



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Acquisition Procedures
Update (APU) No. 13-05
September 30, 2013

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: Cathy C. Higginbotham, Senior Procurement Executive (Acting)

Cathy C. Higginbotham
9/30/2013

SUBJECT: Environment, Safety and Health Involvement in the Procurement Process

Purpose: To promote safety and health for Department staff, contractors, subcontracts, and worksites through participation by Environmental, Health, and Safety (EHS) professionals in the procurement process.

Effective Date: Upon issuance.

Expiration Date: This DTAP update will remain in effect until canceled or superseded.

Background: This DTAP change implements the Department's response to the U.S. Chemical Safety Board's (CSB) Final Incident Report NO. 2011-06-I-HI (issued in January 2013). The report details findings from the Board's investigation of a fatal incident involving fireworks disposal by a Treasury contractor and provides recommendations to improve the Department's procurements and oversight of procurements which require handling of explosives (such as fireworks). The updates to the DTAP included in this APU adopt CSB's recommendations by establishing formal policy that: requires solicitations to incorporate rigorous safety-related contractor (and subcontractor) selection provisions, include rigorous safety-related oversight provisions in the contracts themselves, and incorporate National Fire Protection Association guidance for the safe disposal of fireworks (once available). Further, this DTAP change incorporates a broader requirement that EHS personnel participate in all pertinent procurements which involve environmental, health or safety concerns and/or risks.

Required Bureau Action: EHS professionals must participate in the procurement process (e.g., acquisition planning, development of evaluation criteria, solicitation review, participation in source selection, award review and contract oversight) as described in DTAP 1023.12.

Additional Information: Questions about this policy may be directed to Porter Glock at Porter.Glock@treasury.gov, telephone (202) 622-7096.

Attachment
Updated DTAP Language

UPDATED DTAP LANGUAGE

PART 1002—DEFINITIONS

SUBPART 1002.1—DEFINITIONS

1002.101 Definitions.

Environment, Health & Safety (EHS) concerns include environmental, health and safety issues which could create risks in maintaining safe and healthful workplaces as determined by the Office of Environment, Health and Safety, and as enumerated in Treasury Directive 75-09. Any requirement or potential requirement for handling of hazardous materials (including explosives) is considered an EHS concern and risk. EHS professionals work to ensure safe workplaces and comply with applicable safety and health laws, regulations, and directives.

SUBPART 1002.70—ABBREVIATIONS

EHS Environment, Health & Safety

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SUBPART 1004.8—GOVERNMENT CONTRACT FILES

1004.803 Contents of Contract Files [updated language in bold]

SECTION I PRESOLICITATION DOCUMENTS		
TAB	DESCRIPTION	IN FILE*
	Purchase Request/Certification of Funding/Independent Government Cost Estimate, SOW, etc. [FAR 4.803 and FAR 32.702]	
	Acquisition Plan [FAR 7.105 and DTAR 1007.1]	
	Other Than Full & Open Competition Authority JOFOC and Related Correspondence [FAR 6.3 and DTAR 1006.3]	
	Market Research [FAR 10.001, FAR 10.002 and FAR 12.202]	
	Determination & Findings - Authorization for Use	
	a. Time & Materials Contract [FAR 16.601 (c)]	
	b. Labor Hour Contract [FAR 16.602]	
	c. Multiple Award Determination [FAR 16.504(c)(1) & (c)(2)]	
	Other Approvals/Determinations:	
	a. Non-Personal Services Determination [FAR 37.103]	
	b. Justification for Use of Options [FAR 17.205 and DTAR 1017.2] Determination not to Evaluate Options [FAR 17.206(b)]	
	c. Justification for using an exemption for an EPA designated item or a product not meeting EPA recovered material content guidelines [FAR 23.405(b)(2) and DTAP 1023.405]	
	c. Value Engineering Clause Exclusion [FAR 48.201 (a) or Exemption (f)] [FAR 48.102(a) FAR 48.201 (f) and DTAR 1048.102(a)]	
	d. Deviations from FAR/DTAR/Statutes [FAR 1.4 and DTAR 1001.4]	
	e. Determination on Availability of Personnel [FAR 37.204, FAR 205 and DTAR 1037.204]	
	f. Multi-Year Contracting [FAR 17.105-1]	
	g. Approval for Firm-Fixed Price Level of Effort contract > \$100,000 [FAR 16.207-3(d)]	
	h. Other Administrative Approvals	
	i. Determination of Best Procurement Approach--Use of Another Agency's Indefinite Delivery Vehicle (if not part of the Acquisition Plan) (FAR 17.502-1(a)(2))	
	Justification and SPE approval exempting TWAC requirement for IDIQ contract or BPA (DTAP 1016.501-2)	
	HIA Coordination Form [DTAP 1046.7002]	
	Environmental, Health, and Safety (EHS) Documentation [DTAP 1023.12]	
	FBO Synopsis/Waiver/Exception [FAR 5.2 and DTAR 1005.2]	

	Commercial Item Waiver - Tailoring of Terms/Conditions/Clauses Inconsistent with Customary Commercial Practice [FAR 12.302(c) and DTAR 1012.301]	
	Small Business Review [FAR 19.5 and DTAR 1019.501]	
	SBA Correspondence (Search and Offering Letters) [FAR 19.8, DTAR 1019.8 and PIM 98-06]	
	Service Contract Act Wage Determination, SF 98 & 98A and Comparable Government Wage Rates (FAR 22.1007) or Davis Bacon General Wage Determination [FAR 22.404 and DTAR 1022.404]	
	Source Selection Plan/TEP/BMEP Plan [FAR 12.602, FAR 15.3 and DTAR 1015.3]	
	Coding of Contract Function Worksheet (if not required in Acquisition Plan (1007.570-3))	
	If assisted acquisition, copy of Interagency Agreement (IA) or reference to permanent IA file location	

* Make notations against each tab with either a check mark (✓) or N/A (not applicable); also cite cross-reference to other file(s).

SECTION II SOLICITATION DOCUMENTS		
TAB	DESCRIPTION	IN FILE*
	Solicitation Document [FAR 4.803(a)(8), FAR 12.603, FAR 14.201 and FAR 15.203 and FAR 15.205]	
	Solicitation Amendments and Supporting Documents [FAR 4.803(a)(8), FAR 14.208, FAR 15.206 and FAR 43.301]	
	Legal Review and Response [DTAR 1004.71]	
	Environmental, Health, and Safety (EHS) professional approval [DTAP 1023.12]	
	Bureau Procurement Reviews and Response	
	Other Bureau Reviews and Responses (e.g., Technical/COR)	
	Departmental Review	
	Documentation to Support the Use of Oral Solicitations [FAR 15.203(f)]	
	Distribution of Solicitation Document and Requests for Mailing List with Business Size [FAR 14.205]	

	and FAR 15.205]	
	Review - List of Parties Excluded from Federal Procurement and Nonprocurement Programs [FAR 9.404(c)(5) and DTAR 1009.404(c)(5)]	
	Pre-Bid/Proposal Conference Information (list of attendees, transcript/minutes) [FAR 14.207 and FAR 15.201]	
	"No Bid" Correspondence [FAR 14.205-2]	
	Explanation for Not Using Sealed Bidding - Check Applicable Block Y Inadequate time Y Award on other than price Y Need to hold discussions Y Competition not expected	
	HIA Strategic Review Board Slide deck [DTAP 1046.7002-5]	

* Make notations against each tab with either a check mark (✓) or N/A (not applicable); also cite cross-reference to other file(s).

SECTION III (b) PRE-AWARD DOCUMENTS		
TAB	DESCRIPTION	IN FILE*
	SBA Certificate of Competency (COC) [FAR 19.6 and DTAR 1019.602]	
	Equal Employment Opportunity Clearance (\$10 Million or More) [FAR 22.8]	
	Approvals/Determinations	
	a. Contracting Officer's Determination of Contractor's Responsibility [FAR 14.408-2, FAR 9.105-2 and DTAP 1036.201(c)(2)]	
	b. No Subcontracting Possibilities [FAR 19.705(c) and DTAR 1019.705-2(c)]	
	c. Contractor Background Investigation Documents/Approval	
	Pre-Award Protest Correspondence or MMK Independent Review [FAR 33.102 and DTAR 1033.1]	
	Bureau Review of Proposed Contract and Responses (includes Technical Review)	
	Legal Review of Proposed Contract and Response [DTAR 1004.71]	
	Environmental, Health, and Safety (EHS) professional approval [DTAP 1023.12]	

	Departmental Review	
	COR Appointment/Notification/FAC-COR Certification [DTAR 1001.670 and COR Handbook TD P 76-01 .D, dated 09/97]	
	Review - List of Parties Excluded from Federal Procurement and Nonprocurement Programs [FAR 9.405(d)(1)]	

* Make notations against each tab with either a check mark (✓) or N/A (not applicable); also cite cross-reference to other file(s).

SECTION V (a)

TAB	DESCRIPTION	IN FILE*
	Original Signed Contract or Award Documents [FAR 4.803(a)(26) & (b)(1)]	
	Original Contract Modifications (include current listing of modifications to date, cross reference - if filed elsewhere) [FAR 4.803(b)(1)]	
	Documents Supporting Contract Modifications (e.g., cost and pricing documentation)(cross reference - if filed elsewhere) [FAR 4.803(b)(1)]	
	Modification Distribution Record [FAR 4.201]	
	Postaward Conference Orientation [FAR 42.5]	
	Memorandum and Supporting Documents Transferring Contract File or Memorandum explaining why Procurement Office will Administer Contract File [FAR 42.2]	
	Approvals/Disapprovals of Requests for Waivers/Deviations from Contract Requirements [FAR 42.302]	
	Documentation of Cost or Price Analysis for Modifications (e.g. cost or pricing data, certificates, information other than cost or pricing data) [FAR 42.302]	
	Accepted/Rejected Engineering Change Proposal Documentation [FAR 48.103 and DTAR 1048.103]	
	Delivery/Task Orders & Related Documentation (cross reference - if filed elsewhere) [FAR 42.302]	
	Stop Work Orders/Notice to Proceed [FAR 42.13]	
	Security Requirements - Forms/Correspondence on Contractor Background Investigations [FAR 42.302(a)(20)]	

	Environmental, Health, and Safety (EHS) Oversight and Other Documentation [DTAP 1023.12]	
	Contractor Performance Interim Reports [FAR 42.1502(a) and DTAP 1042.1502 (2)]	
	Disputes/Claims Documentation [FAR 33.2 and DTAR 1033.2]	
	Royalty, Invention, and Copyright Reports [FAR 27 and DTAR 1027]	

PART 1007—ACQUISITION PLANNING

SUBPART 1007.1—ACQUISITION PLANS

1007.105 Contents of written acquisition plans.

(b)(23) Environment, health, and safety. The acquisition plan must address: any environmental, health and/or safety (EHS) requirements and risks--to include any known or potential requirements for handling of hazardous (to include explosive) materials; use of any EHS-related evaluation factors in the source selection strategy; requirements for post-award EHS oversight; and any other EHS actions pertinent to the requirement. The plan shall be approved by the local (bureau level or otherwise designated) EHS professional. (See DTAP 1023.12 regarding hazardous/explosive materials handling.) If a procurement contains no EHS concerns, the contract file must note the determination along with the concurrence of the local EHS professional.

PART 1014—SEALED BIDDING

SUBPART 1014.2— SOLICITATION OF BIDS

1014.201-6 Solicitation provisions.

(y) Insert necessary provision(s) related to environment, health and safety (EHS) concerns as directed by a local EHS professional. See DTAP 1023.12

PART 1015—CONTRACTING BY NEGOTIATION

SUBPART 1015.2—SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

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 local EHS professional prior to issuance. See DTAP 1023.12.

1015.305 Proposal evaluation.

(a)(6) *Environmental, Health, and Safety (EHS) evaluation.* The source selection record shall include an 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 DTAP 1023.12.

SUBPART 1023.12—PRECAUTIONS FOR ENVIRONMENTAL, HEALTH, AND SAFETY RISKS

1023.1201 Purpose

Treasury policy is to ensure that its contractors and their subcontractors take reasonable precautions to mitigate environmental, health and safety risks (to include those associated with handling hazardous/explosive materials) in performance of Department contracts.

1023.1202 Participation by the Office of Environmental, Health and Safety in Treasury Procurements

(a) Participation by the Office of Environmental, Health and Safety in Treasury procurements is necessary to ensure appropriate management of EHS risks. The CO shall ensure EHS professionals participation in all stages of the procurement process, as needed, and as required in other subparts of this document (e.g., acquisition planning, development of evaluation criteria, solicitation review, participation in source selection, award review and contract oversight).

(b) In addition to mandatory participation by EHS professionals in development of acquisition plans for all procurements exceeding the SAT, the CO shall ensure appropriate coordination with and participation by EHS professionals for all procurements between the micro-purchase threshold and the SAT. The CO shall ensure proper file documentation for all EHS related actions, to include a determination of EHS concerns/risks for all actions under the SAT. Any procurement action involving a requirement or potential requirement for contractor handling of hazardous material (e.g., explosive material) **REQUIRES** participation by the EHS representative in all stages of the procurement, including those identified in DTAP 1023.1202(a).

(c) For all procurements determined to include EHS concerns and/or risks, the CO will ensure the bureau EHS professional is provided an opportunity to attend the pre-

proposal conference, industry day, pre-work (after award) meeting and any other similar event(s).

1023.1203 Solicitation and Contract Content

(a) *Contractor Selection*: The contracting officer will work with their local EHS professional to incorporate rigorous contractor selection provisions (such as those found in the Department of Defense’s Contractor Safety Manual for Ammunition and Explosives, Section C1.5, “Pre-Award Safety Survey”) into Treasury solicitations where EHS concerns are present. The solicitation and resulting contract shall include language requiring a prime contractor to use similar selection provisions for any subcontract dealing with EHS materials or risks. All provisions will be developed by the EHS professional and based on the specific hazards of the procurement.

(b) *Contractor Oversight Provisions*: The contracting officer will work with their EHS representative to incorporate rigorous contractor oversight provisions (such as those provided in the Department of Defense’s Contractor Safety Manual, Section C1.6 “Pre-Operational Safety Survey” and C1.7 “Post-Award Contractor Responsibilities”) for contracts dealing with significant environmental, health or safety risks, to include the storage, handling, and disposal of explosive hazardous materials. All provisions will be developed by the EHS professional and based on the specific hazards of the procurement.

(c) [Reserved pending the publication of National Fire Protection Association (NFPA) guidance recommended in Chemical Safety Board (CSB) recommendation 2011-06-I-HI-R7].

(d) A listing of EHS professionals is available on The Green’s Office of Environment, Safety and Health site available at: <http://thegreen.treas.gov/offices/pages/oesh.aspx>. If the contracting officer cannot locate their local EHS professional they must contact the Director of Treasury’s Office of Environment, Health & Safety at 202-622-1712.

SUBPART 1046.4—GOVERNMENT CONTRACT QUALITY ASSURANCE

1046.401 General.

(f) Environmental, Health, and Safety (EHS) professionals shall perform assessments and oversight during contract performance as necessary and as agreed upon in the acquisition plan and contract. See DTAP 1023.12.