

Department of the Treasury Acquisition Procedures

September 2014
Version 2.0

FOREWORD

The Department of the Treasury Acquisition Procedures (DTAP) is published by the Senior Procurement Executive (SPE) of the Department of the Treasury, in his concurrent capacity as Director, Office of the Procurement Executive (OPE), and under the authority vested in him by the Federal Acquisition Regulation (FAR), specifically FAR 1.301(a)(2). The contents of the DTAP are intended to provide binding internal, non-codified policy and procedure guidance to various Treasury procurement bureaus. The scope includes delegations of authority, assignments of responsibilities, work-flow procedures, internal reporting requirements, and all other procurement policies and procedures that facilitate the processing of Treasury acquisitions. The DTAP is a companion guide to the Department of the Treasury Acquisition Regulation (DTAR), the latest version of which is codified at 48 CFR Chapter 10. Language from the codified DTAR is reproduced within the DTAP for convenience and ease of use, and formatted to differentiate itself from DTAP text by using Times New Roman font with gray highlight.

The arrangement of this Edition corresponds to the FAR, with subchapters, parts, subparts, sections and subsections corresponding to their FAR counterparts. Furthermore, it shares the same numbering system and naming convention as the FAR and DTAR for ease of cross-referencing and use. DTAP applies to all acquisitions of supplies and services involving the obligation of appropriated or non-appropriated funds. Each Bureau or office is required to use the DTAP to ensure adherence to Treasury-specific policy. For those Bureaus subject to the FAR, the DTAP must be used in conjunction with the DTAR and FAR to ensure adherence to all Treasury policy and federal procurement regulations.

Iris B. Cooper
Senior Procurement Executive

Summary Changes

September 2014 version 2.0 Edition

The following represents a summary of the amendments made.

- Amended to add the following: 1017.207(a), which is a requirement from APU 14-02.
- Amended the following to make minor corrections:
 - (i) Table of Contents for 1001.3, 1004.4, 1004.13, 1012.1, 1027.3, and 1028.3 to correct the title;
 - (ii) Table of Contents and respective DTAP subpart for 1019.3, 1022.6, 1023.5, and 1022.13 to the correct title;
 - (iii) 1002.101 definition of HCA to correct the DTAP reference;
 - (iv) Table of Contents and respective DTAP subpart 1008.2 to remove this incorrect reference;
 - (v) 1023.12, inclusive of all instances where used revised to read as 1023.70; and 1023.1201, 1023.1202 and 1023.1203 revised to read as 1023.7001, 1023.7002, and 1023.7003 respectively in order align to FAR numbering scheme for agency supplemental; and
 - (vi) 1019.302; 1019.306; 1019.307; and 1019.308 to correct the reference.

TABLE OF CONTENTS

SUBCHAPTER A-GENERAL

Part 1001—Department of the Treasury Acquisition Procedures System

Subpart 1001.1—Purpose, Authority, Issuance

Subpart 1001.3—Agency Acquisition Regulations

Subpart 1001.4—Deviations from the FAR

Subpart 1001.6—Career Development, Contracting Authority, and Responsibilities

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

Part 1002—Definitions

Subpart 1002.1—Definitions

Subpart 1002.70—Abbreviations

Part 1003—Improper Business Practices & Personal Conflicts of Interest

Subpart 1003.1—Safeguards

Subpart 1003.2—Contractor Gratuities to Government Personnel

Subpart 1003.3—Reports of Suspected Antitrust Violations.

Subpart 1003.4—Contingent Fees

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

Subpart 1003.7—Voiding and Rescinding Contracts

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

Part 1004—Administrative Matters

Subpart 1004.1—Contract Execution

Subpart 1004.4—Safeguarding Classified Information Within Industry

Subpart 1004.6—Contract Reporting

Subpart 1004.8—Government Contract Files

Subpart 1004.13—Personal Identity Verification

Subpart 1004.16—Unique Procurement Instrument Identifiers

Subpart 1004.70—[Reserved]

Subpart 1004.71—Legal Counsel Review

Subpart 1004.72—Staff Review

Subpart 1004.73—Evaluation and Certification of Treasury Procurement function

Subpart 1004.74—Procurement Automation

Subpart 1004.75—Acquisition Improvement

SUBCHAPTER B-ACQUISITION PLANNING

Part 1005—Publicizing Contract Actions

Subpart 1005.3—Synopsis of Contract Awards

Subpart 1005.4—Release of Information

Subpart 1005.5—Paid Advertisements

Part 1006—Competition Requirements

Subpart 1006.2—Full and Open Competition After Exclusion of Sources

Subpart 1006.3—Other Than Full and Open Competition

Subpart 1006.5—Advocates for Competition

Part 1007—Acquisition Planning

Subpart 1007.1—Acquisition Plans

Subpart 1007.5—Inherently Governmental Functions

Part 1008—Required Sources of supplies and services

Subpart 1008.4—Federal Supply Schedules

Subpart 1008.8—Acquisition of Printing and Related Supplies

Subpart 1008.11—Leasing of Motor Vehicles

Part 1009—Contractor Qualifications

Subpart 1009.1—Responsible Prospective Contractors

Subpart 1009.2—Qualifications Requirements

Subpart 1009.4—Debarment, Suspension, and Ineligibility

Subpart 1009.5—Organizational and Consultant Conflicts of Interest

Part 1010—Market Research

Part 1011—Describing Agency Needs

Subpart 1011.2—Using and Maintaining Requirements Documents

Subpart 1011.5—Liquidated Damages

Part 1012—Commercial Items

Subpart 1012.1—Acquisition of Commercial Items—General

Subpart 1012.2—Special Requirements for the Acquisition of Commercial Items

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

SUBCHAPTER C-CONTRACTING METHODS AND CONTRACT TYPES

Part 1013—Simplified Acquisition Procedures

Subpart 1013.1—Procedures

Subpart 1013.2—Actions At or Below the Micro-Purchase Threshold

Subpart 1013.3—Simplified Acquisition Methods

Part 1014—Sealed Bidding

Subpart 1014.2—Solicitation of Bids

Part 1015—Contracting by Negotiation

Subpart 1015.2—Solicitation and Receipt of Proposals and Information

Subpart 1015.3—Source Selection
Subpart 1015.4—Contract Pricing
Subpart 1015.6—Unsolicited Proposals

PART 1016—Types of Contracts

Subpart 1016.2—Fixed-Price Contracts
Subpart 1016.5—Indefinite-Delivery Contracts
Subpart 1016.6—Time-and-Materials, Labor-Hour, and Letter Contracts

Part 1017—Special Contracting Methods

Subpart 1017.2—Options
Subpart 1017.4—Leader Company Contracting
Subpart 1017.5—Interagency Acquisition
Subpart 1017.70—Treasury-Wide and Government-wide Acquisition Contracts
Subpart 1017.71—Strategic Sourcing

Part 1018—Emergency Acquisitions

Subpart 1018.1—Available Acquisition Flexibilities

SUBCHAPTER D-SOCIOECONOMIC PROGRAMS

Part 1019—Small Business Programs

Subpart 1019.2—Policies
Subpart 1019.3—Determination of Small Business Status for Small Business Programs
Subpart 1019.4—Cooperation with the Small Business Administration
Subpart 1019.5—Set-Asides for Small Business
Subpart 1019.6—Certificates of Competency and Determinations of Responsibility
Subpart 1019.7—The Small Business Subcontracting Program
Subpart 1019.8—Contracting with the Small Business Administration (The 8(a) Program)
Subpart 1019.70 Contracting Opportunities in Federal Advertising (Executive Order 13170)

Part 1020 [Reserved]

Part 1021 [Reserved]

Part 1022—Application of Labor Laws to Government Acquisitions

Subpart 1022.1—Basic Labor Policies
Subpart 1022.3—Contract Work Hours and Safety Standards Act
Subpart 1022.4—Labor Standards for Contracts Involving Construction
Subpart 1022.6—Contracts For Materials, Supplies, Articles, and Equipment Exceeding \$15,000
Subpart 1022.8—Equal Employment Opportunity
Subpart 1022.13—Equal Opportunity for Veterans
Subpart 1022.14—Employment of Workers with Disabilities

Subpart 1022.70—Fair inclusion of minorities and women

Part 1023—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, And Drug-Free Workplace

Subpart 1023.5—Drug-Free Workplace

Subpart 1023.7—Contracting for Environmentally Preferable Products and Services

Subpart 1023.70—Precautions for Environmental, Health, and Safety Risks

Part 1024—Protection of Privacy And Freedom of Information

Subpart 1024.1—Protection of Individual Privacy

Subpart 1024.2—Freedom of Information Act

Part 1025—Foreign Acquisition

Subpart 1025.1—Buy American Act—Supplies

Subpart 1025.2—Buy American Act—Construction Materials

Subpart 1025.7—Prohibited Sources

Subpart 1025.10—Additional Foreign Acquisition Regulations

Part 1026—Other Socioeconomic Programs

SUBCHAPTER E-GENERAL CONTRACTING REQUIREMENTS

Part 1027—Patents, Data, and Copyrights

Subpart 1027.3—Patent Rights under Government Contracts

Part 1028—Bonds and Insurance

Subpart 1028.1—Bonds and Other Financial Protections

Subpart 1028.2—Sureties and Other Security for Bonds

Subpart 1028.3—Insurance

Part 1029—Taxes

Subpart 1029.3—State and Local Taxes

Part 1030—Cost Accounting Standards Administration

Subpart 1030.2—CAS Program Requirements

Part 1031—Contract Cost Principles and Procedures

Subpart 1031.1—Applicability

Part 1032—Contract Financing

Subpart 1032.1—Non-Commercial Item Purchase Financing

Subpart 1032.2—Commercial Item Purchase Financing

Subpart 1032.4—Advance Payments for Non-Commercial Items

Subpart 1032.8—Assignment of Claims

Subpart 1032.11—Electronic Funds Transfer

Part 1033—Protests, Disputes, and Appeals

Subpart 1033.1—Protests
Subpart 1033.2—Disputes and Appeals

SUBCHAPTER F-SPECIAL CATEGORIES OF CONTRACTING

Part 1034—Major System Acquisition

Subpart 1034.0—General
DTAR Subpart 1034.2—Earned Value Management System

Part 1035—Research and Development Contracting

Part 1036—Construction and Architect-Engineering Contracts

Subpart 1036.2—Special Aspects of Contracting for Construction
Subpart 1036.6—Architect-Engineer Services

Part 1037—Service Contracting

Subpart 1037.1—Service Contracts—General
Subpart 1037.6—Performance-Based Acquisition
Subpart 1037.70—Contracting for Audit or Certain Non-Audit Services

Part 1039—Acquisition of Information Technology

Subpart 1039.1—General
Subpart 1039.2—Electronic and Information Technology

Part 1040 [Reserved]

Part 1041—Acquisition of Utility Services

Subpart 1041.1—General

SUBCHAPTER G-CONTRACT MANAGEMENT

Part 1042—Contract Administration And Audit Services

Subpart 1042.1—Contract Audit Services
Subpart 1042.7—Indirect Cost Rates
Subpart 1042.15—Contractor Performance Information

Part 1043—Contract Modifications

Subpart 1043.1—General

Part 1044—Subcontracting Policies and Procedures

Subpart 1044.3—Contractors' Purchasing Systems Reviews

Part 1045—Government Property

Part 1046—Quality Assurance

Subpart 1046.4—Government Contract Quality Assurance

Subpart 1046.5—Acceptance
Subpart 1046.6—Material Inspection and Receiving Reports
Subpart 1046.7—Warranties
Subpart 1046.70—High Impact Acquisition Program

Part 1047—Transportation

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

Part 1048—Value Engineering

Subpart 1048.1—Policies and Procedures

Part 1049—Termination of Contracts

Subpart 1049.1—General Principles

Part 1050—Extraordinary Contractual Actions and the safety act

Subpart 1050.1—Extraordinary Contractual Actions

Part 1051—Use of Government Sources by Contractors

SUBCHAPTER H-CLAUSES AND FORMS

DTAR PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2—Texts of Provisions and Clauses

Part 1053 – FORMS

Subpart 1053.2—General

Subpart 1053.2—Prescription of Forms

Subpart 1053.3—Illustration of forms

PART 1001—DEPARTMENT OF THE TREASURY ACQUISITION PROCEDURES SYSTEM

SUBPART 1001.1—PURPOSE, AUTHORITY, ISSUANCE

DTAR 1001.101 Purpose.

This subpart establishes Chapter 10, the Department of the Treasury Acquisition Regulation (DTAR), within Title 48 of the Federal Acquisition Regulation (FAR) System. The DTAR contains policies and procedures that supplement FAR coverage and directly affect the contractual relationship between the Department of the Treasury and its business partners (e.g., prospective offerors/bidders and contractors). When FAR coverage is adequate, there will be no corresponding DTAR coverage.

1001.102 Statement of guiding principles for the Federal Acquisition System.

(d) The Federal Acquisition Regulation (FAR), Department of the Treasury Acquisition Regulation (DTAR), and these supplemental Department of Treasury Acquisition Procedures (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.

DTAR 1001.104 Applicability.

The DTAR applies to all acquisitions of supplies and services, which obligate appropriated funds. For acquisitions made from non-appropriated funds, the Senior Procurement Executive will determine the rules and procedures that will apply. The DTAR does not apply to the acquisitions of the U.S. Mint.

DTAR 1001.105 Issuance.

DTAR 1001.105-1 Publication and code arrangement.

The DTAR and its subsequent changes will be published in the Federal Register and codified in the Code of Federal Regulations (CFR). The DTAR will be issued as 48 CFR Chapter 10.

DTAR 1001.105-2 Arrangement of regulations.

(a) *References and citations.* The DTAR is divided into the same parts, subparts, sections, subsections, and paragraphs as the FAR except that 10 or 100 will precede the DTAR citation so that there are four numbers to the left of the first decimal. Reference to DTAR material must be made in a manner similar to that prescribed by FAR 1.105-2(c).

DTAR 1001.105-3 Copies.

Copies of the DTAR in Federal Register or CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

DTAR 1001.106 OMB Approval under the Paperwork Reduction Act.

OMB has assigned the following control numbers that must appear on the upper right corner of the face page of each solicitation, contract, modification, and order: OMB Control No. 1505-0081 (Offeror submissions), OMB Control No. 1505-0080 (Contractor submissions), OMB Control No. 1505-0107 (Protests). OMB regulations and OMB's approval and assignment of control numbers are conditioned upon Treasury bureaus not requiring more than three copies (including the original) of any document of information. OMB has granted a waiver to permit the Department to require up to eight copies of proposal packages, including proprietary data, for solicitations, provided that contractors who submit only an original and two copies will not be placed at a disadvantage.

SUBPART 1001.3—AGENCY ACQUISITION REGULATIONS

DTAR 1001.301 Policy.

(a)(1) The DTAR (48 CFR Chapter 10) is issued for Treasury implementation in accordance with the authority cited in FAR 1.301(b). The DTAR supplements the Federal Acquisition Regulation by establishing uniform policies for all acquisition activities throughout the Department of the Treasury, except for the United States Mint.

1001.301 Policy.

(a)(2) The DTAP establishes internal Treasury acquisition policies and procedures for all acquisition activities in the Department. The language from the codified DTAR is reproduced where applicable for ease of use and cross-referencing within the DTAP. If there is any conflict between the codified DTAR and the language reproduced in the DTAP, the codified DTAR governs or takes precedence.

1001.304 Agency control and compliance procedures.

(a) Both the DTAR and the DTAP are under the direct oversight and control of the Department of the Treasury's Office of the Procurement Executive (OPE), which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance.

(b) The Senior Procurement Executive (SPE) will review for approval proposed revisions to both the DTAR and DTAP. Each Bureau Chief Procurement Officer (BCPO) may propose changes to the DTAR or DTAP. Bureaus proposing to issue agency regulatory changes, or to use a deviation in a solicitation or contract, must forward proposed changes to the SPE for review and appropriate action. Each BCPO may publish locally enforceable procedures unique to the Bureau to supplement the DTAR or DTAP as necessary for the sound functioning of its acquisition function. Bureau level procedures should be developed only to the extent necessary to fully implement and execute OPE and FAR guidance.

(c) The SPE is responsible for recommending regulations or clauses for incorporation into the FAR. Cases not peculiar to Treasury, particularly those involving uniform and policies and procedures with potential for implementation on a federal government-wide basis, should be forwarded to the SPE for review and appropriate action.

DTAR 1001.304 Agency control and compliance procedures.

(a) The DTAR is under the direct oversight and control of Treasury's Office of the Procurement Executive (OPE), which is responsible for the evaluation, review, and issuance of all Department-wide acquisition regulations and guidance.

SUBPART 1001.4—DEVIATIONS FROM THE FAR

1001.403 Individual deviations.

Requests for individual deviation, with all justifications, must be submitted to the SPE for approval in accordance with 1001.7000(a). The CO must include a copy of the approved individual deviation in the contract file.

DTAR 1001.403 Individual deviations.

The SPE is authorized to approve individual contract FAR and DTAR deviations.

1001.404 Class deviations.

(a) Requests for a class deviation, with all justifications and number of contracts affected, must be submitted to the SPE for approval in accordance with 1001.7000(a). COs must include a copy of the approved class deviation in each contract file. The SPE will transmit a copy of each approved deviation to the FAR Secretariat.

DTAR 1001.404 Class deviations.

(a) The SPE is authorized to approve class FAR and DTAR deviations.

**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 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 his or her 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 otherwise delegated pursuant to 1001.603-3(b). The HCA shall hold the BCPO accountable for performance commitments furnished by the SPE. 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 office designated in Table 1 below must be executed in accordance with part 1017.

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

<u>Bureau HCA</u>	<u>Authority and Designated Contracting Office¹</u>
Comptroller of the Currency	Authority conferred through 12 U.S.C. § 5416 to award and administer contracts on behalf of the OCC
Director, Bureau of Engraving and Printing	Award and administer contracts on behalf of BEP, excluding Information Technology contracts
Deputy Commissioner for Operations Support, Internal Revenue Service	Award and administer contracts on behalf of the IRS and DO ² Award and administer Information Technology 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 th proviso of 31 U.S.C. § 5136.
Deputy Commissioner Accounting and Shared Services, Bureau of the Fiscal Service	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 th proviso of 31 U.S.C. § 5136 Award and administer contracts on behalf of other Treasury

	bureaus and other Agencies pursuant to the Franchise Fund (31 U.S.C. § 322 note)
Inspector General	Award and administer contracts on behalf of the OIG
Special Inspector General for Troubled Asset Relief Program	Authority conferred through 12 U.S.C. § 5231 to award and administer contracts on behalf of the SIGTARP
Treasury Inspector General for Tax Administration	Award and administer contracts on behalf of the TIGTA

¹ Delegated authority does not preclude awarding contracts on behalf of other agencies or organizations pursuant to the Economy Act (31 U.S.C. § 1535) or similar authority.

² 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).

³ 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 Information Technology 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. Standard Form (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 card holder, convenience check holder) and ordering officer.

1001.602 Contracting Officers.

1001.602-3 Ratification of unauthorized commitments.

(a) Definitions.

"Unauthorized Commitment" includes the issuance of verbal authorizations, "letters of intent" and arrangements for "free" vendor services, or use of equipment, with the promise or the appearance of commitment that a contract, modification, or order will be awarded by an individual without delegated procurement authority to enter into a contract, modification, or order.

(b) Unauthorized commitments up to the simplified acquisition threshold (SAT) must be ratified by the BCPO. The BCPO for the IRS may delegate authority, without re-delegation, to Area Chief Procurement Officers to ratify unauthorized commitments at or below 10 percent of the SAT. Unauthorized commitments exceeding the SAT must be ratified by the SPE. Ratifications above the SAT must be reviewed and approved by the Bureau head where the unauthorized commitment was made and the HCA being asked to perform the ratification prior to being submitted to the SPE.

(i) Legal counsel review must be obtained for all ratifications exceeding 10 percent of the SAT.

(c)(7)(i) *Case file.* For purposes of processing the ratification of an unauthorized commitment a case file shall be prepared by the Contracting Officer (CO) with information provided by the responsible program office for all ratifications above the micro-purchase threshold. The case file must demonstrate that the circumstances set forth in FAR 1.602-3(c)(1) through (c)(6) are met and include: all relevant documents and facts concerning the unauthorized commitment; the proposed modification/award with supporting documentation; the name of the individual making the unauthorized commitment, whether that individual has previously made any other unauthorized commitments, including the number of previous unauthorized commitments, and proposed disciplinary action and/or other corrective action taken to preclude recurrence; and a justification for the ratification. 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.

(ii) *Record keeping.* BCPOs shall maintain information on the number and type of both approved and unapproved ratifications.

1001.603 Selection, appointment, and termination of appointment for contracting officers

1001.603-1 General.

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 regarding the nomination, monitoring and termination process.

The following represent the warrant levels established by the SPE for use by Treasury 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.

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

The Bureau HCA, or designated BCPO, may further limit procurement authority at their discretion.

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 need.

An individual must 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 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 nor does the level of FAC-C certification achieved necessarily correspond to the warrant level or dollar limit approved by the appointing official. The appointing official shall ensure the candidate meets the following requirements consistent with the warrant level being sought.

LEVEL I - *GS-1102, GS-1105 and other non-GS-1102 series employees ONLY.* The education, experience, mandatory training, and elective training requirements for FAC-C Level I must be met, and the individual must have obtained a FAC-C Level I certification.

LEVEL 1 - *Non-GS-1102 series employees with governmentwide commercial purchase card authority exceeding the micro-purchase threshold.* Though FAC-C Level I certification is not required, training requirements for non-GS-1102s delegated this level of authority are contained in the Department of the Treasury Acquisition Certification Management Program Handbook. The scope of authority shall be limited to only those transactions necessary to support the program office to which the individual is assigned, the dollar limits are based upon verifiable relevant experience and is subject to Bureau procurement office oversight of all transactions over the micro-purchase threshold.

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 must have obtained a FAC-C Level II certification.

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 must have obtained a FAC-C Level III certification.

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 must have obtained a FAC-C Level III certification.

When an appointing official determines that delegation of procurement authority exceeding the micro-purchase threshold to a non-GS-1102 is appropriate in certain limited circumstances, the following requirements must also be met:

- Justification of the need for delegation of procurement authority exceeding the micro-purchase threshold to a non-GS-1102;

- Determination 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;
- Description of 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 the procurement authority; and
- Appointment of a contracting officer to work with the individual to train, oversee and periodically assure timely and appropriate contract file documentation, including appropriate use of Departmental and integrated acquisition environment systems.

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 must maintain a warrant file for each CO. The warrant file shall, at a minimum, contain: a copy of the SF-1402 and 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 a time period established by Bureau policy.

(2) *Current unlimited warrant holders (those issued prior to October 1, 2014).* Current warrant holders holding an unlimited warrant who do not meet the education, training, certification requirements, must relinquish their unlimited warrants by October 1, 2014.

(b)(1) Governmentwide purchase card authority shall be made by written DPA (within the IRS only, DPAs may be issued by the BCPO or by an official designated by the HCA). The written DPA must contain but not limited to: the name of the individual; dollar limits on transaction authority (e.g. single transaction and monthly usage); describe the scope of duties including any Bureau-specific limits on types of purchases; and any other limitations on the scope of authority to be exercised other than those contained in applicable law or regulation. Bureaus may use the form located at 1053.201-2(a) for purpose of issuance of the DPA. 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. Individuals shall be provided a copy of their DPA.

(i) An SF-1402 is required when Governmentwide purchase card procurement authority exceeds the micro-purchase threshold.

(2) *Record keeping.* The BCPO (within the IRS only "or by an official designated by the HCA") must maintain a Governmentwide purchase card DPA file for each individual issued a DPA. The file shall, at a minimum, contain: a copy of the DPA, and if applicable, the associated SF-1402, including any revisions; any documentation regarding the individual's performance serving within this role; and

copies of training certificates. Files regarding terminated DPAs and, if applicable, associated SF-1402s shall also be maintained for a time period established by Bureau policy.

(3) *Training.* Training requirements are described in the Department of the Treasury Acquisition Certification Management Program Handbook.

(4) *Termination.* Refer to FAR 1.603-4 and 1001.603-4 for reasons to terminate a Governmentwide purchase card DPA.

(5) *Current Governmentwide Purchase Card DPA holders (those issued prior to October 1, 2014).* Bureaus must conduct an assessment of current Governmentwide purchase card DPA holders to ensure each individual meets the requirements described in the Department of the Treasury Acquisition Certification Management Program Handbook as well as still meet the needs of the organization and take action based on the results. Current Governmentwide purchase card DPAs and if applicable, associated SF-1402s must be reissued within twelve months of October 1, 2014.

(c) *Ordering Officer.* COs, pursuant to Bureau policies and procedures, may delegate procurement authority via the issuance of a DPA to qualified program officials to serve as ordering officers under blanket purchase agreements or indefinite delivery indefinite quantity (ID/IQ) contracts. The written DPA must contain but not limited to: the name of the individual; describe the scope of the ordering officer's duties, a list of authorized agreement(s) or IDIQ(s), any limitation on the scope of authority to be exercised other than those contained in applicable law or regulation and any dollar limitation on the procurement authority assigned. Bureaus may use the form located at 1053.201-2(b) for purpose of issuance of the DPA. 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. Ordering officers shall be provided a copy of their DPA.

(1) *Record keeping.* The BCPO must maintain an ordering officer DPA file for each individual issued a DPA. The ordering officer DPA file shall, at a minimum, contain: a copy of the DPA, including any revisions to the DPA; any documentation regarding the individual's performance serving within this role; and copies of training certificates. Files regarding terminated DPAs shall also be maintained for a time period established by Bureau policy.

(2) Education, training and certification requirements for ordering officers are addressed in the Department of the Treasury Acquisition Certification Management Program Handbook.

(3) *Surveillance and compliance.* Bureau policies and procedures shall include at a minimum:

(i) a requirement for inspection or review (e.g. physical inspection, annual reviews) of activities of ordering officials to ensure compliance with policies, operating within the scope and limitations of the authority delegated, and demonstration of sound judgment;

(ii) record keeping requirements of inspection and review findings; and

(iii) 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.

(4) *Termination.* Refer to FAR 1.603-4 and 1001.603-4 for reasons to terminate an ordering officer's DPA.

(5) *Current Ordering Officer DPA holders (those issued prior to October 1, 2014).* Bureaus must conduct an assessment of current ordering officer DPA holders to ensure each individual meets the requirements described in the Department of the Treasury Acquisition Certification Management Program Handbook and there is still an organizational need and take action based on the results. Current ordering officer DPAs must be reissued within twelve months of October 1, 2014.

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 CLP requirements as prescribed in 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.

(a) COs are required to complete the CLP requirements as specified in the Department of the Treasury Acquisition Certification Management Program Handbook in order to maintain their warrant. See 1001.603-4 for the consequence for failing to complete CLP requirements.

(b) Individuals issued a DPA as prescribed in 1001.603-3(b) and 1001.603-3(c) are required to complete the CLP requirements as specified in the Department of the Treasury Acquisition Certification Management Program Handbook in order to maintain their DPA. See 1001.603-4 for the consequence for failing to complete CLP requirements.

1001.603-6 Review and Certification.

(a) *Review.* 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 ensure 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) *Review Certification.* The BCPO shall submit to the SPE a certification each fiscal year, at a timeframe prescribed by the SPE, using the format below.

BCPO WARRANT CERTIFICATION

This is to certify that I have completed a review off 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 and 1001.603-5; 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 his or her 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 in the COR contract files. The COR shall dispose of COR contract files as directed by the CO.

- (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 and acceptance (or rejection) of services performed and/or supplies delivered, including receipts, reports, 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 Contracting Officer's Representative (COR).

1001.670-1 General.

The Department of the Treasury Acquisition Certification Management Program Handbook, or any successor, provides the policy and procedures concerning the competencies, training, experience, continuous learning requirements, certification and other requirements of becoming a COR. All CORs must be formally appointed in writing by the CO to each contract for which he or she has been delegated COR duties. COR duties must be tailored to the requirements of each contract and

specifically identified in the written appointment. BCPOs shall establish Bureau specific procedures for the nomination, appointment and termination of CORs.

(a) In very limited instances a CO may retain and execute the contract administration functions in accordance with FAR subpart 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 training to personally monitor the contractor's performance. Exceptions to the requirement for the appointment and subsequent inclusion of the COR clause at DTAR 1052.201-70 may be made at the discretion of the BCPO according to Bureau policy.

1001.670-2 Nomination.

A COR must be nominated in writing by his/her supervisor. The COR nomination shall be submitted as soon as practicable during the procurement process, but no later than prior to contract award. The nominating office is responsible for:

(a) Ensuring that the individual nominated for the COR position possesses the competencies, training and experience requirements (including appropriate level of certification), commensurate with the complexity of the acquisition (see Chapter 5 of the Department of the Treasury Acquisition Certification Management Program Handbook for a table on determining the level of certification needed based on the contract type/ complexity level) and duties and responsibilities to be delegated, including evaluating contract performance and deliverables; and

(b) Using the Bureau established form for purposes of submitting the nomination.

(1) Each COR nomination package shall include, in addition to the nomination letter, at a minimum, a copy of the individual's current FAC-COR certification.

(2) [reserved]

1001.670-3 Appointment.

Appointment of CORs to a contract is the responsibility of the CO. . Prior to appointment, the CO must review the COR nomination package to ensure the individual being nominated for the COR position of the contract possesses the competencies, training and experience requirements (including appropriate level of certification), commensurate with the complexity of the acquisition (see Chapter 5 of the Department of the Treasury Acquisition Certification Management Program Handbook for a table on determining the level of certification needed based on the contract type/ complexity level) and duties and responsibilities to be delegated, including evaluating contract performance and deliverables. Only those individuals meeting these requirements are to be appointed.

(a) The CO appoints a COR by issuing a signed letter of appointment tailored to the needs of the contract. Before an individual accepts an appointment as a COR, the CO and the individual must jointly review all required duties. The individual must then either sign the appointment letter acknowledging their acceptance or notify the CO that they do not accept the appointment. BCPOs must ensure where an individual is appointed as a COR on more than one contract, separate COR appointment letters are issued for each contract.

(1) BCPOs may establish within their procedures the ability to appoint an alternate COR for a contract. In these cases, the appointment letter shall clearly describe the role and responsibility of the alternate COR.

(b) Once a COR is appointed, the CO must send a copy of the appointment letter to the contractor and to the COR's first line supervisor. The CO must include a copy of the signed appointment letter in the contract file.

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

(d) If there is a change in personnel performing as the COR, prior to contract close-out, the CO must:

(1) Terminate the current COR appointment (see 1001.670-3);

(2) Request the program office to nominate a new individual to fulfill the function of COR;

(3) Issue a new appointment letter for the newly nominated COR, and

(4) Modify the contract to reflect the change in the individual appointed as the COR, inclusive of modifying the clause at DTAR 1052.201-70 to name the newly assigned COR.

1001.670-4 Termination of appointment.

(a) The CO terminates a COR appointment by:

(1) A letter to the COR, unless the appointment letter contains other provisions for automatic termination and

(2) Associated contract modification; or

(3) Written determination by the CO prior to contract close out that all COR actions are complete.

Terminations may be for reasons such as reassignment, termination of employment, or unsatisfactory performance. No termination shall operate retroactively.

DTAR 1001.670 Contract clause.

Contracting Officers must insert a clause substantially similar to the clause in section 1052.201-70, Contracting Officer's Technical Representative (COTR) Appointment and Authority, in all solicitations and contracts. Exceptions to the requirement for inclusion of the COTR clause and the appointment of a COTR may be made at the discretion of the BCPO.

SUBPART 1001.70—OTHER DETERMINATIONS, WAIVERS, EXCEPTIONS, APPROVALS, REVIEWS, AND SUBMITTALS.

1001.7000 Coordination and approval.

(a) *Documents requiring SPE approval.* Requests must be prepared in writing by the CO, reviewed by legal counsel, and submitted through the BCPO to the SPE for approval.

(b) *Documents requiring Agency Head approval.* Requests must be prepared in writing by the CO, reviewed by legal counsel, and submitted through the BCPO to the SPE for review and transmittal to the Agency Head for approval.

(c) *Documents requiring SPE or Agency Head notification.* Required notifications to the SPE or Agency Head must be prepared and submitted in accordance with (a) or (b) of this subpart, however action may proceed unless otherwise indicated.

PART 1002—DEFINITIONS

SUBPART 1002.1—DEFINITIONS

1002.101 Definitions.

(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.

“Bureau Chief Procurement Officer (BCPO)” means the senior acquisition person 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.

“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 must 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.

“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.

“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.

“Head of the Agency” for Treasury is the Assistant Secretary for Management and Chief Financial Officer as designated by Treasury Order 101-30, “Designation of “Head of Agency” for Procurement Matters.”

“Head of Contracting Activity (HCA)” for each Bureau with delegated procurement authority is delineated in 1001.601.

“High Impact Acquisition (HIA)” means a planned or existing procurement action meeting at least one of the criteria listed in 1046.7001(a):

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

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

“New award” means any new award of a contract, task order, delivery order, purchase order, or BPA unless otherwise defined in a specific section of this document or for a specific Treasury initiative.

DTAR 1002.101 Definitions.

Bureau means any one of the following Treasury organizations:

- (1) Alcohol and Tobacco Tax and Trade Bureau (TTB);
- (2) Bureau of Engraving & Printing (BEP);
- (3) Bureau of Public Debt (BPD);
- (4) Departmental Offices (DO);
- (5) Financial Crimes Enforcement Network (FinCEN);
- (6) Financial Management Service (FMS);
- (7) Office of the Inspector General (OIG);
- (8) Internal Revenue Service (IRS);
- (9) Office of the Comptroller of the Currency (OCC);
- (10) Special Inspector General for the Troubled Asset Relief Program (SIGTARP);
- (11) Treasury Inspector General for Tax Administration (TIGTA); or
- (12) United States Mint.

SUBPART 1002.70—ABBREVIATIONS

(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
CFO	Chief Financial Officer
CO	Contracting Officer
GSA	General Services Administration
HIA	High Impact Acquisition

<i>HUBZone</i>	Historically Underutilized Business Zone
<i>EHS</i>	Environment, Health & Safety
<i>E.O.</i>	Executive Order
<i>PBA</i>	Performance-based acquisition
<i>SBS</i>	Small Business Specialist
<i>SDB</i>	Small Disadvantaged Business
<i>SDVOSB</i>	Service-Disabled Veteran-Owned Small Business
<i>WOSB</i>	Women-Owned Small Business
<i>VOSB</i>	Veteran-Owned Small Business

DTAR 1002.70 Abbreviations.

<i>BCPO</i>	Bureau Chief Procurement Officer
<i>COTR</i>	Contracting Officer's Technical Representative
<i>HCA</i>	Head of the Contracting Activity
<i>IPP</i>	Internet Payment Platform
<i>OPE</i>	Office of the Procurement Executive
<i>OSDBU</i>	Office of Small and Disadvantaged Business Utilization
<i>SPE</i>	Senior Procurement Executive

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

SUBPART 1003.1—SAFEGUARDS

1003.101-3 Agency regulations.

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

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.

(2) If there is no concurrence at this level, 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 to the HCA for final resolution.

(b) A copy of 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 provided to the HCA must be provided also to the SPE in accordance with 1001.7000(c).

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

**SUBPART 1003.2—CONTRACTOR GRATUITIES TO
GOVERNMENT PERSONNEL**

1003.203 Reporting suspected violations of the gratuities clause.

(a)(1) Report suspected violations to the cognizant CO. The report must 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 must 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.

(b)(1) The contractor must be provided with a written notice which summarizes the events involving the suspected violation and affords 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.

(c) The SPE is the authorized designee who can make these determinations.

SUBPART 1003.3—REPORTS OF SUSPECTED ANTITRUST VIOLATIONS.

1003.301 General.

(b) Evidence of any suspected antitrust violations must 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 must 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.

These types of requests shall be submitted to the SPE for approval in accordance with 1001.7000(a).

SUBPART 1003.7—VOIDING AND RESCINDING CONTRACTS

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 must promptly notify the Department of Justice.

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

SUBPART 1003.8—LIMITATION ON THE PAYMENT OF FUNDS TO INFLUENCE FEDERAL TRANSACTIONS

1003.806 Processing suspected violations.

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

PART 1004—ADMINISTRATIVE MATTERS

SUBPART 1004.1—CONTRACT EXECUTION

1004.103 Contract clause.

The clause at FAR 52.204-1 must be inserted in each solicitation and contract where approval is required above the CO level. Bureaus shall establish procedures that cover when such instances would require the inclusion of this clause.

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 P 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 P 15-71, "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)(2) The CO shall refer to the instructions provided in Chapter IV of TD P 15-71 for Treasury procedures.

(b)(1) The CO shall refer to the instructions provided in Chapter IV of TD P 15-71 for Treasury procedures.

(c)(1) COs must 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 must be forwarded to the contractor, as well.

1004.470 Investigative requirements for contractors.

1004.470-1 General.

Contract employees not requiring access to classified information must meet the investigative requirements of Chapter II, Section 2 of TD P 15-71, "Department of Treasury Security Manual."

1004.470-2 Responsibilities of Contracting Officers.

(a) *Pre-solicitation phase.* For contractors not requiring access to classified information, the instructions provided in Chapter II, Section 2 of TD P 15-71, "Department of Treasury Security Manual" apply.

(b) *Solicitation phase.* For contractors not requiring access to classified information, the instructions provided in Chapter II, Section 2 of TD P 15-71, "Department of Treasury Security Manual" apply.

(c) *Award Phase-Nondisclosure Agreement for Sensitive Information*. COs should consult with program staff, security officers, 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 P 15-71, "Department of Treasury Security Manual."

SUBPART 1004.6—CONTRACT REPORTING

1004.603 Policy.

(d) Bureaus using non-appropriated or revolving funds must report contract actions in Federal Procurement Data System (FPDS). The OPE has provided the notification required in FAR 4.606(b)(2).

1004.604 Responsibilities.

(a)(1) BCPOs are responsible for ensuring timely entry and maintenance of overall quality of data in the FPDS. BCPOs are responsible for ensuring all actions are reported to FPDS pursuant to FAR 4.604(b).

(2) BCPOs must designate a system administrator and notify OPE in writing of the designation. Bureau system administrators are responsible for training Bureau personnel in preparation of upcoming system updates/changes, registering new users, and ensuring the validity of the information that is entered into FPDS.

(c)(1) *FPDS Data Integrity*. To support the annual certification of FPDS data, BCPOs shall—

(i) Conduct an annual Verification & Validation (V&V) exercise in accordance with OPE V&V Guidance. Each Bureau V&V report is due to OPE each year on the last business day on or before December 15.

(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. The CO is ultimately responsible for the accuracy of data supplied to FPDS; and

(iii) Implement, if applicable, agreed upon corrective action plans as identified in the V&V report and provide status updates to OPE on a quarterly basis. The status update is due on the last business day of each quarter.

(2) The OPE shall—

(i) Define the scope of each Bureau V&V review no later October 30 of each year;

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

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

(iv) Submit by January 5 of each year certification of data accuracy and completeness to General Services Administration (GSA).

1004.605 Procedures.

(a)(1) Bureaus must report contract actions with a unique identifier that begins with "T". This rule pertains to all actions submitted by each Bureau, whether or not the action is particular to that Bureau or completed as a service to another Agency. BPA Calls and Delivery/Task Orders placed against Referenced IDVs that pertain only to that particular Agency and not Government-wide do not require the unique identifier.

SUBPART 1004.8—GOVERNMENT CONTRACT FILES

1004.802 Contract Files

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

1004.803 Contents of Contract Files

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

(e) In the interest of uniformity and consistency, contracting office contract files shall be structured and maintained in accordance with the standardized Contract File Content Checklist (see 1053.204-70). The Contract File Content Checklist may be tailored for Bureau-specific requirements but shall maintain its basic structure and intent.

1004.805 Storage, handling, and disposal of contract files.

(a) Contract and order files must be disposed of in accordance with TD 80-05, "Records and Information Management Program," as supplemented by other internal bureau directives such as the Departmental Offices Records Management Handbook located at website: <http://thegreen.treas.gov/policies/Treasury%20Directives/Records%20and%20Information%20Management%20Manual.pdf>. In no case are files to be destroyed before the retention times specified in FAR 4.805.

1004.805-1 Storage, handling, and disposal of Governmentwide Commercial purchase card records.

Governmentwide Commercial Purchase Card records at or below the SAT (for other than construction orders) must be retained for three years after final payment. Governmentwide Commercial Purchase Card records for construction orders must be retained for six years and three months after final payment.

SUBPART 1004.13—PERSONAL IDENTITY VERIFICATION

1004.1302 Acquisition of Approved Products and Services for Personal Identify Verification.

(a) Procurements for services and products involving Physical Access Control Systems (PACS) or Logical Access Control Systems (LACS) must 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 government-wide interoperability, OMB Memorandum 06-18, "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) must 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 (SOW) , performance based work statement (PBWS) or specification does not conform to FIPS PUB 201 and NIST standards.

SUBPART 1004.16—UNIQUE PROCUREMENT INSTRUMENT IDENTIFIERS

1004.1601 Numbering.

Bureau contracting offices may establish their own numbering guidelines, which shall 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 and:

- Begin with the prefix "T"
- include the contracting satellite office or funding entity.
- include the fiscal year of the award

- include the type of procurement instrument or solicitation (e.g. request for quote, definitive contract, delivery order)

SUBPART 1004.70—[RESERVED]

SUBPART 1004.71—LEGAL COUNSEL REVIEW

1004.7100 Review Thresholds.

(a) *Pre-solicitation/Pre-Award review.* Contract actions, including interagency agreements, that will result in an obligation with an estimated value in excess of \$10 million, legal counsel review is required for the following documents, including any supporting information requested by legal counsel.

- (1) Acquisition Plans;
- (2) Sole source justifications (e.g. FAR 6.3 and 13.5) or limited source justification (i.e. FAR 8.4);
- (3) Solicitation packages;
- (4) Major amendments;
- (5) Competitive range determinations;
- (6) Negotiation memoranda;
- (7) Source selection decision memoranda;
- (8) Awards; and
- (7) Justification for an Exception to Fair Opportunity.

(b) *Post-award review.* Legal counsel review is required for modifications, other than exercise of original options or those that pertain only to administrative matters (e.g., funding modifications), that increase the total estimated value of a contract, task order, or delivery order by 20% or more, except when the new overall total amount of the contract remains under the non-commercial SAT.

(1) *Exceptions.* Change orders may be issued without prior legal review, if it is determined in writing by the CO that they are urgent and require immediate award. Such change orders shall be submitted for legal counsel review and approved by the BCPO as soon as possible after issuance.

(c) *Other reviews.* Legal counsel assistance should be obtained whenever the CO considers the action unusual or complex.

1004.7101 Timeframe for review.

A copy of each acquisition document that requires legal counsel review pursuant to 1004.7100(a) must be forwarded to legal counsel at least ten working 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 Legal Counsel review comments.

All comments received from legal counsel and a record of their disposition must be contained in the contract file. If legal counsel concurs without comment, the file

must 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.”

SUBPART 1004.72—STAFF REVIEW

1004.7200 General.

Bureau procurement offices are not generally required to submit procurement actions for Departmental review. The SPE reserves the right to require submission of procurement actions for review and approval. All procurements to be reviewed by the Department must first be reviewed by the BCPO or authorized designee to ensure accuracy and completeness of the documents. Evidence of this Bureau-level review must be documented in the contract file. Each Bureau is responsible for establishing an internal review system to ensure high quality procurement actions. All review comments and a record of their disposition must be contained in the contract file.

1004.7201 Department review.

When acquisition documents are required to be submitted for Departmental 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 working 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 must accompany any acquisition document when submitted for SPE review.

1004.7202 Departmental review comments.

Departmental recommendations and comments must be resolved prior to proceeding with the acquisition. A response shall be provided for all Departmental review recommendations and comments and the record of their disposition must be contained in the contract file. If the CO determines not to take action regarding direction requested the CO shall include an explanation why they made such a determination.

1004.7203 Bureau Contract Review Boards .

(a) The BCPO must 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).

(b) *Review requirements.* The CRB must 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.

(1) During the first review, the CRB must review, at a minimum, the contents of the acquisition plan developed consistent with FAR subpart 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, must 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 must 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.

(c) *Membership.* The CRB membership must 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.

(d) *Timeframes and service standards.* Bureau policies must establish timeframes and service standards for conducting CRB reviews for incorporation into acquisition plan milestones.

SUBPART 1004.73—EVALUATION AND CERTIFICATION OF TREASURY PROCUREMENT FUNCTION

Treasury Directive 12-11 delegates to the SPE responsibility for monitoring and evaluation of the Department-wide procurement function. The OPE periodically assesses Treasury acquisition functions in order to assist BCPOs with improving the operational efficiency and effectiveness of acquisition programs; to periodically provide the SPE with an evaluation of the integrity of each acquisition program within the Department; and, to provide contracting offices with an acquisition management consulting and support service.

Assessments may include a broad review of a contracting organization or a targeted review of a specific program, initiative, or focus area. OMB/OFPP Guidelines for Assessing the Acquisition Function May 2008 (issued via OMB Memorandum “Conducting Acquisition Assessments under OMB Circular A-123” dated May 21, 2008) will be used as a guide, as appropriate.

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 Integrated Acquisition Environment (IAE).

1004.7402 Departmental 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 must collaborate with the Treasury Acquisition Systems User Group during such initiatives. Acquisition of, or substantive changes to, any significant automated acquisition system or application must be approved by the SPE. Requests for approval must 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—ACQUISITION IMPROVEMENT

1004.7500 General.

(a) This subpart prescribes policies and procedures related to acquisition improvement within Treasury, to include establishment of goals and reporting procedures for acquisition savings and reduction in use of high risk contracting authorities.

(b) Unless otherwise specified, bureau level goals for acquisition improvement initiatives (such as savings, reduction in use of high risk contracting authorities, and reporting of contractor past performance) are assigned and managed through the OPE Procure-STAT program. Current information is located at <http://thegreen.treas.gov/do/ope/OPEWorkspace/Reports/STAT/SitePages/Home.aspx>

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

1004.7501 Responsibilities and Accountability

(a) The SPE will maintain oversight of Treasury acquisition improvement and will facilitate the Department's achievement of goals and related enterprise-wide efficiencies.

(b) BCPOs will implement and manage acquisition improvement initiatives in accordance with SPE and other executive guidance.

(c) Bureau CFOs are accountable for validating Bureau savings and high risk contracts reduction goals and for providing the leadership which drives Bureau goals achievement.

1004.7502 Acquisition Savings.

(a) The acquisition savings goal will be defined for each Strategic Sourcing Opportunity, tracked on a quarterly basis and communicated through Procure STAT.

(b) Savings is broadly defined and may include termination of contracts no longer needed, decrease in consumption of a commodity or service, and procurement influenced savings, e.g., achievement of discounts from GSA schedule pricing, negotiation of better than anticipated prices, and achievement of process and other efficiencies.

(c) *Executive governance and reporting.*

(1) OPE will prepare 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.

(2) Bureau CFOs will submit no later than the 10th of each month a validated progress report for goal achievement. Reports will be in the format provided at <http://intranet.treas.gov/procurement/acquisition.asp> and will be submitted in accordance with the guidance on the form.

1004.7503 Reduction in Use of High Risk Contracting Authorities.

(a) The goal for reduction in use of high risk contracting authorities for each FY will be established in and communicated through Procure-STAT.

(b) The goal applies to new actions in each category of high risk contracts—

(1) Noncompetitive contracts;

(2) Competitive contracts for which only one bid was received;

(3) Time-and-Material and Labor Hour contracts; and

(4) Cost reimbursement contracts.

(c) New actions include new base contracts, to include follow-on contracts; new purchase orders; and new delivery and task orders.

(d) Reduction in use of high risk contracting authorities will be measured by high risk category using FPDS data. Performance will be compared to the same performance period in prior FY to determine progress against the goal.

(e) Executive governance and reporting will be accomplished using the same process as in 1004.7502(c).

1004.7504 Customer Satisfaction Surveys.

(a) BCPOs must annually survey customers to ensure feedback regarding the quality of procurement services rendered. The survey must include at least an overall customer satisfaction score that can be captured or translated to a 0-100% scale measuring percentage of customers satisfied. The survey should cover other subcomponents of satisfaction, to include—

- (1) quality of service or items acquired;
- (2) timeliness of procurement support;
- (3) quality of procurement support; and
- (4) quality of procurement systems used.

(b) Reporting. Summary results of the annual surveys will be included in the Procure-STAT program in 1004.7500.

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.

SUBPART 1005.3—SYNOPSIS OF CONTRACT AWARDS

1005.301 General.

(b) The CO must 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.

Bureaus shall provide prompt written notification of all Congressional inquiries regarding acquisitions to the SPE.

1005.404-1 Release procedures.

BCPOs shall provide written notification to the SPE of any release of long-range acquisition planning estimates prior to release. Further, the BCPO must ensure in this notification that these estimates have been incorporated into the data required under 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) Advanced written authorization is required. The BCPO is the delegated authority to approve advanced written authorization prior to placement of advertisements in media other than newspapers.

PART 1006—COMPETITION REQUIREMENTS

SUBPART 1006.2—FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES

1006.202 Establishing or maintaining alternative sources.

(b)(1) D&Fs for establishing or maintaining alternative sources shall be submitted to the SPE for approval in accordance with 1001.7000(a).

SUBPART 1006.3—OTHER THAN FULL AND OPEN COMPETITION

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 must also include the date the contracting officer expects to award the contract.

SUBPART 1006.5—ADVOCATES FOR COMPETITION

1006.501 Requirement.

Bureau HCAs will appoint Bureau an advocate for competition pursuant to 41 U.S.C. 1705. A copy of each appointment shall be submitted to the Departmental Advocate for Competition at OPE.

1006.502 Duties and responsibilities.

(a) To promote the acquisition of commercial items through full and open competition based upon performance requirements, Bureau advocates for competition shall—

(1) Work with the Bureau's Small Business Office to ensure that small business goals are considered when addressing limited competition or sole source requests;

(2) Review proposed acquisitions valued at greater than \$650,000 and recommend actions for optimal competition;

(3) Recommend to the BCPO areas for acquisition policy, training, or other outreach to optimize competition;

(4) Monitor competition levels for achievement of goals for optimal competition;

(5) Recommend appropriate recognition and awards to motivate program managers, COs, and others in authority to promote competition in acquisition;

(6) Validate Bureau FPDS competition data; and

(7) Meet in council not less than quarterly to—

(i) Review the performance of Treasury contracting operations for effective competition;

- (ii) Recommend goals and plans for optimizing competition;
- (iii) Support preparation of the annual Treasury Advocates for Competition report to OMB; and
- (iv) Review system of personal and organizational accountability for competition, including the use of recognition and awards.

PART 1007—ACQUISITION PLANNING

SUBPART 1007.1—ACQUISITION PLANS

1007.102 Policy.

- (a)(5) Implementation of best practices; and
- (a)(6) Appropriate consideration of use of reverse auction (see FAR 7.105(b)(5)(v)).

1007.103 Agency-head responsibilities.

(d) Individual acquisition plans are required for any action, including interagency agreements, expected to exceed the SAT, inclusive of all options.

1007.104 General procedures.

(a)(1) BCPOs will maintain a list of planned and expiring contracts and ensure acquisition planning collaboration begins early with stakeholders for follow-on acquisitions.

(2) To enable sufficient time to accommodate acquisition improvements, for any acquisition over \$10 million, the acquisition plan should be initiated by the requiring office, and approved at least 18 months prior to anticipated award date, plus any additional time required for transition. Advance planning and early collaboration will promote use of lower risk contract strategies, competition, performance based acquisitions, and small business participation as well as other good business practices.

(b) To aid planning, Bureau program officials must forecast future requirements, including renewal of ongoing contracts, to ensure applicable projects are covered in individual acquisition plans. Additionally, BCPOs must 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.

1007.105 Contents of written acquisition plans.

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

(b)(5) When an acquisition plan states that performance-based acquisition (PBA) methods are impractical, then a D&F must be prepared. D&Fs for acquisitions in excess of \$1 million must be forwarded to the SPE for approval in accordance with 1001.7000(a); for IRS, Bureau of the Fiscal Service, and the U.S. Mint, the SPE approval threshold is \$5 million. For cross-serviced requirements, thresholds are applied by contracting activity rather than funding agency.

All acquisition plans for major systems shall include the following in accordance with FAR 7.105(b)(4) and FAR 7.105(b)(11);

- a determination from the requirements official as to whether the program is a major acquisition under FAR part 34 and OMB Circular A-11;
- 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);
- if so, whether the program official is EVM trained and qualified or has support that is EVM trained and certified; and
- when and how an Integrated Baseline Review (IBR) will be completed.

Fully discuss the use of options; include comprehensive justification for any performance period anticipated to exceed five (5) years and address compliance with 1017.204, which requires that when an acquisition plan contemplates a contract period of performance in excess of five (5) years, the SPE must approve prior to release of solicitation.

(b)(5)(v) *Criteria for selecting the use of 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. 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 A/E services 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, 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 contracting officer to be subject to significant interpretation and subjective judgment;

(6) Performance within CONUS; and

(7) Fixed-price contract (see FAR subpart 16.2).

(B) *Considerations.* The following represents additional considerations to support the contracting officer'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 must be documented 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.

(b)(5)(vi) For information technology 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.

(b)(10)(a) The acquisition plan narrative shall include a summary and certification addressing 1007.503(e)(1)(i)-(iv). The Worksheet and supporting documentation required by 1007.570-3 shall be included in or attached to the acquisition plan.

(b)(19)(a) Discuss how Past Performance Reporting will be handled in accordance with subpart 1042.15.

(b) Indicate if this action is included in the HIA program in accordance with subpart 1046.70.

(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 subpart 1023.70 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.

1007.107 Additional requirements for acquisitions involving bundling.

(b) The BCPO must make the determination whether bundling is necessary and justified and forward a recommendation through the SPE to the Deputy Secretary for approval in accordance with 1001.7000(b).

SUBPART 1007.5—INHERENTLY GOVERNMENTAL FUNCTIONS

1007.503 Policy.

(e)(1) For designated new service contracts awarded the Procurement Customer shall provide a completed Coding of Contract Function Worksheet confirming—

- (i) The functions to be contracted for are not inherently governmental;
- (ii) The Procurement Customer has designated the services as closely associated to an inherently governmental function, as a critical function or as other;
- (iii) The Bureau has the technical capacity and contract management capability to give special management attention to contractor performance involving services closely associated to inherently governmental functions or involving critical functions; and,
- (iv) The Bureau Senior Accountable Official or designee has approved the coding designation and has certified the requirements at (iii).

See 1007.570-3 for further guidance regarding the prescribed format, completion and submission and approval of the Worksheet.

(2) The CO shall ensure receipt of the documentation required by 1007.570- 3. The CO shall not proceed with a procurement action if the coding designation document is not complete or not received from the Procurement Customer or if any part of the supporting documentation indicates that the contractor performance requirements include, even in small part, work that is inherently governmental. Should receipt of such a request document occur, the CO will return the requirement to the Procurement Customer or take other appropriate steps in accordance with Bureau policy to ensure that no requirement inclusive of inherently governmental work is solicited or awarded.

(3) To ensure there is adequate oversight for contracts for services closely associated with inherently governmental functions and critical functions, BCPOs will make certain appropriate focus is applied to management of contracts involving these functions and will 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.

SUBPART 1007.570 – CODING OF SERVICE CONTRACT REQUIREMENTS AS CLOSELY ASSOCIATED TO INHERENTLY GOVERNMENTAL, CRITICAL, OR OTHER.

FPDS CODE	DEFINITION
Closely Associated	if services provided under the contract are predominantly for functions closely associated to inherently governmental ones
Critical Functions	if services are predominantly for critical functions
Other Functions	if services are predominantly for other functions

1007.570-1 General

This subpart prescribes the policies and procedures for coding of service contract actions in the FPDS as Closely Associated to Inherently Government, Critical, or Other.

1007.570-2 Coding of Service Contract Actions in FPDS

(a) For each service contract action awarded, the CO shall enter as the first letters into the FPDS “description of requirement” field the applicable service designation code:

(b) Service contract actions to be coded include—

(1) Each new contract award for services obligating \$25,000 or more. Award actions include (but are not limited to) contracts, task orders, delivery orders, purchase orders, and BPAs.

(2) Each modification to an award action covered by 1007.570-2(b)(1). Modifications awarded on/after March 1, 2012 to contracts/TOs/DOs/POs awarded prior to March 1 do not require coding.

1007.570-3 Designation and Submission of Service Contract Action Code

(a) The Procurement Customer shall designate the appropriate code for each service contract action identified at 1007.570-2(b) and shall submit a completed and approved Coding of Contract Function Worksheet to the contracting office with the procurement request as required in accordance with this subpart and other established policy. Worksheet and supporting documentation shall be in the form prescribed by the Department’s Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer (DASHR/CHCO).

(b) For any request requiring an acquisition plan, the Worksheet shall be incorporated into the plan in accordance with 1007.105(b)(10)(a). For any action that does not require an acquisition plan, the completed Worksheet should be submitted with the procurement request in accordance with DASHR/CHCO and bureau policy.

(c) It is anticipated the designated code will not change after submission by the Procurement Customer. Should the code change at any time after initial submission, the Procurement Customer shall submit to the CO a new completed and approved Coding of Contract Function Worksheet in the format required by Department and Bureau policy; the CO will then revise the code in FPDS in accordance with appropriate procedures. If the change is necessitated because the Procurement Customer determined the code originally designated was incorrect, the Worksheet narrative shall include an explanation for the change.

(d) Procurement Customer coding of service contract requirements, to include approval and/or certification, shall not be delegated to the BCPO or equivalent.

(e) For new service contract requirements received in the contracting office the CO will coordinate with the Procurement Customer to ensure designated code is received in required format prior to contract award. No award for services may be made without receipt of the required coding information.

PART 1008—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1008.002 Priorities for use of government sources

(a)(1) Sources determined to be mandatory in accordance with subpart 1017.71, shall have the highest priority for use within the Department, and are available at http://thegreen.treas.gov/services/finance/Pages/voluntary_sources.aspx.

(2) Sources determined to be voluntary in accordance with subpart 1017.71, shall be considered in the market research before awarding a new contract action. The CO shall determine whether it is in the government's interest to use a voluntary source.

SUBPART 1008.4—FEDERAL SUPPLY SCHEDULES

1008.404 Use of Federal Supply Schedules.

(d) *Pricing.* (DEVIATION) Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair). GSA has already determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, to be fair and reasonable for the purpose of establishing the schedule contract. GSA's determination does not relieve the ordering activity contracting officer from the responsibility of making a determination of fair and reasonable pricing for individual orders, BPAs, and orders under BPAs, using the proposal analysis techniques at FAR 15.404-1. The complexity and circumstances of each acquisition should determine the level of detail of the analysis required.

1008.405-1 Ordering procedures for supplies, and services not requiring a statement of work.

(f)(9) In the instance of the use of a reverse auction, the contracting officer 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.

(g) *Minimum documentation.*

(5)(A) *Reverse Auction.* For instances where a reverse auction was used, the documentation in the contract file must clearly reflect that the contracting officer made all acquisition decisions throughout the procurement process, and that the role of any acquisition support contractor personnel was solely administrative and not decision-making.

(6) Market research conducted by the CO and a list of businesses identified;

(7) A list of schedule holders solicited, including a minimum of two SDVOSBs or HUBZone vendors, if found; and

(8) A list of vendors who responded.

1008.405-2 Ordering procedures for services requiring a statement of work.

(d) In the instance of the use of a reverse auction, the contracting officer 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.

(f) *Minimum documentation.*

(9) *Reverse Auction.* For instances where a reverse auction was used, the documentation in the contract file must clearly reflect that the contracting officer made all acquisition decisions throughout the procurement process, and that the role of any acquisition support contractor personnel was solely administrative and not decision-making.

(10) Market research conducted by the CO and a list of businesses identified;

(11) A list of schedule holders solicited, including a minimum of two SDVOSB or HUBZone vendors, if found;

(12) A list of vendors who responded; and

(13) The basis for the award decision.

1008.405-5 Small business.

(b) All Treasury requirements solicited against the Federal Supply Schedule (FSS) shall include a minimum of two SDVOSB and HUBZone vendors from either category in addition to the other sources solicited by the CO. Potential offerors shall be identified through market research. This policy shall be applied to the establishment of new BPAs against the FSS. See file documentation required by 1008.405-1.

(c) FAR 8.405-5 grants the authority to conduct small business set-asides against the FSS, at the CO's discretion. A CO must document the rationale for not utilizing the authority to conduct a small business set-aside as prescribed in FAR 8.405-5.

SUBPART 1008.8—ACQUISITION OF PRINTING AND RELATED SUPPLIES

1008.802 Policy.

(b) In accordance with TD 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:

<http://thegreen.treas.gov/services/printing/Pages/default.aspx>.

SUBPART 1008.11—LEASING OF MOTOR VEHICLES

1008.1102 Presolicitation requirements.

(a)(3)(i) Section 1343(b)(2) of Title 31 United States Code generally requires that, in order to purchase or lease a passenger motor vehicle with appropriated funds, a Bureau's appropriations must 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 must 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 must forward to 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 (E.O. 13514)

E.O. 13514, Federal Leadership in Environmental, Energy and Economic Performance, requires that agencies set goals for reducing the use of fossil fuels. Documentation of prior approval from OAM is required for all contract actions resulting in the lease of motor vehicles from commercial concerns. 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 must address whether the Environmental Protection Agency (EPA) for greenhouse gas emissions.

(1) If the requisition is for the lease of a commercial vehicle that meets EPA standards, documentation of approval by OAM only is required;

(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

1009.105 Obtaining information.

(c)(6) The Do Not Pay Business Center located on the world wide web at: <http://www.donotpay.treas.gov>. This website 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 contracting officer 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 Official for consideration. Documentation derived from the Do Not Pay Business Center supporting a determination of non-responsibility or contract modification or termination must be included in the contract file.

SUBPART 1009.2—QUALIFICATIONS REQUIREMENTS

1009.202 Policy.

(a)(1) Submit written justification for establishing vendor qualification requirements to the SPE for approval in accordance with 1001.7000(a).

(b) Submit the determination that it is unreasonable to specify standards for qualification, along with the advocate for competition's review and comments, to the SPE for notification purposes in accordance with 1001.7000(c).

1009.204 Responsibilities for establishment of a qualification requirement.

(a)(2) The determination that Treasury will bear the cost of required testing and evaluation on behalf of a small business must be approved by the BCPO.

DTAR 1009.204-70 Contractor publicity.

31 U.S.C. 333(a) prohibits the use of Treasury names, abbreviations, or symbols, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, in a manner that may imply endorsement by Treasury. Bureaus shall insert a clause substantially the same as 1052.210-70 Contractor Publicity in all solicitations and contracts.

1009.206-1 General.

(b) Submit determination of emergency precluding the enforcement of a qualification requirement to the SPE for approval in accordance with 1001.7000(a).

SUBPART 1009.4—DEBARMENT, SUSPENSION, AND INELIGIBILITY

1009.402 Policy.

(e) Treasury Directive 12-12, "Procurement and Non-Procurement Suspension and Debarment" establishes Departmental 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 SPE is responsible for accomplishing the required actions.

1009.405 Effect of listing.

(1) 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," is the ASM/CFO. The CO shall submit written justifications to support the determination in accordance with 1001.7000(b). The justification must include 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.

(d)(5) The CO must 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 required statement authorizing continued business dealings between the Treasury and the Debarred contractor.

1009.406-3 Procedures.

(a)(1) Refer to Section 4 of Treasury Directive 12-12, "Procurement and Non-Procurement Suspension and Debarment" for Departmental 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.

1009.407-3 Procedures.

(a) Refer to Section 4 of Treasury Directive 12-12, "Procurement and Non-Procurement Suspension and Debarment" for Departmental 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**

1009.503 Waiver.

Requests for waiver of conflicts of interest provisions shall be submitted to the SPE for approval in accordance with 1001.7000(a).

PART 1010—MARKET RESEARCH

1010.002 Procedures.

(b)(1)(viii) Viability of use of reverse auction (see FAR 7.102(a)(5)).

(b)(2)(iv) Department of the Treasury personnel conducting market research must review mandatory sources of supply per 1008.002(a)(1) and (2).

1010.7000 Industry Ombudsman

The Director, Acquisition Management serves as the ombudsman for industry communications for the Treasury. The purpose of an ombudsman is to build a more cohesive acquisition community, increase the transparency of information regarding Treasury acquisition, and ensure high-impact acquisition strategies and contract performance align with Treasury objectives. Firms interested in doing business may submit inquiries, issues, or capabilities statements to the Ombudsman at acquisition@treasury.gov.

PART 1011—DESCRIBING AGENCY NEEDS

1011.002 Policy.

(g)(1) The Bureau-level CIO or equivalent shall review and submit a recommendation for waiving the FAR 11.002(g) requirement to the Treasury CIO. The Treasury CIO will review the Bureau CIO's request, and consult with the OPE whether to grant the waiver. The Treasury CIO will then decide whether to grant or deny the waiver. Correspondence and a copy of the Treasury CIO's decision shall be retained in the contract file. See FAR 7.105(b)(5)(iii) for documenting the acquisition plan.

SUBPART 1011.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS

1011.202 Maintenance of standardization documents.

(a) All recommendations for changes to standardization documents must be submitted through the SPE.

SUBPART 1011.5—LIQUIDATED DAMAGES

1011.501 Policy.

(d) The SPE may act as head of the agency to waive the amount of liquidated damages assessed under a contract.

PART 1012—ACQUISITION OF COMMERCIAL ITEMS

SUBPART 1012.1—ACQUISITION OF COMMERCIAL ITEMS—GENERAL

1012.101 Policy.

It is Treasury's policy to leverage its buying power, reduce acquisition administrative costs, and develop long-term, mutually beneficial partnerships with best-in-class providers of products and services. Accordingly, Treasury has implemented a Strategic Sourcing Program through which it awards BPAs or other contract vehicles and utilizes existing vehicles awarded by other agencies to achieve savings for commercial items and services across Treasury and make the acquisition process more efficient. Bureaus shall use Treasury's strategic sourcing vehicles to the maximum extent possible – see subpart 1017.71 and the strategic sourcing portion of the OPE's intranet site ("The Green") for further information.

SUBPART 1012.2—SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

1012.203 Procedures for solicitation, evaluation, and award.

(a) *Reverse Auction.* Any acquisition of reverse auction software and/or services must comply with competition requirements. To help ensure the intended benefits of reverse auctions are maximized, the contracting officer 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 must clearly reflect that the contracting officer made all acquisition decisions throughout the procurement process, and that the role of any acquisition support contractor personnel was solely administrative and not decision-making.

SUBPART 1012.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

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

(c) The CO shall submit waivers, whether on an individual or class basis, authorizing the tailoring of provisions or clauses in solicitations and contracts for commercial items in a manner that is inconsistent with customary commercial practice for the item being acquired to the BCPO for review and approval. The Bureau advocate for competition must review, prior to submission to the BCPO, any waivers for acquisition exceeding the SAT. If approved, the waiver is to be placed in the contract file.

PART 1013—SIMPLIFIED ACQUISITION PROCEDURES

SUBPART 1013.1—PROCEDURES

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

(c) All BPAs initiated by a Bureau must be solicited for Treasury-wide use or exception granted in accordance with part 1017.

SUBPART 1013.2—ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

1013.201 General.

(c) Education, training and certification requirements for using the Governmentwide commercial purchase card are described in the Department of the Treasury Acquisition Certification Management Program Handbook with 1001.603 describing selection, appointment and termination.

SUBPART 1013.3—SIMPLIFIED ACQUISITION METHODS

1013.301 Government-wide commercial purchase card.

(a) Treasury procedures regarding selection, appointment and termination are found in 1001.603.

(b) Treasury procedures governing the Government-wide commercial purchase card program are defined in the Charge Card Management Plan, Purchase Card Program."

1013.307 Forms.

Prescribed forms required to conduct a simplified acquisition must be used, unless an equivalent Bureau form has been authorized for use by the SPE.

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 the Bureau EHS professional. See subpart 1023.70

PART 1015—CONTRACTING BY NEGOTIATION

SUBPART 1015.2—SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

1015.204 Contract format.

(e) Requests for approval of an exception from the use of the uniform contract format shall be submitted to the SPE for approval in accordance with 1001.7000(a).

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).

SUBPART 1015.3—SOURCE SELECTION

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 for a particular acquisition or group of acquisitions.

1015.305 Proposal evaluation.

(a)(2)(ii) For purposes of conducting a past performance evaluation during a source selection, COs shall search Past Performance Information Retrieval System (PPIRS) to identify and if found, review contractor performance information.

(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.

(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 subpart 1023.70 for additional details).

SUBPART 1015.4—CONTRACT PRICING

1015.404-2 Information to support proposal analysis.

(c) Requests for audit services must be initiated in accordance with Treasury Directive 76-06, "Request for Contract Audit Services."

1015.407-4 Should-cost review.

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

(b)(4) The program should-cost review team report, prepared for and submitted to the CO, must include:

(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; and

(iv) Attachments, including letters recommending changes, implementing plans, pre-negotiation objectives, and price negotiation memorandum.

SUBPART 1015.6—UNSOLICITED PROPOSALS

1015.606 Agency procedures.

(a) Bureaus must establish procedures for the receipt, evaluation, and timely disposition of unsolicited proposals consistent with the requirements of FAR subpart 15.6.

(b) Bureaus must 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 1016.5—INDEFINITE-DELIVERY CONTRACTS

1016.501-2 General.

(a)(1) All indefinite-delivery contracts initiated by a Bureau must be solicited for Treasury-wide use or exception granted in accordance with 1017.7001.

DTAR 1016.505 Ordering.

(b)(6) Bureaus shall designate a Task and Delivery Ombudsman in accordance with bureau procedures. In the absence of a designation, the Bureau Competition Advocate will serve in that capacity.

SUBPART 1016.6—TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

1016.603-2 Application.

(c) The CO shall submit requests to extend the definitization schedule of the letter contract to the BCPO review and approval.

PART 1017—SPECIAL CONTRACTING METHODS

SUBPART 1017.2—OPTIONS

1017.202 Use of options.

(a) COs shall not use unpriced options.

1017.204 Contracts.

(e) Prior to solicitation, the SPE must approve any contract vehicle contemplating a period of performance in excess of five years, to include contract vehicles for information technology. When an acquisition plan contemplates a contract performance period exceeding five years, a D&F must be prepared and submitted to the SPE for approval in accordance with 1001.7000(a). Upon SPE approval, the BCPO will be authorized to proceed with solicitation.

In this context, “contract vehicle” and “contract” are synonymous and include contracts, orders of all types, BPAs and all other contract vehicles used by the Department to purchase goods and services.

1017.207 Exercise of options.

(a) For each existing contract vehicle with a performance period in excess of five (5) years, the BCPO shall obtain SPE approval prior to exercise of the next option period. The BCPO shall prepare and submit to the SPE a fully executed D&F in accordance with FAR 17.207. Upon SPE approval, the BCPO will be authorized to proceed with the option action. This requirement applies to options to be exercised from March 4, 2014 through March 3, 2015. In this context, “contract vehicle” and “contract” are synonymous and include contracts, orders of all types, BPAs and all other contract vehicles used by the Department to purchase goods and services.

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).

SUBPART 1017.5—INTERAGENCY ACQUISITIONS

1017.501 General.

(e) *Procurement Support Services.* It is Treasury's preference that the Department's procurements be executed by the contracting offices designated in 1001.601. If this is not feasible, procurements should be executed, to the maximum extent practicable, by another contracting office internal to Treasury.

(1) Each Bureau will obtain all procurement support services from the contracting offices designated in 1001.601 unless otherwise exempted within this subpart or approved by the BCPO of the designated contracting office.

(2) Beginning October 1, 2011, any Bureau receiving procurement support

from a source other than the contracting offices 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 Inter- agency Agreement securing the assisted acquisition current at that time. All Treasury-funded contract actions executed under applicable Intra- or Inter- Agency 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.

(3) Any Treasury-funded contract action executed and/or administered by a contracting activity other than the contracting offices 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 must be covered by a current Intra- or Inter- Agency Agreement and will be subject to the approval requirements at 1017.502.

(f) *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."

(g) *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 designated contracting organization against Federal Supply Schedules, Government-wide acquisition contracts, multi-agency contracts, and Treasury-wide contracts;

(4) Orders issued by the designated contracting organization against strategic sourcing contract vehicles mandated by 1008.002; and

(5) Other actions approved by the SPE for exemption on an individual or class basis.

1017.502-1 General.

(a)(1) *Assisted acquisitions.* Bureaus shall obtain SPE approval 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. The BCPO of the designated contracting office must approve agreements for assisted acquisition from a Treasury contracting office other than the designated contracting office.

1017.502-2 The Economy Act.

(c)(2) The SPE must approve D&Fs for assisted acquisition where the servicing agency is not subject to the FAR (e.g., U.S. Mint). See also agency approval

requirements in 1017.502-1(a)(1).

1017.503 Ordering Procedures.

(a) The Department of the Treasury Interagency Agreement Guide, issued by the Deputy CFO and the SPE, standardizes Treasury-wide policies and procedures related to the preparation, processing, coordination, execution, administration, and close-out of Interagency Agreements . The guide applies to personnel in the Department of the Treasury and Treasury Bureaus and is available at: <http://www.treasury.gov/about/organizational-structure/offices/Mgt/Pages/ProcurementPolicy-Regulations.aspx>

SUBPART 1017.70—TREASURY-WIDE AND GOVERNMENT-WIDE ACQUISITION CONTRACTS

1017.7001 Review of and Exceptions to Using Mandatory and Voluntary Treasury-Wide Acquisition Contracts (TWAC) and Other Strategically Sourced Contracts.

(a) Treasury Program Managers and CORs must review the list of mandatory and voluntary contracts on the Treasury acquisition portal available at: http://thegreen.treas.gov/services/finance/Pages/voluntary_sources.aspx prior to initiating new contract actions to determine if bureau needs can be met by existing contracts or agreements, including TWACs, Government-wide Acquisition Contracts (GWACs), and Multiple Award Contracts (MACs). The procurement package shall include a summary of the review and should indicate which contract(s), if any, can meet customer requirements.

(b) *Voluntary Sources.* For each action exceeding the thresholds designated below, prior to issuing a solicitation for a service or supply available for procurement under the voluntary vehicles, the CO shall execute a D&F summarizing the CO's review of voluntary TWACs and other strategically sourced contracts and fully supporting the CO's determination not to use one of the voluntary strategic vehicles:

BUREAU	ACTION THRESHOLD REQUIRING D&F*
IRS	Exceeding \$1 million
All other bureaus	Exceeding the Simplified Acquisition Threshold
*including base and all option periods	

The D&F shall be maintained in the contract file.

(c) *Mandatory Sources* – Regardless of dollar value of the procurement, prior to issuing a solicitation for a service or supply available for procurement under the mandatory vehicles, the CO shall execute (and receive approval of) a D&F summarizing the CO's review of mandatory TWACs and other strategically sourced contracts and fully supporting the CO's determination not to use one of the mandatory strategic vehicles. The D&F shall be reviewed by the BCPO and approved by the SPE. The D&F shall be maintained in the contract file.

1017.7002 Business Case Approval for New Government-Wide Acquisition Contracts, TWACS, and Other Multi-Agency/Bureau Contract Vehicles

The types of contracts listed below require a business case to be developed and approved by the SPE prior to an acquisition plan being approved. The SPE will review and provide approval/disapproval no more than ten business days after receipt of the business case. The development of the business case must be coordinated with and approved by—prior to SPE approval-- the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) and – if the acquisition involves IT – the CIO—

(a) All GWACs, as that term is defined in FAR 2.101.

(b) Multi-agency contracts, as defined in FAR 2.101, or multi-agency BPAs created under the Federal Supply Schedules (FSS) Program managed by the General Services Administration (GSA) where—

(1) Significant usage by another agency (i.e., interagency usage) is expected;
or

(2) Significant interagency usage is not expected but a significant overlap would be created between the scope of the proposed acquisition and the scope of existing contracts or agreements established under the Federal Strategic Sourcing Initiative (FSSI), the General Services Administration’s SmartBUY programs, or an existing GWAC.

(c) Agency-specific contracts or agency-specific BPAs where either the contract or the BPA would create a significant overlap between the scope of the proposed acquisition and the scope of existing contracts or agreements established under FSSI, SmartBUY programs, or an existing GWAC.

SUBPART 1017.71—STRATEGIC SOURCING

1017.7101 Definitions.

As used in this subpart—

“Baseline” means the documented existing state (before a new strategic sourcing initiative) of characteristics related to a category of spending, e.g., pricing, socio-economic participation, cost to order, customer satisfaction.

“Sourcing initiative” means a chartered project, determined by the SPE, to develop and implement a sourcing strategy.

“Strategic sourcing” is the collaborative and structured process of critically analyzing an organization’s spending and using this information to make sound business decisions about acquiring commodities and services more effectively and efficiently. This process helps the Department optimize performance, minimize price, increase achievement of socio-economic acquisition goals, evaluate total life cycle management costs, improve vendor access to business opportunities, and otherwise increase the value of each dollar spent. Strategic sourcing is a proven best practice and reflects how the Department acquires goods and services.

“Sourcing team” means a cross-functional team tasked with the development and implementation of the sourcing strategy. The ‘Sourcing team’ can be comprised of a cross-functional team within a specific Bureau or across Bureaus as appropriate.

“Strategic sources” are sources of supply developed through application of the policies and procedures defined in subpart 1017.71.

“Strategic Sourcing Working Group” is a federal-wide subgroup chartered by the Chief Acquisition Officers Council to promote strategic sourcing.

“Treasury Acquisition Council (TAC)” means the chartered Treasury Acquisition Council under the leadership of the SPE.

1017.7102 Setting strategic sourcing goals.

The SPE will establish specific savings goals based on implemented strategic sourcing acquisitions.

1017.7103 Identification of opportunities.

(a) The SPE, in coordination with the CAO, will review and prioritize strategic sourcing opportunities.

(b) OPE will furnish:

- (1) A quarterly obligation analysis from available sources; and
- (2) A scan of federal-wide sources and best practices from the Strategic Sourcing Working Group.

1017.7104 Sponsorship of strategic sourcing initiatives.

(a) The SPE, in coordination with the Treasury Acquisition Council, will determine best acquisition team and approach for implementation.

(b) The responsible BCPO will present to the TAC a plan for improvement for the sourcing initiative that includes—

- (1) Current state of spending, socio-economic participation, and other relevant considerations;
- (2) Goals for improvement, defined through category benchmarks and measures. At a minimum, measures must include price/cost; socio-economic participation; and customer satisfaction;.
- (3) Requirements document confirming scope of activity and refined definition of category of spending covered;
- (4) Acquisition Plan (if appropriate) covering all elements required under the FAR/DTAR, as well as special actions needed by bureaus to realize improvements to the current state; and a cursory review of current federal-wide or Treasury-wide contracts and good practices and business case for not using an existing solution; recommendation for mandatory or voluntary use;
- (5) Business Case laying out resources needed to execute the acquisition plan and monitor sourcing strategy through its full life cycle compared with the savings or other improvements; and
- (6) Communications and Implementation plan, including at least: a plan for managing, measuring, and reporting implementation status and realization of planned improvements, and; a change management and communication strategy, including ordering procedures.

(c) In developing the sourcing strategy document, the responsible BCPO shall consider input from key internal stakeholders, e.g., from finance, end users, CORs, asset managers, functional experts.

(d) The responsible BCPO will provide regular briefings to the TAC on the status of the acquisition to include at a minimum—

- (1) Acquisition milestones;
- (2) Acquisition strategy;
- (3) Projected savings; and
- (4) Implementation challenges.

1017.7105 Approval of Strategic Sourcing Strategies.

The SPE must approve the acquisition strategy for all strategic sourcing initiatives.

1017.7106 Measurement and reporting.

1017.7106-1 Measurement methodology.

(a) Treasury declares strategic sourcing savings using project finance rules against a baseline of the spending patterns, processes, and prices that occurred before the strategic sourcing initiative. Using a stream of benefits and costs approach, Treasury captures savings accrued during a given time period, e.g., during Fiscal Year 2013 or over a contract's period of performance. Treasury may also describe savings in terms of net present value. The expected stream of benefits and costs must be associated with an approved strategic sourcing initiative.

(b) Treasury only includes incremental benefits and costs that can be clearly demonstrated to be a result of the strategic sourcing initiative, and that can be reasonably measured. Indirect or intangible benefits also must be documented. Savings from a particular strategic sourcing initiative terminate with the period of performance of a strategically sourced contract, or in accordance with the approved business case.

1017.7106-2 Reporting Frequency.

(a) The frequency of monitoring and reporting must be considered in the development of the sourcing strategy. Monitoring should take place as often as needed to support the achievement of the sourcing strategy's goals and sound contract management.

(b) For each approved strategic sourcing initiative, a reporting of savings and improvements must be submitted to OPE on a quarterly basis.

PART 1018—EMERGENCY ACQUISITIONS

Subpart 1018.1—Available Acquisition Flexibilities

1018.108 Qualifications requirements.

The BCPO must make the determination to waive Qualified products list (QPL) requirements.

PART 1019—SMALL BUSINESS PROGRAMS

1019.000 Scope of Part.

(a) The U.S. Department of Treasury's Small Business Program Handbook dated April 2002 provides detailed information.

SUBPART 1019.2—POLICIES

1019.201 General policy.

(e) BCPOs will appoint Small Business Specialists (SBSs) for their responsible Bureau.

DTAR 1019.202 Specific policies.

DTAR 1019.202-70 The Treasury Mentor Protégé Program.

(a) [Reserved]

(b) [Reserved]

(c) *Non-affiliation.* For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in paragraph (m) of this section, from such mentor firm under the Mentor- Protégé Program.

(d) *General policy.* (1) Eligible contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs," that are approved as mentors will enter into agreements with eligible protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of protégés to perform as contractors or subcontractors.

(2) A firm's status as a protégé under a Treasury contract shall not have an effect on the firm's eligibility to seek other contracts or subcontracts.

(e) *Incentives for contractor participation.* (1) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), Treasury is authorized to provide appropriate incentives in negotiated contractual actions to encourage subcontracting opportunities consistent with the efficient and economical performance of the contract. Proposed mentor-protégé efforts will be considered during the evaluation of such negotiated, competitive offers. Contracting Officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the Contracting Officer shall include language in the solicitation indicating that this adjustment may occur.

(2) Before awarding a contract that requires a subcontracting plan, the existence of a mentor-protégé arrangement, and performance (if any) under such an existing arrangement, will be considered by the Contracting Officer in:

(i) Evaluating the quality of a proposed subcontracting plan under FAR 19.705-4; and, (ii) Evaluating the contractor compliance with the subcontracting plans submitted in previous contracts as a factor in determining contractor responsibility under FAR 19.705-5(a)(1).

(3) The Office of Small and Disadvantaged Business Utilization (OSDBU) Mentoring Award is a non-monetary award that will be presented (annually on a fiscal year basis or as often as is appropriate) to the mentoring firm providing the most effective developmental

support of a protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Director, OSDBU.

(f) [Reserved]

(g) *Mentor firms.* A mentor firm may be either a large or small business, eligible for award of a Government contract that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors. Mentors will be encouraged to enter into arrangements with protégés in addition to firms with whom they have established business relationships.

(h) *Protégé firms.* (1) For selection as a protégé, a firm must be:

(i) A small business, women-owned small business, small disadvantaged business, small business owned and controlled by veteran or service disabled veteran, or qualified HUBZone small business, or a qualified 8(a) concern;

(ii) Qualified as a small business under the NAICS code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and

(iii) Eligible for award of Government contracts.

(2) Except small disadvantaged businesses and qualified HUBZone small business firms, a protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (h)(1) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. The h(1)(i), small disadvantaged business, or qualified HUBZone small business status eligibility and documentation requirements are determined according to FAR 19.304 and 19.1303, respectively.

(3) Protégés may not have multiple mentors unless approved, in writing, by the Director, OSDBU. Protégés participating in other agency mentor protégé programs in addition to the Treasury Mentor-Protégé Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

(i) *Selection of protégé firms.* (1) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1019.202-70(h). Mentor firms may have multiple protégés.

(2) The selection of protégé firms by mentor firms may not be protested. Any question regarding the size or eligibility status of an entity selected by a mentor to be a protégé must be referred solely to Treasury's OSDBU for resolution. Treasury, at its discretion, may seek an advisory opinion from the Small Business Administration (SBA).

(j) *Application process for mentor firms to participate in the program.* (1) Firms interested in becoming a mentor firm may apply in writing to Treasury's OSDBU. The application will be evaluated based upon the description of the nature and extent of technical and managerial support proposed as well as the extent of other developmental assistance in the form of equity investment, loans, joint-venture support and traditional subcontracting support.

(k) *OSDBU review and approval process of agreement.* (1) OSDBU will review the information specified in 1019.202-70(1). The OSDBU review will be completed no later than 30 calendar days after receipt.

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

(3) An approved agreement will be incorporated into the mentor firm's contract(s) with Treasury.

(4) If OSDBU disapproves the agreement, the mentor may provide additional information for reconsideration. Upon finding deficiencies that OSDBU considers correctable, OSDBU will notify the mentor and provide a list of defects. Any additional information or corrections requested will be provided within 30 calendar days. The review of any supplemental material will be completed within 30 calendar days after receipt by OSDBU. When submission of additional data is required during a proposal evaluation for a new contract award, shorter timeframes for submission, review and re-evaluation for approval may be authorized by OSDBU.

(5) The agreement defines the relationship between the mentor and protégé firms only. The agreement itself does not create any privity of contract between the mentor or protégé and Treasury.

(1) *Agreement contents.* The contents of the agreement will contain:

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

(2) Procedures for the mentor firm to notify the protégé firm, OSDBU and the Contracting Officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Mentor-Protégé Program;

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

(4) Each proposed mentor-protégé relationship must include information on the mentor's ability to provide developmental assistance to the protégé and how that assistance will potentially increase contracting and subcontracting opportunities for the protégé firm;

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

(6) A listing of the types and dollar amounts of subcontracts that may be awarded to the protégé firm;

(7) Program participation term;

(8) Termination procedures;

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

(10) Other terms and conditions, as appropriate.

(m) *Developmental assistance.* The forms of developmental assistance a mentor can provide to a protégé include:

(1) Management guidance relating to financial management, organizational management, overall business management/planning, business development, and technical assistance.

(2) Loans;

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

(4) Property;

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

(6) Any other types of mutually beneficial assistance.

(n) *Obligation.* (1) Mentor or protégé firms may voluntarily withdraw from the Mentor-Protégé Program. However, such withdrawal shall not excuse the contractor from compliance with contract requirements.

(2) At the conclusion of each year in the Mentor-Protégé Program, the contractor and protégé must formally brief the Department of the Treasury team regarding program accomplishments as they pertain to the approved agreement. Individual briefings may be conducted, at the request of either party. Treasury will consider the following:

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

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

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

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

(v) Mentor and protégé firms must submit an evaluation to OSDBU at the conclusion of the mutually agreed upon program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Mentor-Protégé Program, whichever comes first.

(o) [Reserved]

(p) *Solicitation provisions and contract clauses* (1) Insert the provision at 1052.219-73, Department of the Treasury Mentor-Protégé Program, in all unrestricted solicitations exceeding \$500,000 (\$1,000,000 for construction) that offer subcontracting possibilities.

(2) Insert the clause at 1052.219-75, Mentor Requirements and Evaluation, in contracts where the contractor is a participant in the Treasury Mentor-Protégé Program.

1019.202-70 The Treasury Mentor Protégé Program

1019.202-70.1 General.

(a) The Treasury Mentor- Protégé Program is designed to motivate and encourage firms to assist small businesses (SB), including veteran-owned small businesses (VOSB), SDVOSBs, HUBZone small businesses (HUBZone), small disadvantaged businesses (SDB), qualified 8(a) concerns, and women-owned small businesses (WOSB). 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 must be deemed eligible as a mentor as described in DTAR 1019.202-70.

(b) The OSDBU assists, counsels, and advises small businesses of all types (small businesses, small disadvantaged business, women-owned small businesses, 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, qualified HUBZone small business or a qualified 8(a) concern that is the recipient of developmental assistance pursuant to a mentor- protégé arrangement on a particular contract. Protégés must be deemed eligible as described in DTAR 1019.202-70.

1019.202-70.6 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 Department of the 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.

1019.202-70.15 Internal controls.

(a) The OSDBU will oversee the Treasury Mentor-Protégé Program and will work with the cognizant CO to achieve the program's objectives.

(b) The Department of the Treasury may rescind an existing Mentor-Protégé agreement if it determines that such action is in Treasury's interest. Rescission must be in writing and sent to the mentor and protégé after approval by the Director, OSDBU. 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

1019.302 Protesting a small business representation or rerepresentation.

(a)(2) The CO must promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS must promptly notify the OSDBU of any protest, appeal or final decision.

19.305 Protesting a representation of disadvantaged business status.

(a) The CO shall promptly notify the Bureau SBS of any protest, appeal or final decision. The Bureau SBS shall promptly notify the OSDBU of any protest, appeal or final decision.

19.306 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.

19.307 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.

19.308 Protesting a firm's status as an economically disadvantaged women-owned small business (EDWOSB) concern or women-owned small business (WOSB) 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

(c)(4) If the Procurement Center Representative (PCR) files an appeal, the CO must promptly notify the Bureau SBS, who must promptly notify the OSDDBU.

SUBPART 1019.5—SET-ASIDES FOR SMALL BUSINESS

1019.501 General.

(i) COs must carefully document decisions to award to other than small business based on price reasonableness. Depending on the circumstances of the procurement, it may be possible to award to a small business over a large business even though the small business' proposed price may be higher, provided that the price is not unreasonable.

1019.502 Setting aside acquisitions.

(a) Bureaus are required to solicit SDVOSB and HUBZone businesses for procurement actions in excess of the micro-purchase threshold to the maximum extent practicable. The Department of the Treasury is required to provide Federal contracting assistance to SDVOSB and the HUBZone small business concerns. In order to meet Department goals, continued efforts to identify, solicit, and award to businesses in these preference groups are required.

(b) The CO shall review all requirements over the micro-purchase threshold for set aside for award to HUBZone and SDVOSB businesses. The CO shall document the determination concerning the set-aside and include in the contract file.

(c) The CO must solicit HUBZone and SDVOSB businesses to the maximum extent practicable for all requisitions where: (1) the award is not set aside for HUBZone or SDVOSB businesses; or (2) the solicitation is not limited to HUBZone or SDVOSB businesses on a Federal Supply Schedule. The CO must document the extent to which these socio-economic groups were considered, solicited, and participated in the acquisition. The documentation must include:

(1) A description of the market research conducted and considered by the CO;

(2) A list of HUB Zone and SDVOSB businesses identified within the applicable North American Industrial Classification System (NAICS) code;

(3) A list of businesses to be solicited, including their size classification; and

(4) Rationale for not setting-aside the requirement for HUBZone and/or SDVOSB businesses or for not limiting solicitation to HUBZone and/or SDVOSB business under a FSS.

(d) The Bureau SBS shall review CO determinations concerning SDVOSB and HUBZone that are not set-aside or sole source determinations for actions over the SAT. If the SBS does not concur with the contracting officer's determination, the BCPO shall make a written determination concerning sources to be solicited.

1019.502-1 Requirements for setting aside acquisitions.

(b) COs must make available for review by the SBS all proposed open market acquisitions in excess of \$25,000 which have not been unilaterally set-aside for small business. Requisitions must be provided to the SBS for review upon receipt in the contracting office. If the CO rejects an SBS recommendation for a requirement in excess of \$25,000, the CO shall provide written notice to the OSDDBU within 5 working days.

1019.502-2 Total small business Set-asides.

(a) Acquisitions greater than \$3,000 but less than or equal to the SAT shall be reserved exclusively for small business concerns unless there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns. If the CO determines to proceed on an unrestricted basis, the CO shall include in the contract file documentation a description of the market research conducted and considered by the CO.

(b) COs must make available for review by the SBS and the PCR all proposed acquisitions in excess of the SAT which have not been unilaterally set-aside for HUBZone, Service Disabled Veteran-Owned Small Businesses, small businesses, or the 8(a) program. At the request of the PCR, COs must also make available for review all acquisitions between the micro-purchase threshold and the SAT that have not been set-aside. If the purchase is not set-aside, file documentation must be completed and signed by the CO (if the order is between \$3,000 and \$25,000) and by the CO and the ureau SBS (if the order is between \$25,000 and the SAT) prior to awarding the unrestricted purchase."

1019.505 Rejecting Small Business Administration recommendations.

(b) If the SBA files an appeal, the HCA must promptly notify the Bureau SBS, who must promptly notify the OSDDBU.

(c) The HCA must promptly notify the Bureau SBS and OSDDBU of recommendation decisions.

1019.506 Withdrawing or modifying small business set-asides.

(a) The Bureau SBS must forward the written notice to the OSDDBU.

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

SUBPART 1019.6—CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY

1019.602-1 Referral.

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

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 OSDDBU.

1019.602-3 Resolving differences between the agency and the Small Business Administration.

(a) COs must notify Bureau SBS of their differences between the Bureau and the SBA. The Bureau SBS should facilitate resolution with SBA. The CO must coordinate suspension actions and referrals with the Bureau SBS and OSDDBU.

(a)(3) If the CO decides to appeal issuance of a COC, the CO must notify the Bureau SBS and OSDDBU within ten business days (or a time period agreed upon by both agencies).

SUBPART 1019.7—THE SMALL BUSINESS SUBCONTRACTING PROGRAM

1019.705-2 Determining the need for a subcontracting plan.

(c) The CO shall submit a determination that no subcontracting possibilities exist under a contract, through the Bureau SBS and PCR, to the OSDDBU for approval at least ten business prior to solicitation release.

(d) COs must consult with the Bureau SBS prior to incorporating subcontracting plans as an evaluation factor for award.

1019.705-3 Preparing the solicitation.

COs must provide the Bureau SBS and the PCR (as requested) with a copy of the solicitation requiring submission of subcontracting plans to review, and allow at least five working days for the submission of any advisory findings prior to release of the solicitation.

1019.705-4 Reviewing the subcontracting plan.

The subcontracting plan evaluation must be separate from the technical or cost evaluation.

(a) Detailed instructions for reviewing subcontracting plans are contained in the Small Business Program Handbook at

<http://www.treasury.gov/about/organizational-structure/offices/Mgt/Documents/small-business-handbook-02.pdf>.

(c) Submission of subcontracting plan reporting shall be included as a “not separately priced” (NSP) deliverable under the contract when a subcontracting plan is required. Subcontracting Reporting shall be completed using the electronic Subcontracting Reporting System (eSRS). The eSRS eliminates paper submission and processing of the Individual Subcontracting Reports (ISR), formerly the SF-294, and the Summary Subcontracting Reports (SSR), formerly the SF-295. Registration will be coordinated through the Agency Coordinator (AC), located in OSDDBU. The AC has full access to all eSRS records for the Agency and has the ability to change registration levels.

(d)(1) The CO shall include language in the solicitation notifying offerors that past performance in achieving subcontracting plan goals shall be at least as important as the other subcontracting factors or subfactors combined.

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

1019.705-7 Liquidated damages.

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

(e) The CO must provide a copy of the final decision to the Bureau SBS and OSDDBU.

(h) The CO must provide a copy of the final decision to the Bureau SBS and OSDDBU.

SUBPART 1019.8—CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)

1019.803 Selecting acquisitions for the 8(a) Program.

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

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

1019.803-70 Simplified Procedures for 8(a) acquisitions under MOUs.

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

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

- (1) A copy of the purchase order; and
- (2) A notice stating that the purchase order is being processed under the MOU. The notice must also indicate that the 8(a) contractor will be deemed eligible for award and automatically begin work under the purchase order unless, within 2 working days after SBA's receipt of the purchase order, the 8(a) contractor and the CO are notified that the 8(a) contractor is ineligible for award.

1019.805-2 Procedures.

(b)(1) For requirements exceeding \$150,000 processed under FAR 19.800, the CO must submit the name, address, and telephone number of the low bidder (in sealed bid acquisitions); the apparent successful offeror in negotiated acquisitions; or all offerors within the competitive range (if discussions are required) to the SBA Business Opportunity Specialist at the field office servicing the identified 8(a) firm. The SBA must determine the eligibility of the firm(s) and advise the CO within two working days of receipt of the request. If the firm is determined to be ineligible, the CO must submit information on the next low offeror or next apparent successful offeror, as applicable, to the cognizant SBA field office.

DTAR 1019.811 Preparing the contracts.

DTAR 1019.811-3 Contract clauses.

(d)(3) Insert the clause at 1052.219-18, Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (Deviation), for paragraph (c) of FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, in all solicitations and contracts that exceed \$100,000 and are processed under 1019.8.

(f) Insert the clause at 1052.219-72, Section 8(a) Direct Awards, in solicitations and contracts that exceed \$100,000 and are processed under 1019.8 for paragraph (c) of FAR 52.219-11, Special 8(a) Contract Conditions; FAR 52.219-12, Special 8(a) Subcontract Conditions; and FAR 52.219-17, Section 8(a) Award.

1019.812-70 Information.

COs must promptly notify the SBA, and inform the Bureau SBS of 8(a) contractor performance problems.

SUBPART 1019.70 CONTRACTING OPPORTUNITIES IN FEDERAL ADVERTISING (EXECUTIVE ORDER 13170)

(a) E.O. 13170 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 part 12 processes and procedures to enhance participation by 8(a)s, SDBs, and Minority-Owned Business Entities (MBEs).

(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, Increasing Opportunities and Access for Disadvantaged Businesses, dated October 6, 2000.

**CHAPTER 1020
(RESERVED)**

**CHAPTER 1021
(RESERVED)**

There is no text implementing or supplementing FAR parts 20 and 21.

PART 1022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 1022.1—BASIC LABOR POLICIES

1022.101-3 Reporting labor disputes.

COs must make reports of any potential or actual labor disputes to the BCPO and legal counsel. Reports must include at a minimum—

- (a) The nature of the potential or actual dispute, including whether a strike, lockout, slow-down, shut down, or picketing is involved and the degree of emergency presented;
- (b) The character, quantity, degree of importance, and delivery dates and their relationship to the total acquisition program;
- (c) The identity and location of the parties to the dispute and their representatives, including the approximate number of employees involved;
- (d) The need for and availability of alternative resources to furnish the items involved within the time required;
- (e) Any critical items that should be removed from the plant or work site or should continue to be processed there with the consent of the parties to the dispute; and
- (f) Recommended action to be taken by Treasury.

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

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

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. The designee must 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.

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

SUBPART 1022.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

1022.406-8 Investigations.

(d)(1) Submit report to the agency head for approval in accordance with 1001.7000(b).

1022.406-13 Semiannual enforcement reports.

BCPOs shall submit reports if any enforcement activities related to construction labor standards occurred during the preceding semiannual reporting period to OPE on April 20th and October 20th of each year.

**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. If the exemption request is approved by the Agency Head, 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.

SUBPART 1022.8—EQUAL EMPLOYMENT OPPORTUNITY

1022.803 Responsibilities.

(d) The CO shall submit questions regarding the applicability of E.O. 11246 and implementing regulations to the SPE in accordance with 1001.7000(a).

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.

1022.805 Procedures.

(b) *Furnishing posters.* The poster may be printed by employers or ordered by employers online 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 based on National Security to the agency head for approval in accordance with 1001.7000(b).

SUBPART 1022.13— EQUAL OPPORTUNITY FOR VETERANS

1022.1305 Waivers.

(c) Submit requests for waiver under FAR 22.1305(a) and (b) in accordance with 1001.7000(c) and (b) respectively.

**SUBPART 1022.14—EMPLOYMENT OF WORKERS WITH
DISABILITIES**

1022.1403 Waivers.

(c) Submit requests for waiver under FAR 22.1403(a) and (b) in accordance with 1001.7000(c) and (b) respectively.

**DTAR SUBPART 1022.7. FAIR INCLUSION OF MINORITIES AND
WOMEN**

DTAR 1022.7000 Contract clause.

Insert the clause at 1052.222-70, Minority and Women Inclusion, in all solicitations and contracts in support of Departmental Offices for services that exceed the simplified acquisition threshold.

**PART 1023—ENVIRONMENT, ENERGY AND WATER EFFICIENCY,
RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY,
AND DRUG-FREE WORKPLACE**

SUBPART 1023.5—DRUG-FREE WORKPLACE

1023.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(e) 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 must establish required programs. Refer to Treasury Directive 75-09, Department of the Treasury Waste Prevention, Recycling and Acquisition, and Treasury Directive 75-04, Energy Management Program, for guidelines on preference programs.

(b) In implementing this policy, the OPE shall:

(1) Establish and implement policy and procedures for the procurement of green products and services and designated biobased products.

(2) Identify and promote to Bureaus acquisition of green products and services and designated biobased products.

(3) Assess Bureau compliance with applicable policy and regulations governing procurement of green products and services and designated biobased products.

(4) Establish training requirements for contracting personnel, CORs, and purchase cardholders on procurement of green products and services and designated biobased products, and monitor compliance with training requirements.

(5) Coordinate with Bureau procurement offices and provide consolidated responses to data calls and requests for information from the Office of Management and Budget (OMB), OFPP, Office of the Federal Environmental Executive (OFEE), and other organizations as needed.

(c) BCPOs shall

(1) Identify opportunities for and give preference to the acquisition of green products and services and biobased products including but not limited to—

(i) Alternative fuels and alternative fuel vehicles (AFVs) and hybrids as required by Section 303 of the Energy Policy Act of 1992 and amended by the Energy Policy Act of 2005, E.O. 13423, and E.O. 13514;

(ii) Biobased products designated by the Department of Agriculture (USDA) under Section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA);

(iii) Energy Star®, FEMP(Federal Energy Management Program)-designated, and those electronic products with the lowest available stand-by power

as required by Section 104 of the Energy Policy Act of 2005, E.O. 13221, Energy Efficient Standby Power Devices, E.O. 13423, and E.O. 13514;

(iv) Environmentally-preferable products and services in accordance with E.O. 13423 and E.O. 13514;

(v) EPEAT(Electronic Product Environmental Assessment Tool) registered products in accordance with E.O. 13423 and E.O. 13514;

(vi) Products with low or no toxic or hazardous chemicals or materials or products containing lesser or no toxic or hazardous constituents;

(vii) Non-ozone depleting substances under the Clean Air Act as contained in EPA's Significant New Alternatives Program (SNAP);

(viii) Recycled content and/or remanufactured products designated by EPA under Section 6002 of the Resource Conservation and Recovery Act of 1976 (RCRA);

(ix) Renewable energy as required by Section 203 of the Energy Policy Act of 2005, E.O. 13423, and E.O. 13514; and

(x) Water efficient products, including those meeting EPA's WaterSense standards.

(2) Ensure representation of environmental and energy experts, managers, or technical personnel on integrated procurement teams for all high impact acquisitions and address in the acquisition plans each of the following factors:

(i) Sustainable design practices;

(ii) Life cycle cost analysis;

(iii) Product or packaging take back (return to manufacturer for recycling or remanufacturing purposes); and

(iv) Maximization of energy and resource recovery in solid waste management.

(3) Address the applicability of the above four factors in all other acquisition plans,

(4) Coordinate with facility environmental management personnel to incorporate green purchasing requirements in facility environmental management systems.

(d) Specifically, in implementing this policy, BCPOs shall:

(1) give preference to green products and services and biobased products in Bureau annual procurement forecasts for all products and services to the extent practicable;

(2) develop templates for incorporating green purchasing requirements into solicitations and contracts;

(3) Use Federal Business Opportunities (FedBizOpps) and other e-procurement tools to publicize and promote requirements for green products and services and/or sustainable acquisitions;

(4) Where applicable, consider best value based on life cycle cost assessments of cradle-to-grave manufacture, use, and disposition;

(5) Address in acquisition plans how green and/or sustainable standards and performance indicators in statements of work, source selection factors, and performance-based criteria will be included in procurements;

(6) Require flowdown of green product preferences to subcontractors;

(7) Report green contract requirements implementation through the FPDS;
(8) Comply with, render assistance, and provide input or oversight over Treasury training requirements associated with procurement of green products and services and biobased products;

(9) For recycled content products only, require estimates of the total amount of recovered materials used in items supplied or used under the contract, certification that the minimum recycled content requirement was met, where appropriate, and implement procedures for verifying the estimates and certifications.

(10) Render assistance and provide input or oversight over pilot projects conducted by program offices as appropriate to test and measure results from the purchase and use of green products and services;

(11) When purchasing printing and writing papers, including office paper products, or support services that include the supply of written documents: meet the minimum content standard of 30 percent postconsumer fiber; or if 30 percent content is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, meet a 20 percent postconsumer content standard;

(12) When procuring electronics products, ensure—

(i) At least 95 percent of those requirements are met with an EPEAT-registered product, unless there is no EPEAT standard for such product;

(ii) Energy Star® features are available on agency computers and monitors; and

(iii) Environmentally sound practices are used with respect to disposition of electronic equipment that has reached the end of its useful life;

(13) Incorporate the acquisition-related requirements of the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings as set forth in the 2006 Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding, E.O. 13423, E.O. 13514, and Treasury's Sustainable Buildings Program and Implementation Plan;

(14) Provide Bureau responses to OPE for data calls and requests for information from OMB, OFPP, OFEE, and other organizations as needed.

(e) *Bureau Affirmative Procurement Programs.* Bureaus shall supplement the Departmental APP with appropriate policy and procedures outlining specific guidelines for implementing the Departmental APP in their Bureaus. The scope and magnitude of the policy and procedures should be commensurate with the procurement activity associated with green products and services and biobased products.

(f) *Electronics Stewardship Program.*

(1) In support of Treasury's Electronics Stewardship Program, Bureau procurement offices are required to meet the following policy requirements:

(i) Incorporate FAR clauses for environmental and energy considerations, including the Electronic Product Environmental Assessment Tool (EPEAT), into contracts as they are promulgated. Ninety-five percent of new eligible electronic products purchased or leased shall be EPEAT-registered. Procurement offices will strive to purchase or lease products that are rated at the Silver level or higher.

(ii) Include EPEAT, environmental, and energy aspects into IT procurement contracts.

(A) Maximum use of sustainable practices in acquisition of electronic products (e.g., computers, copiers, printers, fax machines), including total cost of ownership analysis.

(B) In applicable IT contracts for leased equipment, incorporate adequate language to require that, at the end of the lease period, the equipment is reused, donated, sold, or recycled using environmentally sound management practices;

(C) Electronics stewardship training for contracting personnel, purchase cardholders, CORs, and individuals responsible for establishing requirements for electronic products.

(g) In accordance with E.O. 13514, promote electronics stewardship, in particular by—

(1) Ensuring procurement preference for EPEAT-registered electronic products;

(2) Establishing and implementing policies to enable power management, duplex printing, and other energy-efficient or environmentally preferable features on all eligible agency electronic products;

(3) Employing environmentally sound practices with respect to Treasury disposition of all excess or surplus electronic products;

(4) Ensuring the procurement of Energy Star® and FEMP designated electronic equipment; and

(5) Implementing best management practices for energy-efficient management of servers and data centers.

(h) *Sustainable Buildings Program*. In support of Treasury's Sustainable Buildings Program and Implementation Plan, Bureau procurement offices are required to meet the following policy requirements—

(1) Comply with the acquisition-related requirements of the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings for energy efficiency, use of renewable energy, water conservation, and reduction of the environmental impacts of materials;

(2) For those individuals involved in construction, renovation, and maintenance and operations, provide sustainable buildings training for contracting personnel, CORs, and personnel responsible for requirements definition.

(i) *Purchase Card Program*. The requirements of E.O. 13423, the Implementing Instructions for E.O. 13423, E.O. 13514, and the Department's Affirmative Procurement Program (APP) apply to purchases below the micropurchase threshold. Purchase card training programs shall include information on environmentally friendly purchasing and purchase of biobased products, to include awareness of designated items and criteria for written documentation of exceptions.

(j) *Annual Review and Monitoring: Review, Documentation, and Follow-Up for Corrective Action*. BCPOs are responsible for establishing internal controls to ensure that all of the procurement requirements of E.O. 13423, the Implementing Instructions for E.O. 13423, E.O. 13514, and the Department of the Treasury's APP are followed in their purchasing and contracting practices. COs are responsible for

ensuring that all applicable clauses, provisions, and certifications are included in solicitations and contracts, as required by the FAR. They are also responsible for ensuring contractors complete the certifications and that the certifications are reviewed by the responsible technical program office that prepared the purchase description or SOW. Subject-matter experts within the technical and program offices at each bureau are responsible for ensuring that any acquisitions with environmental and/or safety considerations contain all applicable federal, state and local laws, regulations, or requirements within the purchase description or SOW.. Bureau procurement offices should contact their bureau senior environmental officials if assistance is required in this area. If additional assistance is required, the Director Environment, Safety, and Health Division (ESHD) may be contacted.

(k) *Environmental Management Training*. E.O. 13423, Strengthening Federal Environmental, Energy, and Transportation Management, and E.O. 13423 Implementing Instructions require that agencies develop and provide environmental management training for all personnel whose actions are affected by the E.O. FAC 018, Green Purchasing for Civilian Acquisition, accessible at <http://icatalog.dau.mil/onlinecatalog/tabnavcl.aspx?tab=FAC> meets the requirement for training on acquisition-related requirements of the E.O. Comparable Bureau-developed training also meets the E.O. training requirement.

(1) Contracting personnel, purchase cardholders, and CORs must review the attached 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 each calendar year. Training for purchase cardholders may be tailored to address the products that they are authorized to purchase.

(2) BCPOs are required to ensure that the training is completed and documented for all applicable personnel.

SUBPART 1023.70—PRECAUTIONS FOR ENVIRONMENTAL, HEALTH, AND SAFETY RISKS

1023.7001 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.

1023.7002 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 1023.7002(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).

1023.7003 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.

PART 1024—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 1024.1—PROTECTION OF INDIVIDUAL PRIVACY

1024.103 Procedures.

Procedures for implementing the Privacy Act of 1974 are contained in Departmental regulations under 31 CFR Part 1 Subpart C. Bureaus shall refer to Treasury Directive 25-04, The Privacy Act of 1974, As Amended for additional details on Departmental procedures regarding the Privacy Act of 1974.

SUBPART 1024.2—FREEDOM OF INFORMATION ACT

1024.203 Policy.

(a) The Department's implementation of the Freedom of Information Act is codified in regulations under 31 CFR Part 1. See Treasury Directive 25-05, The Freedom of Information Act for additional details on Departmental procedures regarding the Freedom of Information Act.

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

(c) Treasury contracting activities may, at their discretion, authorize or require publication of contracts if deemed to be in the interest of the Department. Contractors should be afforded an opportunity to review and propose redactions for any information contained in Treasury contracts that may be subject to a FOIA exemption. Insert the clause at 1052.224-1, Contract Publication, in solicitations and contracts where publication of the contract and/or order is anticipated.

PART 1025—FOREIGN ACQUISITION

SUBPART 1025.1—BUY AMERICAN—SUPPLIES

1025.103 Exceptions.

(a) The SPE is authorized to make the determination as to whether the CO may acquire a foreign end product without regard to the restrictions of the Buy American statute.

(b) Submit requests for exceptions under FAR 25.103(b)(2)(ii) to the SPE for approval in accordance with 1001.7000(a).

SUBPART 1025.2—BUY AMERICAN—CONSTRUCTION MATERIALS

1025.202 Exceptions.

(a)(1) Submit requests under FAR 25.202(a)(1) to the agency head for approval of a Public Interest exception to the Buy American statute in accordance with 1001.7000(b).

1025.204 Evaluating offers of foreign construction material.

(b) BCPOs must consult with the SPE when using this subsection.

1025.205 Post-award determinations.

(c) The SPE must authorize any exception when its basis is that the consideration paid is less than the differential between the unreasonable price of a domestic construction material and the cost of the foreign construction material. The CO shall submit requests for exception in accordance with 1001.7000(a).

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 must notify the SPE prior to acquiring supplies and services that are restricted in FAR 25.701(b).

SUBPART 1025.10 – ADDITIONAL FOREIGN ACQUISITION REGULATIONS

1025.1001 Waiver of right to examination of records.

(a)(2)(iii) The CO shall submit the D&F in accordance with 1001.7000(b).

**PART 1026— OTHER SOCIOECONOMIC PROGRAMS
(RESERVED)**

There is no text implementing or supplementing FAR part 26.

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.

(e)(1)(ii) The SPE is authorized to make the determination.

(e)(4)(ii) The SPE is authorized to make the determination.

1027.304-1 General.

(b) Submit requests for exception to insert FAR clause 52.227-13 to the SPE for approval in accordance with 1001.7000(a).

(h) Required approvals as prescribed by paragraph (i) of FAR clause [52.227-11](#) must be made by the SPE, after consultation with legal counsel.

1027.304-4 Appeals.

(a) The CO is the designated official authorized to take the actions specified. .

(b) Appeals must be directed to the SPE.

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).

SUBPART 1028.2—SURETIES AND OTHER SECURITY FOR BONDS

1028.203 Acceptability of individual sureties.

(g) 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.

(d) Justifications for accepting bonds of individual sureties whose name appears on the System for Award Management Exclusions must be prepared by the CO and forwarded through the BCPO to the suspension and debarment official for approval.

1028.204 Alternatives in lieu of corporate or individual sureties.

(a) HCAs must establish required safeguards to protect against the loss of any alternative securities received.

SUBPART—1028.3 INSURANCE

1028.307-1 Group insurance plans.

(a) Plans shall be submitted to the CO and must be reviewed by legal counsel.

DTAR 1028.307-1 Group insurance plans.

(a) Plans shall be submitted to the CO.

(b) [Reserved]

DTAR 1028.310 Contract clause for work on a Government installation.

DTAR 1028.310-70 Contract clause.

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

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

DTAR 1028.311-2 Agency solicitation provisions and contract clauses.

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

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 agency head for review and approval in accordance with 1001.7000(b).

PART 1030—COST ACCOUNTING STANDARDS ADMINISTRATION

SUBPART 1030.2—CAS PROGRAM REQUIREMENTS

1030.201-5 Waiver.

(a)(2) The CO shall submit CAS applicability waiver requests to the SPE for approval in accordance with 1001.7000(a).

1030.202-2 Impracticality of submission.

The ASM/CFO is authorized to determine that it is impractical to secure the Disclosure Statement, although submission is required, and authorize contract award without obtaining the Statement.

PART 1031—CONTRACT COST PRINCIPLES AND PROCEDURES

SUBPART 1031.1—APPLICABILITY

1031.101 Objectives.

(a) Submit requests for individual deviation concerning cost principles to the SPE for approval in accordance with 1001.7000(a). Submit requests for class deviation concerning cost principles to the SPE for approval/rejection and, if approved submission to the Civilian Agency Acquisition Council.

PART 1032—CONTRACT FINANCING

1032.003 Simplified acquisition procedures financing.

BCPOs must make a written determination in writing if contract financing for purchases of commercial items will be permitted for purchases made under FAR part 13.

1032.006-2 Definition.

The SPE is Treasury's Remedy Coordination Official (RCO) and concurrent SDO.

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 must be made through the BCPO to the RCO. The report must 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.

DTAR 1032.113 Customary contract financing.

The specified arrangements are considered customary within Treasury.

1032.114 Unusual contract financing.

The CO must submit any proposed use of unusual contract financing in accordance with 1001.7000(a).

SUBPART 1032.2—COMMERCIAL ITEM PURCHASE FINANCING

DTAR 1032.202-1 Policy.

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

1032.202-4 Security for Government financing.

(a)(2) The required determination regarding the adequacy of the contractor's security and financial condition must be in writing, reviewed by legal counsel, and retained in the contract file.

SUBPART 1032.4—ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS

1032.402 General.

(e)(1) Authority to make the finding and determination and for approval of contract terms concerning advance payments is delegated to the SPE.

(e)(2) BCPOs must coordinate with the Bureau's financing offices before requesting approval from the SPE.

1032.407 Interest.

(d) The SPE must make the authorization.

1032.409 Contracting Officer action.

Submit the request to recommendation for approval or disapproval of advance payments to the SPE for approval in accordance with 1001.7000(a).

SUBPART 1032.8—ASSIGNMENT OF CLAIMS

1032.803 Policies.

(d) The CO shall submit the determination to include a no-setoff commitment in accordance with 1001.7000(b).

SUBPART 1032.11—ELECTRONIC FUNDS TRANSFER

1032.1109 EFT Information submitted by offerors.

COs must require offerors to submit EFT information prior to award.

DTAR Subpart 1032.70--ELECTRONIC SUBMISSION AND PROCESSING OF PAYMENT REQUESTS

DTAR 1032.7000 Scope of subpart.

This subpart prescribes policies and procedures for electronic submission and processing of payment requests.

DTAR 1032.7001 Definitions.

"Payment request," as used in this subpart, is defined in the clause at 1052.232-7003, Electronic Submission of Payment Requests.

DTAR 1032.7002 Policy.

(a) Contracts awarded after October 1, 2012, shall require the electronic submission of payment requests, except for--

- (1) Purchases paid for with a Government-wide commercial purchase card;
- (2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise classified information or national security;

(b) Where a contract otherwise requires the electronic submission of invoices, the CO may authorize alternate procedures only if the CO makes a written determination that:

(1) The Department of the Treasury is unable to receive electronic payment requests or provide acceptance electronically;

(2) The contractor has demonstrated that electronic submission would be unduly burdensome; or

(3) The contractor is in the process of transitioning to electronic submission of payment requests, but needs additional time to complete such transition. Authorizations granted on this basis must specify a date by which the contractor will transition to electronic submission.

(c) Except as provided in paragraphs (a) and (b) of this section, Treasury officials shall process electronic payment submissions through the Treasury Internet Payment Platform or successor system.

(d) If the requirement for electronic submission of payment requests is waived under paragraph (a)(2) or paragraph (b) of this section, the contract or alternate payment authorization, as applicable, shall specify the form and method of payment request submission.

DTAR 1032.7003 Contract clause.

Except as provided in 1032.7002(a), use the clause at 1052.232-7003, Electronic Submission of Payment Requests--Internet Payment Platform, in solicitations issued and contracts awarded after October 1, 2012.

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 designated as an HIA, the BCPO or designee (e.g., the CO) shall notify the SPE via email within five working days of receipt of the protest and shall identify—

- (i) The date protest was received;
- (ii) The description of the action protested (solicitation or award number, brief description of requirement, and total value including base and all options);
- (iii) Name of the company or individual submitting the protest; and
- (iv) A brief summary of the reason(s) for the protest.

(2) The CO shall notify the SPE within five business days following communication to the protester of the final decision.

(3) The CO shall annotate the HIA database within the Pre-Award comments field or Post-Award comment field with information regarding the receipt, disposition, and resolution of the protest.

(4) 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) Type of protest (e.g., Agency or GAO);
- (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) HIA 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.

1033.103 Protests to the agency.

(d)(3)(i) Upon receipt of an agency protest, the CO must immediately notify the BCPO and legal counsel, providing the latter with a copy. If the solicitation or award under protest is designated as an HIA, 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 must 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.

1033.104 Protests to GAO.

(a)(2) Upon receipt of a GAO protest against a solicitation or an award designated as an HIA, the BCPO or designee shall comply with all requirements of 1033.102(a)(1).

(a)(3)(iv) The report must be appropriately titled and dated, cite the GAO file number, and be signed by the CO. Reports must be coordinated with legal counsel. Reports will be transmitted to GAO by legal counsel.

(b)(1) The HCA must obtain legal counsel's review.

(c)(2) The HCA must obtain legal counsel's review.

SUBPART 1033.2—DISPUTES AND APPEALS

DTAR 1033.201 Definitions.

Agency Board of Contract Appeals means the Civilian Board of Contract Appeals (CBCA). The CBCA is the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of Contracting Officers filed by contractors pursuant to FAR Subpart 33.2. Appeals are governed by the Rules of Procedure of the CBCA.

1033.203 Applicability.

(b)(2)(i) The CO shall submit determinations to the SPE for approval in accordance with 1001.7000(a).

1033.209 Suspected fraudulent claims.

COs must 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) Include specific reference to CBCA, Attn: Office of the Clerk of the Board 1800 M Street 6th Floor, NW, Washington, DC 20036.

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 must prepare the appeal file as prescribed on the CBCA website available at www.cbca.gsa.gov. The file must be forwarded to legal counsel within 15 days from receipt of notice. Legal counsel must have 15 days to review the file, and file the appeal file with the CBCA.

PART 1034—MAJOR SYSTEM ACQUISITION

SUBPART 1034.0—GENERAL

DTAR 1034.001 Definitions.

Core Earned Value Management is a process for ensuring that the contractor's self validated earned value management system is capable of producing earned value management data and meets, at a minimum, the following core ANSI/EIA Standard-748 criteria:

- (1) (ANSI #1) Define the authorized work elements for the program. A work breakdown structure (WBS), tailored for effective internal management control, is commonly used in this process.
- (2) (ANSI #2) Identify the program organizational structure including the major subcontractors responsible for accomplishing the authorized work, and define the organizational elements in which work will be planned and controlled.
- (3) (ANSI #3) Provide for the integration of the company's planning, scheduling, budgeting, work authorization, and cost accumulation processes with each other, and as appropriate, the program WBS and the program organizational structure.
- (4) (ANSI #6) Schedule the authorized work in a manner that describes the sequence of work and identifies significant task interdependencies required to meet the needs of the program.
- (5) (ANSI #7) Identify physical products, milestones, technical performance goals, or other indicators that will be used to measure progress.
- (6) (ANSI #8) Establish and maintain a time-phased budget baseline, at the control account level, against which program performance can be measured. Initial budgets established for performance measurement will be based on either internal management goals or the external customer negotiated target cost including estimates for authorized but vaguely defined work. Budget for far-term efforts may be held in higher-level accounts until an appropriate time for allocation at the control account level. On government contracts, if an over-target baseline is used for performance measurement reporting purposes, prior notification must be provided to the customer.
- (7) (ANSI #16) Record direct costs in a manner consistent with the budgets in a formal system controlled by the general books of account.
- (8) (ANSI #22) At least on a monthly basis, generate the following information at the control account and other levels as necessary for management control using actual cost data from, or reconcilable with, the accounting system:
 - (i) Comparison of the amount of planned budget and the amount of budget earned for work accomplished. This comparison provides the schedule variance.
 - (ii) Comparison of the amount of the budget earned and the actual (applied where appropriate) direct costs for the same work. This comparison provides the cost variance.
- (9) (ANSI #27) Develop revised estimates of cost at completion based on performance to date, commitment values for material, and estimates of future conditions. Compare this information with the performance measurement baseline to identify variances at completion important to management and any applicable customer reporting requirements, including statements of funding requirements.

(10) (ANSI #28) Incorporate authorized changes in a timely manner, recording the effects of such changes in budgets and schedules. In the directed effort prior to negotiation of a change, base such revisions on the amount estimated and budgeted to the program organizations.

Development, Modernization, Enhancement (DME) is the portion of an IT investment/project which deals with developing and implementing new or enhanced technology in support of an agency's mission.

Major acquisitions for development are defined as contracts, awarded in support of one or more Major IT investments with DME activities, which meet the contract threshold for fully applying FAR 34.2 procedures.

Performance-based acquisition management means a documented, systematic process for program management, which includes integration of program scope, schedule and cost objectives, establishment of a baseline plan for accomplishment of program objectives, and use of earned value techniques for performance measurement during execution of the program. A performance-based acquisition (as defined in FAR 37.101) or an acquisition with a defined quality assurance plan that includes performance standards/measures should be the basis for monitoring the contractor.

DTAR 1034.004 Acquisition strategy.

(a) A program manager's acquisition strategy written at the system or investment level in accordance with FAR 7.103(e) shall include at a minimum:

- (1) The relationship of each individual acquisition (Contract, Delivery Order, Task Order, or Interagency Agreement) to the overall investment requirements and management structure;
- (2) What work is being performed in-house (by government personnel) versus contracted out for the investment;
- (3) A description of the effort, by acquisition, and the plans to include required clauses in the acquisitions;
- (4) A timetable of major acquisition award and administration activities, including plans for contract transitions;
- (5) An investment/system surveillance plan;
- (6) Financial and human resource requirements to manage the acquisition processes through the investment lifecycle;
- (7) Consideration of optimal contract types, including considerations of performance based approaches, small business utilization, Section 508, etc.; and
- (8) Assurances that the acquisition strategy section and supporting acquisition plans will maximize competition, including enabling downstream competition through avoidance of vendor "lock in".

(b) The acquisition strategy shall be approved by a chartered interdisciplinary acquisition team that includes a representative of the procurement organization designated in accordance with bureau procedures.

SUBPART 34.2 – EARNED VALUE MANAGEMENT SYSTEM

DTAR 1034.201 Policy.

(a) (1) An Earned Value Management System (EVMS) is required for major acquisitions for development/modernization/enhancement (DME) in accordance with OMB Circular A-11. This includes prototypes and tests to select the most cost effective alternative during the Planning Phase, the work during the Acquisition Phase, and any developmental, modification or upgrade work done during the Operational/Steady State Phase. EVMS is to be applied to contractor efforts regardless of contract type. The Contracting Officer shall procure the Contractor-developed component(s) of major project(s) that have been vetted through the Treasury governance process and the acquisition has been identified by the program manager as requiring the Contractor’s use of an EVMS. In addition to major acquisitions for development, the Department of the Treasury may also require the Contractor’s use of an EVMS for other acquisitions. The following thresholds apply to DME costs at the Contract Line Item Number (CLIN) level for performance-based acquisitions and to DME costs at the acquisition level (Contract, Task Order, or IAG) for non-performance-based contracts:+

Contract, Task Order, IAG, or CLIN Value	Reporting Requirements for IT Investments	Applicable ANSI/EIA Criteria	Level of EVMS Validation/-Acceptance	IBR Required	Level of EVMS Surveillance (Contractor)
>\$50 M	Full	32	CFA1/ Acceptance	Yes	CFA Surveillance unless another interested party alternative is requested by the Bureau and approved by the Treasury CIO
Between \$20M and \$50 M	Full	32	Contractor Self-Validation	Yes	
≤\$20M	Core	10	Contractor Self-Validation	Independent Baseline Validation IBR (Core)	Treasury/Bureau Surveillance*
* In accordance with Bureau Annual Surveillance Strategy 1/CFA – Cognizant Federal Agency (See FAR 42.003)					

(2) For the purpose of this subpart, CLIN may be interpreted as a single Contract Line Item Number, Contract Line Item Number with Sub-CLINs, or Multiple Contract Line Item Numbers included in a single DME effort. Do not break down any DME effort below the aggregation of the requirement to avoid use of the actual threshold prescriptions.

(b) *Acquisition Planning.* All written acquisition plans shall include the following:

- (1) A determination from the requirements official as to whether the program is a major acquisition as defined under OMB Circular A-11 and FAR Part 34;
- (2) If so, whether the program is required to include EVM and if the Contractor is required to use an EVMS;
- (3) If so, whether the program official is EVM trained and qualified or has support from someone who is EVM trained and certified; and
- (4) Whether a Full Integrated Baseline Review (IBR) will be completed within 90 days when the acquisition DME value is \$20 Million or more, or a Core Integrated Baseline Review when the acquisition DME value is less than \$20 Million).

(c) *Solicitations and Awards.* Unless a waiver has been granted (See paragraph (e) of this section), all solicitations and awards for major investments with DME valued at \$20 Million or more require EVMS from the Contractor and its Subcontractor as follows:

(1) FAR Clause 52.234-4, Earned Value Management System; and, as appropriate, 1052.234-4, Earned Value Management System Alternate I (See 1034.203 below), must contain a requirement that the Contractor and its subcontractors have:

- (i) AN EVMS that has been determined as meeting the Full criteria of ANSI/EIA Standard-748 compliance (valued at \$20 Million or more);
 - (ii) An EVMS that has been determined as meeting the Core criteria of ANSI/EIA Standard-748 compliance (valued at below \$20 Million, See 5. DTAR Special Solicitation Provisions and Contract Clauses, 1052.234-2 and 1052.234-3); or
 - (iii) That the Contractor deliver a plan to provide EVM data that meets the standard.
- (2) Provide for the completion of an IBR, or, as appropriate, for subcontracts with DME less than \$20 million, an IBR (Core) that meets the Government standard, and provide periodic reporting of the EVM data.

(3) All EVM determinations as set forth in paragraphs 3(c)(i)(A) and (B) of this section, shall be documented in the pre-award and contract files, as appropriate.

(d) *Program Management.* For those acquisitions to which EVM applies, the program manager (PM)/(COR) shall:

- (1) Ensure that EVM requirements are included in the acquisition Statement of Objectives (SOO), Performance Work Statement (PWS), or Statement of Work (SOW);
- (2) Determine whether the Contractor's EVMS (and that of its subcontractors) is ANSI/EIA Standard 748 compliant, or determine whether the Contractor's plan to provide EVM data meets the required standard; and
- (3) Validate and approve the IBR/IBR (Core) and the subsequently issued EVM reports. These program management requirements shall be included in the Contracting Officer's written appointment letter to the COR.

(e) *Waivers.* In accordance with Bureau policy, a waiver(s) to the guidance described within the Department of the Treasury Earned Value Management Guide (Treasury EVM Guide) may be granted by the Departmental Treasury CIO based on Bureau documented and Bureau CIO approved requests. Examples of waiver justifications may include, but are not limited to:

- (1) Urgency of work to be performed;
- (2) Limited duration of work to be performed;
- (3) Cost of adding EVMS requirement to a contract versus benefit achieved;
- (4) Percentage of DME costs vis-à-vis the life cycle investment costs; and

(5) Level of risk.

DTAR 1034.202 Integrated Baseline Reviews.

(a) When an EVMS is required, and depending on the DME CLIN value threshold, the Government will conduct a Full IBR or a Core IBR.

(b) The purpose of the Full IBR and the Core IBR is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks.

(c) Both the IBR and the IBR (Core) are joint assessments by the offeror or Contractor, and the Government, of the –

(1) Ability of the project's technical plan to achieve the objectives of the scope of work;

(2) Adequacy of the time allocated for performing the defined tasks to successfully achieve the project schedule objectives;

(3) Ability of the Performance Measurement Baseline (PMB) to successfully execute the project and attain cost objectives, recognizing the relationship between budget resources, funding, schedule, and scope of work;

(4) Availability of personnel, facilities, and equipment when required, to perform the defined tasks needed to execute the program successfully; and

(5) The degree to which the management process provides effective and integrated technical/schedule/cost planning and baseline control.

(d) An IBR/IBR (Core) may be held either pre- or post-award; however, the post-award IBR/IBR (Core) must be completed within 90 days after award, or the Contracting Officer shall obtain a copy of the Program Manager's written review of the requirement and assessment of the IBR/IBR (Core) timing based on the risk associated with the acquisition. While a post-award IBR is preferred, a pre-award IBR will be acceptable. Note: The IBR (Core) may be included within the Quality Assurance Surveillance Plan (QASP).

(e) The solicitation and award shall include the process and schedule for EVMS validation as meeting the ANSI/EIA 748 through EVMS Compliance Recognition documents or a Compliance Evaluation Review where a compliance document does not exist, and periodic systems surveillance.

DTAR 1034.203 Solicitation provisions and contract clauses.

(a) For major investment acquisitions that included a DME effort value of greater than \$50 Million, the Contracting Officer shall follow the requirements provided at FAR Subpart 34.203.

(b) For major investment acquisitions that include a DME effort with a value between \$20 - \$50 Million:

(1) The Contracting Officer shall insert the FAR provision at FAR 52.234-2, Notice of Earned Value Management System – Pre-Award IBR, with the clause at 1052.234-2, Notice of Earned Value System – Pre-Award Alternate I in solicitations and awards that require the contractor to use an EVMS and for which the Government requires an IBR *prior to award*.

(2) The Contracting Officer shall insert the FAR provision at FAR 52.234-3, Notice of Earned Value Management System – Post-Award IBR, with 1052.234-3, Notice of

Earned Value System – Post-Award Alternate I in solicitations and awards that require the contractor to use and Earned Value Management System (EVMS) and for which the Government requires an IBR *after award*.

(3) The contracting officer shall insert the FAR clause at FAR 52.234-4, Earned Value Management System, with 1052.234-4, Earned Value Management System Alternate I), in solicitations and awards that require a contractor to use an EVMS.

(c) For major acquisitions that include a DME effort with a value of less than \$20 Million:

(1) The Contracting Officer shall insert the provision 1052.234-70, Notice of Earned Value Management System – Pre-Award IBR (Core), in solicitations for awards that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an IBR prior to award.

(2) The Contracting Officer shall insert the provision 1052.234-71, Notice of Earned Value Management System – Post-Award IBR (Core), in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an IBR after award.

(3) The Contracting Officer shall insert the clause 1052.234-72, Core Earned Value Management System, in solicitations and awards that require a contractor to use an EVMS.

PART 1035—RESEARCH AND DEVELOPMENT CONTRACTING

1035.003 Policy.

(b)(1) Cost sharing and recoupment must 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 must 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 must follow the procedures at FAR 4.403, as supplemented by TD P 15-71, "Department of Treasury Security Manual."

**PART 1036—CONSTRUCTION AND ARCHITECT-ENGINEERING
CONTRACTS**

**SUBPART 1036.2—SPECIAL ASPECTS OF CONTRACTING FOR
CONSTRUCTION**

1036.209 Construction contracts with architect-engineer firms.

(a) BCPOs must submit these types of requests to the SPE for approval in accordance with 1001.7000(a). Performance Evaluation Reports must include—

- (1) The reason(s) why award to the design firm is required;
- (2) An analysis of the facts involving potential or actual organizational conflicts of interest, including benefits and detriments to the Government and prospective contractor; and
- (3) Measures to be taken to avoid, neutralize, or mitigate conflicts of interest.

SUBPART 1036.6—ARCHITECT-ENGINEER SERVICES

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

Bureaus are authorized to use either process.

1036.605 Government cost estimate for architect-engineer work.

(b) COs may release Government estimates on an as-needed basis in accordance with FAR 36.605(b).

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 appointment is authorized by statute.

(f) The CO shall ensure such coordination with the cognizant civilian personnel 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.

1037.110 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 5 years after the date of the separation on which the payment is based.

1037.112 Government use of private sector temporaries.

All actions must be coordinated with the Bureau personnel officer.

1037.113-1 Waiver of cost allowability limitations.

(a) The SPE must make any required waivers.

SUBPART 1037.6—PERFORMANCE-BASED ACQUISITION

1037.6070 Treasury Performance Based Advocate Program.

(a) Each Bureau must name a PBA Advocate to coordinate with the OPE PBA Advocate on PBA matters. The Bureau PBA Advocate will—

(1) Establish procedures and dollar threshold(s) for the review prior to release of service solicitations to assure performance based techniques are adequately implemented;

(2) Prepare and report progress on annual bureau level plans to meet or exceed PBA goals set by OPE; and

(3) Review and sign determination and findings prepared in accordance with 1007.105.

(b) *Acquisition Plans.* Acquisition staff must adequately address the requirements of FAR 7.105(b)(5)(i) in all Acquisition Plans to include a rationale for not using a PBA or for using a PBA on other than a firm-fixed-price basis. The plan must be reviewed by the Bureau PBA Advocate based on threshold(s) established by the BCPO in accordance with the general intent of FAR 7.105.

(c) *Defined requirements.* Acquisition staff must advise program offices that requirements must be defined or at least conveyed in a Statement of Objectives (SOO) for the contractor to provide the performance work statement and the performance requirements summary table. Statements of work must be reviewed by the Bureau PBA Advocate based on threshold(s) or planned PBA acquisitions established by the Bureau.

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 must 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/PBWS. 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 must:

(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 must obtain written approval from the SPE before issuance of the solicitation. The SPE shall consult with the cognizant IG authority prior to granting approval. If the SPE does not concur the CO must 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 should 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 text implementing or supplementing FAR part 38.

PART 1039—ACQUISITION OF INFORMATION TECHNOLOGY

SUBPART 1039.1—GENERAL

1039.101 Policy.

(b) SmartBUY. (i) In support of the OMB requirements, the renewal or establishment of new enterprise or bulk license agreements for commercial software may not be entered into without first contacting the OPE, which will coordinate with the OCIO and review the subject action. Consistent with the Department's commitment to the SmartBUY program, the OPE will notify bureau procurement offices of SmartBUY agreements specifically announced by GSA. Once bureaus receive such notification, any subsequent internal agreements or renewals for software included in a SmartBUY agreement will require a formal waiver from GSA.

(ii) GSA's SmartBUY Waiver Procedures dated August 6, 2004, are documented and maintained at www.cio.gov. In compliance with these procedures, all Bureaus are required to submit formal waivers for any new or renewal enterprise or bulk software licensing agreements that include software specifically announced by GSA as subject to a SmartBUY agreement. Bureaus must obtain required waivers at least 30 days prior to the execution of such agreements. The Program Manager and/or CO for the requirement must submit a coordinated waiver that has the concurrence of both the Bureau's Procurement Office and Office of the CIO. Waivers should be prepared in accordance with the sample format included in GSA's Waiver Procedures and submitted electronically to the OPE with approval certifications by the BCPO and Bureau CIO. Upon receipt, the OPE will process the subject waiver request for signature by the SPE and forward it for review by the Department of the Treasury CIO. Once coordinated with the SPE and Treasury CIO, the BCPO may submit the waiver request to the GSA SmartBUY Team. BCPOs shall maintain a list of all waivers requested and received.

1039.103 Modular contracting.

(a) Contracting Officers and other members of the acquisition team should use OMB, Contracting Guidance to Support Modular Development dated June 12, 2012 available at http://www.whitehouse.gov/omb/procurement_index_memo for contracting guidance to support the use of modular contracting.

SUBPART 1039.2—ELECTRONIC AND INFORMATION TECHNOLOGY

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).

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 must be referred by the BCPO to the SPE for forwarding to GSA.

PART 1042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

1042.002 Interagency agreements.

(a) Interagency agreements established to acquire field contract administration services must be coordinated in advance with the SPE to determine whether there should be a Department-wide arrangement.

SUBPART 1042.1—CONTRACT AUDIT SERVICES

1042.102 Assignment of contract audit services.

(a) Requests for audit services must be in accordance with Treasury Directive 76-06, "Request for Contract Audit Services" and subpart 1037.70.

SUBPART 1042.7—INDIRECT COST RATES

1042.703-2 Certificate of indirect costs.

(b)(1) BCPOs may waive the requirement for Certification of Final Indirect Costs.

SUBPART 1042.15—CONTRACTOR PERFORMANCE INFORMATION

DTAR 1042.1500 Procedures.

Contracting Officers are responsible for preparing interim and final past performance evaluations.

1042.1502 Policy.

(a)(1) Bureaus must use the Contractor Performance Assessment Reports System (CPARS) for submitting input on contractor performance in accordance with FAR 42.1502 and 42.1503.

(2) COs shall prepare interim evaluations on an annual basis from the date of contract award.

1042.1503 Procedures.

(a)(2) 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

(c) Past performance reports for personal services contracts, discussed in 37.104, shall be maintained in the contract file and not submitted to PPIRS.

(d) For the purpose of this subpart, "as soon as practicable," is defined as 30 days. All evaluations must 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.

PART 1043—CONTRACT MODIFICATIONS

SUBPART 1043.1—GENERAL

1043.102 Policy.

(a) *Contract Scope.* A modification that materially changes the type of work, performance period, and/or costs from the contract as awarded may be considered outside of the scope of the contract. Out of scope modifications are subject to the same competition requirements as a new contract or order. COs must consult legal counsel in doubtful or unusual situations. Any modification, when considered with previous modifications, that increases the total estimated value of a contract, task order, or delivery order by 20% or more as compared with the initial award value must be approved by the BCPO prior to execution, unless the increased total amount remains under the non-commercial SAT. COs must include in the contract file a determination that a proposed modification is within the general scope of the contract.

PART 1044—SUBCONTRACTING POLICIES AND PROCEDURES

**SUBPART 1044.3—CONTRACTORS' PURCHASING SYSTEMS
REVIEWS**

1044.302 Requirements.

(a) The SPE is authorized to increase or decrease the \$25 million CPSR review level. Submit requests to the SPE for approval in accordance with 1001.7000(a).

**PART 1045—GOVERNMENT PROPERTY
(RESERVED)**

There is no text implementing or supplementing FAR part 45.

PART 1046—QUALITY ASSURANCE

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 1023.70.

SUBPART 1046.5—ACCEPTANCE

1046.502 Responsibility for Acceptance.

The CO may appoint a COR to ensure that technical requirements are met and that the vendor adheres to the terms and scope of the contract. The CO or COR may obtain documentary evidence in either hard copy or electronic format to substantiate the receipt, inspection, and acceptance of goods or services prior to approving a payment request. Where approval is performed by a COR, the COR shall retain a copy of documentary evidence in the COR working file. All contents from the COR working file shall be available to the CO upon request. Unless deemed necessary for inclusion in the official contract file, all contents from the COR working file may be retained by the COR in the COR file upon termination of their delegation or prior to contract closeout.

SUBPART 1046.6—MATERIAL INSPECTION AND RECEIVING REPORTS

1046.670 Inspection and receiving report.

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

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

1046.671 Acceptance report.

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

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

1046.672 Inspection, acceptance, and receiving report.

All contract and order files must contain the following information in a Bureau-authorized form or format, when OF 347, or an equivalent, has not been used—

- (a) Date;
- (b) Contract Number;
- (c) 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) All 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 why;
- (i) Total amount of deductions;
- (j) Signature of authorized government representative;
- (k) Title of authorized government representative; and
- (l) Date signed.

1046.601 General.

Bureaus must prescribe 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).

SUBPART 1046.7—WARRANTIES

1046.704 Authority for use of warranties.

COs are authorized to approve the use of warranties.

1046.708 Warranties of data.

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

SUBPART 1046.70— HIGH IMPACT ACQUISITION PROGRAM

1046.7000 General.

- (a) The High Impact Acquisition (HIA) Program is designed to--
 - (1) Provide insight into the management of Treasury's HIAs;
 - (2) Improve communication and coordination among cognizant COs, Project Managers (PMs), CORs, and other stakeholders; and
 - (3) Monitor acquisition strategies and timelines in the pre-award phase to ensure they are appropriate for their purpose, well planned, aligned with Federal and Treasury strategic objectives, properly resourced, effectively managed, and on track for award;

(4) Monitor high profile contracts post award in the areas of cost, schedule, and performance/compliance with contract terms and conditions, monitor contract scope/value increases and decreases, and monitor COR qualifications; and

(5) Provide individuals within the acquisition community a communication channel to highlight issues requiring additional attention to help prevent and resolve problems.

(b) The OPE manages the HIA Program, however, OPE approval is not required prior to proceeding with acquisition planning or contract management activities. Responsibility for sound acquisition planning and contract administration continues to rest with the BCPO and CO. OPE will review acquisition plans and may require additional documentation and/or discussion of particular strategies, plans, or documents on a case-by-case basis to support more in-depth analysis.

1046.7001 Definition.

(a) “High Impact Acquisition (HIA),” as used within this subpart, 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) A “bridge” contract, regardless of dollar value – a “bridge” contract is an interim contract, generally issued using a justification for other than full and open competition, used to provide continuity of services until a new contract can be competitively awarded; or

(4) Controversial or otherwise sensitive such that it warrants the attention of the SPE.

(b) “Procurement actions” for purposes of HIA include interagency agreements, contracts, 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 Reporting, Controls, and Documentation.

HIA reporting is the responsibility of the CO responsible for awarding and/or administering the contract and the program manager or COR responsible for the requirement. BCPOs must oversee the timely submission of all HIA documentation and reportable elements and validate their bureau’s information on the HIA database. OPE will host the current HIA database, and will retain historical versions of the HIA database for management oversight and auditing purposes. Bureaus shall not delete actions from the HIA database – if an action should be removed from the Pre-Award section because the action has been awarded or cancelled, or if an action should be removed from the Post-Award section because performance is complete and the final Contractor Performance Assessment Report (CPAR) has been submitted, the CO shall email the OPE HIA point of contact

requesting the action be removed from the database. The HIA database should be updated in real time – as changes occur, acquisition plans are completed, or other progress is made, or if issues arise, COs should update the database. While bureaus will only be scored on the quarterly OPE data calls for updates to the HIA database, updates should be made continuously to keep senior management aware of progress and/or issues.

(a) *Reporting.* COs shall submit information about each pre-award and post-award HIA procurement action using the Pre-Award and Post-Award sections of the HIA database available at:

<http://thegreen.treas.gov/do/ope/OPEWorkspace/programs/HIA/SitePages/Home.aspx>. The HIA database is comprised of two sections: Pre-Award and Post-Award--

(1) Pre-Award Section--

(i) For pre-award actions, all Pre-Award Information shall be completed to the maximum extent practicable when the HIA is first entered into the HIA database.

(ii) To ensure adequate acquisition planning, COs shall enter pre-award information, for all HIAs that are follow-on contracts to existing HIAs, into the HIA database at least 18 months prior to the expiration of the last option period of the existing HIA. If an HIA is not a follow-on to an existing HIA, COs shall submit the information for the new HIA to the HIA database as soon as the end user contacts the CO to begin procurement planning.

(iii) The complete, signed acquisition plan must be uploaded to the HIA Pre-Award section at least six months prior to the anticipated award date.

(iv) COs shall, at a minimum, update the “Pre Award Comments” status block at each quarterly OPE HIA data call to annotate the latest status, issues, or any other information about the procurement senior management should be aware of.

(v) After an action is awarded, the CO shall email the OPE HIA point of contact directly to request the action be removed from the Pre-Award section. The CO shall enter the HIA contract award in the Post-Award section no later than ten business days after contract award. For any action that is cancelled, the CO shall report it as cancelled on the next quarterly report/review. The CO shall then email the OPE HIA point of contact directly to request the action be removed from the Pre-Award section.

(vi) Subpart 1005.404-1 requires the BCPO to provide a written notification to the SPE of any release of long-range acquisition planning estimates prior to release. In addition, the BCPO must ensure that these estimates have been incorporated into the HIA database (for those actions that meet the definition of HIA in 1046.7001).

(2) Post-Award Section—

(i) The CO shall enter all post-award information in the Post-Award section. This information includes an assessment of contractor performance, which shall be updated quarterly, and the date that the last CPAR was submitted (it is left to the discretion of the CO whether the CPAR will be completed at the ordering vehicle level or at the task order level, but the CO should clearly indicate at what level the CPAR is being accomplished in the “Post Award Comments” data field).

See FAR subpart 42.15 for evaluation rating definitions. Evaluation factors to be rated in the Post-Award section are:

(A) *Quality*. Assess the contractor's conformance to contract requirements, specifications, quality of software product and development, and standards of good workmanship (e.g., commonly accepted technical, professional, environmental, or safety and health standards).

(B) *Schedule*. Assess the contractor's timeliness against the completion of the contract, task orders, milestones, delivery schedules, and administrative requirements (e.g., efforts that contribute to or effect the schedule variance).

(C) *Cost/Price*. Assess the contractor's effectiveness in forecasting, managing, and controlling contract cost, including reporting and analyzing variances. For fixed-price contracts assess the contractor's effectiveness at performing within the proposed contract price without requiring significant post-award modifications to increase the price.

(D) *Management*. Assess the integration and coordination of all activity needed to execute the contract/order, specifically the timeliness, completeness and quality of problem identification, corrective action plans, proposal submittals, the contractor's history of reasonable and cooperative behavior (to include timely identification of issues in controversy), customer satisfaction, timely award and management of subcontracts.

(E) *Utilization of Small Business*. FAR subpart 19.7 and 15 U.S.C. 637 contains statutory requirements for complying with the Small Business Subcontracting Program. Assess whether the contractor provided maximum practicable opportunity for Small Business (including Alaska Native Corporations (ANCs) and Indian Tribes) (including Small Disadvantaged Businesses (which also includes ANCs and Indian Tribes), Women Owned Small Businesses, HUBZone, Veteran Owned, Service Disabled Veteran Owned Small Business, and ANCs and Indian Tribes that are not Small Disadvantaged Businesses or Small Businesses) to participate in contract/order performance consistent with efficient performance of the contract/order.

(F) *Regulatory Compliance*. Assess compliance with all terms and conditions in the contract/order relating to applicable regulations and codes. Consider aspects of performance such as compliance with financial, environmental (example: Clean Air Act, Clean Water Act), safety, and labor regulations as well as any other reporting requirements in the contract.

(ii) On a quarterly basis, COs shall update the number of modifications issued to date against each HIA, and annotate both the original total dollar value of the action at time of award and the current total dollar value.

(iii) When performance of a specific HIA contract is complete, or the contract has been ended prior to the ultimate completion date (i.e., termination or non-exercise of an option), the CO shall report the latest status of the action in the quarterly update. The CO shall ensure the final CPAR has been completed and report the contract as complete in a quarterly update. Once the action has been reported as complete in a quarterly update, the CO shall email the OPE HIA point of contact directly to request the action be removed from the Post-Award section.

(b) *Acquisition Planning*. Written acquisition plans must be developed for any acquisition that meets the HIA definition. Acquisition plans must be developed in accordance with FAR 7.1 and subpart 1007.1 and posted to the Pre-Award section of the HIA database in accordance with 1046.7002(a)(1)(iii).

(c) *Contract file*. The following supporting documentation generated under the HIA program must be filed within the contract file (pre-award and administrative sections as appropriate). HIA documentation includes--

(1) Acquisition Plans;

(2) Corrective Action Plans (CAP) (as required; see

<http://thegreen.treas.gov/do/ope/OPEWorkspace/programs/HIA/SitePages/Home.aspx> for a sample CAP);

(3) Strategic Review Board (SRB) presentation (as required; see

<http://thegreen.treas.gov/do/ope/OPEWorkspace/programs/HIA/SitePages/Home.aspx> for a sample presentation).

(d) *Waiver*. If a BCPO determines that a planned procurement action falls within the definition of an HIA and determines that such action does not warrant reporting, the BCPO may submit a waiver request to the SPE. The waiver request should include a detailed justification, explaining why the action should be excluded from the reporting requirement. Waiver requests, regardless if approved or not, must be retained in the contract file.

1046.7003 Collection and Use of Data for the HIA Dashboard and Scorecard.

(a) Data from the HIA database will be gathered and compiled by OPE into a pre-award dashboard and a post-award scorecard. The dashboard and scorecard will be presented at TAC meetings and used to support presentations to the CAO and Deputy Secretary for ProcureStat, to the Office of Federal Procurement Policy for the AcqStat initiative, and for other forums as appropriate. The dashboard and scorecard data will be utilized in OPE's annual review/rating of each bureau's contracting activity.

(1) *Pre-award dashboard* --

(i) OPE will review HIA pre-award data and prepare a consolidated dashboard to identify risks in critical focus areas including schedule, small business, competition and contract type risk, and other areas of interest to Treasury leadership.

(ii) Acquisitions in the pre-award phase will indicate key forecast and actual milestones to support an assessment as to whether the program entails adequate planning, and whether it is on track to meet the solicitation release and award milestones. The proposed contract type, competition, and small business strategy will be indicated on the dashboard.

(iii) OPE staff will analyze pre-award data for completeness and to identify problems or delays in pre-award planning. HIA Pre-Award actions will be given traffic light style scores for *progress, i.e., green, yellow and red*. Follow-ons to existing HIA actions not entered into the Pre-Award section of the HIA Database at least 18 months prior to the anticipated award date will be scored yellow on the dashboard, and scored red if the action is not entered into the Pre-Award section of the database at least 12 months prior to the anticipated award date. Actions

without complete, signed acquisition plans uploaded to the Pre-Award section of the HIA Database at least six months prior to the anticipated award date will be scored red. Failure to update the database will result in a score of red.

(2) *Post-award scorecard*—

(i) OPE staff will analyze post-award data for completeness and to identify problems that may arise during contract administration.

(ii) Contracts will be given traffic light style scores for *status* and *progress*, *i.e., green, yellow and red*. A *status* score is the result of analyzing performance information and qualifications of the COR. Any contract with a performance rating in any element of less than satisfactory, with a COR without an active FAC-COR certification, or with an overdue CPAR report will receive a status score of red. CPAR reports with a due date in the following quarter will receive a rating of yellow. A *progress* score is given for updating contract reviews or timely providing and completing a Corrective Action Plan once a contract appears on the scorecard. Provided actions are done accurately and timely, contracts will receive a *progress* score of green, even though the contract may be given a *status* score of red. If the CO pursues information from the program office without response, this will be noted and the contract will receive a progress score of yellow. All scores of yellow and red are compiled on a scorecard along with the status and progress score.

(b) *Corrective Action Plan*. A Corrective Action Plan shall be submitted to OPE no later than two weeks after release of the pre-award dashboard and post-award scorecard.

1046.7004 Strategic Review Board (SRB).

The OPE may call a SRB which serves as an advisory body to the SPE to review selected HIAs. The purpose of a SRB is to review HIAs to ensure that acquisition planning includes adequate and appropriate industry outreach and communications consistent with law, regulation, and Treasury policy. The SRB will consist of designated OPE staff and other interested parties. The Bureau will be notified if an SRB will be held. The CO and PM/COR will prepare a slide deck for presentation to the SRB within two weeks of BCPO notification.

PART 1047—TRANSPORTATION

SUBPART 1047.5—OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

1047.506 Procedures.

(d) COs must submit, where obtainable, a properly notated and legible copy of the ocean bill of lading in English to: Office of National Cargo and Compliance, Maritime Administration, U.S. Department of Transportation, 400-7th Street, S.W., Washington, DC 20590. If a bill of lading cannot be obtained, COs must submit the information described in 46 C.F.R. § 381.3(a). Refer to the following link available at http://www.marad.dot.gov/ships_shipping_landing_page/cargo_preference/cargo_civilian_agencies/Civilian_Agencies.htm for additional information about this requirement.

PART 1048—VALUE ENGINEERING

SUBPART 1048.1—POLICIES AND PROCEDURES

1048.102 Policies.

(a) Submit exemption requests to inclusion of value engineering provisions to the SPE for approval in accordance with 1001.7000(a). Exemptions must be retained in the contract file.

(b)(1) Bureaus must establish procedures for processing and evaluating value engineering change proposals (VECP).

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 must establish systems to track VECPs.

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 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 SDO.

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."

**PART 1050—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE
SAFETY ACT**

SUBPART 1050.1—EXTRAORDINARY CONTRACTUAL ACTIONS

1050.101-3 Records.

COs shall forward records of contractual actions taken pursuant to Pub. L. 85-804 and E.O. 107-89 related to the national defense to OPE.

1050.102-1 Delegation of authority.

The ASM/CFO is authorized to approve all actions under FAR part 50, except indemnification actions listed in FAR 50.102-1(d).

1050.103-6 Disposition.

COs must prepare written reports and draft Memorandum of Decision. Submit the reports and draft Memorandum of Decision to the SPE in accordance with 1001.7000(b).

1050.104 General.

(a) Proposals for the exercise of residual powers must be processed using the procedures in 1050.103-6.

1050.104-3 Special procedures for unusually hazardous or nuclear risks.

(b)(1) The CO submission must include the contractor's indemnification request and a draft Memorandum of Decision for signature by the agency head. Submit to the agency head for approval in accordance with 1001.7000(b).

**PART 1051—USE OF GOVERNMENT SOURCES BY CONTRACTORS
(RESERVED)**

There is no text implementing or supplementing FAR part 51

DTAR PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

DTAR SUBPART 1052.2—TEXTS OF PROVISIONS AND CLAUSES

DTAR 1052.201-70 Contracting Officer's Representative (COR) appointment and authority.

As prescribed in 1001.670-6, insert the following clause:

CONTRACTING OFFICER'S REPRESENTATIVE (COR) APPOINTMENT AND AUTHORITY AUG 2011

- (a) The COR is _____ [insert name, address and telephone number].
- (b) Performance of work under this contract is subject to the technical direction of the COR identified above, or a representative designated in writing. The term “technical direction” includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, and/or fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.
- (c) Technical direction must be within the scope of the contract specification(s)/work statement. The COR does not have authority to issue technical direction that:
- (1) Constitutes a change of assignment or additional work outside the contract specification(s)/work statement;
 - (2) Constitutes a change as defined in the clause entitled “Changes”;
 - (3) In any manner causes an increase or decrease in the contract price, or the time required for contract performance;
 - (4) Changes any of the terms, conditions, or specification(s)/work statement of the contract;
 - (5) Interferes with the contractor's right to perform under the terms and conditions of the contract; or
 - (6) Directs, supervises or otherwise controls the actions of the contractor's employees.
- (d) Technical direction may be oral or in writing. The COR must confirm oral direction in writing within five workdays, with a copy to the Contracting Officer..
- (e) The Contractor shall proceed promptly with performance resulting from the technical direction issued by the COR. If, in the opinion of the contractor, any direction of the COR or the designated representative falls within the limitations of (c) above, the contractor shall immediately notify the Contracting Officer no later than the beginning of the next Government work day.
- (f) Failure of the Contractor and the Contracting Officer to agree that technical direction is within the scope of the contract shall be subject to the terms of the clause entitled “Disputes.”

(End of clause)

DTAR 1052.210-70 Contractor publicity.

As prescribed in 1009.204-70, insert the following clause:

CONTRACTOR PUBLICITY AUG 2011

The Contractor, or any entity or representative acting on behalf of the Contractor, shall not refer to the equipment or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such equipment or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the Government shall consider institution of all remedies available under applicable law, including 31 U.S.C. 333, and this contract. Further, any violation of this provision may be considered during the evaluation of past performance in future competitively negotiated acquisitions.

(End of clause)

DTAR 1052.219-18 Notification of competition limited to eligible 8(a) concerns - Alternate III (Deviation) (May 1998).

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

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

DTAR 1052.219-72 Section 8(a) direct awards.

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

8(A) BUSINESS DEVELOPMENT PROGRAM AWARDS (June 2003)

(a) This purchase/delivery/task order or contract is issued by the contracting activity directly to the 8(a) program participant/contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the Department of the Treasury. However, the Small Business Administration is the prime contractor and retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and provides counseling and assistance to the 8(a) contractor under the 8(a) Business Development program. The cognizant SBA district office is:

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

(b) The contracting officer is responsible for administering the purchase/delivery/task order or contract and taking any action on behalf of the Government under the terms and conditions of the purchase/delivery/task order or contract, to include providing the cognizant SBA district office with a signed copy of the purchase/delivery/task order or contract award within 15 days of the award. However, the contracting officer shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the purchase order or contract. The contracting officer shall also coordinate with SBA

prior to processing any novation agreement. The contracting officer may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

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

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

(End of clause)

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

As prescribed in 1019.202-70.(p), insert the following clause:

DEPARTMENT OF THE TREASURY MENTOR-PROTÉGÉ PROGRAM (June 2003)

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

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

Developmental assistance includes technical, managerial, financial, and other mutually beneficial assistance to aid protégé. Contractors interested in participating in the Program are encouraged to contact the Department of the Treasury Office of Small and Disadvantaged Business Utilization for further information.

(End of provision)

DTAR 1052.219-75 Mentor Requirements and Evaluation.

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

MENTOR REQUIREMENTS AND EVALUATION AUG 2011

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

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

(c) Contracting officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the contracting officer shall include language in the solicitation indicating that this adjustment may occur.

(End of clause)

DTAR 1052.222-70 Minority and Women Inclusion.

As prescribed in 1022.7000, insert the following clause:

MINORITY AND WOMEN INCLUSION (APR 2014)

Contractor confirms its commitment to equal opportunity in employment and contracting. To implement this commitment, the Contractor shall ensure, to the maximum extent possible consistent with applicable law, the fair inclusion of minorities and women in its workforce. The Contractor shall insert the substance of this clause in all subcontracts awarded under this Contract whose dollar value exceeds \$150,000. Within ten business days of a written request from the contracting officer, or such longer time as the contracting officer determines, and without any additional consideration required from the Agency, the Contractor shall provide documentation, satisfactory to the Agency, of the actions it (and as applicable, its subcontractors) has undertaken to demonstrate its good faith effort to comply with the aforementioned provisions. For purposes of this contract, "good faith effort" may include actions by the contractor intended to identify and, if present, remove barriers to minority and women employment or expansion of employment opportunities for minorities and women within its workforce. Efforts to remove such barriers may include, but are not limited to, recruiting minorities and women, providing job-related training, or other activity that could lead to those results.

The documentation requested by the contracting officer to demonstrate "good faith effort" may include, but is not limited to, one or more of the following:

1. The total number of Contractor's employees, and the number of minority and women employees, by race, ethnicity, and gender (e.g., an EEO-1);
2. A list of subcontract awards under the Contract that includes: dollar amount, date of award, and subcontractor's race, ethnicity, and/or gender ownership status;
3. Information similar to that required in item 1, above, with respect to each subcontractor; and/or
4. The Contractor's plan to ensure that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts.

Consistent with Section 342(c)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act ([Pub. L. 111-203](#)) (Dodd-Frank Act), a failure to demonstrate to the Director of the Agency's Office of Minority and Women Inclusion such good faith efforts to include minorities and women in the Contractor's workforce (and as applicable, the workforce of its subcontractors), may result in termination of the Contract for default, other contractual remedies, or referral to the Office of Federal Contract Compliance Programs. Compliance with this clause does not, however, necessarily satisfy the requirements of Executive Order 11246, as amended, nor does it preclude OFCCP compliance evaluations and/or enforcement actions undertaken pursuant to that Order.

For purposes of this clause, the terms “minority,” “minority-owned business” and “women-owned business” shall have the meanings set forth in Section 342(g) of the Dodd-Frank Act.

(End of clause)

1052.224-1 Contract Publication

As prescribed in 1024.203(c), insert the following clause in solicitations where publication of the contract and/or order is anticipated:

The contractor shall submit, within ten business (10) days from the date of award of the contract or any order hereunder (exclusive of Saturdays, Sundays, and federal holidays), a .pdf file of the fully executed contract or order with all proposed necessary redactions, including redactions of any trade secrets or any commercial or financial information that it believes to be privileged or confidential business information, suitable for public disclosure at the sole discretion of the United States Department of the Treasury. The contractor shall provide a detailed written statement specifying the basis for each of its 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. Information provided by the contractor in response to this requirement may itself be subject to disclosure under the FOIA. The Treasury will carefully consider all of the contractor’s proposed redactions and associated grounds for nondisclosure prior to making a final determination as to what information may be properly withheld.

(End of clause)

DTAR 1052.228-70 Insurance requirements.

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

INSURANCE AUG 2011

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

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

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

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

(End of clause)

DTAR 1052.232-1 Electronic submission of payment requests.

As prescribed in 1032.7003, use the following clause:

ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (AUG 2012)

(a) Definitions. As used in this clause--

(1) "Payment request" means a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), "Payment documentation and process" and the applicable Payment clause included in this contract.

(2) [Reserved]

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests electronically using the Internet Payment Platform (IPP). Information regarding IPP is available on the Internet at www.ipp.gov. Assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email ippgroup@bos.frb.org or phone (866) 973-3131.

(c) The Contractor may submit payment requests using other than IPP only when the Contracting Officer authorizes alternate procedures in writing.

(d) If alternate payment procedures are authorized, the Contractor shall include a copy of the Contracting Officer's written authorization with each payment request.

(End of clause)

DTAR 1052.234-2 Notice of Earned Value Management System – Pre-Award IBR - Alternate I AUG 2011

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports the offeror's self-validation that the EVMS complies with the ANSI Standard, as applicable.

(End of provision)

DTAR 1052.234-3 Notice of Earned Value Management System – Post-Award IBR - Alternate I AUG 2011

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports the offeror's self-validation that the EVMS complies with the ANSI Standard, as applicable.

(End of provision)

DTAR 1052.234-4 Earned Value Management System Alternate I AUG 2011

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) or has been determined through Contractor's self-validation to be compliant with the guidelines in ANSI/EIA Standard-748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(End of clause)

DTAR 1052.234-70 Notice of Earned Value Management System – Pre-Award IBR (Core) AUG 2011

As prescribed in DTAR 1034.203, insert this provision in solicitations and awards that require the Contractor to use an earned value management system (EVMS) and for which the Government requires an IBR *prior to award*.

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports its self-validation that the EVMS used for this award complies with Core EVM criteria.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall –

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedures for administration of the guidelines, as applied to subcontracts; and

(v) Provide documentation describing the process and results of any third-party or self- evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the contracting officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVM system will be compliant with the requirements in paragraph (a) of this provision.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontracts have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS requirements.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designed by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of provision)

**DTAR 1052.234-71 Notice of Earned Value Management System – Post-Award IBR
(Core) AUG 2011**

As prescribed in DTAR 1034.203, insert this provision in solicitations and awards that require the contractor to use an earned value management system (EVMS) and for which the Government requires an IBR *after award*.

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed EVMS complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports its self-validation that the EVMS used for this award complies with Core EVM criteria.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall –

- (i) Describe the EVMS the offeror intends to use in performance of the contracts;
- (ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;
- (iii) Describe the management system and its application in terms of the EVMS guidelines;
- (iv) Describe the proposed procedures for administration of the guidelines, as applied to subcontracts; and
- (v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the contracting officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVMS will be compliant with the requirements in paragraph (a) of this provision.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontracts have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS requirements.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designed by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of provision)

DTAR 1052.234-72 Core Earned Value Management System AUG 2011

As prescribed in DTAR 1034.203, insert this clause in major investment solicitations and awards with DME that require a contractor to use an earned value management system (EVMS).

(a) The Contractor shall use an earned value management system (EVMS) that has either been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard-748 (current version at the time of award) or documentation that supports its validation that the EVMS used to manage this contract meets the following ANSI/EIA-748 criteria:

(1) (ANSI #1) Define the authorized work elements for the program. A work breakdown structure (WBS), tailored for effective internal management control, is commonly used in this process.

(2) (ANSI #2) Identify the program organizational structure including the major subcontractors responsible for accomplishing the authorized work, and define the organizational elements in which work will be planned and controlled.

(3) (ANSI #3) Provide for the integration of the company's planning, scheduling, budgeting, work authorization, and cost accumulation processes with each other, and as appropriate, the program WBS and the program organizational structure.

(4) (ANSI #6) Schedule the authorized work in a manner that describes the sequence of work and identifies significant task interdependencies required to meet the needs of the program.

(5) (ANSI #7) Identify physical products, milestones, technical performance goals, or other indicators that will be used to measure progress.

(6) (ANSI #8) Establish and maintain a time-phased budget baseline, at the control account level, against which program performance can be measured. Initial budgets established for performance measurement will be based on either internal management goals or the external customer negotiated target cost including estimates for authorized but vaguely defined work. Budget for far-term efforts may be held in higher-level accounts until an appropriate time for allocation at the control account level. On government contracts, if an over-target baseline is used for performance measurement reporting purposes, prior notification must be provided to the customer.

(7) (ANSI #16) Record direct costs in a manner consistent with the budgets in a formal system controlled by the general books of account.

(8) (ANSI #22) At least on a monthly basis, generate the following information at the control account and other levels as necessary for management control using actual cost data from, or reconcilable with, the accounting system:

(i) Comparison of the amount of planned budget and the amount of budget earned for work accomplished. This comparison provides the schedule variance.

(ii) Comparison of the amount of the budget earned and the actual (applied where appropriate) direct costs for the same work. This comparison provides the cost variance.

(9) (ANSI #27) Develop revised estimates of cost at completion based on performance to date, commitment values for material, and estimates of future conditions. Compare this information with the performance measurement baseline to identify variances at completion important to management and any applicable customer reporting requirements, including statements of funding requirements.

(10) (ANSI #28) Incorporate authorized changes in a timely manner, recording the effects of such changes in budgets and schedules. In the directed effort prior to negotiation of a change, base such revisions on the amount estimated and budgeted to the program organizations. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(b) If, at the time of award, the Contractor's EVMS has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in paragraph (a), the Contractor shall –

(1) Apply the current system to the contract; and

(2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the contracting officer.

(c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.

(d) The contracting officer may require an IBR upon the

(1) Exercise of significant options; or

(2) Incorporation of major modifications.

(e) Unless a waiver is granted by the CFA, Contractor-proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Contractor shall provide access to all pertinent records and data requested by the contracting officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

(g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: [Insert list of applicable subcontractors].

(End of clause)

PART 1053–FORMS

SUBPART 1053.1–GENERAL

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.

1053.110 Continuation sheets.

Except as may be otherwise indicated in the DTAP, all standard forms prescribed by the DTAP may be continued on a plain sheet. Continuation sheets shall be annotated in the upper right-hand corner with the reference number of the document being continued and the serial page number.

SUBPART 1053.2–PRESCRIPTION OF FORMS

1053.200 Scope of subpart.

This subpart identifies Treasury-prescribed forms for use in acquisition. 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 1014, Sealed Bidding, are treated in this subpart in section 1053.214, Sealed Bidding; forms addressed in part 1043, Contract Modifications, are treated in this subpart in section 1053.243, Contract modifications.

1053.201-2 Delegation of Procurement Authority.

The following forms are prescribed, as stated in the following paragraphs, for use in delegation of procurement authority.

(a) OPE DPA #1 (*Rev 9/14*), *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 1001.603-3(b).

(b) OPE DPA #2 (*Rev 9/14*), *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 1001.603-3(c).

1053.204-70 Contract File Content Checklist.

The following form is prescribed for use in contracts, as specified in 1004.803(e).

(a) OPE Checklist #1, *Contract File Content Checklist*. In the interest of uniformity and consistency, contracting office contract files shall be structured and maintained in accordance with this form. This form may be tailored for Bureau-specific requirements but shall maintain its basic structure and intent.

1053.217 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 is maintained on the Treasury Procurement Policy and regulations site at:

[http://thegreen.treas.gov/policies/Forms1/Treasury%20Intra-departmental%20Purchase%20Request%20\(TIPR\).pdf](http://thegreen.treas.gov/policies/Forms1/Treasury%20Intra-departmental%20Purchase%20Request%20(TIPR).pdf)

SUBPART 1053.3-ILLUSTRATION OF FORMS

1053.303 Agency forms.

This section illustrates agency-specified forms. To access these forms go to:

Form Name	Form Number
<i>Delegation of Procurement Authority – Purchase Cardholder Appointment/ Termination Letter</i>	OPE DPA #1
<i>Delegation of Procurement Authority – Ordering Officer Appointment/ Termination Letter</i>	OPE DPA #2
Contract File Checklist	OPE Contract File Checklist