisition, project, and program responsibilities. Peer reviews can be conducted in a variety of ways (e.g., they can be used to evaluate if an acquisition for carrying out the investment is being planned or managed effectively and offer constructive ideas and alternatives for achieving desired outcomes); and

(5) Ensuring that systems are in place to review contract cost, schedule, and performance goals on an ongoing basis and that corrective action is taken in a timely manner to affect contract outcomes when variances from these goals occur.

#### **1007.104 General procedures.**

(a) For acquisitions exceeding \$15 million, the acquisition plan should be approved at least 18 months prior to the anticipated award date, plus any additional time required for transition.

(b) To aid planning, Bureau program officials shall forecast future requirements, including renewal of ongoing contracts, to ensure applicable projects are covered in individual acquisition plans. Additionally, BCPOs shall establish and publish standard procurement lead-times and cut-off dates and implement procedures to measure service level accomplishment in accordance with those procurement lead times, e.g., “90% of acquisitions were accomplished within the established lead time of 90 days.” BCPOs may negotiate and monitor other agreements and exceptions in supplying procurement services to the requirements personnel.

(d) The Bureau SBS shall identify, as early in the acquisition planning process as possible, acquisitions contemplating consolidation, bundling, or substantial bundling and notify the OSDDBU and SBA PCR upon identification.

#### **1007.105 Contents of written acquisition plans.**

(b)(1) Include analysis and determination to order against another agency’s indefinite-delivery vehicle (see [FAR 17.502-1\(a\)\(2\)](#) and [1017.503](#)).

(4) Include a discussion of whether or not pre-proposal, pre-solicitation conference(s), or site visit(s) will be conducted. All acquisition plans for major systems shall include the following in accordance with [FAR 7.105\(b\)\(4\)](#) and [FAR 7.105\(b\)\(11\)](#);

(i) A determination from the requirements official as to whether the program is a major acquisition under [FAR 34](#) and [OMB Circular A-11, “Preparation, Submission and execution of the Budget”](#) (see part 1034 for Treasury requirements);

(ii) If so, whether the program is required to include Earned Value Management (EVM) and if the contractor is required to have an Earned Value Management System (EVMS);

(iii) If so, whether the program official is EVM trained and qualified or has support that is EVM trained and certified; and

(iv) When and how an Integrated Baseline Review (IBR) will be completed.

(5)(i) A D&F shall be prepared for acquisitions that exceed \$15 million where performance-based acquisition (PBA) methods will not be used. The D&F shall be forwarded to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#). For cross-serviced requirements, thresholds are applied by contracting activity rather than funding agency.

[Treasury SF 1006](#), Determination & Findings for not using Performance-Based Acquisition methods, shall be used to support the CO's determination.

If applicable, indicate if the period of performance is anticipated to exceed five years, excluding [FAR 41](#) and options prescribed by [FAR clauses 52.217-8 and FAR 52.237-3](#) (see [1017.204](#) for SPE approval requirements).

- (iii) See [1011.002\(g\)](#) for Treasury's IPv6 policy.
- (v) Discussion of the determination to use reverse auction (see [1007.170](#)).
- (vi) For IT acquisitions for digital services, discuss whether Modular approaches (e.g., Agile) will be used to improve investment manageability and budgetary feasibility; reduce overall risk; and support rapid delivery of incremental new functionality.
- (10) Include the code provided by the program office/requiring activity under [1007.503](#) along with any related discussion.
- (19)(i) Discuss how reporting of contractor performance information will be handled in accordance with [subpart 1042.15](#).
- (ii) If applicable, include a statement that this action meets the definition of a Major Acquisition as defined in [subpart 1046.70](#).
- (20)(viii)(A) Discuss as applicable, EHS requirements and risks to include FAR and Bureau requirements; use of EHS evaluation criteria and factors; EHS deliverables; requirements for post-award EHS oversight; and any other EHS actions pertinent to the requirement that has been identified by the designated EHS professional as involving EHS concerns. The purpose is to document, within the acquisition plan, EHS concerns to ensure appropriate management of such EHS concerns. See [subpart 1023.70](#).
- (B) *Project labor agreement*. Discuss if applicable, the use of a project labor agreement (see [FAR 22.5](#)).
- (ix) Conflicts of interest. Describe any identified organizational conflicts of interest (see [FAR 9.5](#)) that may exist at time of contract award, may arise during contract performance, or may arise in a future acquisition or personal conflicts of interest (see [FAR 3.11](#)). Explain the proposed method or methods of addressing these conflicts of interest. Identify any solicitation provisions and contract clauses that would be used to address these conflicts of interest.
- (x) Privacy requirements (see [subpart 1024.70](#)).
- (xi) Records management requirements (see [subpart 1004.77](#)).

#### **1007.105-70 Content requirements for program/system acquisition plans.**

A program/system acquisition plan may be practical for Treasury-wide or Bureau-wide requirements (e.g., major systems as defined in [FAR 34](#) and see part 1034) or instances where Bureaus are purchasing the same type of supplies or services through a Treasury Mandatory Source. Though program/system acquisition plans include the same content as provided in [FAR 7.105](#) and [1007.105](#) they are written in a manner that fully addresses the program/system requirement and the anticipated, contracts, orders or calls to be issued in support of the program/system requirements. Using a single program/system acquisition plan can result in better use of Treasury resources by eliminating or reducing the time and effort expended in the development and review/approval/revision of multiple individual acquisition

plans that otherwise would be required for each acquisition meeting the threshold in [1007.103\(e\)](#).

(a) When a program/system acquisition plan is feasible it shall include, at a minimum, the following content—

- (i) Identify the document as a “Program/System Acquisition Plan”;
- (ii) Identify a Program/System Acquisition Plan document number. This document number is to identify the plan when referencing it within other documents (e.g., streamlined acquisition plan).
- (iii) Include the following statement after the title “This Program/System Acquisition Plan covers all anticipated [insert ‘contracts,’ ‘orders’ or ‘calls’] up to the following estimated [insert ‘total contract value,’ ‘maximum contract value,’ ‘maximum ceiling price’ or ‘total estimated value’] for [insert the name of the program/system];”
- (iv) Identify the Bureau(s) that will be covered by the plan; and
- (v) If applicable, describe in sufficient detail under the acquisition background and objective section of the document prior procurement history of the requirement(s) being included within this plan broken down, as applicable, by each Bureau.

(b) When a program/system acquisition plan does not cover an order or call, an individual acquisition plan shall be prepared in accordance with [1007.103\(e\)](#) or a revision made to the program/system acquisition plan in accordance with [1007.103\(j\)\(1\)](#). See paragraph (d) of this subsection for the requirement to ensure the program/system acquisition plan remains current.

(c) See [1007.103\(j\)](#) for review and approval of program/system acquisition plan requirements.

(d) Approved program/system acquisition plans shall be reviewed on an annual basis to ensure: currency with the program/system requirements (e.g., inclusive of any approved acquisition strategy); compliance with the requirements of the contract or the agreement; and compliance with FAR, DTAR, DTAP, Treasury, and Bureau requirements and the need to address any individual acquisition plans that may have been issued since the last review (see paragraph (b) of this subsection).

#### **1007.107 Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling.**

(a) The CO shall immediately notify the Bureau SBS if they are contemplating an acquisition to involve consolidation, bundling or substantial bundling (see [FAR 10.001\(c\)](#)).

##### **1007.107–2 Consolidation.**

The BCPO is delegated the authority prescribed to the SPE in [FAR 7.107-2](#). [Treasury SF 1007](#), Determination that consolidation, bundling or substantial bundling is necessary and justified, shall be used to support the determination prescribed by [FAR 7.107-2](#).

##### **1007.107–3 Bundling.**

[Treasury SF 1007](#), Determination that consolidation, bundling or substantial bundling is necessary and justified, shall be used to support the determination prescribed by [FAR 7.107-3](#).

#### **1007.107–4 Substantial Bundling.**

[Treasury SF 1007](#), Determination that consolidation, bundling or substantial bundling is necessary and justified, shall be used to support the determination for substantial bundling described by [FAR 7.107-4](#).

#### **1007.107–5 Notifications.**

(a) See [Treasury OPE SharePoint](#) for a sample letter notifying the small business of the Government’s intent to bundle the requirement.

(b) The CO shall submit the notification required by [FAR 7.107-5\(b\)](#) to the Bureau SBS who will be responsible for coordinating with the OSDDBU the posting of the notice on Treasury’s website.

(c) The CO shall submit the information required by [FAR 7.107-5\(c\)](#) to the Bureau SBS and OSDDBU as well.

#### **1007.170 Criteria for selecting the use of a reverse auction.**

(a) General guidance. Reverse auctioning is an Internet-based or electronic commerce acquisition tool/service following traditional auction principles that allows the Government to procure goods and services from offerors/suppliers in a competitive and dynamic environment where the sellers successively bid prices down until the auction completes. A contract can be awarded to the winner provided it represents the best value and the rest of the offer is found to be technically acceptable. Use of reverse auctioning may not always be in the best interest of the government or fit the acquisition strategy (see OFPP memorandum dated June 2, 2015 entitled, “[Effective Use of Reverse Auctions](#)”). Prior to making a determination to use reverse auction for a particular requirement the conditions described below shall be met.

(1) High volume, commodity type commercial items or commodity-like services (excluding Architect-Engineer services, construction and personal services), which do not need exact or lengthy specifications, are available off the shelf;

(2) Requirements documents are well-defined, and are of low complexity or are universally understood (e.g., IT type equipment);

(3) Solicitation documents can be standardized with respect to procedures for the auction such as cut-off time, duration, extensions, and communication procedures;

(4) There is a well-established supplier base and strong industry interest in participating in a reverse auction;

(5) The tradeoff process is not being used nor evaluation criteria deemed by the CO to be subject to significant interpretation and subjective judgment;

(6) Performance within CONUS;

(7) Fixed-price contract (see [FAR 16.2](#));

(8) The reverse auction tool/service shall provide offerors with the ability to submit revised quotes throughout the course of the auction; and

(9) The reverse auction tool/service shall enable past performance or financial responsibility information created by the third-party be available to offerors.

(b) Considerations. The following represents additional considerations to support the CO’s determination:

(1) Historical use of reverse auction for the same or similar item;



(2) How the use of a reverse auction fits into the overall acquisition strategy (e.g., time and socio-economic);

(3) An auction starting price and target price can be reasonably determined;

(4) Anticipated savings offset the costs (e.g., direct or indirect); and

(5) The dollar value is sufficient to support the use.

(c) Documentation. If a determination is made to use reverse auction, the acquisition file shall be documented (i.e., either within the acquisition plan or a separate document) to explain how the reverse auction will support the acquisition, set forth the basis of the determination, and an analysis of any direct costs (such as fees) or indirect costs associated with the use of this tool/service.

## **Subpart 1007.2—Planning for the Purchase of Supplies in Economic Quantities**

### **1007.204 Responsibilities of contracting officers.**

(a) COs shall refer to Bureau procedures for purposes of submitting the information described by [FAR 7.204\(a\)](#).

## **Subpart 1007.3—Contractor Versus Government Performance**

### **1007.370 Prohibition.**

None of the funds appropriated or otherwise made available by the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)) or any other Act, unless stated otherwise therein, may be used to begin or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

## **Subpart 1007.5—Inherently Governmental Functions**

### **1007.503 Policy.**

(e)(1) For new service contracts (i.e., where the predominate amount of the requirement is for services/the primary PSC code is for services), the requiring activity shall include within the procurement request or package—

(i) The applicable inherently governmental function/ code as outlined in Table 7-1 of [1007.503-70](#) and, unless otherwise not required in accordance with paragraph (e)(2) of this section the following documents.

(ii) For requirements exceeding \$25,000, a completed [Coding of Service Contract Requirement Worksheet](#) (Worksheet) approved by the Bureau Senior Accountable Official (SAO) or designee.

(iii) For requirements exceeding the SAT, a completed Analysis document discussing the work to be performed: is not inherently governmental, has the appropriate level of government oversight, and the contractor's discretion is limited in that it won't infringe on any inherently governmental function. The Analysis document is to be completed in addition to the Worksheet.

(2) The Worksheet and Analysis documents are not required for:

(i) Requirements that are covered by a class determination.



(ii) Requirements that will—

(A) Be placed against an existing Treasury vehicle (e.g., BPA and IDV) where an analysis has already been conducted and the information required in paragraph (e)(1) of this section has been submitted;

(B) Not result in a change in the scope of work; and

(C) Not result in a change in the inherently governmental function/ code currently identified.

(3) The CO shall not proceed until receipt of the information required by paragraph (e)(1) this section or in instances when the Worksheet indicates that the requirement includes, even in a small part, work that is inherently governmental. The CO shall return to the requiring activity requirements that include work that has been designated as inherently governmental or take other appropriate steps in accordance with Bureau policy to ensure that no requirement inclusive of inherently governmental work is solicited or awarded.

(4) To ensure there is adequate oversight of contracts that include services closely associated with inherently governmental functions and critical functions, BCPOs shall take steps to ensure appropriate oversight and management of such contracts and establish appropriate internal controls for both the CO and COR functions to ensure contractor compliance with contract scope/requirements with no unauthorized expansion of scope or performance.

(5) Coding of service contracts is a requirement managed by the Department's Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer. Further information about this requirement can be obtained from the Bureau SAO or designee or at [Departmental Offices Service Contract Coding Policy and Guide](#)

(i) Coding of service contract requirements and approval of the Worksheet and Analysis documents shall not be delegated to the BCPO or equivalent.

#### **1007.503-70 Coding of service contracts in FPDS.**

The coding of service contracts applies to agreements, contracts, task orders, delivery orders, purchase orders, and calls. Failure to enter the information in the format prescribed will result in an FPDS validation error that will prevent the award from being released in FPDS.

(a) The CO shall select the appropriate FPDS inherently government function as shown in column 1 of Table 7-1 of this subsection from the FPDS drop down field, for all awards having a product service code beginning with a letter (i.e., A through Z), regardless of dollar amount. The selection shall be based on the inherently governmental function/code provided by the requiring activity (see 1007.503(e)).

Table 7-1 – FPDS coding requirement

<b>Function</b>	<b>If the requirement is:</b>
Closely associated	Closely associated with an inherently governmental function
Critical function	A critical function but not closely associated with an inherently governmental function
Other function	Neither a critical function nor closely associated with an inherently governmental function (i.e., other function)

(1) This requirement is not applicable to actions awarded before March 1, 2012. A code cannot be reported for modifications issued against an award that was issued prior to this date.

(b) Should the inherently governmental function/ code change at any time after submission (e.g., mistake or change in requirements or contract scope) such that a revision is necessary, the requiring activity shall submit to the CO a revised inherently governmental function/ code and a revised completed Worksheet and Analysis documents, as applicable. The submission shall include an explanation for the change. Upon receipt of the revised inherently governmental function/ code and as applicable, documentation the CO shall then revise or update FPDS accordingly.

### **Subpart 1007.70—Independent Government Cost Estimate**

#### **1007.7000 Scope.**

This subpart prescribes Treasury policy and procedure for the preparation, acceptance and use of independent government cost estimates (IGCE).

#### **1007.7001 Policy.**

The IGCE serves as the basis for acquisition planning through setting budgets or reserving funds for current and future requirements; provides the basis for comparing costs or prices proposed by offerors; and serves as an objective basis for determining price reasonableness in cases in which one offeror responds to a solicitation. An IGCE is developed well in advance and prior to the issuance of a solicitation and is an important tool in demonstrating the Government's due diligence in reasonably estimating the cost of performance.

(a) The requiring activity is responsible for the preparation of the IGCE. The [Treasury OPE SharePoint](#) provides guidance on preparing an IGCE. The requiring activity may also use the IGCE tool as well as other information and data (e.g., prices paid and CALC tool) available on the Acquisition Gateway or other websites that support a specific GWAC that is being considered for the purposes of generating an IGCE. COs should exercise appropriate discretion when selecting an IGCE tool to use.

(1) The CO and Bureau Cost/Price analyst may provide assistance and guidance, as deemed necessary, in the development of the IGCE. Input should also be sought from other individuals on the acquisition team who have expertise or insight into a particular area of the requirement that may assist in the estimating of costs for the development of the IGCE.

(b) The specific content of the IGCE will vary, depending on the nature, circumstances, and complexity of the contract action. In developing an IGCE the preparer shall ensure the IGCE—

- (1) Provides sufficient detail to reflect how the estimate was derived;
- (2) Includes sufficient detail on the sources, assumptions, rationale and other information used in the development of the estimate (e.g., if using a GSA schedule then provide the GSA schedule number and the names and contract numbers of the schedule holders used); and

(i) Sources must be recent and relevant to the requirement contemplated. This is of specific importance when the requirement involves a cost, labor-hour or time-and-material contract type.

(3) Provides, as applicable, the source material used in the development of the estimate.

(c) The CO shall review and ensure, prior to acceptance that the IGCE—

(1) Provides clear, complete, and relevant data and information;

(2) Identifies the estimated pricing or cost in sufficient detail;

(3) Provides sufficient narrative to describe the estimating methodology, sources, assumptions, rationale, and other information used in developing the estimate; and

(4) If applicable, includes copies of or other means of accessibility (e.g., hyperlinks) to the source material used to support its preparation;

(d) If the IGCE received by the CO is found not to meet the requirements of paragraph (c) of this section or found to include unidentifiable calculations or other errors, then the CO shall take appropriate action (e.g., return the IGCE for correction, obtain clarification, or obtain additional information) to resolve the issues identified.

(e) In instances, where the IGCE is being used as the basis for price fair and reasonableness or in the analysis of pricing or cost, the CO shall notify the preparer of appropriate remedial action when there is a significant difference between the IGCE or of any other indication of discrepancy (e.g., significant variation in labor mix) between offers or quotations and the basis for the IGCE. Remedial action may include gathering information from offerors or the acquisition team to determine the cause of the significant difference, revising requirement documentation, amending the solicitation, but does not include unjustified revision of the IGCE.

## **PART 1008—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

### **1008.002 Priorities for use of mandatory Government sources.**

In the establishment of awards to meet Treasury requirements, including the requisite market research efforts the following order of precedence shall be observed:

(a) FAR-mandated sources listed in subparts 8.002 and 8.003.

(b) Treasury Mandatory Sources. Treasury Mandatory Sources are those designated by the Senior Procurement Executive for certain types of requirements. These designations are common for the establishment of Enterprise-wide vehicles or preferred sources. Treasury Mandatory Sources shall have the highest priority for use once the CO or purchase cardholder verifies that the mandatory sources listed in [FAR 8.002 and 8.003](#) cannot satisfy the requirement. See 1008.002-70 for the process for seeking a waiver from a Treasury Mandatory source.

(c) OMB-mandated government-wide contracts. All OMB-mandated government-wide contracts are automatically Treasury Mandatory Sources upon OMB-designation unless determined not to be mandatory by the SPE.

(d) Treasury Priority Sources. The Treasury Priority Sources policy framework is designed to help achieve the goal of using Federal contract spending to support small business, advance equity, and grow and diversify the industrial base supporting the Federal Government.

(1) The term “New Entrant” is defined as vendor, as identified by its Unique Entity identifier, as having had no prior positive obligations with Treasury bureaus over the previous five fiscal years.

(2) If the government-wide and Treasury mandatory sources listed in subpart 1008.002 (a) cannot meet the requirement, the following general order of prioritization for market research shall be followed:

- i. SDBs: without regard to contract tier.
- ii. SDBs: federal contractors with prior awards with preference to the highest tier.
- iii. SBs: to federal contracting without preference to contract tier.
- iv. SBs: federal contractors with prior awards with preference to the highest tier.
- v. OTSBs: to federal contracting with preference to the highest tier.
- vi. OTSBs: federal contractors with prior awards with preference to the highest tier

### **1008.002-70 Requirements for Treasury Mandatory Sources Waiver.**

(a) Except as listed in paragraph (b) of this section, an approved Treasury Mandatory Sources waiver is required whenever there is an applicable Treasury Mandatory Source for the requirement (see 1008.002(a)(s)), but the CO claims the source is not suitable for the requirement; this applies to both individual awards and Indefinite Delivery Vehicles (IDVs). A source is determined to be applicable to a requirement if it is within scope.

(b) This subsection does not apply to

- (1) Requirements satisfied via the mandatory sources listed in [FAR 8.002](#) and [8.003](#);
- (2) Acquisitions that will use the flexibilities prescribed by [FAR 18](#);
- (3) Requirements already accepted into the 8(a) Business Development program (see [FAR 19.8](#));
- (4) Exercise of options (see [FAR 17.2](#) and [1017.2](#));
- (5) Award of award terms ([FAR 16.4](#) and [subpart 1016.4](#));

(6) Order and Calls under IDVs (however, new base IDVs themselves are subject to the requirement).

(7) Acquisitions at or below the micro-purchase threshold (see [FAR 2.101](#)).

(c) Timeframe for submission and approval. Requests for waivers from Treasury Mandatory Sources shall be submitted and approved prior to finalization of the acquisition plan, or, if an acquisition plan is not applicable, submitted before issuance of the solicitation.

(d) Types. Individual exceptions can be approved for one contract action. Class exceptions can be approved for more than one contract action. Class exceptions must clearly identify the scope of requirements and time period to be covered by the waiver.

(e) Approval. Individual and class waivers from Treasury Mandatory Sources shall be approved by the Senior Procurement Executive.

#### **1008.004 Use of other sources.**

If the CO or purchase cardholder is unable to satisfy the requirement from the government-wide mandatory sources listed in [FAR 8.002 and 8.003](#) or Treasury Mandatory Sources, the CO or purchase cardholder shall prioritize sources sought according to the general prioritization framework at 1008.002(b)(1). See [1008.002-70](#) for the process of seeking a waiver from a Treasury Mandatory Source.

### **Subpart 1008.4—Federal Supply Schedules**

#### **1008.404 Use of Federal Supply Schedules.**

(h)(3)(ii)(A) [Treasury SF 1025](#), Determination & Findings for a Time-and-Material/Labor-hour contract under [FAR 8.4](#), shall be used for the completion of the D&F prescribed by [FAR 8.404\(h\)](#).

#### **1008.405-1 Ordering procedures for supplies, and services not requiring a statement of work.**

(f)(1) The steps provided in [1015.370-1](#) may be followed when using past performance as an evaluation factor for an acquisition meeting the criteria described therein.

(9) In the instance of the use of a reverse auction, the CO should examine whether the lowest price, plus any applicable fee(s), results in a savings below the target price when deciding to follow through with an award. In addition, if only one response is received consider if an award is still in the best interest of the government.

(g) Minimum documentation.

(5)(A) Reverse Auction. For instances where a reverse auction was used, the documentation in the contract file shall clearly reflect that the CO made all acquisition decisions throughout the procurement process, and that the role of any acquisition support contractor personnel, including the third-party used to provide the reverse auction tool/service, was solely administrative and not decision-making.

(6) The results of market research in accordance with [1010.002\(e\)](#);

#### **1008.405-2 Ordering procedures for services requiring a statement of work.**

(d) In the instance of the use of a reverse auction, the CO should examine whether the lowest price, plus any applicable fee(s), results in a savings below the target price when deciding to follow through with an award. In addition, if only one response is received consider if an award is still in the best interest of the government.

(1) The steps provided in [1015.370-1](#) may be followed when using past performance as an evaluation factor for an acquisition meeting the criteria described therein.

(f) Minimum documentation.

(9) Reverse Auction. For instances where a reverse auction was used, the documentation in the contract file shall clearly reflect that the CO made all acquisition decisions throughout the procurement process, and that the role of any acquisition support contractor personnel, including the third-party used to provide the reverse auction tool/service, was solely administrative and not decision-making.

(10) The results of market research in accordance with [1010.002\(e\)](#).

(11) The basis for the award decision.

#### **1008.405-3 Blanket Purchase Agreements (BPAs).**

(a)(2)(i) The steps provided in [1015.370-1](#) may be followed when using past performance as an evaluation factor for an acquisition meeting the criteria described therein.

(a)(3)(ii) Determinations for awarding a single-award BPA exceeding \$100 million (including any options) required under [FAR 8.405-3\(a\)\(3\)\(ii\)](#) shall be made by the SPE (see [1001.7000\(a\)\(2\)](#)).

(e) See [Treasury OPE SharePoint](#) for a sample FAR 8.4 BPA annual review memorandum.

#### **1008.405-4 Price reductions.**

Ordering activities shall request a price reduction at any time before placing an order, establishing a BPA, or in conjunction with the annual BPA review.

#### **1008.405-5 Small business.**

(a) A CO shall document within the contract file (e.g. [SF 1010](#)) the rationale for not utilizing the authority to conduct a small business set-aside as prescribed in [FAR 8.405-5\(a\)](#) or provide small businesses consideration or preference as prescribed in [FAR 8.405-5\(c\) and \(d\)](#).

#### **1008.405-6 Limiting sources.**

(a)(2)(i)(B)(2) [OPE's public webpage](#) provides a link to the GPE for accessing these justifications.

(b)(3)(ii)(C) The CO shall submit requests to waive the posting requirement of [FAR 8.405-6\(b\)\(3\)\(i\)](#) to the SPE in accordance with [1001.7000\(a\)\(2\)](#).

(c) [Treasury SF 1012](#), Limited-Source Justification, shall be used for the completion of the Limited-Sources Justification as prescribed by [FAR 8.405-6](#).

### **Subpart 1008.8—Acquisition of Printing and Related Supplies**

#### **1008.802 Policy.**

(b) In accordance with [Treasury Directive 78-01, Printing and Publishing Management Program](#), the Printing and Graphics Division is the designated Department's liaison. Bureaus with publication programs have publication liaison officers authorized to coordinate with the Printing and Graphics Division.

## **Subpart 1008.11—Leasing of Motor Vehicles**

### **1008.1102 Presolicitation requirements.**

(a)(3)(i) [31 U.S.C. Section 1343\(b\)\(2\)](#) of generally requires that, in order to purchase or lease a passenger motor vehicle with appropriated funds, a Bureau's appropriations shall authorize that expenditure. Additionally, Treasury Appropriations Act language may require that the Department specifically approve the purchase of law enforcement vehicles. Pursuant to [Treasury Directive 74-01, Motor Vehicle Fleet Management](#), Bureaus shall forward their requirements for law enforcement vehicles to the Office of Asset Management (OAM) in accordance with guidance issued by that office. The OAM will review the request for compliance with the requirements and transmit it to the ASM and CFO with a recommendation for approval or disapproval. Following approval of the request by the ASM and CFO, the package will be returned to the Bureau, so that it may be submitted to GSA in accordance with [41 CFR 101-26.501](#).

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

### **1008.1170 Reduction of fossil fuel usage.**

BCPOs are required to—

(a) Obtain documentation of approval from OAM prior to issuance of all contract actions resulting in the lease of motor vehicles from commercial concerns, and prior to issuance of all lease extensions not included in the terms of initial contract actions;

(b) Provide to OAM copies of all contract action resulting in leases of motor vehicles from commercial concerns, and lease extensions not included in the terms of initial contract actions;

(c) Include documentation of OAM approval of the contract action in the contract file; and

(d) The Bureau requiring activity is responsible for providing documentation of OAM approval to the CO. Documentation from the requiring activity shall address-

(1) If the requisition is for the lease of a commercial vehicle that meets EPA standards, documentation of approval by OAM only is required; and

(2) If the requisition is for the lease of a commercial vehicle that does not meet EPA standards, documentation of approval by both OAM and the ASM is required.



## **PART 1009—CONTRACTOR QUALIFICATIONS**

### **Subpart 1009.1—Responsible Prospective Contractors**

#### **1009.104-5 Representation and certifications regarding responsibility matters.**

(a)(2) See also [subpart 1009.4](#).

(b)(2) See also [subpart 1009.4](#).

#### **1009.104-6 Federal Awardee Performance and Integrity Information System.**

(c)(2) See also [subpart 1009.4](#).

#### **1009.105-1 Obtaining information.**

(c)(6) The Do Not Pay Business Center located on the world wide web at: <http://www.donotpay.treasury.gov> allows agencies to check various databases before making payments or awards in order to identify ineligible recipients and prevent fraud or errors from being made. During the pre- and post-payment phases, information indicating non-eligibility of a contractor shall be forwarded to the CO for consideration of contract modification or termination as appropriate. Any information indicating fraud or lack of responsibility shall be forwarded to the cognizant IG authority and Suspension and Debarment Advisor for consideration. Documentation derived from the Do Not Pay Business Center supporting a determination of non-responsibility, contract modification or termination shall be included in the contract file.

#### **1009.108-4 Waiver.**

(c) The SPE may issue the waiver in [FAR 9.108-4](#). The CO shall submit requests for waiver in accordance with [1001.7000\(a\)\(1\)](#).

### **Subpart 1009.2—Qualifications Requirements**

#### **1009.202 Policy.**

(a)(1) The CO shall submit written justification for establishing vendor qualification requirements to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#).

(b) A copy of the approved waiver, along with the advocate for competition's review and comments shall be furnished to the SPE within five (5) days in accordance with [1001.7000\(c\)](#).

(e) The HCA is authorized to approve procurements that do not need to be delayed in order to comply with [FAR 9.202\(a\)](#). A written justification shall be prepared by the responsible technical office and submitted to the CO for coordination and signature of the Bureau advocate for competition, and approval by the HCA.

#### **1009.204 Responsibilities for establishment of a qualification requirement.**

(a)(2) The BCPO has the authority to approve the determination described in [FAR 9.204\(a\)\(2\)](#). At a minimum, the determination shall include the name of the firm for which the qualification tests will be performed, the amount of increased competition expected, and the duration and dollar value of anticipated future requirements for the qualified product.

(c) The cognizant technical office shall provide the list of qualified manufacturers and suppliers to the CO.



**1009.204-70 Contractor publicity.**

See [DTAR 1009.204-70 Contractor publicity](#) for Treasury's requirements.

**1009.206-1 General.**

(b) The CO shall submit the determination that an emergency exists precluding the enforcement of a qualification requirement, which it established, to the HCA for review and approval. The CO shall notify the SPE within five (5) days in accordance with [1001.7000\(c\)](#).

**Subpart 1009.4—Debarment, Suspension, and Ineligibility****1009.402 Policy.**

(e) [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#), establishes Treasury policies and procedures for this subpart.

**1009.403 Definitions.**

“Debarring official” is the SPE as designated in [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#).

“Suspending official” is the SPE as designated under [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#).

**1009.404 System for Award Management Exclusions.**

(c) The Suspending and Debarring Official is responsible for accomplishing the actions prescribed by [FAR 9.404\(c\)](#).

**1009.405 Effect of listing.**

(a) The head of the agency at Treasury for this purpose is defined in [Treasury Order 101-30, Designation of "Head of Agency" for Procurement Matters](#), as the ASM/CFO. The CO shall submit written justifications to support the determination in accordance with [1001.7000\(b\)](#). The CO shall include within the justification a description and discussion of the compelling reason(s) why the action should proceed despite the debarment, suspension or proposed debarment of the contract along with all supporting documentation.

(e)(5) The CO shall consult SAM and document the contract file prior to contract extension, issuance of a major modification, or consent to subcontract.

**1009.406-1 General.**

(c) The SPE is authorized to make the determination prescribed by [FAR 9.406-1\(c\)](#).

**1009.406-3 Procedures.**

(a)(1) Refer to Section 4 of [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#), for Treasury procedures for the prompt reporting, investigation, and referral to the debarring official of matters appropriate for that official's consideration.

(b)(2)(i) The hearing will be conducted by the Debarring official.

(e) See 1009.406-1(c).

**1009.407-3 Procedures.**

(a) Refer to Section 4 of [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#), for Treasury procedures for the prompt reporting, investigation, and referral to the suspending official of matters appropriate for that official's consideration.

(b)(2)(i) The hearing will be conducted by the Suspending official.

**Subpart 1009.5—Organizational and Consultant Conflicts of Interest****1009.500 Scope of subpart.**

A CO may consult the resources available on the [Acquisition Gateway](#) and at [Treasury OPE SharePoint](#) in order to learn more about organizational conflicts of interests (OCI).

**1009.503 Waiver.**

A need for a waiver may be identified by a CO or by a written request submitted by an offeror as part of their response to a solicitation. If submitted by an offeror, the CO shall review all the relevant facts and consult legal counsel and other concerned parties to determine if a request for waiver is warranted. The SPE has been delegated the authority set forth in [FAR 9.503](#). Requests for waiver shall be submitted to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

## PART 1010—MARKET RESEARCH

### 1010.001 Policy.

(a) Treasury's Market Research Guide is available at [Treasury OPE SharePoint](#) as well as additional resources on conducting market research.

(3)(i) See [1008.002](#). Determine whether there are a sufficient number of small business concerns to set-aside the acquisition or support the use of other types of approaches (e.g., evaluation preference and subcontracting) for purposes of using small businesses within the acquisition thereby aid Treasury in meeting and exceeding its small business goals.

(vi) See [1007.107-2](#)

(vii) See [1007.107-3](#)

(c)(1) The CO shall consult the Bureau SBS if contemplating an acquisition involving consolidation, bundling, or substantial bundling.

(e) To support and improve acquisition planning, market research and requirement development, Bureaus shall promote and utilize innovative market research techniques regarding communication with industry and outreach to the vendor community, specifically small businesses. Both [Treasury's Vendor Communication Plan](#) and OFPP memorandums dated May 7, 2012, entitled, "[Myth-Busting: Addressing Misconceptions and Further Improving Communication During the Acquisition Process](#)" and February 2, 2011 entitled, "[Myth-Busting: Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process](#)" provide useful information.

### 1010.002 Procedures.

(b) When conducting market research, CO should consult the Bureau SBS for assistance on identification of possible small business concerns, best practices in relation to small business source selection procedures and evaluation criteria, subcontracting possibilities, and any other aspect of [FAR 19](#) and Treasury's small business program.

(1) The Bureau SBS shall provide the CO recommendations on possible small business sources, including veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, economically disadvantaged women-owned small business, and WOSB concerns. The Bureau SBS shall also provide additional recommendations as necessary (e.g., best practices in relation to small business source selection procedures and evaluation criteria, and other aspects of Treasury's small business program).

(1)(viii) Viability of use of reverse auction (see [1007.102\(a\)\(6\)](#)).

(2)(iv) Treasury personnel conducting market research shall use the [Acquisition Gateway](#) as the primary technique for conducting market research. The [Acquisition Gateway](#) includes a list of BIC vehicles, which are Treasury Mandatory Sources as well as other tools that support market research. The [Treasury OPE SharePoint](#) includes a listing of other Treasury Mandatory Sources as well (see [1008.002](#) for priorities use of mandatory Government source).

(viii) See [Treasury OPE SharePoint](#) for a sample of a presolicitation conference presentation.

(ix) Reviewing prior acquisition history for the same or similar requirement.

(A) GSA has developed a pricing paid tool that may be used to obtain visibility on prices paid by government agencies for commonly purchased supplies and services. This tool is accessible on [Acquisition Gateway](#).

(x) Publishing requests for information, sources sought notices or draft solicitations or draft requirement documentation on [the GPE](#), or appropriate public sites. See [Treasury OPE SharePoint](#) for sample requests for information and source sought notices.

(xi) Sponsoring or holding industry conferences or industry days, vendor forums, webinars, one-on-one meetings or other similar outreach opportunities with industry.

(A) Bureaus are encouraged to post such upcoming outreach opportunities on the vendor collaboration feature available on [the GPE](#).

(xii) Performing site visits (e.g., government personnel visiting vendor facilities or vice versa).

(e)(1) With exception to the use of the form prescribed in paragraph (e)(2)(i) of this section, documentation regarding the results of market research shall include, at a minimum—

- (i) The participants involved in the market research effort;
- (ii) The techniques used to conduct the market research;
- (iii) The timeframes when the market research was conducted;
- (iv) The names of the potential sources identified, including their socio-economic status;
- (v) An analysis of the capabilities of the potential sources identified; and
- (vi) The conclusion based on this analysis (see [FAR 10.002\(b\)](#) and paragraph (b) of this section).

(2) Forms.

(i) [Treasury SF 1010](#), Market Research Summary Report, shall be used by the CO, except for the instance listed in paragraph (e)(2)(i)(A) of this section, for documenting the results of market research for acquisitions exceeding the SAT and for acquisitions below the SAT that meet the conditions prescribed in 1004.7004(a)(1)(i) and (ii).

(A) The [SF 1010](#) is not required for the following instance:

(1) Acquisitions made under an existing Treasury-wide or Bureau single award IDV or Agreement when market research was already conducted and documented as part of the initial award.

(ii) [Treasury Optional Form \(OF\) 1053](#), Requiring Activity Market Research, may be used by the requiring activity (e.g., program office) for documenting the result of their market research efforts and be submitted with the procurement request. The information in this form can be used in completing the [SF 1010](#), documenting the file concerning such efforts for acquisitions at or below the SAT as well as support the development of other documents (e.g. source selection plan and acquisition plan).

### **1010.002-70 Acquisition Gateway.**

The Acquisition Gateway (Gateway) is a workspace created by GSA and available at <https://hallways.cap.gsa.gov> that provides the acquisition community an ability to connect with resources, tools and each other to achieve successful outcomes at each step of the acquisition lifecycle. The Gateway includes hallways reflecting the ten (10) common spend categories (e.g., IT and Professional Services). These hallways feature expert articles,

templates, market research tools, prices paid data, and more, all specific to the given spend category. In some instances, hallways have sub-hallways that provide more granularity for a specific subcategory of spend.

(a) The SPE has identified the Gateway as a best practice in terms of supporting the Treasury acquisition process (see 10.002(b)(2)(iv)). As a result, the DTAP includes references to the Gateway to direct individuals to useful resources and tools available on the Gateway.

(b) Some of the tools available on the Gateway include, but not limited to—

(1) Solutions Finder. The Solution Finder enables one to identify contract vehicles that may meet the need as well as the ability to compare and contrast acquisition vehicles/solutions.

(2) IGCE tool. The IGCE tool can help build detailed cost estimates for service type acquisitions.

(3) eBuy Open. eBuy Open provides access to all electronic solicitations submitted through GSA's eBuy from FY14 forward. This information can be used to build solicitations as one can see what others have done in the past for the same or similar requirement.

(4) Document Library. Document Library provides access to sample documents used by agencies for purposes of meeting various FAR requirements. These samples can help with complying with FAR requirements where documentation is required.

(5) Contract Awarded Labor Category (CALC) tool. The CALC contains awarded hourly rate prices on the eight GSA professional services schedules and returns comparable labor categories and prices based on search criteria and filters used. The CALC tool can help with market research and price analysis for labor categories.

## PART 1011—DESCRIBING AGENCY NEEDS

### 1011.002 Policy.

(a)(1)(iii) Consider industry's input into the acquisition strategy and the requirement itself as it may result in awareness of better solutions available in the marketplace than what was initially considered (see OFPP memorandums cited at [1010.001\(e\)](#)) as well as support from other contracting decisions (e.g. expected level of competition and contract type).

(a)(2) See [FAR 37.6](#) and [1037.601-70](#) for requirements surrounding performance-based acquisitions.

(g) Acquisitions that procure IT that use Internet protocol (IP) can include the procurement of equipment (e.g., hosts, routers, electronic devices, and network protection devices), software and services (e.g., services by an Internet Service Provider and a Managed Service Provider). Requiring activities are responsible for ensuring requirement documents (e.g., statement of work and performance work statements and, if applicable, source selection plan and technical evaluation factors) fully address IPv6 requirements. The CO shall work with the requiring activity to ensure the acquisition of equipment, software and services that use IP comply with all requirements.

(1) Treasury acquisitions. The Treasury CIO has delegated authority, without power of further delegations, to the Bureau-CIO or equivalent for approval of the waiver prescribed by [FAR 11.002\(g\)](#) concerning Treasury requirements. Prior to making a determination to approve or deny a request for waiver, the Bureau-level CIO or equivalent shall consult the Treasury CIO and OPE. Copies of the correspondence and waiver shall be retained in the contract file and a copy will be sent to Treasury CIO and OPE. See [FAR 7.105\(b\)\(5\)\(iii\)](#) for documenting the acquisition plan. If the request for waiver is denied, then the requiring activity shall coordinate with the Bureau CIO or equivalent to develop an alternate strategy for meeting the requirement. If it is approved, the CO may proceed with processing the procurement request. A CO cannot proceed with an acquisition until a determination has been made by the Bureau-level CIO or equivalent on the request for waiver.

(i) Form. [Treasury SF 1002](#), Request for Waiver of Internet Protocol Version 6 (IPv6), shall be used by the requiring activity for purposes of seeking a waiver as prescribed by [FAR 11.002\(g\)](#) and described in paragraph (g)(1) of this section.

(ii) Checklist. The requiring activity and CO may use [Treasury OF 1054](#), Requiring Activity IPv6 Compliance Review Checklist, for purposing of ensuring IPv6 requirements are addressed within the requirements document.

(ii) Sample requirement documents language. Based on direction provided by the requiring activity, the CO shall include substantially the same language within the requirement document in acquisitions using IPv6.

**Internet Protocol version 6 (IPv6) requirements.** This contract involves the acquisition of IT that uses Internet Protocol (IP) technology (see [NIST USGv6 Program](#) and [NIST 500 281](#) for additional guidance on IPv6 requirements). The Contractor agrees that: (1) any system hardware, software, firmware, networked component (voice, video or data) developed, procured, or acquired in support and/or performance of this contract shall comply with IPv6 standard and interoperate with both IPv6 and IPv4 systems and products; and (2) it has IPv6 technical support for development and implementation and fielded product management available. If the

Contractor plans to offer a deliverable that involves IT that is not initially compliant, the Contractor shall: (1) obtain the Contracting Officer's approval before starting work on the deliverable; (2) provide a migration path and firm commitment to upgrade to IPv6 for all application and product features; and (3) have IPv6 technical support for development and implementation and fielded product management available.

Should the Contractor discover or is made aware of during the performance of this contract that a product or service developed, procured, or acquired in support and/or performance of this contract does not conform to the IPv6 standard, it must immediately notify the Contracting Officer's Representative and Contracting Officer of such nonconformance and act in accordance with instructions of the Contracting Officer. The Contractor agrees to bring into compliance (e.g., upgrade, modification, replacement) the nonconforming product at no cost to the Government.

### **Subpart 1011.1—Selecting and Developing Requirements Documents**

#### **1011.103 Market acceptance.**

(a) The HCA or designee no lower than the BCPO is authorized, under appropriate circumstances, to require offerors to demonstrate that the item(s) offered meets the market acceptance criteria in accordance with [FAR 11.103\(a\)](#). The CO shall include a copy of the authorization in the contract file.

(c)(6) Is properly labeled as "Market Acceptance Criteria" and clearly described within the solicitation along with the Government approach to evaluate whether or not the proposed item has achieved commercial market acceptance.

### **Subpart 1011.2—Using and Maintaining Requirements Documents**

#### **1011.202 Maintenance of standardization documents.**

(a) All recommendations for changes to standardization documents shall be submitted through the SPE in accordance with [1001.7000\(a\)\(2\)](#).

### **Subpart 1011.5—Liquidated Damages**

#### **1011.501 Policy.**

(d) The SPE may act as head of the agency to reduce or waive the amount of liquidated damages assessed under a contract, if the Commissioner, Financial Management Service, or designee approves (see [Treasury Order 145-10, Remission or Waiver of Liquidated Damages](#)).

### **Subpart 1011.6—Priorities and Allocations**

#### **1011.602 General.**

For the purposes of the Defense Priorities and Allocations System (DPAS), Bureaus that meet the definition of a delegated agency as defined in [FAR 11.601](#) shall establish internal procedures for placing rated orders. Information on DPAS is available at:



<https://www.bis.doc.gov/index.php/other-areas/strategic-industries-and-economic-security-sies/defense-priorities-a-allocations-system-program-dpas>.

## **PART 1012—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

### **Subpart 1012.1—Acquisition of Commercial Products and Commercial Services**

#### **1012.102 Applicability.**

(f)(1) The HCA, without power of delegation, has the authority to make a determination that any acquisition for supplies or services to facilitate defense against or recovery from cyber, nuclear, biological, chemical or radiological attack can be treated as acquisition of commercial products or commercial services. The BCPO shall notify the SPE within twenty-four hours of the HCA's determination in accordance with [1001.7000\(c\)](#).

### **Subpart 1012.2—Special Requirements for the Acquisition of Commercial Products and Commercial Services**

#### **1012.202 Market research and description of agency need.**

(e) See [1011.002\(g\)](#) for Treasury's IPv6 policy.

#### **1012.203 Procedures for solicitation, evaluation, and award.**

(a) Reverse Auction. Any acquisition of reverse auction software and/or services shall comply with competition requirements. To help ensure the intended benefits of reverse auctions are maximized, the CO should examine whether the lowest price, plus any applicable fee(s), actually results in a savings below the target price when deciding to follow through with an award. In addition, if only one response is received consider if an award is still in the best interest of the government. For purposes of documenting the award, the contract file shall clearly reflect that the CO made all acquisition decisions throughout the procurement process, and that the role of any acquisitions support contractor personnel, including the third-party used to provide the reverse auction tool/service, was solely administrative and not decision-making.

#### **1012.207 Contract Type.**

(b)(1)(ii)(A) [Treasury SF 1024](#), Determination & Findings for Time-and-Material/Labor-hour contracts – Commercial items (see [FAR 12.207\(b\)](#)), shall be used for the completion of the D&F prescribed by [FAR 12.207\(b\)\(ii\)\(A\)](#). The D&F shall be approved by the BCPO when the acquisition is estimated to exceed \$1 million (but see paragraph (c)(3) of this section for indefinite-delivery contracts). Excluded from this requirement are emergency acquisitions (see [FAR 18](#) and [1018](#)).

(c)(3) The D&F prescribed by [FAR 12.207\(c\)\(3\)](#) shall be approved by the BCPO.

### **Subpart 1012.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services**

#### **1012.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

(b)(4)(i) See [1025.1001\(a\)\(2\)\(iii\)](#) for the approving authority to waive the examination of records clause.

**1012.301-70 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

The contracting officer shall, when contemplating taking an action except as described in paragraph (a) below, insert the clause at 1052.212-4, Contract Terms and Conditions-Commercial Items Alternate II (Deviation 2016-00001), in solicitations and contracts where a commercial item contract is contemplated.

(a) *Exceptions.* The contracting officer shall not include the above clause when contemplating an action against the following-

- (1) GSA government-wide vehicles (e.g., Alliant, Networx, OASIS, and Federal Supply Schedule;
- (2) Existing Treasury contracts and agreements; and
- (3) Other Governmentwide acquisition contracts (GWAC) and multi-agency contracts (MAC) that include the same or similar clause or clauses.

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

(b)(8) Commercial supplier agreements -unenforceable clauses.

(c) An individual waiver shall be approved by the BCPO and a class waiver by the HCA. Waivers, whether individual or class, shall be reviewed by legal counsel. In addition, The Bureau advocate for competition shall review any waivers exceeding the SAT.

## **PART 1013—SIMPLIFIED ACQUISITION PROCEDURES**

### **Subpart 1013.1—Procedures**

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

##### **1013.106-1 Soliciting competition.**

(b) [Treasury SF 1009](#), FAR 13.106(b) sole source justification for acquisitions under the SAT, shall be used for the completion of the sole source justification prescribed by [FAR 13.106\(b\)\(1\)](#).

### **Subpart 1013.2—Actions at or Below the Micro-Purchase Threshold**

#### **1013.201 General.**

(a) See [1001.603-3](#) for details on delegation of micro-purchase authority.

(b) See [1001.672](#) as well as Treasury's Charge Card Management Plan for Treasury's policy and procedures governing the use of the Governmentwide commercial purchase card.

(e) The requirements in [part 1008](#) apply to purchases at or below the micro-purchase threshold.

(g) (1) The HCA, without power of delegation, has the authority to make this determination. The BCPO shall notify the SPE within twenty-four hours of the HCA's determination in accordance with [1001.7000\(c\)](#).

#### **1013.202 Unenforceability of unauthorized obligations in micro-purchases.**

The clause at 1052.232-39, Unenforceability of Unauthorized Obligations is required to be used in lieu of FAR clause 52.232-39, Unenforceability of Unauthorized Obligations, for micro-purchases.

### **Subpart 1013.3—Simplified Acquisition Methods**

#### **1013.301 Governmentwide commercial purchase card.**

(a) Treasury policies and procedures regarding selection, appointment and termination of COs and Purchase Cardholders are found in [1001.603 and 1001.672 respectively](#).

(b) Treasury policies and procedures governing the use of the Governmentwide commercial purchase card are defined in the Treasury Charge Card Management Plan.

#### **1013.303 Blanket purchase agreements (BPAs).**

##### **1013.303-6 Review procedures.**

See [Treasury OPE SharePoint](#) for a sample FAR 13.3 BPA annual review memorandum.

##### **1013.307 Forms.**

The prescribed forms in [FAR 13.307](#) shall be used unless an equivalent Bureau form/automated format has been authorized for use by the SPE.

## **Subpart 1013.5—Simplified Procedures for Certain Commercial Products and Commercial Services**

### **1013.500 General.**

(c)(1) The HCA, without power of delegation, has the authority to make this determination. The BCPO shall notify the SPE within twenty-four hours of the HCA's determination in accordance with [1001.7000\(c\)](#).

### **1013.501 Special documentation requirements.**

(a)(1)(ii) [Treasury SF 1013](#), Justification & Approval for FAR 13.5 Sole Source (including brand name) acquisitions, shall be used for the completion of the sole source (including brand name) justification prescribed by [FAR 13.5](#).

(a)(1)(iii) [OPE's public webpage](#) provides a link to the GPE for accessing these justifications.

## **PART 1014—SEALED BIDDING**

### **Subpart 1014.1—Use of Sealed Bidding**

#### **1014.103-270 Limitations.**

Solicitations requesting offers for a federal contract that will use funds made available by the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)) or any other Act, unless otherwise stated therein, shall be adhere to the requirements of [subpart 1003.70](#).

### **Subpart 1014.2—Solicitation of Bids**

#### **1014.201-670 Solicitation provisions.**

(a) If an EHS professional has determined there are EHS concerns, the CO shall insert all necessary provision(s) related to EHS concerns as required by the EHS professional. See [subpart 1023.70](#).

### **Subpart 1014.4—Opening of Bids and Award of Contract**

#### **1014.404-1 Cancellation of invitations after opening.**

HCA's, without power of redelegation, are authorized to make the written determinations at paragraphs (c), (e) and (f) of [FAR 14.404-1](#).

#### **1014.407-3 Other mistakes disclosed before award.**

(e) HCA's, without power of redelegation, are authorized to make the written determinations at paragraphs (a), (b), (c) and (d) of [FAR 14.407-3](#).

## **PART 1015—CONTRACTING BY NEGOTIATION**

### **Subpart 1015.1—Source Selection Processes and Techniques**

#### **1015.101-2 Lowest price technically acceptable source selection process.**

Using lowest price technically acceptable (LPTA) as a source selection process, where appropriate, is just one method toward obtaining the best value to the Government. Other contracting decisions play a role as well and can support or detract from the expected gains from using LPTA (e.g., the anticipated level of competition and selection of the contract type).

(a) COs shall not use LPTA when acquiring noncommercial services or when standards of performance and quality are subjective or there is uncertainty on how to establish evaluation criteria to ensure proper evaluation of technical proposals under a LPTA schema. LPTA should only be used when the following criteria are met—

(1) The requirement is well defined in terms of clearly describing the minimum performance objectives, measures and/or standards required. An example is the Government has a requirement to purchase a commercial-off-the-shelf item such as copy paper;

(2) The risk of unsuccessful contract performance is minimal; and

(3) The government would realize little or no value from higher quality/performance. This can include consideration of there being little or no realization of obtaining additional innovation or future technological advantage by using a different source selection methodology.

(b)(1)(i) The evaluation criteria under this type of source selection process shall be specific to the requirements of each solicitation and shall clearly state what constitutes technical acceptability that offerors must meet to be determined acceptable under each evaluation technical factor. This is to ensure that proposed technical approaches can be evaluated with little or no subjectivity as to the desirability of one versus the other. LPTA evaluation criteria are typically more detailed than those under the tradeoff process method.

### **Subpart 1015.2—Solicitation and Receipt of Proposals and Information**

#### **1015.203 Requests for proposals.**

(b) See [1007.370](#) for information on the prohibition of the use of the funds appropriated or otherwise made available in the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)) or any other Act, unless otherwise stated therein.

#### **1015.204 Contract format.**

(e) The CO shall submit requests to exempt a contract from the use of the uniform contract format to the BCPO for review and approval.

#### **1015.205 Issuing solicitations.**

(c) Any solicitation or comparable action (such as Request for Quotations) that an EHS professional has deemed to involve EHS concerns or risks shall be reviewed and approved by the Bureau EHS professional prior to issuance (see [subpart 1023.70](#) for additional guidance).

(d) Solicitations requesting offers for a federal contract that will use funds made available by the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L.](#)



[113-235](#)) or any other Act, unless otherwise stated therein, shall be adhere to the requirements of [1003.70](#).

**1015.209 Solicitation provisions and contract clauses.**

(b)(4) See [1025.1001\(a\)\(2\)\(iii\)](#) for the approving authority to waive the examination of records clause.

**Subpart 1015.3—Source Selection**

**1015.300 Scope of subpart**

COs may use resources such as the Department of Defense acquisition materials available at <https://www.dau.edu/tools/t/ACQuipedia> as a means to gain ideas and a better understanding of the source selection process. Additional source selection resources are available at the [Acquisition Gateway](#).

**1015.303 Responsibilities.**

(a) BCPOs are responsible for source selection. BCPOs are authorized to appoint individuals other than the CO as the source selection authority (SSA) for a particular acquisition or group of acquisitions. These individuals are typically senior officials within the Bureau.

**1015.304 Evaluation factors and significant subfactors.**

(c)(3)(ii) The CO shall coordinate with the Bureau SBS in developing the factor described by [FAR 15.304\(c\)\(3\)\(ii\)](#).

(4) The CO shall coordinate with the Bureau SBS in developing the factor described by [FAR 15.304\(c\)\(4\)](#).

**1015.305 Proposal evaluation.**

(a)(2)(ii) For purposes of conducting a past performance evaluation during a source selection, COs shall search the Contractor Performance Assessment Reporting System (CPARS) to identify and if found, review contractor past performance information. For acquisitions meeting the criteria described in [1015.370-1](#) the CO shall also follow the steps prescribed therein.

(a)(4) Cost information may be provided to members of the technical evaluation team, as determined on a case-by-case basis by the CO. The contract file shall document the CO's rationale for making this determination.

(a)(6) Environmental, Health, and Safety (EHS) evaluation. If an EHS professional has determined during the acquisition planning stage or during the review of the requirement package that there are EHS concerns that must be addressed contractually, the source selection record shall include the EHS professional's evaluation of offerors' proposals (to include proposed subcontractors) in accordance with the acquisition plan, source selection plan, and requirements of the solicitation or Request for Quotations (see [subpart 1023.70](#) for additional details).

**1015.370 Making better use of performance information.**

This section implements the steps described in the OFPP memorandum dated July 14, 2014 entitled, [“Making Better Use of Contractor Performance Information”](#) for broadening the sources of performance information for COs to make better informed award decisions.

**1015.370-1 Steps.**

The FAR allows the Government to consider information from additional sources of information beyond [CPARS](#) including information found from conducting additional research and outreach, when evaluating a contractor’s performance history.

(a) The steps provided in paragraph (b) of this subsection (see Table 1015.370-1) are to be applied, at a minimum, to acquisitions (contracts or orders) for complex IT development, systems, or services exceeding \$500,000, and the following acquisitions (contracts or orders) that present a significant risk—

- (1) Cost reimbursement or time-and-material contracts and orders;
  - (2) Awards that are complex in nature, such as large construction, architect-engineer, research and development, software development and implementation acquisitions, etc.;
  - (3) Awards involving high dollar values or major acquisition systems, consistent with OMB Circular No. A-109, regardless of the contract type;
  - (4) Actions overseas and for contingency operations, regardless of the contract type;
- and
- (5) Other contracts or orders as deemed to be high risk by the Bureau.

(b) When an acquisition involves the use of these steps, the CO shall ensure it is appropriately discussed in the source selection plan and described in the solicitation (see [FAR 15.305\(a\)\(2\)](#)).

**TABLE 1015.370-1—ADDITIONAL RESEARCH AND OUTREACH STEPS**

<b>Step</b>	<b>Action</b>
1. Request information on recent Federal contracts.	Contact the CO, COR, or Program or Project Manager of the offeror's two largest, most recently awarded Federal contracts or orders so the history of an offeror's work can be reviewed. If this information is not readily available, request offerors to provide points of contact as part of their submission.
2. Search for recent news about the company's performance (as appropriate).	Review articles and other publications for timely and relevant news about the company's performance or business integrity. If warranted, search for pertinent company's performance information in Government Accountability Office reports available at <a href="http://www.gao.gov">www.gao.gov</a> , and cognizant IG authority reports. Also, if necessary, review the company's past suspension and debarment record concerning incidents with other agencies and Treasury that are germane to the acquisition.
3. Review reliable commercial sources of performance information (as appropriate).	In addition to <a href="#">CPARS</a> , use public and commercial databases, or related services, to gain a fuller understanding of an offeror's performance. Some of these companies provide business reviews, past performance reports, consumer evaluations, management reports, and other information that might be helpful in assessing an offeror's ability to perform the contract successfully.
4. Ask for a wide variety of references	Request offerors provide at least three to five references of recently completed contracts or orders (within the last three to five years) from Federal, State, local or foreign government, and by commercial firms, business partners, subcontractors, etc. of similar size, scope, and complexity.
5. Ask for information about sub-contractors and contractor team arrangements	Request that offerors provide past performance information on subcontractors and contractor team arrangements using the guidance above for sources of information.

**Subpart 1015.4—Contract Pricing**

**1015.403-1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).**

(c)(4) See [Treasury OPE SharePoint](#) for a sample FAR 15.403-1(c)(4) Waiver from submission of certified cost or pricing data.

**1015.404-2 Data to support proposal analysis.**

(c) Requests for audit services shall be initiated in accordance with [Treasury Directive 76-06, Request for Contract Audit Services](#).

#### **1015.407-4 Should-cost review.**

(b)(3) The CO should consider requesting participation, if applicable, of the contract administration office.

(b)(4) The program should-cost review team report, prepared for and submitted to the CO, shall include, at a minimum—

(i) 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;

(ii) Recommendations for improvement, including long- and short-term benefits, to be passed on to the contractor or the Government, including monitoring approach;

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

(iv) Attachments, including letters recommending changes, implementing plans, pre-negotiation objectives, and price negotiation memorandum; and

(v) Any other information required by Bureau procedures.

### **Subpart 1015.5—Preaward, Award, and Postaward Notifications, Protests, and Mistakes**

#### **1015.503 Notifications to unsuccessful offerors.**

A CO may consult guidance on the notifications to unsuccessful offerors available at [Treasury OPE SharePoint](#).

#### **1015.505 Preaward debriefing of offerors.**

(a)(1) For purposes of conducting a preaward debriefing, a CO should consult Treasury's guidance on the debriefing process available at <https://home.treasury.gov/about/offices/management/procurement-executive/procurement-policies-and-regulations>.

#### **1015.506 Postaward debriefing of offerors.**

(a)(1) For purposes of conducting a postaward debriefing, a CO should consult Treasury's guidance on the debriefing process available at [Treasury OPE SharePoint](#).

### **Subpart 1015.6—Unsolicited Proposals**

#### **1015.606 Agency procedures.**

(a) Bureaus shall establish procedures for the receipt, evaluation, and timely disposition of unsolicited proposals consistent with the requirements of [FAR 15.6](#).

(b) Bureaus shall establish Bureau points of contact to coordinate the receipt and handling of unsolicited proposals.

## **PART 1016—TYPES OF CONTRACTS**

### **Subpart 1016.2—Fixed-Price Contracts**

#### **1016.203-4 Contract clauses.**

(d)(2) The CO shall prepare any clause using adjustments based on cost indexes of labor or material and submit it to the BCPO for review and approval.

### **Subpart 1016.4—Incentive Contracts**

#### **1016.401 General.**

(d) The authority prescribed in [FAR 16.401\(d\)](#) cannot be delegated below the HCA. Bureaus shall establish a mechanism to track any such awards.

#### **1016.470 Award term incentives.**

The use of this type of incentive contract is not suitable for every acquisition, but for certain acquisitions where both the Government and contractor benefit from the use of this type of incentive and the incentive successfully motivates the contractor to exceed Government's expectations throughout the performance of the contract. Refer to [Treasury OPE SharePoint](#) for Treasury's Award Term Incentive Guide and a sample award term plan for additional guidance and resources to support the use of this type of incentive.

#### **1016.470-1 Definitions.**

As used in this section-

“Award term contract” is a non-monetary type of incentive contract that enables a contractor to become eligible for one or more award terms under a contract by achieving prescribed performance objectives and measures (e.g., acceptable quality levels (AQL)) which demonstrate contractor performance as having exceeded Government expectations during an established evaluation period.

“Award term” is an additional period of performance defined in the contract that is available for possible award to a contractor based on the achievement of prescribed performance objectives and measures which demonstrated the contractor's performance as having exceeded Government expectations during an established evaluation period.

#### **1016.470-2 General.**

(a) Applicability. A CO may use an award term contract for performance-based acquisitions where—

(1) The quality and level of contractor performance is of high importance to the Government (i.e., specific mission needs or defined program risks such as cost, schedule and technical);

(2) There is a direct benefit to the Government from contractor performance that exceeds Government expectations throughout contract performance (see [FAR 16.4](#)). The benefit to the Government must offset the administrative costs associated with monitoring and assessing contractor performance, as well as performing other tasks associated with using this type of incentive;

(3) The Government can establish clearly defined performance objectives and measures for evaluating contractor performance that are used to support the Government's determination to award or not to award or cancel an award term; and

(4) The Government expects a continuing and reoccurring need for the services over a long period of time.

(b) Limitations.

(1) Award term contracts are only to be used for acquisitions of services that use performance-based acquisition methods (see [FAR 37.6](#));

(2) An award term may not exceed twelve months;

(3) Eligibility to be awarded an award term is contingent on—

(i) Contractor performance exceeding the Government's expectations as defined in the award term plan. Meeting the terms of the contract (e.g., acceptable or satisfactory performance) is not a sufficient justification for award of an award term;

(ii) The Government having a continued need for the service;

(iii) Funds being available;

(iv) The contractor being not listed in the System for Award Management (SAM) Exclusions (see [FAR 9.405-1](#)); and

(v) The award term being separately priced in the contract and was prior to award of the contract evaluated and considered by the Government during the source selection process.

(4) Award terms cannot be rolled over (i.e., the Government cannot provide an opportunity to make up award terms that were available to be awarded but were not).

(c) Award term plans shall include at a minimum—

(1) Defined performance objectives and measures that provide the Government sufficient detail to evaluate contractor performance during an evaluation period in order to support the award term determination (see 1016.470-3(b)(2)(ii)).

(i) If the contract contains a quality assurance surveillance plan (QASP) (see [FAR 37.604](#)) that includes some of the same types of performance objectives and measures used in the award term plan, the award term plan must clearly explain the different purpose for which the objectives and measures are being used in this plan.

(ii) Performance objectives and measures may differ between evaluation periods to support differences between requirements or services to be performed by the contractor during contract performance (e.g., there are different requirements between transition period and base period).

(2) The frequency and process for how the Government will monitor and assess contractor performance against the defined performance objectives and measures that, together with the limitations set forth in paragraph (b)(3) of this subsection, will be used to determine whether an award term has been earned during the prescribed evaluation period.

(3) Details surrounding the evaluation periods, evaluation schedules (e.g., 30 days after the end of the evaluation period), the total number of award terms available, and length of each of award term stated in months;

(4) A clear description of roles and responsibilities of the Government (e.g., who will be the award term determination official) and the contractor, if any. Divisions of responsibilities must mitigate the potential for conflicts of interest wherein the same Government official performs multiple roles; and

(5) May include the opportunity for the contractor to provide the Government a self-assessment of its performance against the defined performance objectives and measures during a prescribed evaluation period.

**1016.470-3 Use of award terms.**

(a) General. Award terms may be used in conjunction with options (see [FAR 17.2](#)) and can be structured to allow award terms to be earned during the base period of performance and each option period.

(b) Pre-award.

(1) Prior to use of this type of incentive the acquisition team shall—

(i) Conduct market research to—

(A) Demonstrate that the use of this type of incentive is suitable for the acquisition;

(B) Identify performance objectives and measures that are relevant, pertinent and meaningful in successfully motivating a contractor to exceed the Government's expectations throughout the period of performance of the contract; and

(C) Determine if there is a reasonable expectation that meaningful competition, pricing or performance will be obtained.

(ii) Ensure that the use of such an incentive directly supports mission needs or defined program risks (e.g., cost, schedule, and technical).

(2) If the determination is to use this type of incentive, then the CO shall—

(i) Document the rationale for use of this type of incentive within the acquisition plan (see [FAR 7.105\(b\)\(3\)](#)).

(ii) Develop in coordination with the requiring activity performance objectives and measures that—

(A) Are clearly meaningful, measurable, outcome based and linked to mission needs or defined program risks (e.g., cost, schedule, and technical);

(B) Are relevant, pertinent and meaningful in successfully motivating a contractor to exceed the Government's expectations throughout the period of performance of the contract;

(C) Provide a clear distinction between the various levels of performance (e.g., unacceptable, acceptable, very good, and exceptional performance) that the Government will assess the contractor during an evaluation period; and

(D) Demonstrate contractor performance that is above and beyond simply meeting contract requirements (e.g., acceptable and satisfactory) thereby support a contractor's eligibility for award of an award term.

(iii) Structure award terms with consideration to the overall anticipated period of performance of the contract in a manner that provides adequate time for—

(A) Evaluating contractor performance (i.e., evaluation period);

(B) The Government to have sufficient information upon which to adequately evaluate contractor performance according to the terms of the award term plan;

(C) The Government to be able to make a determination based on its evaluation according to the terms of the award term plan in advance of the next period of performance; and

(D) As necessary, revise the award term plan.

(iv) Develop an award term plan (see 1016.470-2(c) and 1016.470-5).



(3) In addition to conducting market research, a CO may allow offerors to propose or comment on the performance objectives and measures that the Government is proposing to use for the award term incentive as part of the solicitation process.

(c) Post-award.

(1) The award of an award term is affected by a unilateral contract modification issued by the CO.

(2) Award terms may be unilaterally cancelled or not awarded by the Government prior to the start of an award term at no cost to the Government. The CO shall notify the contractor of the Government's determination and include within the notification the reasons why the award term is being canceled or not awarded. See 1016.470-2(b)(3) for reasons why the Government may cancel or not award an award term. The Government's decision to cancel or not award an award term may impact the contractor's ability to earn any remaining award terms based on the terms of the contract as well as the Government's ability to exercise options, if included in the contract (see paragraph (c)(4) of this subsection).

(3) The contractor has the unilateral right to decline the Government's determination to award an award term. The contractor shall notify the CO of its decision to decline an award term within five days of receipt of the Government's notification that the contractor is eligible to receive an award term. The contractor's decision to decline an award term may impact its ability to earn any remaining award terms based on the terms of the contract.

(4) If award terms were used with options and either of the events described in paragraphs (c)(2) and (c)(3) of this subsection occur, a CO shall consider the Government's next steps and the impact, if any, such events have on the Government's ability to exercise any remaining options (see [FAR 17.2](#)) and the various periods of performances described in the contract. For example, the CO may need to modify the contract in order adjust both the contract period performance and period of performance for each remaining award term and option in order to reflect an award term not being exercised. Alternatively, the CO may determine the Government no longer has a need for the requirement therefore the contract can be allowed to expire.

**1016.470-4 Postaward responsibilities of the contracting officer.**

After a contract containing an award term incentive is awarded, the CO shall—

(a) Conduct a postaward orientation (see [FAR 42.5](#) and [subpart 1042.5](#)) to ensure mutual understanding of the incentive. This also includes briefing the award term determination official (ATDO), any other rating officials as well as the contractor of their responsibilities as prescribed by the award term plan;

(b) Administer the contract and ensure compliance with the terms of award term plan (see 1016.470-3(c)). This includes ensuring that documentation provided by the ATDO, and any other rating officials contain sufficient information to demonstrate whether the ratings and award term determination is warranted and in accordance with the terms of the award term plan;

(c) Maintain documentation related to the determinations made and other actions taken by the Government and pertinent correspondence regarding this incentive;

(d) Take steps to communicate early and often with the contractor throughout contract performance to avoid potential negative impacts to the Government resulting from poor or declining performance by the contractor, or a contractor's decision to decline an award term (see 1016.470-3(c)(3)) where the Government still has a need for the services; and

(e) If applicable, revise the award term plan in advance of the next evaluation period to address changes in the Government's requirement or performance objective and measures.

(1) Revisions to an award term plan shall not apply to an evaluation period if the revision was executed within thirty (30) days of its start date. In such instance, the revised award term plan shall not take effect until the next evaluation period.

(2) Revisions to an award term plan are not intended to make it easier for a contractor to earn award terms (e.g., making satisfactory performance equate to exceptional performance), but to reflect actual Government changes.

(3) Revisions to an award term plan shall clearly state on the cover page the effective date of the revision, the revision number and general summary of the change.

(4) The CO shall document the file explaining the rationale for the Government's need to revise the award term plan.

#### **1016.470-5 Contract language.**

(a) Insert language similar to what is provided in paragraph (b) of this subsection, formatted and revised according to its placement, in all solicitations and resulting contracts where an award term incentive is being used. This language can be placed within the award term plan or elsewhere within the contract.

(b) Language.

##### **Award term incentive.**

(a) Definition. As used in this contract;

“Award term” is an additional period of performance defined in the contract that is available for possible award to a contractor based on the achievement of prescribed performance objectives and measures which demonstrated the contractor's performance as having exceeded Government expectations during an established evaluation period.

(b) General. This contract includes a non-monetary incentive in the form of an award term. This type of incentive enables the Government to extend the performance of the contract by exercising via a unilateral modification to the contract an award term. The Schedule provides the total number of award terms available, the length of each award term and a description of the services to be performed under the award term.

(c) Award term plan. The contract incorporates an award term plan, which establishes how the Government will monitor and assess the Contractor's performance during the performance of the contract and, together with paragraph (d) below, serves as the basis for the Government's award term determinations. The award term plan may be revised only by a bilateral modification to the contract.

(d) Performance. Contractor performance will be monitored and assessed by the Government based on the defined performance objectives and measures that are described in the award term plan. These performance objectives and measures provide sufficient detail to demonstrate the performance to be achieved by the Contractor to become eligible for award term. To be eligible for an award term—

(1) The Contractor's performance must demonstrate performance that is above and beyond Government expectations in terms of what is considered acceptable/satisfactory performance under the contract;

(2) The Contractor must not be listed in the System for Award Management (SAM) Exclusions;

(3) The Government must have funds available;

- (4) The Government must have a need for the service; and
- (5) The award term is separately priced in the contract and was prior to award of the contract evaluated and considered by the Government during the source selection process.

(e) Government Rights.

(1) The Government has the unilateral right not to award or to cancel an award term prior to its commencement when—

(i) The Contractor has failed to achieve the performance objectives and measures for the corresponding evaluation period;

(ii) The Government does not have funds available for the award term;

(iii) The Government no longer has a need for the service;

(iv) The Contractor is listed in the SAM Exclusions; or

(v) The Government discovers the award term was not prior to award of the contract evaluated and considered by the Government during the source selection process.

(2) The Contracting Officer will notify the Contractor of the Government's determination not to award or cancel an award term. This notification shall be provided to the Contractor prior to the commencement of the award term and include the reason as well as whether or not any remaining award term for which the Contractor remains otherwise eligible are affected.

(i) If an award term is canceled based on paragraph (e)(1)(iii) above then any remaining award terms are also canceled.

(3) The Government's determination not to award or to cancel an award term for any of the reasons set forth in paragraph (e)(1) above shall not be considered either a termination for convenience or termination for default and shall not entitle the Contractor to any termination settlement or any other compensation.

(f) Contractor rights.

(1) The Contractor has the unilateral right to decline prior to the commencement of the award term the Government's decision to award an award term. The Contractor shall notify the Contracting Officer of its determination to decline an award term within five (5) days after receipt of the Government's notification. The Contractor's decision to decline an award term may impact its ability to earn any remaining award terms based on the terms of the contract.

(2) The Contractor may request a review of an award term determination which has resulted in the Contractor being ineligible for the award term due to failing to achieve the performance objectives and measures for the corresponding evaluation period. The request shall be submitted in writing to the Contracting Officer within five (5) days after receipt of the Government's notification.

(g) Funds. Funds are not presently available for any award term. The Government's obligation under any award term is contingent upon the availability of funds from which payment can be made. No legal liability on the part of the Government for any award term payment may arise until funds are made available to the Contracting Officer for an award term and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

## Subpart 1016.5—Indefinite-Delivery Contracts

### 1016.500 Scope of subpart.

(a) See [Treasury OPE SharePoint](#) for a sample order log.

### 1016.503 Requirements contracts.

(d) The SPE is authorized to designate another official as prescribed by [FAR 16.501-2\(d\)](#).

### 1016.504 Indefinite-quantity contracts.

(c)(1)(ii)(D)(1) Determinations for a task or delivery order contracts in amounts estimated to exceed \$100 million (including all options) as required by [FAR 16.504\(c\)\(1\)\(ii\)\(D\)\(1\)](#) shall be submitted to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#).

(2) The notification to Congress required by [FAR 16.504\(c\)\(1\)\(ii\)\(D\)\(2\)](#) shall be made by the SPE.

(c)(2)(i)(A) & (B) and (ii) The SPE is authorized to designate another official as prescribed by [FAR 16.504\(c\)\(2\)\(i\) and \(ii\)](#).

### 1016.505 Ordering.

(a)(4)(iii)(C) The Bureau and CO shall follow the requirements and procedures described in [1005.202\(a\)\(1\)](#) when the conditions prescribed by [FAR 16.505\(a\)\(4\)\(iii\)\(C\)](#) apply.

(b)(2)(ii)(B) [Treasury SF 1014](#), Justification for an Exception to Fair Opportunity, shall be used for the preparation of the justification as prescribed by [FAR 16.505\(b\)\(2\)](#).

(b)(2)(ii)(D)(2)(ii) [OPE's public webpage](#) provides a link to the GPE for accessing these justifications.

(b)(6)(ii) For purposes of conducting a postaward debriefing (or providing a brief explanation of the basis for the award under FAR section 8.404), a CO should consult Treasury's guidance on the debriefing process available at [Treasury OPE SharePoint](#).

(b)(8) See [DTAR 1016.505\(b\)\(8\) Ordering](#) for Treasury's requirements regarding additional Task-order and delivery-order ombudsman. A list of the individuals serving as Task-order and delivery-order ombudsman is available on [OPE's public webpage](#).

(i) The Bureau task-order and delivery-order ombudsman must—

(A) Be a senior official;

(B) Be independent of the CO; and

(C) Not assume any duties and responsibilities pertaining to the evaluation or selection of an awardee for the issuance of an order under a task or delivery order contract.

(ii) Bureau task-order and delivery-order ombudsman shall—

(A) Collect all facts from the cognizant organizations or individuals that are relevant to a complaint submitted to ensure the contractor submitting the complaint is afforded a fair opportunity to be considered, consistent with the procedures set forth in the contract;

(B) Maintain a log to track each complaint submitted from receipt through disposition;

(C) Ensure that no information is released which is determined to be proprietary or is designated as source selection information (the complainant's own proprietary information may be discussed with the complainant); and

(D) Seek the assistance of the agency task-order and delivery-order ombudsman as needed to address any complaint received.

(iii) If, upon review of all relevant information, the Bureau task-order and delivery-order ombudsman determines that corrective action should be taken they shall report the determination to the cognizant CO.

(iv) If a complaint cannot be so resolved at the Bureau level it shall be referred to the Treasury task-order and delivery-order ombudsman.

(c)(2)(ii) & (3) The SPE is authorized to designate another official as prescribed by [FAR 16.505\(c\)\(2\)\(ii\) and \(c\)\(3\)](#)

## **Subpart 1016.6—Time-and-Materials, Labor-Hour, and Letter Contracts**

### **1016.601 Time-and-materials contracts.**

(d)(1) [Treasury SF 1023](#), Determination & Findings for a Time-and-Material/Labor-hour contract under FAR 16.6 - Non-Commercial items, shall be used to complete the D&F prescribed by [FAR 16.601\(d\)](#).

(i) The D&F shall be approved by the BCPO when the acquisition is estimated to exceed \$1 million. Excluded from this requirement are emergency acquisitions (see [FAR 18](#) and [part 1018](#)).

### **1016.602 Labor-hour contracts.**

The application and limitation for time-and-materials contracts prescribed by 1016.601 also applies to labor-hour contracts.

### **1016.603-2 Application.**

(c) The CO shall submit requests to extend the definitization schedule of a letter contract to the BCPO for review and approval.

### **1016.603-3 Limitations.**

The designee shall be no lower than the BCPO.

## **Subpart 1016.7—Agreements**

### **1016.701 Scope.**

(b) See [1013.303](#) for BPAs and see [Treasury OPE SharePoint](#) for a sample order/call log.

### **1016.702 Basic agreements.**

(b)(1)(ii) The contracting officer shall insert the applicable clause(s) as prescribed by 1012.301-70, 1032.706-370 and 1032.706-70 based on the type of supplies and services being procured (i.e., commercial items or non-commercial).

### **1016.703 Basic ordering agreements.**

(c)(1)(v) The contracting officer shall insert the applicable clause(s) as prescribed by 1012.301-70, 1032.706-370 and 1032.706-70 based on the type of supplies and services being procured (i.e., commercial items or non-commercial).

## PART 1017—SPECIAL CONTRACTING METHODS

### Subpart 1017.1—Multi-Year Contracting

#### Subpart 1017.104—General.

(b) The HCA is delegated authority to modify requirements of a multi-year contract and [FAR clause 52.217-2, Cancellation Under Multi-year Contracts](#).

#### 1017.108 Congressional notification.

(a) and (b) The SPE is delegated authority to provide all Congressional notifications of proposed contracts and proposed cancellation ceilings for those contracts. Bureaus shall prepare the written notification of the proposed contract and proposed cancellation ceiling and forward through the HCA to the SPE in accordance with [1001.7000\(c\)](#).

### Subpart 1017.2—Options

#### 1017.202 Use of options.

(a) COs shall not use unpriced options. COs may consult Treasury's guidance available at [Treasury OPE SharePoint](#)

(b)(2) The reason is that indefinite quantity or requirements contracts typically provide for an ordering period that reflects the contract period of performance in lieu of options (see [FAR 16.5](#)).

(b)(3) An agreement would be more appropriate than a contract. This does not preclude the CO from including options within an agreement (see [FAR 8.405-3\(d\)](#)). However, such inclusion must sufficiently demonstrate that the use of such options outweighs the administrative costs of including such options (e.g., agreements already include an annual review requirement).

#### 1017.203 Solicitations.

(b) See [Treasury OPE SharePoint](#) for sample language for purposes of evaluating the option period under FAR clause [52.217-8](#) when FAR provision [52.212-2](#) or [52.217-5](#) is included.

#### 1017.204 Contracts.

(e) Prior to issuance of the solicitation, the BCPO shall obtain SPE approval in accordance with [1001.7000\(a\)\(2\)](#) of any contract vehicle contemplating a performance period in excess of five years (i.e., base period and any options or award terms), to include contract vehicles for IT. SPE approval is not required for awards issued under [FAR 41](#) or when the performance of period extends beyond five years based on the inclusion of [FAR 52.217-8](#) or [FAR 52.237-3](#). SPE approval shall be obtained by the submission of a written memorandum from the BCPO that includes at a minimum—

- (1) Description of the requirement;
- (2) An explanation of how the longer performance period will result in obtaining the best value for Treasury over a lesser contract term with consideration to both past and projected levels of competition;
- (3) Discussion of any potential impact to socio-economic goals and current and future market conditions that support this longer performance period; and

(4) A description of the controls that will be used during contract performance to ensure that the program/project needs are met.

The submission shall also include a copy of the fully executed acquisition plan. The SPE will approve the use of a performance period in excess of five years, if the submission demonstrates that it represents the best means of satisfying the requirement. In this context, “contract vehicle” and “contract” are synonymous and include contracts, orders of all types, BPAs and all other contract vehicles used by Treasury to purchase goods and services.

#### **1017.205 Documentation.**

(a) [Treasury SF 1008](#), Determination of inclusion and evaluation of options, shall be used to document the CO’s determination to include options as prescribed by [FAR 17.2](#).

#### **1017.207 Exercise of options.**

(a) For existing contract vehicles with a performance period in excess of five years the BCPO shall obtain SPE approval according to [1001.7000\(a\)\(2\)](#) and as prescribed by paragraphs (a)(1) thru (a)(4) of this section. SPE approval is not required for the exercise of options under awards issued under [FAR 41](#) or options exercised under [FAR 52.217-8](#) or [FAR 52.237-3](#), nor is the period of any potential extensions under these FAR clauses to be considered in determining the performance period of the contract. Bureaus can seek an individual deviation to the requirement for SPE approval in accordance with [1001.403](#).

(1) For contracts issued prior to October 1, 2018, SPE approval shall be obtained prior to the exercise of the next option or award of the award term.

(2) For contracts issued on or after October 1, 2018, SPE approval shall be obtained twelve (12) months prior to the fifth year of the contract (e.g., exercise of the fourth twelve-month option).

(3) SPE approval shall be obtained by the submission of a written memorandum from the BCPO that includes at a minimum: a description of the requirement; the original rationale for establishing a contract in excess of five years; and the rationale for exercising the option or award of the award term. The submission shall also include the fully executed determination required by [FAR 17.207](#) or determination to award the award term, and a copy of the acquisition plan. The SPE will approve the exercise of the option or award of the award term if the submission demonstrates that it represents the best means of satisfying the requirement. In this context, “contract vehicle” and “contract” are synonymous and include contracts, orders of all types, BPAs and all other contract vehicles used by Treasury to purchase goods and services.

(4) COs shall provide sufficient time well in advance of exercising the option or award of the award term in order to allow for processing of these requests as well as have a plan in place if SPE approval is not obtained. If insufficient time is available, the submission shall include the reason(s) and/or circumstance(s) for the lack of time.

(f) [Treasury SF 1026](#), Determination to exercise an option, shall be used to make the written determination prescribed by [FAR 17.207\(f\)](#).

### **Subpart 1017.4—Leader Company Contracting**

#### **1017.402 Limitations.**

(a)(4) The CO shall submit a D&F to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).



## Subpart 1017.5—Interagency Acquisitions

### 1017.501-70 Procurement Support Services.

(a) Definitions.

"Procurement support services" includes all contracting-related efforts necessary for solicitation, negotiation, award, and administration of contract actions for supplies, equipment, and services required by Treasury organizations. These services are also referred to as "assisted acquisition."

(b) Procurement Support Services. Bureaus shall obtain all procurement support services from the contracting activity designated in [1001.601](#) unless otherwise exempted within this subpart or approved by the SPE as prescribed by paragraph (d) of this subsection. Exemptions may be provided on an individual or class basis.

(1) As of October 1, 2011, Bureaus receiving procurement support from a source other than the contracting activity designated in [1001.601](#) (to include contracting organizations external to Treasury) may continue to receive the services, without further approval, until expiration of the Intra- or Interagency Agreement securing the assisted acquisition current at that time. All Treasury-funded contract actions executed under applicable Intra- or Interagency Agreements may continue through expiration of full performance periods, including options, subject to contract terms and current agreements. New non-exempt agreements will be subject to approval requirements at [1017.502](#).

(2) Any Treasury-funded contract action executed and/or administered by a contracting activity other than the contracting activity designated in [1001.601](#), as of October 1, 2011, may continue through expiration of full performance periods, including options, subject to contract terms. Any follow-on non-exempt contract action shall be covered by a current Intra- or Inter- Agency Agreement and will be subject to the approval requirements at [1017.502](#).

(c) Exemptions. Treasury approval requirements specified in [1017.502](#) apply only to direct requests for procurement support services and do not apply to—

(1) Contract actions utilizing another agency's authority or responsibility (e.g., GSA support of public buildings, property and works; DOT Nationwide Transit Benefit Program);

(2) Contract actions executed as part of support provided to Treasury by another agency (e.g., contracting of nursing services by Department of Health and Human Services (HHS) executed to fulfill HHS commitment to provide medical-related support services to a Bureau);

(3) Orders of any magnitude issued by the contracting activity designated in [1001.601](#) against Federal Supply Schedules, Government-wide acquisition contracts, multi-agency contracts, and Treasury-wide contracts;

(4) Orders issued by the contracting activity designated in [1001.601](#) against contract vehicles mandated by [1008.002](#); and

(5) Other actions approved by the SPE for exemption on an individual or class basis.

(d) Bureaus seeking to obtain procurement support services from an entity other than the contracting activity designated in [1001.601](#) shall—

(1) Put the request in writing;

(i) The request shall include at a minimum—

(A) The name of the contracting activity designated in [1001.601](#) who



currently provides procurement support services;

(B) The name of the proposed contracting activity;

(C) Description of the requirement;

(D) The rationale as to why the use of the proposed contracting activity is more advantageous than the designated contracting activity; and

(E) A copy of the acquisition plan and market research;

(2) Obtain concurrence from the BCPO of the contracting activity designated in [1001.601](#) that currently provides procurement support services;

(3) If the request for exemption is approved by the BCPO of the contracting activity designated in [1001.601](#), the CO shall submit the request to the SPE in accordance with [1001.7000\(a\)\(2\)](#); and

(4) Place a copy of any SPE approved request for exemption in the contract file.

#### **1017.502-1 General.**

(a)(1) Assisted acquisitions. Bureaus shall obtain SPE approval (see [1001.7000\(a\)\(2\)](#)) prior to requesting that an agency external to Treasury (e.g., Department of the Interior) provide non-exempted procurement support services on the Bureau's behalf.

#### **1017.502-2 The Economy Act.**

(c)(2) The SPE shall approve (see [1001.7000\(a\)\(2\)](#)) D&Fs for assisted acquisition where the servicing agency is not subject to the FAR (e.g., U.S. Mint). See also [1017.502-1\(a\)\(1\)](#).

#### **1017.503 Ordering procedures.**

(a) The Department of the Treasury Interagency Agreement Guide standardizes Treasury-wide policies and procedures related to the preparation, processing, coordination, execution, administration, and close-out of Interagency Agreements. The guide applies to all Treasury personnel and is available at: <http://www.treasury.gov/about/organizational-structure/offices/Mgt/Pages/ProcurementPolicy-Regulations.aspx>

### **Subpart 1017.70—Bridge Contracts**

#### **1017.7000 Scope of subpart.**

This subpart prescribes policies and procedures concerning the use of bridge contracts in response to [GAO-16-15](#) report entitled, “Sole Source Contracting: Defining and Tracking Bridge Contracts Would Help Agencies Manage Their Use” dated October 2015.

#### **1017.7001 Purpose.**

The purpose of this subpart is to ensure Bureau contracting activities maximize competition by establishing policies and procedures that provide visibility into and thereby drive the appropriate use of this type of non-competitive action. Bureau contracting activities and the OPE will be able to use the information and data obtained to manage usage and identify and monitor the risks related to this type of non-competitive contract. This information and data may aid in identifying broader weaknesses within a Bureau or across Treasury acquisitions, such as delays in acquisition planning, workforce challenges, or failure to take advantage of more efficient or advantageous acquisition strategies (e.g., using open market sources when pre-existing vehicles are available).

#### **1017.7002 Definition.**

“Bridge contract,” as used in this subpart, means an extension to an existing contract beyond the period of performance (following exercise of all options meeting the requirements of [FAR 17.207](#)), or a new, short-term contract awarded on a sole-source basis to an incumbent contractor to bridge the time until award of a new contract.

#### **1017.7003 Policy.**

(a) Federal internal control standards state that agencies should identify, analyze, and monitor risks associated with achieving objectives and that information needs to be recorded and communicated to management to achieve agency objectives. One common procurement objective at agencies is to maximize competition. Extensive or inappropriate use of bridge contracts is inconsistent with that objective. However, without a definition for this type of non-competitive action and strategies for tracking and managing usage, the Government is not able to fully identify and monitor the risks related to bridge contracts, and therefore may be missing opportunities to increase competition. The FAR currently does not define or require tracking of bridge contracts nor are bridge contracts currently identified in FPDS or any other federal database.

(b) The aforementioned GAO report found that use of bridge contracts may be associated with negative effects, such as higher contract prices due to a lack of competition and the inefficient use of staff and resources. The report also found that agencies which had taken steps to proactively address the use of bridge contracts through internal policy and monitoring saw a decrease in the use of bridge contracts. See additional GAO information at: [General government: Bridge Contracts \(2016-18\) | U.S. GAO](#).

#### **1017.7004 Applicability.**

This subpart applies to contract actions, including task-orders, delivery-orders, and calls, with a total estimated value exceeding the SAT.

#### **1017.7005 Procedures.**

(a) Each justification to support the use of a bridge contract shall contain sufficient facts and rationale to justify the need for a bridge contract (e.g., SFs 1012, 1013 and 1014).

(b) Absent unusual circumstances, which must be documented within the justification, a bridge contract shall not exceed twelve months.

(1) Justifications supporting bridge contracts exceeding twelve months shall be approved by the next level above the approving authority prescribed in the FAR (e.g., a proposed bridge contract exceeding twelve (12) months and not exceeding \$750,000 issued under the authority of [FAR 6.3](#) must be approved by the approving official prescribed in [FAR 6.304\(a\)\(2\)](#)).

(c) For purpose of FPDS reporting, the “Description of Requirement” FPDS field shall include the term “Bridge contract.”

(d) Bureaus that have a tracking procedure for justifications shall revise their procedures to use the letter “B” for bridge contract.

### **Subpart 1017.71—Treasury’s Category Management Program**

#### **1017.7100 Scope of subpart.**

(a) This subpart describes Treasury’s implementation of category management.

(b) The following are some of the important documents concerning category management.

(1) [The Presidents Management Agenda](#) (PMA) issued in 2018. See [Presidents Management Agenda](#) for more information.

(2) OFPP memorandum dated December 4, 2015 entitled, “[Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings](#)” and

(3) OMB memorandum [M-17-22](#) entitled, “Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce.”

(4) OMB [M-19-13](#) entitled, “Category Management: Making Smarter Use of Common Contract Solutions and Practices.”

(5) [M-22-03](#) entitled, Advancing Equity in Federal Procurement,” revised and updated M-19-13.

(c) Additional memorandum issued by OMB concerning category management is available at <https://www.whitehouse.gov/omb/information-for-agencies>.

### **1017.7101 Policy.**

(a) The Government’s adoption of category management principles requires agencies to take steps to improve the acquisition and management of the supplies and services it acquires. Category management includes a broad set of strategies to drive performance and higher quality, such as developing common standards in practices and contracts, driving greater transparency in acquisition performance, improving data analysis.

(b) It is Treasury’s policy to prioritize equity while leveraging buying power, reducing acquisition administrative costs, making the acquisition process more efficient, lowering barriers to entry for underserved communities, and developing long-term, mutually beneficial partnerships with providers of supplies and services from a diverse array of socio-economic designations while meeting its mission requirements.

(c) OMB [M-19-13](#), as revised by [M-22-03](#), requires agencies to submit a category management agency plan that must address:

(1) Plans to increase opportunities for small business and other statutory socio-economic businesses recognized by the Small Business Act;

(2) Effective vendor management strategies to improve communications with contractors, especially those that support mission-critical functions;

(3) Demand management strategies to eliminate inefficient purchasing and consumption behaviors;

(4) Sharing of data across the Federal Government to differentiate quality and value of products and services in making buying decisions;

(5) Training and development of the workforce in category management principles and practices; and

(6) Effective October 1, 2021, OMB [M-22-03](#) revised [M-19-13](#) to provide agencies with (Tier 2) credit towards category management goals for all awards made to certified and self-certified socioeconomic small businesses. For purposes of this category management guidance, “socioeconomic small business” refers to 8(a) and other small disadvantaged businesses, women-owned small businesses, service-disabled veteran-owned small businesses, and small businesses in historically underutilized business zones. This credit will be tracked under a new Tier 2-socioeconomic small business (SB) designation.

(d) Refer to the [Acquisition Gateway](#) and the [Treasury OPE SharePoint site, Category Management](#) page for additional information on category management.

**1017.7102 Senior Accountable Official responsibility.**

The President's Management Council (PMC) directed agencies to designate senior accountable officials (SAOs) to be responsible for optimizing use of the category management spend under management framework, consistent with small business and other statutory socio-economic responsibilities and the specific goal of increasing the participation of underserved communities. The Assistant Secretary for Management (ASM) has been designated the SAO responsible for this action. The ASM has delegated SAO responsibilities to the SPE.

**1017.7103 Office of the Procurement Executive (OPE) responsibilities.** To support the Governmentwide category management program and ensuring achievement of category management goals the OPE is responsible for—

(a) Supporting the SAO in optimal utilization of the category management spend under management framework, consistent with small business and other statutory socioeconomic responsibilities and the specific goal of increasing the participation of underserved communities;

(b) Coordinating with the OMB, the relevant Governmentwide category management representatives (CMX), and other interested parties on category management issues;

(c) Evaluating agency acquisition policy to ensure alignment with the category management requirements;

(d) Coordinating with stakeholders in the implementation of demand management strategies that help identify and eliminate inefficient purchasing, management, and consumption behaviors and adopt standardize business practices where they make sense;

(e) Coordinating with Bureaus on developing vendor management strategies to improve communication with vendors, especially those that support mission critical functions, and/or have multiple relationships for similar requirements across the enterprise; and

(f) Sharing information with the CMX and other federal agencies, including:

(1) Transactional data, including prices offered, prices paid and other non- price information such as terms and conditions, past performance and other factors for contracts and purchase card transactions.

(2) Best practices, including, but not limited to, model statements of work, advice for avoiding or mitigating common government and industry cost drivers, tips for removing barriers and burdens when acquiring commercial items, such as through the identification of customary commercial practices, and source selection strategies.

**1017.7104 Bureau responsibilities.**

(a) To support the successful execution of category management across Treasury, HCAs in conjunction with BCPOs are responsible for—

(1) Annually establishing plans to:

(i) Optimize utilization of the category management spend under management framework, consistent with small business and other statutory socio-economic responsibilities and the specific goal of increasing the participation of underserved communities;

(ii) Reduce duplicative contracts (i.e., reduction of the number of unique Procurement Instrument Identifiers) with the same vendor through more efficient or innovative acquisition tactics or strategies;

(2) Sharing transactional data and responding to data calls to support analysis and decision-making;

(3) Developing effective vendor management strategies to improve communications with contractors, especially those that support mission-critical functions;

(4) Implementing demand management strategies to eliminate inefficient purchasing and consumption behaviors; and

(5) Ensuring the Bureau's acquisition workforce is trained in and understand category management principles and practices. This includes, but is not limited to ensuring acquisition personnel understand—

(i) The Governmentwide Category Management framework (i.e., Civilian and Department of Defense spend categories and subcategories);

(ii) Treasury's Category Management Program;

(ii) Treasury's Mandatory Source policy;

(iv) The importance of registering and using the [Acquisition Gateway](#) tools and resources as a primary method of market research (i.e., finding existing contracts to meet programmatic requirements);

(vi) The importance of proper selection of PSC and NAICS codes (see [1004.606-71](#));

(vii) The importance of accurate FPDS contract data reporting (see [FAR 4.6](#) and [DTAP subpart 1004.6](#)); and

(vii) Spend under management (SUM) tiered maturity model.

(b) BCPOs shall designate individual(s) within their organization to be their Bureau Category Management Representative, who will serve as:

(1) OPE's point of contact for category management issues, submission of the bureau's category management plan, and tracking and updating Bureau progress against annual Bureau category management goals; and

(2) Bureau reviewing and approving official for SF 1010 submissions required when the estimated total contract value, including all options, options, is \$10M or greater, and a tier 2 or tier 0 award (i.e.: non-socioeconomic SB or OTSB) is contemplated.

(c) For Bureaus where procurement support services are being performed by another Bureau (see [1001.601](#)), the BCPO shall collaborate and work jointly with the respective Bureau on the actions listed in paragraph (a) of this section.

(ii) Treasury's Category Management Program;

(iii) Treasury's Mandatory Source policy;

(iv) The importance of registering and using the [Acquisition Gateway](#) tools and resources as a primary method of market research (i.e., finding existing contracts to meet programmatic requirements);

(v) The importance of proper selection of PSC and NAICS codes (see [1004.606-71](#));

(vi) The importance of accurate FPDS contract data reporting (see [FAR 4.6](#) and [subpart 1004.6](#)); and

(vii) Spend Under Management (SUM) Tiered Maturity Model.

(b) BCPOs shall designate individual(s) within their organization to be their Bureau Category Management Representative. The Bureau Category Management Representative(s) will be the OPE's Bureau point of contact for category management issues as well as be responsible for—

(1) Reviewing the SF 1010 and ensuring that comments provided by the reviewers and approvers are addressed by the CO (see 1017.7105);

(2) Tracking all SF 1003 submissions;

(3) Determining and considering the impacts to Bureau category management goals (e.g., Bureau SUM and BIC target) over each year of the contemplated performance period of the acquisition;

(4) Tracking and updating Bureau progress against annual Bureau category management goals. This includes updating Bureau progress based on any approved SF 1010s; and

(5) Assisting the CO, as necessary, in completing and submitting the SF 1010.

(c) For Bureaus where procurement support services are being performed by another Bureau (see [1001.601](#)), the BCPO shall collaborate and work jointly with the respective Bureau on the actions listed in paragraph (a) of this section.

#### **1017.7105 SF 1010 review process.**

(a) The [SF 1010](#) as prescribed by [1008.002-70](#) is a mechanism for ensuring the best acquisition strategy is being chosen and a means to ensure any OMB-specific guidance is followed prior to the finalization of the acquisition strategy. This is critical as spend that is decentralized and unaligned to an organized agency or government level strategy poses the greatest risk of contract duplication, inefficiency, and uncertain achievement of socio-economic goals and other requirements, as well negative impact to Treasury's category management goals. The [SF 1010](#) also ensures that, if an exception is approved, Bureaus have a plan in place to regularly evaluate pricing and performance and to compare results to available information on BICs and other government-wide vehicles. This ongoing analysis will inform a decision as to whether to transition to those vehicles has become appropriate.

(b) BCPO and Bureau Category Management Representative review. The following are some of the factors that shall be considered as part of the review of the [SF 1010](#)—

(1) The requirement needs of the Treasury and the respective Bureau(s);

(2) Impact to Treasury's and Bureau's category management goals (e.g., SUM and BIC);

(3) Impact to Treasury's and Bureau's small business goals;

(4) Viability of the proposed acquisition strategy;

(5) Availability and suitability of alternatives;

(6) Proposed ordering approach, estimated number of orders to be placed over the period of performance of the proposed vehicle;

(7) Opportunities for consolidation or standardization of requirements; and

(8) Other restrictions (e.g., OMB specific guidance)



## **PART 1018—EMERGENCY ACQUISITIONS**

### **1018.000 Scope of part.**

Reference OMBs, [Emergency Acquisitions Guide](#) for guidance.

### **1018.001 Definitions.**

“Emergency acquisition flexibilities”, as used in this part, means flexibilities provided with respect to any acquisition of supplies or services by or for an executive agency that, as determined by the head of an executive agency, may be used—

- (a) In support of a contingency operation as defined in 2.101;
- (b) To facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States; or
- (c) In support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance; or
- (d) When the President issues an emergency declaration, or a major disaster declaration.

## **Subpart 1018.1—Available Acquisition Flexibilities**

### **1018.108 Qualifications requirements.**

See [1009.206-1](#) for Treasury’s policy on determining not to enforce qualification requirements when an emergency exists.

### **1018.109 Priorities and allocations.**

See [subpart 1011.6](#) for Treasury’s policy.

### **1018.118 Overtime approvals.**

See [1022.103-4](#) for Treasury’s policy.

### **1018.125 Protest to GAO.**

See [1033.104\(b\) and \(c\)](#) for Treasury’s policy.

## **Subpart 1018.2—Emergency Acquisition Flexibilities**

### **1018.201 Contingency operation.**

- (b) See [1002.101](#) and [1013.201\(g\)\(1\)](#) for Treasury’s policy.
- (c) See [1002.101](#) for Treasury’s policy.
- (d) The HCA may establish higher dollar limitations as described in [FAR 18.201\(d\)](#).
- (e) See [1013.500\(c\)](#) for Treasury’s policy.

### **1018.204 Humanitarian or peacekeeping operation.**

- (b) See [1002.101](#) for Treasury’s policy.

## PART 1019—SMALL BUSINESS PROGRAMS

### 1019.000 Scope of part.

(a) COs may consult Treasury guidance for supporting small businesses available at [Treasury OPE SharePoint](#) site and [the Office of Small and Disadvantaged Business Utilization \(OSDBU\)](#).

### Subpart 1019.2—Policies

#### 1019.201 General policy.

(b) The Bureau SBS shall coordinate and negotiate well in advance their contracting activity's small business target goals for the upcoming fiscal year. The Bureau SBS shall observe and monitor small business goal performance and achievement throughout the fiscal year. The Bureau SBS shall relay notification to OSDBU on how the Bureau will meet or exceed their small business target goals for each socio-economic goal reported in FPDS-NG.

(c)(3) Treasury Order 101-05, [Reporting Relationships and Supervision of Officials, Offices and Bureaus, and Delegation of Certain Authority in the Department of the Treasury](#) prescribes the reporting relationship for the Director, OSDBU.

(8) The Director, OSDBU shall appoint, in writing, a Treasury Small Business Technical Advisor (SBTA) to serve as the liaison between Treasury and the SBA PCR. The Treasury SBTA is located in the OSDBU.

(10) The Bureau SBS acting on behalf of the OSDBU is authorized to also make small business set-aside recommendations as prescribed by [FAR 19.201\(c\)\(10\)](#). See [subpart 1004.70](#) for Treasury's small business review requirements and [part 1010](#).

(d) A Bureau SBS is appointed, in writing, by the Director, OSDBU for each contracting activity. The appointments will be either full-time or part-time SBS depending on the overall need by the contracting activity.

#### 1019.202 Specific policies.

(c) See [subpart 1004.70](#) for Treasury's small business review requirements.

#### 1019.202-1 Encouraging small business participation in acquisitions.

(e)(1)(iii) The SBRS is the system to be used by the CO to provide the information requested by [FAR 19.202-1\(e\)\(2\)\(iii\)](#) (see [subpart 1004.70](#)).

(4) If the CO rejects the recommendation of the SBA PCR, the CO shall provide written notice to the Bureau SBS and OSDBU within five (5) working days of the CO's receipt of the recommendation.

#### 1019.202-70 The Treasury Mentor Protégé Program.

See [DTAR 1019.202-70 The Treasury Mentor Protégé Program](#) for Treasury's requirements.

#### 1019.202-70-1 General.

(a) The Treasury Mentor- Protégé Program is designed to motivate and encourage firms to assist small businesses (SB), including 8(a) firms; veteran-owned small business (VOSB) concerns, SDVOSB concerns, HUBZone small business concerns, SDB concerns, and WOSBs concerns. The Treasury Mentor- Protégé 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.

#### **1019.202-70-2 Definitions.**

(a) 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 shall be deemed eligible as a mentor as described in [DTAR 1019.202-70](#).

(b) The OSDDBU assists, counsels, and advises small businesses of all types (e.g., small businesses, small disadvantaged business, WOSB, veteran owned small businesses, service-disabled veteran owned small businesses, and small businesses located in historically underutilized business zones) on procedures for contracting with Treasury.

(c) Protégé, as used herein, means a SB, SDVOSB, SDB, WOSB, or VOSB, HUBZone small business concern or an 8(a) firm that is the recipient of developmental assistance pursuant to a mentor- protégé arrangement on a particular contract. Protégés shall be deemed eligible as described in [DTAR 1019.202-70](#).

#### **1019.202-70-3 Measurement of program success.**

The overall success of the [Treasury Mentor-Protégé Program](#) will be measured by—

(a) The increase in the number and dollar value of contracts awarded to protégé firms under Treasury contracts from the date the protégé enters the program;

(b) The increase in the number and dollar value of contracts and subcontracts awarded to the protégé under other Federal agencies and commercial contracts; and

(c) An increase in the quality of the technical capabilities of the protégé firm.

#### **1019.202-70-4 Internal controls.**

(a) The OSDDBU will oversee the [Treasury Mentor-Protégé Program](#) and will work with the cognizant CO to achieve the program's objectives.

(b) Treasury may rescind an existing Mentor-Protégé agreement if it determines that such action is in Treasury's interest. Rescission shall be in writing and sent to the mentor and protégé after approval by the Director, OSDDBU. 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 contract with Treasury or its subcontracting plan.

### **Subpart 1019.3—Determination of Small Business Status for Small Business Programs**

#### **1019.301–2 Rerepresentation by a contractor that represented itself as a small business concern.**

(e) The CO shall notify the Bureau SBS of the potential for a subcontracting plan to be required due to a change in the prime contractor's size status (i.e., from small to other than small) as a result of a size rerepresentation. The Bureau SBS will assist the CO in making the determination if a subcontracting plan will be required. See [1019.705-570](#) for the procedures for contract actions involving subcontracting plans.

**1019.302 Protesting a small business representation or rerepresentation.**

(a)(2) The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDDBU of any protest, appeal or final decision.

**1019.305 Reviews and protest of status.**

The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDDBU of any protest, appeal or final decision.

**1019.306 Protesting a firm's status as a HUBZone small business concern.**

(b)(1) The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDDBU of any protest, appeal or final decision.

**1019.307 Protesting a firm's status as a service-disabled veteran-owned small business concern.**

(b)(1) The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDDBU of any protest, appeal or final decision.

**1019.308 Protesting a firm's status as an economically disadvantaged women-owned small business concern or women-owned small business concern eligible under the WOSB Program.**

(b)(1) The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDDBU of any protest, appeal or final decision.

**Subpart 1019.4—Cooperation with the Small Business Administration**

**1019.401 General.**

(b) The Director, OSDDBU is the Treasury liaison with the SBA.

**1019.402 Small Business Administration procurement center representatives**

(a)(2) COs can also contact their respective Bureau SBS or the OSDDBU for information on who is the SBA PCR assigned to their Bureau.

(c)(4) If the SBA PCR files an appeal, the CO shall promptly notify the Bureau SBS, who shall promptly notify the OSDDBU.

**Subpart 1019.5—Set-Asides for Small Business**

**1019.501 General.**

(c) See [subpart 1004.70](#) for Treasury's requirements.

**1019.502-8 Rejecting Small Business Administration recommendations.**

(b) If the SBA files an appeal, the CO shall promptly notify the Bureau SBS, who shall promptly notify the OSDDBU.

(c) The CO shall promptly notify the Bureau SBS and OSDBU of recommendation decisions.

(e) The SPE is authorized to make the decision prescribed by [FAR 19.502-8\(e\)](#).

**1019.502-9 Withdrawing or modifying small business set-asides.**

(a) The Bureau SBS shall forward the written notice to the OSDBU.

(b) Withdrawal or modification of class set-asides shall be forwarded through the Bureau SBS for approval by the OSDBU.

**Subpart 1019.6—Certificates of Competency and Determinations of Responsibility**

**1019.602-1 Referral.**

(a)(1) The CO shall not make a competency determination without consulting SBA. COs shall coordinate with the Bureau SBS prior to making the determination and documenting that an apparent successful small business offeror lacks certain elements of responsibility as prescribed in [FAR 19.602-1](#). The CO shall provide a copy of the referral letter and any supporting documents to the Bureau SBS and the OSDBU. The OSDBU shall submit the CO's determination and documentation to the SBA for certificate of competency.

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

(d) The CO shall ensure a copy of the SBA's response is provided to the Bureau SBS and OSDBU.

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

(a)(1) The CO shall notify the Bureau SBS and Treasury SBTA of any differences between the Bureau and the SBA about a concern's ability to perform. The CO shall suspend any action being referred to SBA until resolution is made. The Treasury SBTA shall facilitate resolution with the SBA Area Office. If agreement cannot be reached with the SBA Area Office, the SBTA shall refer the matter to SBA Headquarters for review and resolution.

(3) If the CO decides to appeal issuance of a COC, the CO shall notify the Bureau SBS and OSDBU within ten (10) working days or a time period agreed upon by both agencies.

**Subpart 1019.7—The Small Business Subcontracting Program**

**1019.702 Statutory requirements.**

(a)(3) The CO shall notify the Bureau SBS when they determine that subcontracting possibilities exist as a result of a contract modification that meets the thresholds prescribed by [FAR 19.702\(a\)\(3\)](#). The Bureau SBS will assist the CO in establishing the subcontracting plan. See [1019.705-570](#) for the procedures for contract actions involving subcontracting plans.

**1019.703 Eligibility requirements for participating in the program.**

The CO shall notify the Bureau SBS of their intention to challenge a subcontractor's size status representation or challenge a subcontractor's small disadvantaged business representation as described in [FAR 19.703](#).

**1019.705-1 General.**

(a) The CO shall coordinate with the Bureau SBS prior to making the determination to use any type of contractual incentive provision that rewards a contractor monetarily for exceeding goals in the subcontracting plan.

(b)(2) The CO shall coordinate with the Bureau SBS prior to establishing small business subcontracting goals for an order.

**1019.705-2 Determining the need for a subcontracting plan.**

(b) The CO shall seek assistance from the Bureau SBS in making the determination whether or not a proposed contractual action requires a subcontracting plan. See [1019.705-570](#) for the procedures for contract actions involving subcontracting plans.

(d) COs shall consult with the Bureau SBS prior to incorporating subcontracting plans as an evaluation factor for award.

**1019.705-3 Preparing the solicitation.**

(a) If it is determined that the solicitation will contain a subcontracting plan, COs shall provide the Bureau SBS, the Treasury SBTA, and the SBA PCR (if requested) with a copy of the solicitation requiring submission of subcontracting plans to review and allow at least five (5) working days for the submission of any advisory findings prior to release of the solicitation. COs shall use the Treasury subcontracting plan form available at [OPE/Policy/Forms](#) in solicitations that require the submission of a subcontracting plan.

(1) See guidance available at [Treasury OPE SharePoint](#) for sample language for solicitations that involve subcontracting plans.

(b) Submission of subcontracting plan reporting shall be included as a “not separately priced” (NSP) deliverable under the contract when a subcontracting plan is required.

**1019.705-4 Reviewing the subcontracting plan.**

The evaluation of the subcontracting plan shall be separate from the technical or cost evaluation (see [FAR 19.705-4](#)). For acquisitions involving commercial plans, the CO shall obtain a copy of the current Summary Subcontract Report for evaluation purposes. See [FAR 19.704\(d\)](#) for commercial plan requirements.

(d)(7) If it is determined that the offeror’s goals are unacceptable, the CO may coordinate with the COR to obtain advice and recommendations. See [1019.705-570](#) for review procedures for solicitations involving subcontracting plans.

**1019.705-5 Awards involving subcontracting plans.**

(a)(3) See [1019.705-570](#) for the procedures on awards involving subcontracting plans.

(5) The Bureau SBS shall submit the proposed subcontracting plan to Treasury’s SBTA and SBA PCR for review and acceptance. The CO shall ensure that the acceptable subcontracting plan is incorporated into and made a material part of the contract.

**1019.705-570 Agency procedures for review and approval of awards involving subcontracting plans.**

(a) General.

(1) The CO shall review subcontracting plans according to [FAR 19.705-4](#). For new awards, the CO shall review all subcontracting plans submitted by all offerors. For such awards, only the apparent successful offeror's subcontracting plan needs to be submitted to the Bureau SBS, SBA PCR and the OSDDBU for review (see paragraphs (2) through (4) of this subsection).

(i) The CO shall complete a subcontracting plan checklist available at [Treasury OPE SharePoint](#) when submitting subcontracting plans to the SBA PCR and the OSDDBU for review and approval.

(ii) Commercial plans.

(A) In review of a commercial plan, the CO shall determine if the goals established in the commercial plan are acceptable for Treasury's procurement, if not, the CO may negotiate higher goals; however, the CO cannot negotiate lower goals.

(B) The SBA PCR and the OSDDBU do not review commercial plans unless, one of the conditions in [FAR 19.704\(d\)](#) applies. If one of the conditions in [FAR 19.704\(d\)](#) applies, then the CO shall follow the procedure provided in paragraphs (a)(3) through (a)(4) of this subsection for review and approval of the commercial plan.

(2) The CO shall provide the Bureau SBS five (5) working days to review subcontracting plans. The Bureau SBS should provide recommendations to the CO, coordinate the submission of the subcontracting plan and other documentation to the SBA PCR and the OSDDBU, and, if applicable, coordinate with the CO on the completion of the subcontracting plan checklist.

(3) The CO shall provide the SBA PCR five (5) working days to review and approve subcontracting plans. The SBA PCR may review subcontracting plans submitted by all offerors within the competitive range. The SBA PCR shall notify the Bureau SBS and the CO regarding any weaknesses or deficiencies identified during their review.

(i) For master plans and commercial plans, the CO shall include a copy of the lead agency CO's approval of the subcontracting plan within the submission for review and approval.

(4) The CO shall provide the OSDDBU ten (10) working days to review and approve subcontracting plans. The OSDDBU may review subcontracting plans submitted by all successful offerors within the competitive range.

**1019.705-6 Postaward responsibilities of the contracting officer.**

The CO can seek guidance from the Bureau SBS in performing [FAR 19.705-6](#) responsibilities.

(f) For purposes of Treasury, [eSRS](#) registration is coordinated with the Treasury designated Agency Coordinator (AC), who is located in the OSDDBU. The AC has full access to all eSRS records for Treasury and has the ability to change registration levels.

**1019.705-7 Liquidated damages.**

(d) The CO shall consult with legal counsel and the OSDDBU and coordinate with the Treasury SBTA prior to making a determination that a contractor failed to make a good faith effort to carry out its subcontracting plan.

(e) The CO shall provide a copy of the final decision to the Bureau SBS and the OSDDBU.

#### **1019.706 Responsibilities of the cognizant administrative contracting officer.**

(e)(1) If the contractor fails to submit the required Individual Subcontract Reports/ Summary Subcontract Reports in eSRS within the prescribed time, the CO shall provide the contractor written notice of the consequences of their delinquency (see [Treasury OPE SharePoint](#) for a sample subcontracting plan delinquency letter).

(f)(1) For purpose of monitoring the contractor's performance in meeting the goals in the subcontracting plan, the CO shall complete on a semi-annual basis the Subcontracting Performance Evaluation Report (SPER) available at [Treasury OPE SharePoint](#). The CO shall submit the completed SPER to the Bureau SBS within ten (10) working days after completion. A copy of the completed report shall be placed in the contract file.

(g)(1) For contract completion, the CO, with the assistance of the COR, should document and evaluate the contractor's performance under the clause prescribed in [FAR 19.708\(b\)](#) and any subcontracting plan included in the contract, using the SPER and forward a copy to the Bureau SBS within ten (10) working days after completion. The Bureau SBS may provide advice or recommendations.

#### **1019.706-70 Responsibilities of the contracting officer representative.**

(a) The COR shall provide assistance to the CO-

(1) With monitoring and documenting contractor performance under the clause prescribed in [FAR 19.708\(b\)](#) and any subcontracting plan included in the contract;

(2) In completing the SPER available at [Treasury OPE SharePoint](#); and

(3) In providing advisory comments for the contractor required subcontracting plan reports, prior to executing modifications or exercising options.

### **Subpart 1019.8—Contracting with the Small Business Administration (The 8(A) Program)**

#### **1019.800 General.**

(e) The current Treasury and SBA Partnership Agreement (PA) is available at <https://www.sba.gov/contracting/contracting-officials/sba-agencies-partnership-agreements>. The purpose of the PA is to streamline the contract execution process between SBA, the participating Federal Agency and the 8(a) participant. COs shall review the PA when performing actions under the 8(a) program.

#### **1019.803 Selecting acquisitions for the 8(a) Program.**

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

(c) Letters to the SBA offering a requirement for the 8(a) program shall be coordinated with the Bureau SBS. See [Treasury OPE SharePoint](#) for sample 8(a) offering letters.

#### **1019.803-70 Simplified Procedures for 8(a) acquisitions under MOUs.**

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



(b) The CO shall issue the purchase order or contract directly to the 8(a) firm. The CO shall insert Class Deviation [AB 21-03](#) for FAR clause 52.219-14, Limitations on Subcontracting, in all purchase orders and contracts awarded under this subsection.

(c) No later than the day that the award is provided to the 8(a) contractor, the CO shall provide the cognizant SBA Business Opportunity Specialist the following documents:

(1) A copy of the award; and

(2) A notice stating that the award 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 unless, within two (2) working days after SBA's receipt of the award, the CO is notified that the 8(a) contractor is ineligible for award.

#### **1019.810 SBA appeals.**

The HCA is delegated the authority for the purposes of making the decision under [FAR 19.810](#).

(b)(2) The CO shall coordinate with the Bureau SBS prior to making a determination not to suspend the action per [FAR 19.810\(b\)\(2\)](#). The Bureau SBS shall notify the OSDDBU and the HCA of the CO's determination and include within the notification a copy of the CO's determination.

#### **1019.811-3 Contract clauses.**

See [DTAR 1019.811-3 Contract clauses](#) for Treasury's requirements.

#### **1019.812 Contract administration.**

(d) The CO shall coordinate with the Bureau SBS prior to requesting an SBA waiver. The HCA is delegated the authority for the purposes confirming or withdrawing the request for waiver under [FAR 19.812\(d\)](#).

#### **1019.812-70 Information.**

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

#### **1019.813 Protesting an 8(a) participant's eligibility or size status.**

(d) See [1019.302](#) for Treasury's requirements.

#### **1019.815 Release for non-8(a) procurement.**

(b) The CO shall coordinate with the Bureau SBS prior to writing a request to release a requirement for a non-8(a) procurement (other than a mandatory source listed at [FAR 8.002 or 8.003](#)) under [FAR 19.815](#). The Bureau SBS shall notify the OSDDBU of the Bureau's intent to submit this type of request.

#### **1019.816 Exiting the 8(a) program.**

(b) The Bureau SBS shall notify the OSDDBU of the HCA's intent to make the determination under [FAR 19.816\(b\)](#).

### **Subpart 1019.13—Historically Underutilized Business Zone (HUBZone) Program**

#### **1019.1305 HUBZone set-aside procedures.**

(d) See 1019.402(c)(4).

(2) The CO shall notify the Bureau SBS if the HCA intends to make the determination under FAR 19.305(d)(2). The Bureau SBS shall notify the OSDBU of the HCA's intent to make the determination under FAR 19.1305(d)(2).

(3) The HCA is delegated the authority for the purposes addressing FAR 19.1305(d)(3).

### **Subpart 1019.14—Service-Disabled Veteran-Owned Small Business Procurement Program**

#### **1019.1405 Service-disabled veteran-owned small business set-aside procedures.**

(d) See [1019.402\(c\)\(4\)](#). The CO shall notify the Bureau SBS if the HCA intends to make the determination under [FAR 19.1405\(d\)](#). The Bureau SBS shall notify the OSDBU of the HCA's intent to make the determination under [FAR 19.1405\(d\)](#).

### **Subpart 1019.15—Women-Owned Small Business Program**

**1019.1503 Status.** (CLASS DEVIATION) See [AB 21-02](#) for details on Treasury's class deviation to this FAR requirement.

#### **1019.1505 Set-aside procedures.**

(g)(3) The CO shall notify the Bureau SBS if the HCA intends to make the determination under [FAR 19.1505\(g\)\(3\)](#). The Bureau SBS shall notify the OSDBU of the HCA's intent to make the determination under [FAR 19.1505\(g\)\(3\)](#).

(5) The HCA is delegated the authority for the purposes addressing [FAR 19.1505\(g\)\(4\) and \(5\)](#).

### **Subpart 1019.70—Contracting Opportunities in Federal Advertising (Executive Order 13170)**

#### **1019.7000 General.**

(a) [E.O. 13170, Increasing Opportunities and Access for Disadvantaged Businesses](#), dated October 6, 2000, requires agencies to ensure substantial participation in federal advertising contracts by small disadvantaged and minority owned businesses.

(b) Required actions include consideration of use of minority-owned entities in the acquisition planning process, use of databases and other resources containing information on minority-owned entities, and coordination with Bureau SBSs to identify minority-owned entities for solicitation.

(c) Special attention shall be given to requirements for advertising placement in publications and television and radio stations that reach specific, ethnic and racial audiences. Each department and agency shall ensure that payment for federal advertising is commensurate with fair market rates in the relevant market, and shall structure advertising



contracts as commercial acquisitions consistent with [FAR 12](#) processes and procedures to enhance participation by 8(a)s, SDBs, and Minority-Owned Business Entities.

(d) File documentation requirements apply to contracts awarded March 1, 2007, and thereafter. The specific procedures that constitute guidance on this subject are to be found in [E.O. 13170](#).

**PART 1020—[RESERVED]**

There is no DTAP text implementing or supplementing FAR 20.

**PART 1021—[RESERVED]**

There is no DTAP text implementing or supplementing FAR 21.

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

### **Subpart 1022.1—Basic Labor Policies**

#### **1022.101-3 Reporting labor disputes.**

The CO shall submit reports of any potential or actual labor disputes that may interfere with performing any contracts under its cognizance to the BCPO and legal counsel. Reports shall include at a minimum—

- (a) The date the labor dispute began or is expected to begin;
- (b) The urgency or critical nature of the affected contract, including; the quantity, degree of importance, and key delivery dates or performance dates and their relationship to the contract and, if applicable the overarching acquisition program;
- (c) The contractor's name and, if applicable subcontractors name, address, contact information, the address of the site(s) impacted or expected to be impacted;
- (d) The name, address, and contact information of parties representing the affected employees, along with the approximate number of employees affected by the strike;
- (e) If applicable, the names of and availability of alternative sources that can furnish the supplies or perform the services that are or will be impacted by this labor dispute;
- (f) Identification of any critical items that should be removed from the work site or should continue to be processed there with the consent of the parties to the dispute;
- (g) The extent, if any, of participation by a Federal or state mediation agency; and
- (h) Recommended action(s) to be taken by Treasury to reduce the impact.

The CO shall advise, as applicable, the cognizant parties when the labor dispute is resolved, and the work has resumed under the contract.

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

- (a) See 1022.101-470 for Treasury's procedures.

#### **1022.101-470 Agency procedures for removal of items from contractors' facilities affected by work stoppages.**

(a) When a contractor is unable to deliver urgent or critical items because of a work stoppage at its facility(ies) and the CO has determined the removal of the items is in the interest of the Government, the CO, before proceeding with the removal any items from the contractor's facility(ies), shall—

- (1) Obtain guidance from legal counsel;
- (2) Notify the BCPO of the situation;
- (3) Contact the Agency labor advisor to for guidance on how to proceed, specifically in determining the effect the movement of the items would have on the work stoppage. Normally removals are not to be made if they will adversely affect the work stoppage; and
- (4) Based on the guidance of the Agency labor advisor and legal counsel along with BCPO approval proceed accordingly. The guidance shall include at a minimum:
  - (i) An attempt to arrange with the contractor and the union representative involved their approval of the shipment of the items; and
  - (ii) A determination of who will remove the items from the facility(ies) involved.
- (5) If agreement by the contractor for removal of the needed items cannot be reached, refer the matter to the SPE.

**1022.103-4 Approvals.**

(a) The BCPO or authorized designee has the authority to act as the agency's approving official for the approval of the use of overtime. Authorized designees shall be at least one level above the CO.

**Subpart 1022.3—Contract Work Hours and Safety Standards Act****1022.302 Liquidated damages and overtime pay.**

- (c) The HCA is delegated authorities under [FAR 22.302\(c\)\(1\) and \(2\)](#).
- (d) Bureaus may establish procedures for disposing of funds.

**Subpart 1022.4—Labor Standards for Contracts Involving Construction****1022.404-6 Modifications of wage determinations.**

(b)(6) The CO is delegated the authority to request an extension as prescribed by [FAR 22.404-6\(b\)\(6\)](#).

**1022.406-2 Wages, fringe benefits, and overtime.**

(b)(2) The CO shall submit the information required by [FAR 22.406-2\(b\)\(2\)](#) to the Administrator, Wage and Hour Division, U.S. Department of Labor, Employment Standards Administration, Washington, DC 20210. The CO shall advise interested parties of DOL's determination within ten (10) working days after receipt of the determination.

**1022.406-8 Investigations.**

(d)(1) The CO shall forward the report to the HCA in accordance with Bureau procedures.

**1022.406-9 Withholding from or suspension of contract payments.**

(c)(4) The CO shall follow Bureau procedures.

**1022.406-13 Semiannual enforcement reports.**

The OPE is responsible for sending out the data call to BCPOs for the semiannual enforcement reports. BCPOs are responsible for ensuring that a response is provided within the timeframe requested.

**Subpart 1022.5—Use of Project Labor Agreements for Federal Construction Projects****1022.503 Policy.**

(c)(6) Additional factors that may be deemed appropriate:

- (i) The unique and compelling schedule requirements of a particular project (e.g., projects tied to a court-imposed deadline or a mission critical schedule)
- (ii) Skilled labor shortages might be anticipated for project located in a remote location where a contractor may encounter difficulties in recruiting and retaining a skilled workforce for an extended period.

(iii) Skilled labor shortages might be anticipated for projects where there may be competition within the contractor community for skilled labor arising from concurrent large-scale construction contracts in the project vicinity.

#### **Subpart 1022.6—Contracts For Materials, Supplies, Articles, and Equipment Exceeding \$15,000**

##### **1022.604-2 Regulatory exemptions.**

(b)(1) The CO shall submit requests for exemption from the Walsh-Healey Public Contracts Act, inclusive of the finding by the Bureau stating the reasons why the conduct of Government business will be seriously impaired unless the exemption is granted, to the SPE (see [1001.7000\(a\)\(1\)](#)). If the exemption request is approved, the SPE will be responsible for submitting it to the Secretary of Labor for approval and notifying the CO if the exemption request was approved or denied.

##### **1022.608 Procedures.**

(a) Award. Copies of the poster may be downloaded or ordered through the Department of Labor – Wage and Hour Division (WHD) publication ordering system at <http://www.dol.gov/whd/regs/compliance/posters/sca.htm>.

(b) Breach of stipulation. Unless otherwise specified by Bureau procedures, the CO shall submit written notice of any violations to the applicable DOL region.

#### **Subpart 1022.8—Equal Employment Opportunity**

##### **1022.803 Responsibilities.**

(d) The CO shall submit questions regarding the applicability of [E.O. 11246, Equal Employment Opportunity](#) and implementing regulations to the BCPO.

##### **1022.804-2 Construction.**

(b) BCPOs are responsible for maintaining and distributing required lists of covered geographical areas that are subject to affirmative action requirements. Information on the Office of Federal Contract Compliance Programs (OFCCP) is available at <http://www.dol.gov/ofccp/>.

##### **1022.805 Procedures.**

(b) Furnishing posters. The poster is available at: <http://www1.eeoc.gov/employers/poster.cfm>.

##### **1022.807 Exemptions.**

(a)(1) The CO shall submit requests for exemption from all or part of the requirement of [E.O. 11246, Equal Employment Opportunity](#) based on national security to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

(c) The CO shall submit a request for an exemption under [FAR 22.807\(a\)\(2\)](#) and [22.807\(b\)\(5\)](#) to their legal counsel for review and then through the BCPO to the SPE for review and concurrence (see [1001.7000\(a\)\(1\)](#)). If the SPE concurs with the request, the SPE will forward the request onto the Deputy Assistance Secretary for approval.

## **Subpart 1022.10—Service Contract Labor Standards**

### **1022.1070 Price Adjustment tool.**

(a) COs may use the Price Adjustment Calculation Tool (PACT) available at <http://www.wdol.gov/pact/Index.aspx> as an automated method of accurately calculating price adjustments under the following clauses—

(1) [FAR 52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standard—Price Adjustment (Multiple Year and Option Contracts);

(2) [FAR 52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment; and

(3) [FAR 52.222-32](#), Construction Wage Rate Requirements-Price Adjustment (Actual Method).

(b) PACT consists of a format for contractors to submit their price adjustment proposals and a Government component that calculates and helps the CO to analyze price adjustment proposals for accuracy, allowability and consistency. Additional information, including a user's guide is available at <http://www.wdol.gov/pact/intro.aspx>.

(c) PACT is suitable for Fixed price contracts (other than Indefinite Quantity unit-priced line items). Time-and-materials and labor-hour type contracts are not suitable for use with the existing PACT tools if they contain loaded labor rates or unit pricing.

## **Subpart 1022.13—Equal Opportunity for Veterans**

### **1022.1305 Waivers.**

(c)(1) The CO shall submit requests for waiver under [FAR 22.1305\(a\)](#) to the SPE for review and concurrence in accordance with [1001.7000\(a\)\(1\)](#). If the SPE concurs with the request, the SPE will forward the request for purposes of submission to the Director of the Office of Federal Contract Program of the U.S. Department of Labor (Director of OFCCP) for approval.

(2) The CO shall submit requests for waiver under [FAR 22.1305\(b\)](#) in accordance with [1001.7000\(a\)\(1\)](#) respectively.

### **1022.1308 Complaint procedures.**

Unless otherwise provided by Bureau procedures, the CO shall forward complaints about the administration of the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, directly to the DOL's Veterans' Employment and Training Service. Information on this DOL service is available at <http://www.dol.gov/vets/aboutvets/contacts/main.htm>.

## **Subpart 1022.14—Employment of Workers with Disabilities**

### **1022.1403 Waivers.**

(c)(1) The CO shall submit request for waiver under [FAR 22.1403\(a\)](#) to the SPE for review and concurrence in accordance with [1001.7000\(a\)\(1\)](#). If the SPE concurs with the request, they will forward the request for purposes of submission to the Director of the Office of Federal Contract Program of the U.S. Department of Labor (Director of OFCCP) for approval.

(2) The CO shall submit requests for waiver under [FAR 22.1403\(b\)](#) in accordance with [1001.7000\(a\)\(1\)](#) respectively.



**1022.1406 Complaint procedures.**

See [1022.1308](#).

**Subpart 1022.15—Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**

**1022.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.**

(e) COs shall refer the matter for investigation to the respective IG in accordance with Bureau procedures.

(f) The HCA, without power of delegation, is delegated the authority under [FAR 22.1503\(f\)](#).

**Subpart 1022.16—Notification of Employee Rights Under the National Labor Relations Act**

**1022.1604 Compliance evaluation and complaint investigations and sanctions for violations.**

(d) BCPOs shall submit any written objections as described by [FAR 22.1604\(d\)](#) to the SPE in accordance with [1001.7000\(a\)\(1\)](#). The SPE is authorized to approve any such written objections. If approved, the SPE will submit the written objections to the Secretary.

**Subpart 1022.17—Combating Trafficking in Persons**

**1022.1704 Violations and remedies.**

(b)(1) See paragraph 4.3 of [Treasury Directive 12-12, Procurement and Non-Procurement Suspension and Debarment](#).

(c)(2)(i) This authority is delegated to the SDO (see paragraph 3.b of [Treasury Directive 12-11, Authorities of the Senior Procurement Executive](#)).

**Subpart 1022.21—Establishing Paid Sick Leave for Federal Contractors.**

**1022.2109 Enforcement of Executive Order 13706 paid sick leave requirements.**

(d)(4)(ii) See [subpart 1009.4](#) for Treasury's procedures.

**Subpart 1022.70 Fair inclusion of minorities and women**

**1022.7000 Contract clause.**

See [DTAR 1022.7000 Contract Clause](#) for Treasury's Requirement.

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

**Subpart 23.1—Sustainable Acquisition Policy**

**1023.104 Exceptions.**

(a) BCPOs shall submit requests to apply [FAR 23.1](#) to contracts performed outside of the United States to the SPE in accordance with [1001.7000\(a\)\(1\)](#). The SPE is authorized to make the determination prescribed by [FAR 23.104\(a\)](#).

**1023.105 Exemption authority.**

BCPO shall submit requests for exemptions described by [FAR 23.105](#) to the SPE in accordance with [1001.7000\(a\)\(1\)](#). The SPE is authorized to make the determinations prescribed by [FAR 23.105\(a\)](#) and to concur with the request prescribed by [FAR 23.105\(c\)](#). If the SPE concurs with the request prescribed by [FAR 23.105\(c\)](#) they will submit it to the Chair of the Council on Environmental Quality.

**Subpart 1023.2-Energy and Water Efficiency and  
Renewable Energy**

**1023.204 Procurement exemptions.**

The CO shall submit an exemption to [FAR 23.204](#) to the designated Bureau EHS professional for review and approval.

**Subpart 1023.4—Use of Recovered Materials and Biobased Products**

**1023.404 Agency affirmative procurement programs.**

(a) Treasury Affirmative Procurement Plan (APP) is available at [Treasury OPE SharePoint](#). Bureaus may supplement this APP with appropriate policy and procedures outlining specific guidelines for implementing the Treasury APP in their activities. The scope and magnitude of the Bureau policy and procedures shall be commensurate with the needs the procurement activity to ensure compliance and promotion of these requirements.

**1023.405 Procedures.**

(b) Procurement exemptions. Prior to determining if an exemption applies (see [FAR 23.405\(b\)](#)) the CO shall coordinate their determination and the written justification supporting the exemption with the designated Bureau EHS professional.

**Subpart 1023.5—Drug-Free Workplace**

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

(c) See [subpart 1009.4](#) for Treasury's procedures.

(e) The CO shall submit waiver requests to the agency head for approval in accordance with [1001.7000\(b\)](#).

## **Subpart 1023.7—Contracting for Environmentally Preferable Products and Services**

### **1023.703 Policy.**

(a) BCPOs shall establish required programs to achieve the goals prescribed by [FAR 23.703](#). Refer to [Treasury Directive 75-09, Environmental, Health, and Safety Management, Energy and Sustainability Program](#) and associated Treasury Directive Publication 75-09.

(c) Environmental Management Training. [E.O. 13693, Planning for Federal Sustainability in the Next Decade](#), dated March 19, 2015, require agencies to develop and provide environmental management training for all personnel whose actions are affected by the E.O. Bureau-developed training can also be used to meet the E.O. training requirement.

(1) Contracting personnel, purchase cardholders, and CORs shall review the Treasury OEHS training presentation on purchasing green products and services, or complete other training with comparable content, as determined by the BCPOs, no later than December 31 of every two years. Training for purchase cardholders may be tailored to address the products that they are authorized to purchase.

(2) BCPOs shall ensure all applicable personnel complete the required training and documentation supports their completion.

### **1023.704 Electronic products environmental assessment tool.**

(a)(2) The authority to make the determination prescribed by [FAR 23.704\(a\)\(2\)](#) is delegated to the CO. The CO shall coordinate with and obtain concurrence, prior to making such a determination, from the designated Bureau EHS professional.

## **Subpart 1023.9—Contractor Compliance with Environmental Management Systems**

### **1023.903 Contract clause.**

The HCA is delegated the authority to make the determination in [FAR 23.903](#).

## **Subpart 1023.70—Participation of Environment, Health, and Safety Personnel in Treasury Procurements**

### **1023.7000 Scope of Subpart.**

This subpart prescribes policies and procedures for participation of EHS professionals in Treasury procurements.

### **1023.7001 Policy.**

(a) Treasury's policy is to ensure that contractors and subcontractors take reasonable precautions to mitigate EHS risks (to include those associated with handling hazardous/explosive materials) and to advance sustainable acquisition in performance of Treasury contracts.

(b) Treasury's policy is to ensure participation by designated Bureau EHS professionals in Treasury procurements regardless of dollar value to ensure appropriate management of EHS concerns.

### **1023.7002 Procedures.**

(a) General requirements. EHS professionals are to participate in all stages of the procurement process (e.g., acquisition planning, solicitation development, evaluation, and contract administration) in acquisitions that involve EHS concerns regardless of dollar value. In instances, where a CO has documented concurrence from a EHS professional that there are no EHS concerns associated with an acquisition they may proceed without further involvement from the EHS professional.

- (1) An EHS professional is responsible for—
  - (i) Identifying EHS concerns;
  - (ii) Making recommendations;
  - (iii) Providing guidance on managing EHS concerns;
  - (iv) Providing any Bureau requirements regarding EHS concerns;
  - (v) Establishing, if applicable, EHS evaluation criteria and evaluation factors for use in source selection;
  - (vi) Establishing, if applicable, EHS deliverables to be submitted by the contractor; and
  - (vii) Establishing, if applicable, requirements for post-award EHS oversight to manage EHS concerns.

(2) IRS EHS professionals are responsible for reviewing Departmental Office procurements and Bureau EHS professionals are responsible for reviewing Bureau procurements.

(3) Bureaus shall develop, with coordination and approval by their respective EHS office, their own procedures for implementing this section, which may involve, but not be limited to—

- (i) Identifying the types of documents that shall be submitted for EHS review (e.g., statement of work);
- (ii) Establishing timeframes for review; and
- (iii) Identifying the types of submittals offerors will be required to provide as part of their response.

(b) Requirements for procurements exceeding the SAT.

(1) Review requirement. The CO shall request a review by the EHS professional.

(i) If the EHS professional determines that the procurement contains no EHS concerns then—

(A) The CO shall include a statement in the acquisition plan regarding the EHS professional's determination (see 1007.105(b)(20)(viii)(A)) and

(B) The CO shall obtain written concurrence from an EHS professional. If concurrence is obtained then there is no need for further EHS involvement, unless there is a change in the procurement that could introduce EHS concerns.

(2) Solicitation requirements. Solicitations involving EHS concerns shall be reviewed and approved by an EHS professional prior to issuance.

(3) Evaluation requirements. For procurements involving EHS concerns, the EHS professional shall evaluate, in accordance with the requirements of the source selection plan the relevant sections of an offer involving EHS concerns. The contract file shall include a

record of the EHS professional's evaluation and recommended actions, if any.

(c) Requirements for procurements above the micro-purchase threshold and up to the SAT.

(1) The CO shall request a review by the EHS professional. If the EHS professional determines that there are no EHS concerns they will notify the CO of their determination and there would be no need for further involvement by the EHS professional.

(d) Requirements for procurements at or below the micro-purchase threshold.

(1) In accordance with [FAR 13.201\(f\)](#), the procurement requirements in Subparts [23.1](#), [23.2](#), [23.4](#), and [23.7](#) apply to purchases at or below the micro-purchase threshold, as they do to all procurements. Bureaus are responsible for establishing procedures to support this requirement. See Treasury's Charge Card Management Plan, [Treasury Directive 75-09, "Environmental, Health, and Safety Management, Energy and Sustainability Program"](#) and associated Treasury Directive Publication 75-09.

(e) Attendance at events. The CO shall ensure EHS professionals are notified of and provided an opportunity to attend pre-proposal conferences, industry days, post-award kick-off meetings/ post-award orientations and any other similar events for all procurements that may involve EHS concerns.

(f) Departmental Offices review. Upon request, Bureaus shall provide their procedures for implementing the requirements of this section to the Departmental Offices for review and approval. The Departmental Offices reserves the right to request evidence of compliance with this section from the Bureaus as well.

(g) Listing of EHS professionals. Bureau acquisition policy organizations shall maintain a list of EHS professionals so that COs are aware of who their respective EHS office(s) is/are for purposes of satisfying these requirements.

### **1023.7003 Solicitation and Contract Content for Procurements Involving Explosive Hazardous Materials.**

(a) Purpose. Procurements involving explosive materials present particularly significant EHS risks. The requirements below apply to procurements relating to the purchase, storage, handling, and/or disposal of explosive hazardous materials.

(b) Contractor Selection. The CO shall work with the EHS professional to incorporate rigorous contractor selection provisions (such as those found in the Department of Defense Contractor Safety Manual for Ammunition and Explosives, Section C1.5, "Pre-Award Safety Survey") into the solicitation prior to its issuance. The solicitation and resulting contract shall include language requiring a contractor to use similar selection provisions for any subcontract dealing with explosive hazardous materials. All provisions shall be provided by the EHS professional based on the specific hazards of the procurement.

(c) Contractor Oversight Provisions. The CO shall work with the EHS professional to incorporate rigorous contractor oversight provisions (such as those provided in the Department of Defense Contractor Safety Manual for Ammunition and Explosives, Section C1.6 "Pre-Operational Safety Survey" and C1.7 "Post-Award Contractor Responsibilities" into the contract. All provisions shall be provided by the EHS professional based on the specific hazards of the procurement.

(d) [Reserved pending the publication of National Fire Protection Association (NFPA) guidance recommended in Chemical Safety Board (CSB) recommendation 2011-06-I-HI-R7].

**1023.7004 Solicitation provisions and contract clauses.** (CLASS DEVIATION) See [AB 22-01](#) for details on Treasury's class deviation to this FAR requirement.

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

### **Subpart 1024.1—Protection of Individual Privacy**

#### **1024.103 Procedures.**

(a) Questions may be directed to the cognizant Privacy Office representative or IT Office representative concerning whether or not a contract will involve the design, development, or operation of a system of records on individuals to accomplish an agency function.

(1) The program office representative/ COR is responsible for ensuring that requirements that involve the design, development, or operation of a system of records on individuals to accomplish an agency function include within the requirement document (e.g., statement of work) all applicable requirements. This includes ensuring the requirement document specifically identifies the system of records on individuals and the design, development, or operation work to be performed.

(b)(2) [31 CFR part 1 subpart C](#) contains Treasury's regulations implementing the Privacy Act of 1974. [Treasury Directive 25-04, The Privacy Act of 1974, As Amended](#), also provides additional details surrounding Treasury's implementation. Treasury's rules and regulations concerning systems of records is available at <https://www.treasury.gov/privacy/Pages/default.aspx>.

### **Subpart 1024.2—Freedom of Information Act**

#### **1024.203 Policy.**

(a) Treasury's implementation of the Freedom of Information Act (FOIA) is codified in regulations under [31 CFR part 1](#). See [Treasury Directive 25-05, The Freedom of Information Act](#), for additional details on Treasury procedures regarding the FOIA.

(b) See [FAR 15.207\(b\)](#) on the safeguarding of proposals.

(c) Treasury may, at its discretion, publish contracts and agreements, including orders issued against those vehicles when deemed to be in the interest of the Government. To afford contractors an opportunity to review and propose redactions for any information contained in the Treasury contract or agreement that may be subject to a FOIA exemption, COs shall insert the clause at [1052.224-70, Contract Publication](#), in solicitations and contracts, including solicitations and contracts using [FAR 12](#) procedures for the acquisition of commercial items where publication of the contract or portions of the contract contained therein (e.g., prices) is anticipated.

### **Subpart 1024.3—Privacy Training.**

#### **1024.301 Privacy training.**

(c) Treasury requires contractor and subcontractor employees to complete Treasury's provided privacy training (see [Treasury Directive 25-04, The Privacy Act of 1974, As Amended](#) and [TD P 25-04 Privacy Act Handbook](#)). Training may be different based on the nature of access or responsibility a contractor or subcontractor employee may have. The CO

shall refer to 1024.302 for Treasury's requirement concerning the use of [FAR clause 52.224-3, Privacy Training](#).

**1024.301-70 Program Office representative/ COR responsibilities.**

The program office representative/ COR shall—

(a) Comply with [1024.7004\(a\)](#) in terms of ensuring requirement documents include all applicable privacy requirements in the event any of the conditions in [FAR 24.103\(a\)](#) apply to the requirement.

(b) Ensure contractors that are required to take privacy training are aware of the due dates for completion of the privacy training and the consequences for failing to complete the required privacy training in the timeframe required.

(c) Comply with [FAR 24.301\(e\)](#) by—

(1) Monitoring contractor personnel, including subcontractor personnel, compliance with completing the required privacy training.

(2) Taking immediate action to bar or rescind access to such information or to the information systems that contain such information in instances where an individual does not complete the required privacy training within the timeframe required.

(3) Promptly notifying the CO when an individual fails to complete the required privacy training. The CO shall take action, as necessary, according to the terms and conditions of the contract.

(4) Maintain a list of contractors who complete/fail to complete privacy training and provide the list to Privacy, Transparency & Records at [Privacy@Treasury.gov](mailto:Privacy@Treasury.gov) no later than June 21<sup>st</sup> of each calendar year.

**1024.302 Contract clause.**

COs shall use the clause with its Alternate I as prescribed by [FAR 24.302\(b\)](#).

**Subpart 1024.70—Privacy Requirements.**

**1024.7000 Scope of Subpart.**

This subpart prescribes the acquisition policies and procedures surrounding Treasury's privacy program.

**1024.7001 Policy.**

(a) The Senior Agency Official for Privacy (SAOP) has agency-wide responsibility and accountability for ensuring compliance with all applicable privacy requirements (e.g., laws, regulations and policies (e.g., OMB policy and Treasury requirements)) and managing privacy risks. This responsibility includes ensuring all applicable privacy requirements are incorporated into requirements that create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information (PII) on behalf of Treasury or that operate or use an information system on behalf of Treasury.

**1024.7002 Definitions.** As used in this subpart—

“Breach” means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where a person other than an authorized user accesses



or potentially accesses PII or an authorized user accesses or potentially accesses PII for another than authorized purpose. See OMB Memorandum [M-17-12](#).

“Information system” is defined in OMB Circular No. A-130.

“Personally identifiable information (PII)” is defined in [FAR 24.1](#).

#### **1024.7003 Authorities.**

(a) Office of Management and Budget (OMB) Circular No. A-130, [Managing Information as a Strategic Resource](#)

(b) OMB Memorandum M-17-12, [Preparing for and Responding to a Breach of Personally Identifiable Information](#).

(c) [Treasury Directive 25-04, The Privacy Act of 1974, As Amended](#),

(d) TD P 25-04 Privacy Act Handbook; and

(e) Treasury’s [Departmental Cybersecurity Incident Response plan](#).

#### **1024.7004 Procedures.**

The program office representative/ COR shall—

(a) Include all applicable privacy requirements within each requirement document (e.g., SOW, PWS) that involves the creation, collection, use, processing, storage, maintenance, dissemination, disclosure, disposal, or other handling of PII by a contractor (including subcontractor) on behalf of Treasury or that involve a contractor (including subcontractor) operating or using an information system on behalf of Treasury or by a contractor of an agency or other organization on behalf of an agency. If assistance is needed the program office representative/ COR shall contact the cognizant Privacy Office.

(1) The following are minimum privacy requirements that shall be addressed within the requirements document, unless otherwise addressed within a Bureau contracting activity clause—

(i) Require the contractor to cooperate with and exchange information with Treasury officials, as determined necessary by Treasury, in order to effectively report and manage a suspected or confirmed breach.

(ii) Require contractors and subcontractors (at any tier) to properly encrypt PII in accordance with [OMB Circular No. A-130](#) and other applicable policies and to comply with Treasury specific policies for protecting PII;

(iii) Require regular training for contractors and subcontractors (at any tier) on how to identify and report a breach (see [FAR 24.3](#) and [1024.3](#) for Privacy Training requirements);

(iv) Require contractors and subcontractors (at any tier) to report a suspected or confirmed breach in any medium or form, including paper, oral, and electronic, as soon as possible and without unreasonable delay, consistent with Treasury’s incident management policy, Bureau supplemental plan, and US-CERT notification guidelines;

(v) Require contractors and subcontractors (at any tier) to maintain capabilities to determine what Federal information was or could have been accessed and by whom, construct a timeline of user activity, determine methods and techniques used to access Federal information, and identify the initial attack vector;

(vi) Allow for an inspection, investigation, forensic analysis, and any other action necessary to ensure compliance with this OMB memorandum [M-17-12](#), Treasury’s breach

response plan, Bureau supplemental plan, if applicable, and to assist with responding to a breach;

(vii) Identify roles and responsibilities, in accordance with OMB memorandum [M-17-12](#) and the Treasury's breach response plan;

(viii) Explain that a report of a breach shall not, by itself, be interpreted as evidence that the contractor or its subcontractor (at any tier) failed to provide adequate safeguards for PII; and

(ix) Require as part of the expiration or termination of the contract compliance with Treasury's requirements regarding the return and/ or disposal of PII obtained under the contract.

(b) COs shall assist the program office representative/COR in ensuring that all applicable terms and conditions related to privacy are included within the solicitation and resultant contract, specifically those described in paragraph (a)(1) of this section.

## **PART 1025—FOREIGN ACQUISITION**

### **Subpart 1025.1—Buy American—Supplies**

#### **1025.000 General.**

Resources to assist in the applicability of the Buy American Act and with the Made In America Office waiver process are available on the [OPE Waivers resource site](#).

#### **1025.103 Exceptions.**

(a) The SPE is authorized to make the determination prescribed by FAR 25.103(a). The BCPO shall obtain legal review and submit requests for this exception to the SPE for approval in accordance with 1001.7000(d).

(b)(1) For class nonavailability waivers below \$250,000, for items not listed in FAR 25.104, the CO shall submit the waiver for BCPO review and approval, prior to submitting a copy of the waiver to the MadeInAmerica.gov portal via [SAM.gov](#). For class nonavailability waivers at or above \$250,000, for items not listed in FAR 25.104, the BCPO shall review the waiver and submit for the SPE review and approval, in accordance with 1001.7000(d), prior to submitting a copy of the waiver to the MadeInAmerica.gov via [SAM.gov](#).

(b)(1)(iii)(C) The BCPO shall review the supporting documentation, make a determination and submit it to the SPE for review and approval in accordance with 1001.7000(d). The SPE will submit the approved determination to the appropriate council identified in 1.201-1.

(b)(2) For individual nonavailability waivers below \$250,000, the CO shall submit the waiver for BCPO review and approval, prior to submitting a copy of the waiver to the MadeInAmerica.gov portal via [SAM.gov](#). For individual nonavailability waivers at or above \$250,000, the BCPO shall review the waiver and submit for the SPE review and approval, in accordance with 1001.7000(d), prior to submitting a copy of the waiver to the MadeInAmerica.gov via [SAM.gov](#).

#### **1025.105 Determining reasonableness of cost.**

(a)(1) The HCA is delegated this authority for determinations that are limited to the contracting activity and the specific acquisitions. If the determination applies to multiple acquisitions, the CO shall submit the determination to the SPE for review and approval in accordance with [1001.7000\(a\)\(2\)](#). The SPE is delegated this authority for determinations that apply to all agency acquisitions.

### **Subpart 1025.2—Buy American—Construction Materials**

#### **1025.202 Exceptions.**

(a)(1) Impracticable or inconsistent with public interest. The BCPO shall submit requests for exemption to the SPE for approval in accordance with 1001.7000(d).

**1025.204 Evaluating offers of foreign construction material.**

(b) The HCA is delegated the authority in FAR 25.204(b) to determine that the use of a factor higher than 6% is more appropriate for an acquisition.

**1025.205 Postaward determinations.**

(c) See 1025.202 when an exception based on impracticable or inconsistent with public interest will be used. The CO shall follow Bureau procedures when deciding adequate consideration will not be at least the differential established in FAR 25.202(a).

**1025.206 Noncompliance.**

(c)(4) See also subpart 1009.4.

**Subpart 1025.7—Prohibited Sources**

**1025.701 Restrictions administered by the Department of the Treasury on acquisitions of supplies or services from prohibited sources.**

(b)(1) BCPOs shall notify the SPE prior to acquiring supplies and services that are restricted in [FAR 25.701\(b\)](#).

**1025.702-4 Waiver.**

(b) Waivers shall be submitted to the SPE in accordance with [subpart 1001.7000\(a\)\(1\)](#).

**Subpart 1025.10—Additional Foreign Acquisition Regulations**

**1025.1001 Waiver of right to examination of records.**

(a)(2)(iii) The HCA, without redelegation, is authorized to execute the D&F prescribed by [FAR 25.1001](#). The HCA, upon approval of the D&F, shall, if required by [FAR 25.1001](#), forward the document to the Comptroller General for concurrence.

## **PART 1026—OTHER SOCIOECONOMIC PROGRAMS**

### **Subpart 1026.2—Major Disaster or Emergency Assistance Activities**

#### **1026.202-2 Evaluation preference.**

Bureaus may establish additional guidance regarding preferences given to local firms when contracting under [FAR 26.2](#).

#### **1026.203 Transition of work.**

(b) The authority to determine that transitioning work in the performance of response, relief, and reconstruction contracts or activities in effect on the date on which the President declares a major disaster or emergency to local firms is not feasible or practicable is delegated to the HCA.

## **PART 1027—PATENTS, DATA, AND COPYRIGHTS**

### **Subpart 1027.3—Patent Rights Under Government Contracts**

#### **1027.303 Contract Clauses.**

(b)(3) The SPE is authorized to make the determination in [FAR 27.303\(b\)\(3\)](#) (see [1001.7000\(a\)\(1\)](#)).

(e)(1)(ii) The SPE is authorized to make the determination in [FAR 27.303\(e\)\(1\)\(ii\)](#) (see [1001.7000\(a\)\(1\)](#)).

(e)(4)(ii) The SPE is authorized to make the determination in [FAR 27.303\(b\)\(4\)\(ii\)](#) (see [1001.7000\(a\)\(1\)](#)).

#### **1027.304-1 General.**

(b) See Bureau procedures, if applicable, as well as [37 CFR 401.4](#) for administrative review procedures.

(f) Revocation or modification of a contractor's minimum rights. The BCPO is delegated agency head authority related to contractor appeals in accordance with applicable regulations in [37 CFR part 404](#) and Bureau procedures.

(g) Exercise of march-in rights. The BCPO is delegated agency head authority for purposes of performing the actions described in [37 CFR 401.6](#). The BCPO should consult with legal counsel.

(h) Licenses and assignments under contracts with nonprofit organizations. Required approvals as prescribed by paragraph (i) of [FAR clause 52.227-11](#) shall be made by the HCA, after consultation with legal counsel.

#### **1027.304-4 Appeals.**

(a) The CO is the designated official authorized to take the actions specified in [FAR 27.304-4\(a\)](#).

(b) Appeals shall be submitted to the SPE in accordance with [1001.7000\(a\)\(1\)](#).

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

(a) The CO shall submit requests, inclusive of a draft justification, for inclusion of a provision allowing the Government to require the licensing to third parties of inventions owned by the contractor that are not subject inventions as described by [FAR 27.306\(a\)](#) in accordance with [1001.7000\(b\)](#).

## **PART 1028—BONDS AND INSURANCE**

### **Subpart 1028.1—Bonds and Other Financial Protections**

#### **1028.101-1 Policy on use.**

(c) The CO shall submit class waivers to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#).

#### **1028.106-6 Furnishing information.**

(c) The CO is delegated this authority after consultation with legal counsel. The CO is the individual who will furnish to the requestor a certified copy of the payment bond and the contract for which it was given and determine the reasonable and appropriate costs the requestor must pay for the preparation of copies.

### **Subpart 1028.2—Sureties and Other Security for Bonds**

#### **1028.203 Acceptability of individual sureties.**

(g) The CO shall refer evidence of possible criminal or fraudulent activities by an individual surety through the BCPO to the cognizant IG authority, or other investigatory organization, with a copy to the SPE. The cognizant OIG authority should provide a report of findings to the suspension and debarment official.

#### **1028.203-7 Exclusion of individual sureties.**

(a) The SDO is the designee mentioned in [FAR 28.203-7](#).

(d) Justifications for accepting bonds of individual sureties whose name appears on the SAM Exclusions shall be prepared by the CO and forwarded through the BCPO to the SDO for approval.

#### **1028.204 Alternatives in lieu of corporate or individual sureties.**

(a) HCAs shall establish required safeguards to protect against the loss of any alternative securities received.

### **Subpart 1028.3—Insurance**

#### **1028.305 Overseas workers' compensation and war-hazard insurance.**

(d) The CO shall submit requests for waiver to the SPE for review and concurrence in accordance with [1001.7000\(a\)\(1\)](#). If the SPE concurs with the request for waiver, the SPE will submit the request to the Secretary of Labor for approval.

#### **1028.307-1 Group insurance plans.**

(a) The CO shall request the contractor to submit to their attention the plan for approval. The CO shall submit the plan to legal counsel for review prior to approval. See [DTAR 1028.307-1, Group insurance plans](#) for Treasury's requirements.

**1028.307-2 Liability.**

(b)(2) HCAs may establish special circumstances and coverage limits, after consultation with legal counsel, when determined to be in the best interest of the Bureau.

(e) HCAs are responsible for establishing, in conjunction with legal counsel, appropriate and adequate vessel collision liability and protection and indemnity liability insurance coverage limits as determined to be in the best interest of the Bureau.

**1028.310 Contract clause for work on a Government installation.**

See [DTAR 1028.310-70, Contract clause](#) for Treasury's requirement.

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

See [DTAR 1028.311-2, Agency solicitation provisions and contract clauses](#) for Treasury's requirement.



## **PART 1029—TAXES**

### **Subpart 1029.3—State and Local Taxes**

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

(a) The CO shall submit requests to designate a contractor or subcontractor as an agent of the Government for the purpose of claiming immunity from State or local sales or use taxes to the SPE for review and approval in accordance with [1001.7000\(a\)\(1\)](#).

## **PART 1030—COST ACCOUNTING STANDARDS ADMINISTRATION**

### **Subpart 1030.2—CAS Program Requirements**

#### **1030.201-5 Waiver.**

(a) The SPE is delegated the head of the agency authority under [FAR 30.201-5](#).

(a)(1) The CO shall submit CAS applicability waiver requests for a particular contractor or subcontractor to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

(d) The SPE is responsible for forwarding these types of waiver requests to the Cost Accounting Standards Board (CASB) for approval.

#### **1030.202-2 Impracticality of submission.**

The ASM/CFO is authorized to determine that it is impractical to secure the Disclosure Statement. The CO shall submit these requests in accordance with [1001.7000\(b\)](#).

#### **1030.202-8 Subcontractor Disclosure Statements.**

(b) See 1030.202-2 for Treasury's procedure.

## **PART 1031—CONTRACT COST PRINCIPLES AND PROCEDURES**

### **Subpart 1031.1—Applicability**

#### **1031.101 Objectives.**

(a) The CO shall submit requests for individual deviation concerning cost principles to the BCPO for approval in accordance with Bureau procedures. Bureau shall submit an annual report to the SPE reflecting any approved individual deviations concerning cost principles. The CO shall submit requests for class deviation concerning cost principles to the SPE for review and concurrence (see [1001.7000\(a\)\(2\)](#)). If the SPE concurs with class deviation request, the SPE will forward the request onto the Civilian Agency Acquisition Council for approval.

### **Subpart 1031.2—Contracts with Commercial Organizations**

#### **1031.205-6 Compensation for personal services.**

(g)(6) The HCA is delegated, without power of delegation, the authority to waive the cost allowability limitations as prescribed by [FAR 31.205-6\(g\)\(6\)](#).

(p)(4)(iii) The SPE is delegated the authority to establish one or more narrowly targeted exceptions per [FAR 31.205-6\(p\)\(4\)\(iii\)](#). COs shall submit recommendations to establish such exceptions in accordance with [1001.7000\(a\)\(2\)](#).

## **PART 1032—CONTRACT FINANCING**

### **1032.003 Simplified acquisition procedures financing.**

Where appropriate, BCPOs may determine that contract financing for purchases of commercial items will be permitted for purchases made under [FAR 13](#). The written determination must detail the rationale supporting the decision.

### **1032.006-2 Definition.**

The SPE is Treasury's Remedy Coordination Official (RCO) and concurrent Suspension & Debarment Official.

### **1032.006-3 Responsibilities.**

(a) The ASM/CFO will perform agency head responsibilities in [FAR 32.006-4 and 32.006-5](#).

(b) Reports regarding suspected fraud related to advance, partial, or progress payments shall be made through the BCPO to the RCO, with a copy of the report sent to the SDA. The report shall include all available information supporting the suspicion.

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

### **1032.102 Description of contract financing methods.**

(e)(2) This type of progress payment is authorized if adequate safeguards are in place and approved at one level above the CO.

### **1032.113 Customary contract financing.**

See [DTAR 1032.113, Customary contract financing](#) for Treasury's requirement.

### **1032.114 Unusual contract financing.**

The CO shall submit any proposed use of unusual contract financing to the SPE in accordance with [1001.7000\(a\)\(2\)](#).

## **Subpart 1032.2—Commercial Item Purchase Financing**

### **1032.201 Statutory authority.**

The BCPO without power of delegation may make the determination prescribed by [FAR 32.201](#). Bureau policies and procedures shall be established for any such determinations.

### **1032.202-1 Policy.**

See [DTAR 1032.202-1, Policy](#) for Treasury's requirement.

### **1032.202-4 Security for Government financing.**

(a)(2) The required determination regarding the adequacy of the contractor's security and financial condition shall be in writing, reviewed by legal counsel, and retained in the contract file. It should be noted that an offeror's financial condition may be sufficient to make the contractor responsible for award purposes but may not be adequate security for government financing.

(i) In assessing the offeror's financial condition, the CO may obtain, the following information to the extent required to establish the offeror's financial capability and to determine the offeror's financial condition as being adequate security for Government financing. Other information may also be obtained if required in a particular case:

(A) A current year interim balance sheet and income statement and balance sheets and income statements for the two preceding fiscal years. The statements should be prepared in accordance with generally accepted accounting principles and shall be audited and certified by an independent public accountant or an appropriate officer of the firm;

(B) A cash flow forecast for the remainder of the contract term showing the planned origin and use of cash within the firm or branch performing the contract;

(C) Information on financing arrangements disclosing the availability of cash to finance contract performance, the contractor's exposure to financial crisis, and credit arrangements;

(D) A statement of the status of all State, Local, and Federal tax accounts, including any special mandatory contributions;

(E) A description and explanation of the financial effects of any leases, deferred purchase arrangements, patent or royalty arrangements, insurance, planned capital expenditures, pending claims, contingent liabilities, and other financial aspects of the business;

(F) Any other financial information deemed necessary; and/or

(G) A Dun and Bradstreet Report on the company.

#### **1032.206 Solicitation provisions and contract clauses.**

(g) The HCA is authorized to develop procedures under [FAR 32.206](#).

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

#### **1032.402 General.**

(e)(1) The authority to make the finding and determination required by [FAR 32.402\(c\)\(1\)\(iii\)](#) and for approval of contract terms concerning advance payments, as provided by [FAR 32.402\(e\)\(1\)](#), is delegated to the SPE. The CO shall submit requests recommending approval or disapproval of advance payments to the SPE in accordance with [1001.7000\(a\)\(2\)](#). The request shall include the information required by [FAR 32.409-1](#), or [FAR 32.409-2](#), if recommending disapproval, and shall address the standards for advance payment in [FAR 32.402\(c\)\(2\)](#).

(2) The CO shall coordinate with the activity that provides contract financing support prior to submitting the request to recommend approval of advance payments.

#### **1032.407 Interest.**

(d) The SPE is delegated the authority to authorize advance payments without interest under the contracts listed in [FAR 32.407\(d\)](#), if in Treasury's interest. The CO shall submit requests in accordance with [1001.7000\(a\)\(2\)](#).

#### **1032.409 Contracting officer action.**

See 1032-402(e)(1) for the designated authority.

## **Subpart 1032.5—Progress Payments Based On Costs**

### **1032.502-2 Contract finance office clearance.**

HCA's are responsible for establishing Bureau procedures.

## **Subpart 1032.6—Contract Debts**

### **1032.602 Responsibilities.**

COs shall consult Bureau procedures and the cognizant finance office concerning contract debt collection.

### **1032.607 Installment payments and deferment of collection.**

(a) Bureaus are responsible for designating the office for the responsibility of approving or denying requests for installment payments or deferment of collections.

### **1032.608-1 Interest charges.**

The CO shall consult Bureau procedures and the cognizant finance office concerning contract debt that may be exempt from interest charges.

### **1032.610 Compromising debts.**

COs are not authorized to compromise debts.

## **Subpart 1032.7—Contract Funding**

### **1032.703-3 Contracts crossing fiscal years.**

(b) The CO is authorized to enter into a contract, exercise an option, or place an order under a contract as described in [FAR 32.703-3\(b\)](#).

### **1032.706-370 Clause for unenforceability of unauthorized obligations.**

The CO shall insert the clause at 1032.232-39, Unenforceability of Unauthorized Obligations (Deviation 2016-00002) in all solicitations and contracts in lieu of FAR clause 52.232-39, Unenforceability of Unauthorized Obligations.

### **1032.706-70 Commercial Supplier Agreements-Unenforceable Clauses.**

The CO shall insert the clause 1032.232-70, Commercial Supplier Agreements-Unenforceable Clauses (Deviation 2016-00003), in solicitations and contracts when not using FAR 12.

### **1032.770 Incremental funding during a Continuing Resolution.**

See [DTAR 1032.770, Incremental funding during a Continuing Resolution](#) for Treasury's requirement, including clause prescription.

## **Subpart 1032.8—Assignment of Claims**

### **1032.803 Policies.**

(d) The CO shall submit the determination to include a no-setoff commitment to the SPE in accordance with [1001.7000\(a\)\(1\)](#).

## **Subpart 1032.9—Prompt Payment**

### **1032.903 Responsibilities.**

The ASM/CFO has the primary management responsibility for the Department's implementation of [FAR 32.9](#).

### **1032.906 Making payments.**

(a) The CO is delegated authority to determine whether to make invoice payments earlier than seven (7) days prior to the due dates specified in the contract. The CO shall consult with the cognizant finance office prior to making this determination.

## **Subpart 1032.11—Electronic Funds Transfer**

### **1032.1106 EFT mechanisms.**

- (a) The CO may make the authorization according to [FAR 32.1106\(a\)](#).
- (b) The CO may make the authorization according to [FAR 32.1106\(b\)](#).

## **Subpart 1032.70—Electronic Submission and Processing of Payment Requests**

### **1032.7000 Scope of Subpart.**

See [DTAR 1032.7000 Scope of subpart](#) for Treasury's requirement.

### **1032.7001 Definitions.**

See [DTAR 1032.7001 Definitions](#) for Treasury's requirement.

### **1032.7002 Policy.**

See [DTAR 1032.7002 Policy](#) for Treasury's requirement.

### **1032.7003 Contract clause.**

See [DTAR 1032.7003 Contract clause](#) for Treasury's requirement.

## **PART 1033—PROTESTS, DISPUTES, AND APPEALS**

### **Subpart 1033.1—Protests**

#### **1033.102 General.**

(a)(1) Upon receipt of a protest against a solicitation or an award exceeding the SAT, the BCPO or designee (e.g., the CO) shall notify the SPE via e-mail within three (3) business days of receipt of the protest (see [1001.7000\(c\)](#)) and shall provide—

- (i) The date protest was received;
- (ii) A description of the action protested (e.g., solicitation or award number, brief description of requirement, and total value including base and all options);
- (iii) Name of the protestor(s)
- (iv) The forum (i.e., Agency, GAO or U.S. Court of Federal Claims);
- (v) A summary of the reason(s) for the protest; and
- (vi) A description of next steps/actions to be taken by the Bureau.

(2) The CO shall notify the SPE within five (5) business days following the disposition and resolution of the protest.

(3) The BCPO shall maintain a log of all protests received and disposition of each. As a minimum, the protest log shall include—

- (i) Date protest was received;
  - (ii) The forum (i.e., Agency, GAO or U.S. Court of Federal Claims);
  - (iii) Name of protester;
  - (iv) Action protested:
    - (A) Solicitation or award number;
    - (B) Brief description of requirement; and
    - (C) Total value including base and all options;
  - (v) Major Acquisition designation (i.e., yes or no);
  - (vi) Brief summary of protest;
  - (vii) Date of final decision; and
  - (viii) Final decision.
    - (A) Upheld or denied / in full or in part; and
    - (B) Brief description of any action taken or to be taken in response to the protest and final decision.
- (b) The HCA may make the determination.

#### **1033.103 Protests to the agency.**

(d)(3)(i) Upon receipt of an agency protest, the CO shall immediately notify the BCPO and legal counsel, providing the latter with a copy. If the solicitation or award under protest exceeds the SAT, the BCPO or designee shall comply with all requirements of 1033.102(a)(1).

(d)(4) An independent review is available only as an appeal of the CO's decision on an agency protest. The BCPO or designee will conduct independent reviews. The designee shall be at least one level above the CO. In cases where the BCPO is the CO/source selection authority, OPE may conduct the independent review.

(f)(1) Without further power of delegation, the BCPO has the authority to approve the justification or determination prescribed by [FAR 33.103\(f\)\(1\)](#). The CO shall obtain legal



counsel review prior to submission to the BCPO for review and approval. The SPE may request the BCPO to provide a copy of the justification or determination as prescribed by the FAR for purposes of review prior to its finalization.

(f)(3) Without further power of delegation, the BCPO has the authority to approve the justification or determination prescribed by [FAR 33.103\(f\)\(1\)](#). The CO shall obtain legal counsel review prior to submission to the BCPO for review and approval. The SPE may request the BCPO to provide a copy of the justification or determination as prescribed by the FAR for purposes of review prior to its finalization.

#### **1033.104 Protests to GAO.**

(a)(2) Upon receipt of a GAO protest against a solicitation or an award exceeding the SAT, the BCPO or designee shall comply with all requirements of 1033.102(a)(1).

(a)(3)(iv) 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. Reports will be transmitted to GAO by legal counsel.

(b)(1) The CO shall obtain legal counsel's review prior to submitting to the HCA the request to proceed with contract award, notwithstanding the protest. The BCPO shall promptly notify the SPE if the HCA authorized contract award notwithstanding the protest. The SPE may request the BCPO to provide a copy of the justification or determination as prescribed by the FAR for purposes of review prior to its finalization.

(c)(2) The CO shall obtain legal counsel's review prior to submitting the request to the HCA to authorize contract performance, notwithstanding the protest. The BCPO shall promptly notify the SPE if the HCA authorizes contract performance notwithstanding the protest. The SPE may also request the BCPO to provide a copy of the justification or determination as prescribed by the FAR for purposes of review prior to its finalization.

#### **1033.105 Protest at the U.S. Court of Federal Claims.**

(a) Upon receipt of a U.S. Court of Federal Claims protest against a solicitation or an award exceeding the SAT, the BCPO or designee shall comply with all requirements of 1033.102(a)(1).

### **Subpart 1033.2—Disputes and Appeals**

#### **1033.201 Definitions.**

See [DTAR 1033.201, Definitions](#) for Treasury's requirement.

#### **1033.203 Applicability.**

(b)(2)(i) The CO shall submit determinations to the SPE for approval in accordance with [1001.7000\(a\)\(1\)](#).

#### **1033.209 Suspected fraudulent claims.**

COs shall refer matters related to suspected fraudulent claims to the cognizant IG authority, or other appropriate investigative organization.

**1033.211 Contracting officer's decision.**

(a)(4)(v)(A) For contracts, the agency board of contract appeals is the Civilian Board of Contract Appeals (CBCA). When using the paragraph in [FAR 33.211\(a\)\(4\)\(v\)](#), the CO shall insert the words “Civilian Board of Contract Appeals” in replacement of each mention of the term “agency board of contract appeals”. Additional information about Civilian Board of Contract Appeals, including information on how to file, is available at <http://www.cbca.gsa.gov/index.html>.

**1033.212 Contracting officer's duties upon appeal.**

Bureau legal counsel is responsible for representing the Bureau before the CBCA. Legal counsel will prepare all correspondence in connection with the appeal, with the assistance of the CO and other appropriate personnel. COs shall prepare the appeal file as prescribed on the CBCA website available at [www.cbca.gsa.gov](http://www.cbca.gsa.gov). The file shall be forwarded to legal counsel within fifteen (15) days from receipt of notice. Legal counsel shall have fifteen (15) days to review the file and file the appeal file with the CBCA.

## **PART 1034—MAJOR SYSTEM ACQUISITION**

### **1034.001 Definition.**

See [DTAR 1034.001, Definitions](#) for Treasury's requirement.

### **1034.004 Acquisition strategy.**

See [DTAR 1034.004, Acquisition strategy](#) for Treasury's requirement.

## **Subpart 1034.2—Earned Value Management System**

### **1034.201 Policy.**

(a) See OFPP memorandum dated October 23, 2015 entitled, "[Reducing the Burden of Certifying Earned Value Management Systems](#)."

## **PART 1035—RESEARCH AND DEVELOPMENT CONTRACTING**

### **1035.003 Policy.**

(b)(1) 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 \(c\)](#). Bureaus may establish additional procedures for cost sharing and recoupment.

### **1035.010 Scientific and technical reports.**

(b) Prior to making available R&D contract results, which involve classified or national security information, the CO shall follow the procedures at [FAR 4.403](#), as supplemented by [TD P 15-71, "Department of Treasury Security Manual."](#)

### **1035.014 Government property and title.**

(b) The BCPO, without power of delegation, is able to make the determination prescribed by [FAR 35.014\(b\)](#).

### **1035.017-2 Establishing or changing an FFRDC.**

(j) For purposes of the approval prescribed by [FAR 35.017-2\(j\)](#) the SPE is delegated the authority.

### **1035.017-4 Reviewing FFRDC's.**

(b) For purposes of the authority prescribed by [FAR 35.017-4\(b\)](#) the SPE is delegated the authority.

## **PART 1036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

### **Subpart 1036.2—Special Aspects of Contracting for Construction**

#### **1036.202 Specifications.**

(c) When a CO has determined a particular brand name is essential to the Government's requirements and will not allow the submission of "equal" products, the CO shall clearly indicate within the solicitation the brand name item(s) which are required. This is necessary in order to place bidders on notice that the "brand name or equal" provisions of [FAR 52.236-5, Materials and Workmanship](#), and any other provision that may authorize the submission of an "equal" product, will not apply to the specific items listed.

#### **1036.203 Government estimate of construction costs.**

For acquisitions using sealed bid procedures, the CO may disclose the overall amount of the Government's estimate after identification of the responsive bid most advantageous to the Government; verification of that bid's price reasonableness; and verification of the bidder's responsibility. For acquisitions using other than sealed bid procedures (e.g., negotiation), the CO may, upon request, disclose the overall amount of the Government's estimate after award.

#### **1036.204 Disclosure of the magnitude of construction projects.**

(h)(1) For construction projects exceeding \$10,000,000, show the magnitude in ranges of

- (i) Between \$10,000,000 and \$25,000,000
- (ii) Between \$25,000,000 and \$50,000,000;
- (iii) Between \$50,000,000 and \$100,000,000; and
- (iv) then in increments of \$50,000,000, for more than \$100,000,000.

#### **1036.206 Liquidated damages.**

Treasury does not have any regulations for this FAR requirement. However, Bureaus may establish policies to support the CO evaluation of the need for liquidated damages in a construction contract.

#### **1036.209 Construction contracts with architect-engineer firms.**

(a) COs shall submit requests to award such a contract to the HCA for approval in accordance with Bureau procedures. Requests shall include, at a minimum—

- (1) Description of the requirement, government estimate, location of the project, and need date;
  - (2) Description of the market research conducted demonstrating how this firm was selected;
  - (3) The reason(s) why award to the design firm is required;
  - (4) An analysis of the facts involving potential or actual organizational conflicts of interest, including benefits and detriments to the Government and prospective contractor; and
  - (5) Measures to be taken to avoid, neutralize, or mitigate conflicts of interest.
- (b) This section does not apply to design-build contracts, as defined at [FAR 36.102](#).

## **Subpart 1036.6—Architect-Engineer Services**

### **1036.602-1 Selection criteria.**

(b) The HCA is authorized to approve the use of design competition. Approval must be obtained by the HCA prior to the CO issuing the solicitation.

### **1036.602-4 Selection authority.**

(a) The HCA is authorized to make the final selection decision.

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

See [DTAR 1036.602-5, Short selection process for contracts not to exceed the simplified acquisition threshold](#) for Treasury's requirement.

### **1036.605 Government cost estimate for architect-engineer work.**

(b) COs may, upon request, release the overall amount of the Government's estimate after award.

## **PART 1037—SERVICE CONTRACTING**

### **Subpart 1037.1—Service Contracts—General**

#### **1037.104 Personal services contracts.**

(b) Refer all personal services requirements to the Bureau personnel officer for determination of whether the award is specifically authorized by statute. The requiring activity in coordination with the CO shall ensure the solicitation and resultant contract includes all requirements, specifically security requirements (see [“TD 71-10” “Department of the Treasury Security Manual”](#)).

(1) The Secretary of the Treasury has the statutory authority to award personal service contracts under [22 USC 2151aa\(d\)\(3\)\(A\)](#), program to provide technical assistance to foreign governments and foreign central banks of developing or transitional countries. The Treasury’s Office of Technical Assistance (OTA) currently executes this program.

(f) The CO shall ensure such coordination with the cognizant human resources office occurs prior to contract award and includes a determination of compliance with [5 U.S.C 3524](#) governing the repayment of voluntary separation incentive payment. If the potential awardee submits an affirmative certification, and unless otherwise waived by the head of the agency it is the responsibility of the CO to work with the appropriate finance/budget offices to ensure that repayment is made, prior to awarding the contract.

#### **1037.106 Funding and term of service contracts.**

(b) The CO is authorized to enter into a contract, exercise an option, or place an order under a contract as described in [FAR 37.106\(b\)](#).

#### **1037.110 Solicitation provisions and contract clauses.**

(f) The CO shall include in all solicitations for personal service contracts language that requests the certification as to whether any of the proposed personnel received a voluntary separation incentive payment under 5 U.S.C 3523 within the last five (5) years after the date of the separation on which the payment is based.

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

Acquisitions for these types of services shall be coordinated with the Bureau personnel officer in accordance with Bureau procedures.

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

(a) The CO shall submit the waiver prescribed by [FAR 37.113-1](#) to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#).

### **Subpart 1037.2—Advisory and Assistance Services**

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

(a), (b), and (d) the BCPO is delegated the head of an agency authorities prescribed at FAR 37.204.

## **Subpart 1037.5—Management Oversight of Service Contracts**

### **1037.503 Agency-head responsibilities.**

The CO has the responsibilities described at [FAR 37.503](#).

## **Subpart 1037.6—Performance-Based Acquisition**

### **1037.601-70 General Resources.**

(a) Bureaus may use the Acquisition Requirements Roadmap Tool (ARRT) Suite available at [https://www.dau.edu/tools/Documents/SAM/resources/ARRT\\_Home.html](https://www.dau.edu/tools/Documents/SAM/resources/ARRT_Home.html) for purposes of developing performance-based requirement documents (e.g., Performance Work Statement, Quality Assurance Surveillance Plan and Performance Requirements Summary). The ARRT Suite is a tool that enables requiring activities/program offices to develop and organize performance-based requirements into draft versions of performance-based documents that can be downloaded and further edited by the acquisition team. The ARRT Suite can also assist in the development of IGCE (see Cost Estimation tool), Evaluation/Source Selection Plans (see Evaluation Factors tool) and plans that support inputs into CPARs (see Performance Assessment tool). Performance-based requirement documents agencies have used for their requirements can be found on the [Acquisition Gateway](#) and the [GPE](#).

(b) Steps to Performance-Based Acquisition (PBA), is a digital application that presents the performance-based acquisition process in easy steps, complete with samples and examples, templates and other resources to make PBA more collaborative, performance-oriented, and team-focused. This tool is located at <https://buy.gsa.gov/spba>.

## **Subpart 1037.70—Contracting for Audit or Certain Nonaudit Services**

### **1037.7000 Scope of part.**

This subpart prescribes policies and procedures for acquiring audit and certain nonaudit services from non-federal auditors. The subpart applies to all procurements, including task and delivery orders under existing contracts and agreements, by Bureaus and other Treasury offices of audit and certain nonaudit services from non-federal auditors, regardless of whether the acquisition function is performed with Treasury or by another agency. These additional procedures support, [FAR 9.504\(b\)](#) wherein, “should obtain the advice of counsel and the assistance of appropriate technical specialists in evaluating potential conflicts and in developing any necessary solicitation provisions and contract clauses.”

### **1037.7001 Definition.**

“Audit services” means Generally Accepted Government Accounting Standards (GAGAS) define “audits that may be performed in accordance with GAGAS as:

(1) Financial audits: for the requirements and guidance (see Government Auditing Standards (GAS) 1 through 4);

(2) Attestation engagements: for the requirements and guidance (see GAS 1 through 3, and 5); and



(3) Performance audits: for the requirements and guidance (see GAS 1 through 3, 6, and 7).

“Nonaudit services” means professional services other than audits or attestation engagements (see GAS 2.12) performed by vendors that also provide independent public accounting services, specifically vendors where the nonaudit service will be performed by one of the vendors listed under GSA Schedule 520 “Financial and Business Solutions,” Special Item Number (SIN) 520-7, “Financial and Performance Audits, SIN 520-8 Complementary Audit Services and SIN 520-9 Recovery Audits.” Auditors may be able to provide nonaudit services in the broad areas indicated in GAS 3.49 through 3.58 without impairing independence if:

- (1) The nonaudit services are not expressly prohibited;
- (2) The auditor has determined that the requirements for performing nonaudit services in GAS 3.34 through 3.44 have been met; and
- (3) Any significant threats to independence have been eliminated or reduced to an acceptable level through the application of safeguards.

#### **1037.7002 Policy.**

(a) In accordance with the Inspector General Act of 1978, as amended, the IG of an agency determines when it is appropriate to use non-Federal auditors for audit work, and for assuring that work performed by non-Federal auditors complies with standards established by the Government Accountability Office (GAO) and reviewing if such acquisition would present a conflict of interest (see [FAR 9.504\(b\)](#)). In addition, the IG of an agency shall evaluate whether nonaudit services performed by vendors that also provide independent public accounting services would not be independent or be perceived as not being independent or present a conflict of interest (see [FAR 9.504\(b\)](#)).

(b) Though auditors have the capability of performing a wide range of services for their clients, for audits required to be conducted in accordance with GAS issued by the Comptroller General of the United States, it is not always appropriate for auditors to perform both audit and certain nonaudit services for the same client. In these cases, the auditor and/or the client will have to make a choice as to which of the services will be provided. This issue is addressed in GAS 3.33 through 3.58. GAS establishes a conceptual framework for independence to provide a means for auditors to assess auditor independence for activities that are not expressly prohibited. Some nonaudit services do not impair an auditor’s independence. However, there are other nonaudit services that, by their very nature, impair the audit organization’s independence. Examples of nonaudit services that would impair an auditor's independence with respect to audited entities and on certain nonaudit services that may be permitted under appropriate conditions is included in GAS 3.45 through 3.58.

- (1) Management activities (see GAS 3.36);
- (2) Preparing Accounting Records and Financial Statements (see GAS 3.50 and 3.51);
- (3) Internal Audit Assistance Services Provided by External Auditors (see GAS 3.53);
- (4) Information Technology Systems Services (see GAS 3.56);
- (5) Valuation Services (see GAS 3.57);
- (6) Benefit plan administration (see GAS 3.58b);

- (7) Investment—advisory or management (see GAS 3.58c);
- (8) Executive or employee personnel matters (see GAS 3.58e);
- (9) Business risk consulting (see GAS 3.58f).

The GAS may be found at <http://www.gao.gov/yellowbook/overview>.

#### **1037.7003 Contracting officer responsibility.**

(a) Prior to issuance of the solicitation for audit or nonaudit services from non-federal auditors, the CO shall submit to the cognizant IG authority a request for concurrence to proceed with the acquisition. The request shall include a copy of the requirement package, inclusive but not limited to a copy of the SOW/PWS. The cognizant IG authority will promptly review the requirement package for the contemplated services and provide their concurrence or non-concurrence. In the case of non-concurrence, they will provide their reasons for their determination.

(1) Non-concurrence. If the cognizant IG authority does not concur, the CO shall:

(i) Audit services. Cancel the acquisition.

(ii) Nonaudit services. Consider the non-concurrence and determine whether to proceed with the acquisition. If the determination is to proceed with the acquisition, the CO shall obtain written approval from the SPE before issuance of the solicitation ([see 1001.7000\(a\)\(2\)](#)). The SPE shall consult with the cognizant IG authority prior to granting approval. If the SPE does not concur, the CO shall cancel the acquisition.

(2) Concurrence. If the cognizant IG authority concurs, the CO may proceed with issuance of the solicitation. For purposes of acquisition of nonaudit services, GAS requires that management possesses suitable skill, knowledge, or experience to oversee the acquisition.

(b) The CO shall alert the cognizant IG authority if at any time a target award date is being adversely impacted during the cognizant IG authority review interval. BCPOs may bring turn-around time concerns, if any, to the attention of the SPE.

**PART 1038—FEDERAL SUPPLY SCHEDULE CONTRACTING  
[RESERVED]**

There is no DTAP text implementing or supplementing FAR 38.

## **PART 1039—ACQUISITION OF INFORMATION TECHNOLOGY**

### **Subpart 1039.1—General**

#### **1039.101 Policy.**

(a)(1)(v) Leveraging Treasury Mandatory Sources and other Government sources (see [1008.002](#)).

(d) See [1011.002\(g\)](#) for Treasury's IPv6 policy.

#### **1039.103 Modular contracting.**

(a) COs and other members of the acquisition team should use OFPP memorandum dated June 12 2012 entitled, "[Contracting Guidance to Support Modular Development](#)" and associated policy guide entitled, "[Contracting Guidance to Support Modular Development](#)" for contracting guidance to support the use of modular contracting.

#### **1039.170 Software licensing.**

In accordance with OMB M-16-12 dated June 2, 2016 entitled, "[Category Management Policy 16-1: Improving the Acquisition and Management of Common Information Technology: Software Licensing](#)" COs should not agree to terms and conditions that prohibit the sharing of all prices, terms, and conditions for commercial and COTS software licenses with other Government entities (including posting said information to the [Acquisition Gateway](#)). When terms or conditions are identified that seem to preclude an agency from sharing prices paid with other Federal agencies, the CO shall ensure removal of these terms and conditions during the negotiation process for the contract or the option period renewal.

### **Subpart 1039.2—Electronic and Information Technology**

#### **1039.201 Scope of Subpart.**

(b) See [Treasury Directive 87-06, Electronic and Information Technology \(E&IT\) Accessibility Under Section 508 of the Rehabilitation Act](#) for Treasury's policy and guidance to ensure compliance with Section 508 of the Rehabilitation Act of 1973, as amended, regarding access to Information and Communication Technology (ICT) resources for individuals with disabilities.

#### **1039.203 Applicability.**

(a) COs should review requirements documents for electronic information technology to ensure compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

### **Subpart 1039.70—Federal IT Acquisition Reform Act**

#### **1039.7000 Scope of Subpart.**

This subpart addresses the FITARA in relation to Treasury acquisitions.

### **1039.7001 Policy.**

(a) FITARA was enacted on December 19, 2014, and outlines specific requirements related to Federal IT. OMB memorandum M-15-14 entitled “[Management and Oversight of Federal Information Technology](#)” provides guidance on the implementation of FITARA across the Federal Government, including the establishment of a FITARA Common Baseline that all agencies must achieve.

(b) Treasury’s FITARA Common Baseline is available at <https://management.cio.gov/>.

### **1039.7002. General.**

(a) The SPE collaborates with the CIO to issue FITARA-based policy related to the acquisition of IT products and services. Copies of SPE/CIO joint memoranda are available at [Treasury OPE SharePoint](#).

(b) As part of Treasury’s implementation of FITARA the Treasury CIO has—

(1) Insight into Treasury IT acquisitions via the—

(i) [Treasury IT Acquisition Tracker](#) (see [1004.76](#));

(ii) Major Acquisition Program (MAP) Review process (see [1046.70](#)); and

(iii) TechSTAT, CPIC, QPR, and other types of governance;

(iv) Review and concurrence on applicable justifications (e.g., limited-source justification); and

(v) Review and approval of acquisition strategies or acquisition plans (see [part 1007](#)).

(2) Established a policy on the consistent use of PSC codes for IT acquisitions to align them to the six (6) IT categories (see [1004.606-71](#)) identified as part of the [Government-wide category structure](#) established by the Category Management Leadership Council;

(3) Included within Treasury’s CPIC Guide explicit references to modification, pausing and/or termination of IT activities, projects, and investments through the TechSTAT process (see sections 2 and 3 of the Guide); and

(4) Assigned a Department level category manager for each of the aforementioned six (6) IT categories. As applicable, Bureaus have designated category management point of contacts as well.

**PART 1040—[RESERVED]**

There is no DTAP text implementing or supplementing FAR 40.

## **PART 1041—ACQUISITION OF UTILITY SERVICES**

### **Subpart 1041.1—General**

#### **1041.103 Statutory and delegated authority.**

(b)(1) Requests to GSA for delegations of contracting authority to enter into utility service contracts shall be referred by the BCPO to the SPE for forwarding to GSA.

### **Subpart 1041.5—Solicitation Provision and Contract Clauses**

#### **1041.501 Solicitation provision and contract clauses.**

COs shall refer to Bureau procedures when considering the use of variations of the provision and clauses prescribed by [FAR 41.501](#).

## **PART 1042—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

### **1042.002 Interagency agreements.**

(a) Interagency agreements established to acquire field contract administration services shall be coordinated in advance with the SPE to determine whether it should be a Treasury-wide arrangement.

### **Subpart 1042.1—Contract Audit Services**

#### **1042.102 Assignment of contract audit services.**

(a) Requests for audit services shall be in accordance with [Treasury Directive 76-06, Request for Contract Audit Services](#), and [1037.70](#).

#### **1042.170 Treasury Audit Resolution, Follow-Up, and Closure procedures.**

##### **1042.170-1 Scope of section.**

This section prescribes Treasury's policy and procedures surrounding contract audits.

##### **1042.170-2 Definitions.**

As used in this section—

“Corrective Action” means the measures taken to implement resolved audit findings and recommendations.

“Disposition” means the status of an audit report finding or recommendation wherein corrective action has been completed and that no further action can be reasonably anticipated.

“Resolution” means the status of an audit report finding or recommendation where the CO has documented a plan for corrective action for addressing an audit finding or recommendation and has notified all concerned parties of such plan; or in the event of disagreement, the point at which the audit follow-up official determines the matter to be resolved.

##### **1042.170-3 Applicability.**

This policy and procedure apply to contract audit reports issued by one of the Treasury IG (i.e., TIG, TIGTA, and SIGTARP), the General Accountability Office (GAO), the Defense Contract Audit Agency (DCAA), Defense Contract Management Agency (DCMA), independent accounting firms, and other audit organizations.

##### **1042.170-4 Authorities.**

(a) Inspector General Act of 1978, as amended, 5 U.S.C. Appendix establish the Office of Inspector General;

(b) OMB [Circular A-50, "Audit Follow-up"](#) provides the policies and procedures for use by executive agencies when considering reports issued by the IGs, other executive branch audit organizations, the GAO, and non-Federal auditors where follow-up is necessary.

(c) Treasury directives. The following Treasury Directives provide Treasury policy and procedures surrounding IG and audits-

(1) 40-01 Responsibilities of and to the Inspector General

(2) 40-02 Corresponding with the General Accounting Office (GAO)



### (3) 40-03 Treasury Audit Resolution, Follow-Up, and Closure

#### **1042.170-5 Policy.**

It is Treasury's policy that—

(a) Audit follow-up is an integral part of evaluating and monitoring the actions taken in response to contract audits reports and is a shared responsibility of Treasury officials and auditors;

(b) Findings and recommendations contained in contract audit reports shall be resolved and dispositioned in a timely manner, consistent with regulations, Treasury and Bureau policy and procedures (see 1042.170-4);

(c) Bureaus shall establish systems, policies and procedures to assure the prompt and proper resolution, disposition, and implementation of audit findings and recommendations. These systems shall provide for a complete record of action taken on both monetary and non-monetary findings and recommendations; and

(1) The Joint Audit Management Enterprise System (JAMES) is the Treasury system used to track and report contract audit recommendations.

(d) Statistical information and other data concerning audits are appropriately reported and tracked pursuant to all statutory and regulatory as well as Agency and Bureau requirements.

#### **1042.170-6 Responsibilities.**

(a) Bureau Chief Procurement Officers. BCPOs are responsible for complying with and ensuring Bureau contracting personnel comply with the Treasury Directives listed in 1042.170-4(c) and other Treasury and Bureau policies and procedures surrounding contract audits.

(b) Contracting officers. COs are responsible for—

(1) Submitting within thirty (30) days of the receipt of the contract audit report, unless additional time is agreed too, a written response to the auditor (see [Treasury Directive 40-03, Treasury Audit Resolution, Follow-Up, and Closure](#)). The written response shall include at a minimum—

(i) The CO's agreement or disagreement with the audit findings or recommendations;

(A) Disagreements are to be resolved according to [Treasury Directive 40-03, Treasury Audit Resolution, Follow-Up, and Closure](#) and other policy.

(ii) The corrective actions that will be taken to address each audit finding and recommendation, inclusive of the action to be taken to recover any disallowed costs, penalties and other monetary benefits due the Government; and

(iii) Dates and other milestones for accomplishing the corrective actions.

(2) Resolving contract audit reports, other than pre-award audit reports, within six months of issuance of a final report or, in the case of audit performed by non-Federal auditors, six (6) months after the receipt of the report, unless another regulation or policy provides for a shorter timeline (see [OMB Circular A-50](#) and [Treasury Directive 40-03, Treasury Audit Resolution, Follow-Up, and Closure](#)). Resolution may involve—

(i) Coordination with the other government agencies that have negotiation responsibility over a portion of the audit report findings or recommendations.

(ii) Assessment of penalties and interest (or documenting a waiver) in accordance with [FAR 42.709](#) if the CO determines that a contractor's included costs that are expressly

unallowable or previously determined to be unallowable in its final indirect cost rate proposal.

(iii) Collection of interest assessed on increased costs paid by the Government as a result of a cost accounting standard (CAS) noncompliance in accordance with [FAR 52.230-2\(a\)\(5\)](#), [52.230-3\(a\)\(4\)](#), or [52.230-4\(a\)\(4\)](#).

(iv) Collection of overpayments, interest assessed on overpayments, and penalties amounts assessed on overpayments resulting from defective cost or pricing data on Treasury contracts in accordance with [FAR 15.407-1](#).

(3) Disposition shall take place as soon as possible after resolution. The recovery of disallowed costs shall be a priority as there are in some cases statute of limitations that will preclude the Government from recovery of disallowed costs if action is not taken in a timely fashion.

(i) BCPOs shall establish a mechanism that tracks all outstanding actions concerning the recovery of disallowed costs and advise the HCA and SPE on the status of such recovery on no less than a quarterly basis.

(4) Documenting the disposition of all contract audit findings and recommendations in a signed and dated memorandum (see [Treasury Directive 40-03, Treasury Audit Resolution, Follow-Up, and Closure](#)). This shall include indicating whether each audit finding, or recommendation is agreed to and, if not, documenting the rationale for the disagreement. It shall also include, if applicable, the negotiation results from other government agencies. This memorandum shall be placed in the contract file. The CO shall—

(i) Consult with legal counsel and document the legal basis for the resolution when there is a disagreement with the audit reported findings or recommendations based on an interpretation of law, regulation, or the authority of officials; and

(ii) Document the consultation with legal counsel and any review above the CO in the contract file.

## **Subpart 1042.5—Postaward Orientation**

### **1042.500 Scope of Subpart.**

(b) See [Treasury OPE SharePoint](#) for a sample letter or other form of written communication.

### **1042.501 General.**

A CO may consult Treasury's guidance on conducting a postaward orientation available at [Treasury OPE SharePoint](#).

### **1042.503 Postaward conferences.**

(a) A postaward conference shall be held for all—

(1) Contracts or agreements anticipated to exceed \$15,000,000;

(2) Contracts that include award terms, award fees or other types of monetary incentives;

(3) Contracts that involve significant postaward administrative actions, e.g., performance, cost (e.g., cost reimbursement type contracts), schedule, security, environmental, health and safety requirements, which necessitate on-going and effective communication and oversight to ensure successful performance.

(b) The CO may decide to hold a postaward conference for contracts or agreements that do not meet the criteria in paragraph (a) of this section.

(c) Paragraph (a) of this section may be waived for a given contract or agreement by the CO when—

(1) The acquisition plan or contract administration plan fully documents how the CO will ensure—

- (i) All parties are aware of their responsibilities;
- (ii) Effective communication throughout performance; and
- (iii) Proper contract administration is conducted throughout performance.

(2) And another form of postaward orientation is performed.

(3) The CO shall document the acquisition plan if they decide to waive this requirement.

#### **1042.503-3 Postaward conference procedure.**

[Treasury Standard Form 1042 \(SF 1042\)](#), Postaward Conference Summary Report, shall be used to document the postaward conference as required by [FAR 42.503-1\(a\)\(6\)](#) and [FAR 42.503-3](#). The chairperson may request the COR and contractor representative to sign the [SF 1042](#).

#### **1042.503-70 Contract clause.**

(a) The CO shall—

(1) Insert a clause similar to [1052.242-70, Postaward Conference](#), in solicitations and contracts when the CO has decided a postaward conference will be held and the contractor is required to attend in person (see [FAR 42.501](#) and [42.502](#) and [1042.503](#)).

(2) Use the clause with Alternate I when an alternate method (e.g., telephone and video conferencing) will be used to hold the postaward conference in lieu of the contractor attending in person.

### **Subpart 1042.6—Corporate Administrative Contracting Officer**

#### **1042.602 Assignment and location.**

(a) The BCPO, without power of delegation, is delegated the authority to assign a corporate administrative CO.

### **Subpart 1042.7—Indirect Cost Rates**

#### **1042.703-2 Certificate of indirect costs.**

(b)(1) The BCPO may waive the requirement for Certification of Final Indirect Costs as prescribed by [FAR 42.703-2](#).

### **Subpart 1042.8—Disallowance of Costs**

#### **1042.803 Disallowing costs after incurrence.**

(b)(3)(ii) The CO shall process the claim in accordance with Bureau procedures.

## Subpart 1042.15—Contractor Performance Information

### 1042.1500 Scope of Subpart.

(a) OFPP memorandum dated March 6, 2013, entitled “[Improving the Collection and Use of Information about Contractor Performance and Integrity](#)” implemented quarterly reporting to monitor Agency annual reporting performance targets. Treasury’s designated past performance contact located in the OPE, is responsible for reviewing and entering this data, as required, for the following reports—

- (1) CPARS metric reports; and
- (2) Any other OMB required reporting.

(b) The Treasury designated past performance contact shall also provide assistance in—

- (1) Supporting the SPE in conducting agency level compliance assessments;
- (2) Providing a list of the annual past performance assessments in CPARS for the contractors performing on the agencies’ highest risk, complex projects, as identified by the agency head or appropriate agency official (see OFFP memorandum dated July 14, 2014 entitled, “[Making Better Use of Contractor Performance Information](#)”); and

(i) This list shall be provided promptly to the Deputy Secretary, CIO, CFO, Chief Acquisition Officer, SPE, and other appropriate agency officials for their awareness and management of agency high profile acquisitions.

- (3) Supporting the SPE in other related tasking.

### 1042.1501 General.

(b) HCAs shall establish Bureau procedures that—

(1) Ensure COs are submitting accurate, timely, and complete information on contractor performance into CPARS;

(2) Establish Bureau CPARS Focal points to handle: CPARS access, registration and other system issues; compliance, oversight and reporting; and other related tasking (see [CPARS User Manual](#) and [CPARS Guide Section C.3.5](#));

(3) Implement a process for conducting regular compliance assessments (see [FAR 42.1501\(b\)](#)). Assessments shall include assessing the timeliness, completeness, accuracy and quality of evaluations;

(4) Implement a process that monitors contractor performance of the Bureau’s highest risk, complex acquisitions (contracts or orders). Bureaus shall take contract action when contractor performance presents risks of missing schedule, budget or other key contract metrics;

(5) Ensure acquisition and program personnel are aware of the importance of past performance evaluations and apprised of Bureau and Agency goals, status and other key metrics related to measuring the quality and timely reporting of contractor performance;

(6) Ensure that acquisition and program personnel are assigned, aware and held accountable in regards to their role and responsibility(ies) in evaluating and submitting contractor performance (see [FAR 42.1503](#));

(7) Ensure acquisition and program personnel receive the proper training in relation to their role and responsibility(ies) in evaluating contractor performance; and

(i) Training courses (e.g. Department of Defense’s [Past Performance Information course, CLC 028](#) and [Contracting Officer's Representative with a Mission Focus course](#),

[CLC 106](#)) as well as training material related to past performance information are available at Defense Acquisition University's website at <https://www.dau.edu> and Federal Acquisition Institute's website at <https://www.fai.gov>.

(8) Ensure COR appointment letters, as applicable (see [FAR 42.1502](#)), include the requirement that CORs provide input to the evaluation of contractor performance.

#### **1042.1502 Policy.**

(a)(1) Bureaus shall use the Contractor Performance Assessment Reports System for submitting input on contractor performance in accordance with [FAR 42.1502](#) and [FAR 42.1503](#).

(2) COs shall prepare interim evaluations on an annual basis from the date of contract award.

(g)(2) See [Treasury OPE SharePoint](#) for a sample determination of a history of unjustified reduced or untimely payments.

#### **1042.1503 Procedures.**

(a)(1) The CO is responsible for obtaining evaluations from all functional elements involved in post-award management of the contract action. The COR evaluation is required for all contract actions. Evaluations from the program office, administrative contracting office, end users of the product or service, and other technical or business advisors are required, as determined by the CO, such that all relevant performance information is available to the CO for consideration in preparing the evaluation

(b)(1) The quality of the evaluation narratives is critical because they establish credibility and justifiability of the ratings. Additionally, quality narratives allow a reader with no personal knowledge of the procurement to gain a complete understanding of the Contractor's performance. These narratives need not be lengthy, but need to be as clear, comprehensive and concise as possible. For purposes of writing a quality narrative, a CO may consult Treasury's guidance and other resources available at [Treasury OPE SharePoint](#) and <https://www.fai.gov>.

(2) Ratings and narratives shall be consistent with the rating definitions in the [CPARS Guidance](#) and be supported by objective evidence (e.g., technical reviews, quality assurance evaluations, and subcontracting plan reports).

(c) (CLASS DEVIATION) Past performance reports for personal services contracts, discussed in [FAR 37.104](#), shall be maintained in the contract file. A CPARS shall not be prepared. See [APU 13-02](#) for details on Treasury's class deviation to this FAR requirement.

(d) For the purpose of [FAR 42.1503\(d\)](#) the term, "as soon as practicable," is defined as thirty (30) days. All evaluations shall be finalized in CPARS within 120 days after completion of delivery, performance, or contract period, whichever is later. If there are disagreements between the CO and the contractor regarding the evaluation, Bureau review at a level above the CO, as designated in Bureau procedures, is required.

(f) BCPOs may establish bureau procedures for the reporting of past performance evaluations for classified contracts and special access programs (see [1005.202\(a\)\(1\)](#)).

## **PART 1043—CONTRACT MODIFICATIONS**

### **Subpart 1043.1—General**

#### **1043.102-70 Policy.**

(a) See [1004.7102](#) for the requirement for legal counsel review concerning modifications that are anticipated to increase the total value of the contract or, task/ delivery order in excess of 10 percent.

(b) See [Treasury OPE SharePoint](#) for a sample modification log.

#### **1043.205 Contract clause.**

(c) The CO shall document the contract file concerning the rationale for varying the 30-day period in paragraph (c) of [FAR clause 52.243-3, Changes-Time-and-Materials or Labor-Hours](#).

## **PART 1044—SUBCONTRACTING POLICIES AND PROCEDURES**

### **Subpart 1044.3—Contractors' Purchasing Systems Reviews**

#### **1044.302 Requirements.**

(a) The SPE is authorized to raise or lower the \$25 million review level. The CO shall submit requests to the SPE in accordance with [1001.7000\(a\)\(2\)](#).

## **PART 1045—GOVERNMENT PROPERTY**

### **Subpart 1045.3—Authorizing the Use and Rental of Government Property**

#### **1045.302 Contracts with foreign governments or international organizations.**

COs shall compute rental costs for the use of Government production and research property with foreign governments or international organizations in accordance with [FAR 52.245-9, Use and Charges](#). See also [OMB Circular A-25, "User Charges"](#) for guidance on the establishment of fees to recover costs.



## **PART 1046—QUALITY ASSURANCE**

### **Subpart 1046.3—Contract Clauses**

#### **1046.316 Responsibility for supplies.**

When the CO deems it necessary, [FAR 52.246-16, Responsibility for Supplies](#), may be used in solicitations and contracts when the contract amount is not expected to exceed the SAT.

### **Subpart 1046.4—Government contract quality assurance**

#### **1046.401 General.**

(f) EHS professionals shall perform assessments and oversight during contract performance as necessary and as agreed upon in the acquisition plan and contract. See [subpart 1023.70](#).

### **Subpart 1046.5—Acceptance**

#### **1046.502 Responsibility for acceptance.**

The CO may assign a COR or other authorized designee the responsibility of acceptance of supplies or services. The CO, COR or other authorized designee may obtain documentary evidence in either hard copy or electronic format to substantiate the receipt, inspection, and acceptance of supplies or services.

### **Subpart 1046.6—Material Inspection and Receiving Reports**

#### **1046.601 General.**

See [1046.670](#) for Treasury's procedures and instructions for the use, preparation and distribution of material inspection and receiving reports and commercial shipping document/packing lists to evidence Government inspection (see [FAR 46.401](#)) and acceptance (see [FAR 46.501](#)).

#### **1046.670 Procedures and instructions.**

Bureaus may prescribe additional procedures and instructions, as appropriate, to further supplement the below.

##### **1046.670-1 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 the [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 the [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.

#### **1046.670-2 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 the [OF 347](#). The acceptance report shall be completed at the place(s) specified in the contract for Government acceptance.

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

#### **1046.670-3 Inspection, acceptance, and receiving report.**

All contract and order files shall contain the following information in a Bureau-authorized form or format, when the [OF 347](#), or an equivalent authorized Bureau form, has not been used—

- (a) Date;
- (b) Contract number and latest modification number;
- (c) If applicable' order number and latest modification number;
- (d) Contractor's name;
- (e) Date items received or date recurring payment due;
- (f) Location where items were delivered or contractor's performance;
- (g) Statements applicable to the respective signature blocks to effect that the requirements have been inspected, received and accepted by me and meet the terms of the contract except as noted below;
- (h) List the requirements that were not accepted and/or the deductions made and state the reason(s) why;
- (i) Total amount of deductions related to rejected items;
- (j) Signature and printed name of authorized Government representative(s);
- (k) Title of authorized government representative(s); and
- (l) Date(s) signed.

### **Subpart 1046.7—Warranties**

#### **1046.703 Criteria for use of warranties.**

If a warranty is determined to be appropriate, the contract file shall be documented (e.g., SF 1007) with the CO's reasons for inclusion of a warranty and identify the specific parts, subassemblies, systems or contract line item(s) on which a warranty should apply, and shall address why a warranty is appropriate under the criteria set forth in [FAR 46.703](#).

#### **1046.704 Authority for use of warranties.**

COs are authorized to approve the use of warranties (see 1046.703). If the use of warranties is approved, the IGCE and resultant contract line-item structure (see [FAR 4.10](#)) needs to identify if the warranty is separately priced or included within the item price.

#### **1046.705 Limitations.**

(a) See [1046.708](#) concerning Treasury's requirements for the inclusion of warranties in cost-reimbursement contracts.

#### **1046.708 Warranties of data.**

Warranties of data shall be developed and used only after consultation with legal counsel. The CO shall consider the factors in [FAR 46.703](#) in deciding whether to obtain warranties of data. Consider the following in deciding whether to use extended liability provisions—

- (a) The likelihood that correction or replacement of the nonconforming data, or a price adjustment, will not give adequate protection to the Government; and
- (b) The effectiveness of the additional remedy as a deterrent against furnishing nonconforming data.

### **Subpart 1046.70—Major Acquisition Program (MAP) Reviews**

#### **1046.7000 General.**

MAP Reviews provide a structure that enables stakeholders (e.g., SPE, CIO, BCPO, CO, Program / Project Managers) to monitor and discuss Major Acquisitions. A key component of the MAP Review process is the briefing of the SPE, CIO (for IT acquisitions) and other key stakeholders on a Major Acquisition (see Joint OCIO/OPE memo dated January 29, 2016, entitled “[Major Acquisition Program \(MAP\) Reviews for IT Acquisitions](#)”). The purpose of MAP Reviews is to-

- (a) Provide visibility and insight into mission-critical or high-visibility procurement actions;
- (b) Ensure adequate acquisition planning;
- (c) Alignment to Treasury wide acquisition strategy, as applicable;
- (d) Increase communication among stakeholders;
- (e) Provide a forum for developing better business strategies and outcomes and resolution of problems/issues early in the acquisition process; and
- (f) As part of Treasury’s implementation of FITARA, allow the Treasury CIO insight into the acquisition strategy for major IT acquisitions across all Bureaus.

#### **1046.7001 Definition.**

(a) “Major Acquisition” means a planned or existing procurement action meeting at least one of the following criteria—

- (1) Valued greater than \$10 million (\$1 million for CDFI);
- (2) Supports OMB 300 major investments;
- (3) An IT contract or agreement, regardless of dollar value, with a period of performance that exceeds five years, excluding potential extensions of performance as provided by [FAR 52.217-8](#) and [FAR 52.237-3](#); or
- (4) Controversial or otherwise sensitive such that it warrants the attention of the SPE, BCPO, CIO (for IT acquisitions), or other executive stakeholders.

(b) “Procurement action,” as used in this subpart, means interagency agreements, contracts, agreements, task orders, delivery orders, and purchase orders. Indefinite Delivery contracts and agreements shall be reported if the estimated potential value of all anticipated obligations under the contract or agreement, including options, is anticipated to meet or exceed the threshold set forth in [1046.7001\(a\)\(1\)](#), or if one or more orders or calls under the contract or agreement meets the criteria of [1046.7001\(2\) or \(3\)](#). Individual orders or calls shall be reported in addition to the base contract or agreement if they meet any of the criteria of this section.

## **1046.7002 Responsibilities**

(a) BCPOs are responsible for —

(1) Appointing a primary and an alternate MAP Review representative for their respective Bureau; and

(2) Ensuring all Bureau stakeholders, as applicable (e.g., legal, small business, program office) attend each MAP Review briefing.

(b) Bureau MAP Review Representatives are responsible for —

(1) Acting as the single Bureau point of contact in all MAP Review matters when communicating with OPE;

(2) Ensuring the Bureau's Major Acquisitions List is updated, at a minimum, by the end of the fifth business day of each month to reflect all new and any changes from the previous month to Major Acquisitions the Bureau is working. This includes ensuring that as acquisitions move through the process, that all details for the acquisition are updated as applicable (e.g., change the Contract Phase status to Post-Award once the acquisition is awarded, and input the relevant details such as contract number, etc.);

(3) Coordinating the scheduling of the MAP Reviews with OPE;

(i) Timeframes for holding MAP Reviews, a copy of the MAP review slide deck and other information related to MAP Review is available on OPE's portal at [Major Acquisition Program \(MAP\) Reviews for IT Acquisitions](#).

(4) Ensuring MAP Review slide decks are prepared by the Bureau and uploaded to the [MAP Review](#) site at least two (2) business days prior to the scheduled MAP Review; and

(5) Providing OPE with a "flat file" by the tenth business day of each month, of all requisitions received by the Bureau the previous month. This file will be used by OPE to verify the Bureau's compliance with entering all Major Acquisitions into the Bureau's Major Acquisitions list.

(c) Bureau COs are responsible for —

(1) Preparing the MAP Review slide deck for each Major Acquisition they are to brief; and

(2) Briefing the SPE and stakeholders at the MAP Review.

(d) OPE is responsible for —

(1) Selecting the Major Acquisitions listed on the bureau's MAP List to be briefed during MAP Reviews, in conjunction with the Treasury CIO (for IT Major Acquisitions) and the BCPO, no less than two (2) weeks prior to each Bureau's scheduled briefing;

(2) Providing a site for each Bureau to track their respective Major Acquisitions and upload MAP Review slide decks;

(3) Coordinating the scheduling of the MAP Reviews with the Bureau MAP Review Representatives;

(4) Reviewing the Bureaus' flat files of all requisitions received the previous month to verify Bureaus are entering all Major Acquisitions into the Major Acquisition List; and

(5) Briefing the results of this review at the monthly TAC.

## **PART 1047—TRANSPORTATION**

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

#### **1047.506 Procedures.**

(d)(1) COs shall submit reports to: Maritime Administration, Office of Cargo and Commercial Sealift, MAR-620/Mail Stop 2, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(2) If a bill of lading cannot be obtained, COs shall submit the information described in [46 C.F.R. 381.3\(a\)](#). See additional information at <https://www.maritime.dot.gov/ports/cargo-preference/cargo-preference>.

## **PART 1048—VALUE ENGINEERING**

### **Subpart 1048.1—Policies and Procedures**

#### **1048.102 Policies.**

(a) The CO shall submit requests to exempt a contract or class of contracts from the inclusion of value engineering provisions as prescribed by [FAR 48.102 and FAR 48.202](#) to the SPE for approval in accordance with [1001.7000\(a\)\(2\)](#). Exemptions shall be retained in the contract file.

(b) Bureaus shall establish procedures for processing, evaluating and tracking value engineering change proposals (VECP). The senior accountable official (SAO) for Value Engineering (VE) at Treasury is the Deputy Assistant Secretary for Information Systems and Chief Information Officer (CIO). The agency value engineering point of contact is the Assistant Deputy CIO. The SAO is responsible for ensuring appropriate consideration and use of value engineering Department-wide (see [OMB Circular A-131, “Value Engineering”](#)). BCPOs are responsible for managing and monitoring value engineering efforts within their respective Bureaus and reporting to the agency value engineering point of contact requested value engineering information and data.

(c) BCPOs in coordination with the requiring activity shall consider requiring incorporation of value engineering clauses in appropriate subcontracts.

#### **1048.103 Processing value engineering change proposals.**

(a) Bureau technical personnel are responsible for—

(1) Conducting a comprehensive review of VECPs for technical feasibility, usefulness, and adequacy of the contractor's estimate of cost savings;

(2) Making a written report; and

(3) Recommending acceptance or rejection to the CO.

(b) Bureaus shall establish systems to track VECPs.

### **Subpart 1048.2—Contract Clauses**

#### **1048.201 Clauses for supply or service contracts.**

(a)(6) The SPE is authorized to exempt a contract or a class of contracts from the requirements of [FAR 48](#). The CO shall submit these requests in accordance with [1001.7000\(a\)\(2\)](#).

(h) Bureaus may establish procedures to address [FAR 48.201\(e\)](#).

## **PART 1049—TERMINATION OF CONTRACTS**

### **Subpart 1049.1—General Principles**

#### **1049.106 Fraud or other criminal conduct.**

Submit reports of suspected fraud or other criminal conduct through legal counsel to the BCPO and to the cognizant IG authority, along with copies of documents or other information connected with the suspected violations(s). Submit a copy of the report to the Suspension & Debarment Advisor (SDA).

#### **1049.107 Audit of prime contract settlement proposals and subcontract settlements.**

(a) Requests are to be submitted to the Bureau's cognizant IG authority in accordance with [Treasury Directive 76-06, Request for Contract Audit Services](#).

(b) Requests are to be submitted to the Bureau's cognizant IG authority in accordance with [Treasury Directive 76-06, Request for Contract Audit Services](#).

#### **1049.111 Review of proposed settlements.**

Proposed settlement agreements shall be reviewed and approved in accordance with Bureau procedures.

### **Subpart 1049.4—Termination for Default**

#### **1049.402-8 Reporting Information.**

The CO shall refer to Bureau procedures for purposes of satisfying [FAR 49.402-8](#) requirements.

## **PART 1050—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT**

### **Subpart 1050.1—Extraordinary Contractual Actions**

#### **1050.101-3 Records.**

The CO shall forward records of contractual actions taken pursuant to [Pub. L. 85-804](#) and [E.O. 10789](#) to the OPE at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

#### **1050.102-1 Delegation of authority.**

The ASM/CFO is authorized to approve all actions under [FAR 50](#), except indemnification actions listed in [FAR 50.102-1\(d\)](#).

#### **1050.103-6 Disposition.**

The CO shall submit the Memorandum of Decision required by [FAR 50.103-6](#), including the contractor's request; contractor information in support of the request required by [FAR 50.103-4](#); and the results of the CO's investigation required by [FAR 50.103-5](#) to the SPE for review in accordance with [1001.7000\(b\)](#). If the SPE concurs, OPE will submit the Memorandum of Decision to the approving authority for action.

#### **1050.104-2 General.**

(a) Proposals for the exercise of residual powers shall be processed using the procedures in [1050.103-6](#).

#### **1050.104-3 Special procedures for unusually hazardous or nuclear risks.**

(b)(1) The CO shall submit the Memorandum of Decision, including the contractor's request and information required by [FAR 50.104-3\(b\)\(1\)](#) in accordance with [1001.7000\(b\)](#).



**PART 1051—USE OF GOVERNMENT SOURCES BY CONTRACTORS  
[RESERVED]**

There is no DTAP text implementing or supplementing [FAR 51](#)

## PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### Subpart 1052.2—Texts of Provisions and Clauses

#### **1052.201-70 Contracting Officer's Representative (COR) appointment and authority.**

See [DTAR 1052.201-70, Contracting Officer's Representative \(COR\) appointment and authority](#) for Treasury's clause.

#### **1052.204-70 Insider Threat Awareness Training.**

As prescribed in [1004.471-5](#), insert the following clause:

##### **1052.204-70 INSIDER THREAT AWARENESS TRAINING (JULY 2016)**

(a) Definition. "Classified information," as used in this clause, is defined in [FAR 2.101\(b\)](#).

(b) The Government has determined that access to classified information is necessary in performance of this contract.

(c) Contractor personnel, including subcontractor personnel, determined to require access to classified information in performance of this contract shall successfully complete Insider Threat Awareness training initially and annually thereafter.

(1) Failure of a contractor employee to successfully complete the training in paragraph (c) of this clause will result in their access to classified information being revoked until such time the training is successfully completed. The Government reserves the right to take additional action deemed necessary to protect its interests.

(d) The Government may provide Contractor personnel access to a system for purposes of completing this training electronically.

(e) The Contractor shall ensure all Contractor personnel, including subcontractor personnel comply with the requirements of this clause.

(f) The Contractor shall include the substance of this clause in all subcontracts at any tier where subcontractor personnel will have access to classified information.

(End of clause)

#### **1052.210-70 Contractor publicity.**

See [DTAR 1052.210-70, Contractor publicity](#) for Treasury's clause.

#### **FAR 52.212-4 Contract Terms and Conditions-Commercial Items. (ALTERNATE II) (January 2016)**

As prescribed in 1012.301-70, when a commercial item contract is contemplated substitute, paragraphs, (s), and) for those in the basic FAR clause; and additionally, add subparagraph (e)(2) and paragraph (w) to the basic FAR clause."

(e) Definitions.

(2) As used in this clause, "Commercial supplier agreements" means terms and conditions customarily offered to the public by vendors of supplies or services that meet the definition of commercial item set forth in FAR 2.101 and intended to create a binding legal obligation on the end user. Commercial supplier agreements (CSA) are particularly

common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply or service. The term applies-

(i) Regardless of the format or style of the document. For example, a CSA may be styled as standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of an offer or quotation responding to a solicitation;

(ii) Regardless of the media or delivery mechanism used. For example, a CSA may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, Unauthorized Obligations, and Commercial Supplier Agreements-Unenforceable Clauses paragraphs of this clause,

(3) The clause at 52.212-5.

(4) Solicitation provisions if this is a solicitation.

(5) Other paragraphs of this clause.

(6) Addenda to this solicitation or contract, including any license agreements for computer software.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(u) *Unauthorized Obligations*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any CSA, that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the CSA. If the CSA is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the CSA. (2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(w) *Commercial supplier agreements -unenforceable clauses.* When any supply or service acquired under this contract is subject to a CSA, the following language shall be deemed incorporated into the CSA. As used herein, "this agreement" means the CSA:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the Government, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between the commercial supplier and the Government for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders under FAR 12).

(ii) *End user.* This agreement shall bind the Government as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in their personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language purporting to subject the Government to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance.* If the supplier or licensor believes the Government to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute w continuing performance as set forth in paragraph (d) of this clause.

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, (A) binding arbitration shall not be used unless specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) *Additional terms.*

(A) This agreement may unilaterally incorporate additional terms by reference. Terms may be included by reference using electronic means (e.g., via web links, click and accept, etc.). Such terms shall be enforceable only to the extent that:

(1) When included by reference using electronic means, the terms are readily available at referenced locations; and

(2) Terms do not materially change government obligations; and

(3) Terms do not increase government prices; and

(4) Terms do not decrease overall level of service; and

(5) Terms do not limit any other Government rights addressed elsewhere in this contract.

(B) The order of precedence clause of this contract notwithstanding, any software license terms unilaterally revised subsequent to award that is inconsistent with any material term or provision of this contract is not enforceable against the Government.

(vii) *No automatic renewals.* If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such

license or service shall not renew automatically upon expiration of its current term without prior express Government approval.

(viii) *Indemnification*. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C.516.

(ix) *Audits*. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the Government. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order.

(B) This charge, if disputed by the Government, will be resolved through paragraph (d) of this clause; no payment obligation shall arise on the part of the Government until the conclusion of the dispute process.

(C) Any audit requested by the commercial supplier or licensor will be performed at the commercial supplier's or licensor's expense, without reimbursement by the Government and must be performed within the parameters of the Government's security procedures.

(D) The Contractor must notify the Contracting Officer of any audit request.

(x) *Taxes or surcharges*. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the underlying contract.

(xi) *Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under paragraph (b) of this clause.

(xii) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will come to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1) of this clause, the language, provisions, or clause of paragraph (w)(1) of this clause shall prevail to the extent of such inconsistency.

**1052.219-18 Notification of competition limited to eligible 8(a) concerns - Alternate III (Deviation) (May 1998).**

See [DTAR –052.219-18, Notification of competition limited to eligible 8\(a\) concerns - Alternate III \(Deviation\)](#) for Treasury's clause.

**1052.219-72 Section 8(a) direct awards.**

See [DTAR 1052.219-72, Section 8\(a\) direct awards](#) for Treasury's clause.

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

See [DTAR 1052.219-73, Department of the Treasury Mentor-Protégé Program](#) for Treasury's clause.

**1052.219-75 Mentor Requirements and Evaluation.**

See [DTAR 1052.219-75, Mentor Requirements and Evaluation](#) for Treasury's clause.

**1052.222-70 Minority and Women Inclusion.**

See [DTAR 1052.222-70, Minority and Women Inclusion](#) for Treasury's clause.

**1052.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors.**

(CLASS DEVIATION) See [AB 22-01](#) for details on Treasury's class deviation to this FAR requirement

**1052.224-70 Contract Publication.**

As prescribed in [1024.203\(c\)](#), insert the following clause:

**CONTRACT PUBLICATION (OCT 2018)**

(a) The Department of the Treasury (Treasury) may, at its sole discretion, publish this contract or portions thereof, including orders issued under the contract when deemed in the best interest of the Government.

(b) To afford the Contractor an opportunity to review and propose redactions for any information contained in the Treasury contract that may be subject to a FOIA exemption, the Contractor may submit, within ten business (10) days from the date of award of this contract or any order issued under the contract—

(1) A pdf file of the fully executed contract or order that is suitable for publication and which includes all Contractor proposed redactions (e.g., trade secrets or any commercial or financial information that the Contractor believes to be privileged or confidential business information) and.

(2) A written statement identifying the portions of each proposed redactions, including the applicable exemption under the Freedom of Information Act (FOIA), [5 U.S.C. 552](#), and, in the case of FOIA Exemption 4, [5 U.S.C. 552\(b\)\(4\)](#), shall demonstrate why the information is considered to be a trade secret or commercial or financial information that is privileged or confidential.

(c) Treasury will consider the Contractor's proposed redactions and associated grounds for nondisclosure prior to making a determination as to what information may be properly withheld for purposes of publication of this contract or portions thereof.

(d) The Contractor may submit a request to the CO for additional time to complete the action prescribed by paragraph (b) of this clause. The lack of action by the Contractor will be deemed by the Government as there being no information in the Treasury contract subject to a FOIA exemption.

(e) Information provided by the Contractor in response to this clause may itself be subject to disclosure under the FOIA.

(End of clause)

**1052.228-70 Insurance requirements.**

See [DTAR 1052.228-70, Insurance requirements](#) for Treasury's clause.

**1052.232-70 Limitation of Government's Obligation.**

See [DTAR 1052.232-70, Limitation of Government's Obligation](#) for Treasury's clause.

**1052.232-7003 Electronic submission of payment requests.**

See [DTAR 1052.232-7003, Electronic submission of payment requests](#) for Treasury's clause.

**1052.232-39 Unenforceability of Unauthorized Obligations. (January 2016)**

As prescribed in 1032.706-370, insert the following clause:

**1052.232-39 Unenforceability of Unauthorized Obligations (January 2016)**

(a) *Definition.* As used in this clause-

"Commercial supplier agreements" means terms and conditions customarily offered to the public by vendors of supplies or services that meet the definition of commercial item set forth in FAR 2.101 and intended to create a binding legal obligation on the end user. Commercial supplier agreements (CSA) are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply or service. The term applies-

(1) Regardless of the format or style of the document. For example, a CSA may be styled as standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of an offer or quotation responding to a solicitation;

(2) Regardless of the media or delivery mechanism used. For example, a CSA may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction.

(b) Except as stated in paragraph (c) of this clause, when any supply or service acquired under this contract is subject to any CSA, that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such language, provision, or clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the CSA. If the CSA is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such language, provision, or clause is deemed to be stricken from the CSA.

(c) Paragraph (b) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

## **1052.232-70 Commercial Supplier Agreements-Unenforceable Clauses. (January 2016)**

As prescribed in 1032.706-70, insert the following clause:

### **Commercial Supplier Agreements-Unenforceable Clauses (January 2016)**

(a) *Definition.* As used in this clause-

"Commercial supplier agreements" means terms and conditions customarily offered to the public by vendors of supplies or services that meet the definition of commercial item set forth in FAR 2.101 and intended to create a binding legal obligation on the end user. Commercial supplier agreements (CSA) are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply or service. The term applies-

(1) Regardless of the format or style of the document. For example, a CSA may be styled as standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of an offer or quotation responding to a solicitation;

(2) Regardless of the media or delivery mechanism used. For example, a CSA may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction.

(b) When any supply or service acquired under this contract is subject to a commercial supplier agreement, the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the Government, the following shall apply:

(i) *Applicability.* This agreement is part of a contract between the commercial supplier and the Government for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders under FAR 12).

(ii) *End user.* This agreement shall bind the Government as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in their personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language purporting to subject the Government to the laws of a U.S. state, U.S. territory, district, or municipality, or foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.



(iv) *Continued performance.* If the supplier or licensor believes the Government to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute continuing performance as set forth in the clause at FAR 52.233-1, Disputes.

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, (A) binding arbitration shall not be used unless specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) *Additional terms.*

(A) This agreement may unilaterally incorporate additional terms by reference. Terms may be included by reference using electronic means (e.g., via web links, click and accept, etc.). Such terms shall be enforceable only to the extent that:

(1) When included by reference using electronic means, the terms are readily available at referenced locations; and

(2) Terms do not materially change government obligations; and

(3) Terms do not increase government prices; and

(4) Terms do not decrease overall level of service; and

(5) Terms do not limit any other Government right addressed elsewhere in this contract.

(B) The order of precedence clause of this contract notwithstanding, any software license terms unilaterally revised subsequent to award that is inconsistent with any material term or provision of this contract is not enforceable against the Government.

(vii) *No automatic renewals.* If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express Government approval.

(viii) *Indemnification.* Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits.* Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the Government. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order.

(B) This charge, if disputed by the Government, will be resolved through the clause at FAR 52.233-1, Disputes; no payment obligation shall arise on part of the Government until the conclusion of the dispute process.

(C) Any audit requested by the commercial supplier or licensor will be performed at the commercial supplier's or licensor's expense, without

reimbursement by the Government.

(x) *Taxes or surcharges.* Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying contract and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the underlying contract.

(xi) *Non-assignment.* This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under the clause at FAR 52.232-23, Assignment of Claims.

(xii) *Confidential information.* If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the price list shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information shall continue to be subject to the confidentiality obligations of this agreement.

(2) If any provision of this agreement conflicts or is inconsistent with the preceding subparagraph (b)(1) of this clause, the provisions of subparagraph (b)(1) of this clause shall prevail to the extent of such inconsistency.

(End of clause)

#### **1052.242-70 Postaward Conference.**

As prescribed in [1042.503-70](#), insert a clause sustainably as follows:

#### **POSTAWARD CONFERENCE (JAN 2017)**

(a) A postaward conference will be held with the successful offeror.

(b) The postaward conference will be held in person. The Contracting Officer or authorized designee will provide the Contractor with the date, time and location as well as agenda for the postaward conference.

(End of clause)

Alternate I (JAN 2017). If the Contractor is not required to attend the postaward conference in person, but will attend via an alternate method (e.g., telephone and video conferencing), substitute paragraph (b) with the following:

(b) The postaward conference will be held via *[insert, e.g., telephone, video conferencing, or other method]*. The Contracting Officer or authorized designee will provide the Contractor with the date and time along with other pertinent information, including the agenda for the postaward conference.

(End of clause)

## **PART 1053—FORMS**

### **Subpart 1053.1—General**

#### **1053.100 Scope of Subpart.**

This subpart contains requirements and general information applicable to the forms prescribed in the DTAR and DTAP. Individuals shall refer to Bureau policies and procedures for any Bureau specific forms or additional requirements for the use of the forms prescribed in [subpart 1053.2](#).

#### **1053.101 Requirements for use of forms.**

The requirements for use of the forms prescribed or referenced in this part are contained in parts 1001 through 1052, where the subject matter applicable to each form is addressed. The specific location of each requirement is identified in [subpart 1053.2](#).

#### **1053.102 Current editions.**

The form prescriptions in [subpart 1053.2](#) and the listing in [subpart 1053.3](#) reflect current forms as of the latest edition of the DTAP. COs shall review ABs, APUs and other official notifications provided by OPE to ensure they are in compliance with the latest form requirements. COs shall use the current versions of forms unless otherwise authorized in this part or via the AB, APU or other notification provided by OPE. See [1053.107](#).

#### **1053.103 Exceptions.**

Bureaus shall not—

(a) Alter a form prescribed by this part, unless otherwise provided within—

(1) The form prescription in [subpart 1053.2](#);

(2) The form instructions; or

(3) The FAR. Specifically, there may be instances where the DTAR or DTAP has not yet been amended to address a requirement in the FAR that impacts a form prescribed by this part. See [1001.304\(a\)](#).

(b) Use for the same purpose any form other than the standard form prescribed by this part without receiving in advance an exception from the OPE to the form.

#### **1053.107 Obtaining forms.**

(c) Current versions of the forms prescribed by this part are available at [Treasury OPE SharePoint](#).

#### **1053.108 Recommendations concerning forms.**

Users of the DTAR and DTAP may recommend new forms or the revision, elimination, or consolidation of the forms prescribed or referenced in this part or within the FAR. Recommendations shall be submitted to the OPE at [OfficeoftheProcurementExecutive@treasury.gov](mailto:OfficeoftheProcurementExecutive@treasury.gov).

#### **1053.110 Continuation sheets.**

Except as may be otherwise indicated in the DTAP, all Treasury standard forms prescribed by the DTAR and DTAP may be continued either on a plain sheet of paper, using

[Treasury OF 1050](#), Continuation Sheet, or, if applicable, using [Treasury OF 1052](#), Additional Signature Continuation Sheet. Continuation sheets shall be annotated in the upper right-hand corner with the reference number of the document being continued, requirement title, and the serial page number.

## **Subpart 1053.2—Prescription of Forms**

### **1053.200 Scope of Subpart.**

This subpart identifies Treasury-prescribed standard and optional forms for use in acquisition. These forms are available at [Treasury OPE SharePoint](#). Consistent with the approach used in the FAR this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DTAP in which the form usage requirements are addressed. For example, forms addressed in [part 1010, Market Research](#), are treated in this subpart in section 1053.210-70, Market Research; forms addressed in [subpart 1016.5, Indefinite-Delivery contracts](#), are treated in this subpart in section 1053.216-570, Indefinite-Delivery contracts.

### **1053.201-3 Regulation forms**

The following forms are prescribed as stated in this subsection. Bureaus may prescribe additional instructions for use of these forms.

- (a) [Treasury SF 1070](#), Business Case for proposed amendment to the FAR or DTAR, shall be used as specified in [1001.304\(c\)](#).
- (b) [Treasury SF 1071](#), Business Case for Proposed Bureau Regulation, shall be used as specified in [1001.370](#).

### **1053.201-670 Ratification forms.**

The following forms are prescribed as stated in this subsection for use in ratification of unauthorized commitments. Bureaus may prescribe additional instructions for use of these forms.

- (a) [Treasury SF 1030](#), Request for Ratification of an Unauthorized Commitment, shall be used as specified in [1001.602-3](#).
- (b) [Treasury SF 1031](#), Determination and Findings - Ratification of an Unauthorized Commitment, shall be used as specified in [1001.602-3](#).
- (c) [Treasury SF 1001](#), Contracting Officer Representative designation, appointment and authority letter, shall be used as specified in [1001.670-3](#).

### **1053.201-2 Delegation of procurement authority.**

The following forms are prescribed as stated in this subsection for use in delegation of procurement authority. Bureaus may prescribe additional instructions for use of these forms.

- (a) [OPE DPA #1](#), Delegation of Procurement Authority – Purchase Cardholder Appointment/ Termination Letter. [OPE DPA #1](#) or other Bureau form may be used in the delegation of procurement authority, as specified in [1001.671-3](#).
- (b) [OPE DPA #2](#), Delegation of Procurement Authority – Ordering Officer Appointment/ Termination Letter. The [OPE DPA #2](#) or other Bureau form may be used in the delegation of procurement authority, as specified in [1001.671-3](#).

### **1053.207-170 Acquisition planning.**

The following forms are prescribed as stated in this subsection for use in acquisition planning. Bureaus may prescribe additional instructions for use of these forms.

- (a) [Treasury SF 1011](#), Acquisition Plan, shall be used as specified in [1007.103\(e\)](#).
- (b) [Treasury SF 1006](#), Determination & Findings for not using Performance-Based Acquisition methods, shall be used as specified in [1007.105\(b\)\(5\)\(i\)](#).
- (c) [Treasury SF 1007](#), Determination that consolidation, bundling, or substantial bundling is necessary and justified, shall be used as specified in [1007.107\(a\)](#).

### **1053.208-470 Federal Supply Schedules.**

The following forms are prescribed as stated in this subsection for use in supporting the use of Federal Supply Schedules. Bureaus may prescribe additional instructions for use of these forms.

- (a) [Treasury SF 1025](#), Determination & Findings for Time-and-Material/Labor-hour orders under FAR 8.4, shall be used as specified in [1008.404\(h\)\(3\)\(ii\)](#).
- (b) [Treasury SF 1012](#), Limited-Sources Justification, shall be used as specified in [1008.405-6\(c\)](#).

### **1053.210-70 Market research forms.**

The following forms are prescribed as stated in this subsection for use in documenting market research. Bureaus may prescribe additional instructions for use of these forms.

- (a) [Treasury SF 1010](#), Market Research Summary Report, shall be used as specified in [1010.002\(e\)\(2\)\(i\)](#).
- (b) [Treasury OF 1053](#), Requiring Activity Market Research, shall be used as specified in [1010.002\(e\)\(2\)\(ii\)](#).

### **1053.211-70 Internet Protocol Version 6 forms.**

The following forms are prescribed as stated in this subsection for use in documenting IPv6 in accordance with [FAR 11.002\(g\)](#) and [1011.002\(g\)](#).

- (a) [Treasury SF 1002](#), Request for Waiver of Internet Protocol Version 6 (IPv6), shall be used as specified in [1011.002\(g\)](#).
- (b) [Treasury OF 1054](#), Requiring Activity IPv6 Compliance Review Checklist, shall be used as specified in [1011.002\(g\)](#).

### **1053.212-270 Time-and-material and Labor-hour form.**

The following form is prescribed as stated in this subsection for use in accordance with [FAR 12.207](#). Bureaus may prescribe additional instructions for use of the form.

- (a) [Treasury SF 1024](#), Determination & Findings for Time-and-Material/Labor-hour contracts – Commercial items (see FAR 12.207(b)), shall be used as specified in [1012.207\(b\)\(1\)\(ii\)\(A\)](#).

### **1053.213-170 Simplified Acquisition Sole Source form.**

The following form is prescribed as stated in this subsection for use of simplified procedures. Bureaus may prescribe additional instructions for use of the form.

(a) [Treasury SF 1009](#), [FAR 13.106-1\(b\)](#) Sole source justification for acquisitions under the simplified acquisition threshold, shall be used as specified in [1013.106\(b\)](#).

#### **1053.213-570 Test Program for Certain Commercial Items.**

The following form is prescribed as stated in this subsection for use of simplified procedures using [FAR 13.5](#). Bureaus may prescribe additional instructions for use of the form.

(a) [Treasury SF 1013](#), Justification & Approval for FAR 13.5 Sole Source (including brand name) acquisitions, shall be used as specified in [1013.501\(a\)\(1\)\(ii\)](#).

#### **1053.216-570 Indefinite-Delivery contracts.**

The following form is prescribed as stated in this subsection for use in support of indefinite-delivery contracts. Bureaus may prescribe additional instructions for use of the form.

(a) [Treasury SF 1014](#), Justification for an Exception to Fair Opportunity, shall be used as specified in [1016.505\(b\)\(2\)\(ii\)\(B\)](#).

#### **1053.216-670 Time-and-material and Labor-hour form.**

The following form is prescribed as stated in this subsection for use in accordance with [FAR 16.6](#). Bureaus may prescribe additional instructions for use of the form.

(a) [Treasury SF 1023](#), Determination & Findings for a Time-and-Material/Labor-hour contract under FAR 16.6 - Non-Commercial items, shall be used as specified in [1016.601\(d\)\(1\)](#).

#### **1053.217-270 Option forms.**

The following forms are prescribed as stated in this subsection for use in accordance with [FAR 17.2](#). Bureaus may prescribe additional instructions for use of these forms.

(a) [Treasury SF 1008](#), Determination of inclusion and evaluation of options, shall be used as specified in [1017.205](#).

(b) [Treasury SF 1026](#), Determination to exercise an option, shall be used as specified in [1017.207\(b\)](#).

#### **1053.217-5 Treasury Intradepartmental Purchase Request.**

As prescribed in the Treasury Interagency Agreement Guide, for assisted acquisition agreements between Treasury Bureaus, for assisted acquisition agreements between Treasury Bureaus (using other Bureau's contracts), Treasury may use the Treasury Intradepartmental Purchase Request (TIPR) form in lieu of the GWA form. The TIPR form is available at: <https://home.treasury.gov/system/files/281/TIPR-04-15-2013.pdf>

#### **1053.219-770 Subcontracting plan forms.**

The following forms are prescribed as stated in this subsection for use in supporting the small business subcontracting plan requirements described in [FAR 19.7](#).

(a) [Treasury SF 1019A](#), Subcontracting Plan, shall be used as specified in [1019.705-3](#).

(b) [Treasury SF 1019B](#), Subcontracting Plan Checklist, shall be used as specified in [1019.705-570](#).

(c) [Treasury SF 1020](#), Subcontracting Performance Evaluation Report, shall be used as specified in [1019.706](#).

#### **1053.242-570 Postaward conference form.**

The following form is prescribed for use in documenting the postaward conference as prescribed by [FAR 42.503](#). Bureaus may prescribe additional instructions for use of the form.

(c) [Treasury SF 1042](#), Postaward Conference Summary Report, shall be used as specified in [1042.503-3](#).

### **Subpart 1053.3—Illustration of Forms**

#### **1053.303-70 Agency forms.**

This section lists Treasury-specified forms. To access these forms, go to [Treasury OPE SharePoint](#):

<b>Form Name</b>	<b>Form Number</b>
Delegation of Procurement Authority – Purchase Cardholder Appointment/ Termination Letter	<a href="#">OPE DPA #1</a>
Delegation of Procurement Authority – Ordering Officer Appointment/ Termination Letter	<a href="#">OPE DPA #2</a>
Contracting Officer Representative designation, appointment and authority letter	<a href="#">SF 1001</a>
Request for Waiver of Internet Protocol Version 6	<a href="#">SF 1002</a>
Reserved	SF 1004
Reserved	SF 1005
Determination & Findings for not using Performance-Based Acquisition methods	<a href="#">SF 1006</a>
Determination that consolidation, bundling, or substantial bundling is necessary and justified	<a href="#">SF 1007</a>
Determination of inclusion and evaluation of options	<a href="#">SF 1008</a>
FAR 13.106(b) Sole source justification for acquisitions under the simplified acquisition threshold	<a href="#">SF 1009</a>
Market Research Summary Report	<a href="#">SF 1010</a>
Acquisition Plan	<a href="#">SF 1011</a>
Limited-Sources Justification	<a href="#">SF 1012</a>
Justification & Approval for FAR 13.5 Sole Source	<a href="#">SF 1013</a>
Justification for an Exception to Fair Opportunity	<a href="#">SF 1014</a>
Reserved	SF 1015
Reserved	SF 1016
Reserved	SF 1017
Reserved	SF 1018
Subcontracting Plan	<a href="#">SF 1019A</a>
Subcontracting Plan Checklist	<a href="#">SF 1019B</a>
Subcontracting Performance Evaluation Report	<a href="#">SF 1020</a>
Reserved	SF 1021

Reserved	SF 1022
Determination & Findings for a Time-and-Material/Labor-hour contract under FAR 16.6 - Non-Commercial items	<a href="#">SF 1023</a>
Determination & Findings for Time-and-Material/Labor-hour contracts – Commercial items (see FAR 12.207(b))	<a href="#">SF 1024</a>
Determination & Findings for Time-and-Material/Labor-hour orders under FAR 8.4	<a href="#">SF 1025</a>
Determination to exercise an Option	<a href="#">SF 1026</a>
Reserved	SF 1027
Reserved	SF 1028
Reserved	SF 1029
Request for Ratification of an Unauthorized Commitment	<a href="#">SF 1030</a>
Determination and Findings - Ratification of an Unauthorized Commitment	<a href="#">SF 1031</a>
Postaward Conference Summary Report	<a href="#">SF 1042</a>
Business Case for proposed amendment to the FAR or DTAR	<a href="#">SF 1070</a>
Business Case for Proposed Bureau Regulation	<a href="#">SF 1071</a>
Continuation Sheet	<a href="#">OF 1050</a>
Reserved	OF 1051
Additional Signature - Continuation Sheet	<a href="#">OF 1052</a>
Requiring Activity Market Research	<a href="#">OF 1053</a>
Requiring Activity IPv6 Compliance Review Checklist	<a href="#">OF 1054</a>



## **Subpart 1053.70—Acquisition Documentation Matrix**

### **1053.7000 Scope.**

The scope of this subpart is to provide in a concise and easy to use manner the documentation required by the FAR, DTAR, DTAP in relation to various common procurement actions. This subpart does not capture all of the FAR, DTAR, or DTAP required documentation nor any Bureau specific required documentation. Acquisition personnel are still responsible for reviewing the FAR, DTAR, DTAP and Bureau specific requirements to ensure they comply with the policies and procedures therein.

### **1053.7001 DTAP form matrix.**

This section provides a matrix reflecting DTAP forms that have been created to support various FAR, DTAR, and DTAP requirements. Many of these forms are the responsibility of the CO for completing. However, in many instances the CO will need to collaborate or request input from other members of the acquisition team (e.g., the program office/requiring activity representative) in order to sufficiently complete these forms. The DTAP form matrix is available at [Treasury OPE SharePoint](#).

### **1053.7002 Procurement request document matrix.**

This section provides the most common documents that are submitted to the contracting activity by the requiring activity as part of a procurement request (also referred to as procurement package, PR package). Many of these documents are collaborative, therefore the requiring activity should complete as much as possible, including obtaining signatures where applicable, as part of the submission of the procurement request. The lack of compliance with these requirements and associated policies and procedures may result in a delay in the contracting activity's ability to timely process the procurement request. The procurement request document matrix is available at [Treasury OPE SharePoint](#) .