



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: ADM/PRO

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Bureau of Prisons Acquisition Policy

/s/

Approved: Thomas R. Kane

Acting Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

To provide controls for the acquisition of supplies and services and operational direction for staff responsible for contracting functions.

a. Summary of Changes

Policy Rescinded

P4100.05 Bureau of Prisons Acquisition Policy (BPAP) (3/3/2016)

This Program Statement has been extensively revised to conform with current acquisition regulation.

b. Program Objectives. The expected results of this program are:

- All procurement activity will be conducted by staff authorized to undertake procurement actions.
- Contracts will be effectively managed.
- Fraud, waste, abuse, mismanagement, and illegal acts in procurement will be prevented, detected, and reported.
- Procurement data will be accurately collected and reported.
- Small business programs will be used to the maximum extent practicable.

c. **Institution Supplement.** None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. ACTION REQUIRED

Staff responsible for acquisition of supplies, services, and equipment shall use this Program Statement to ensure appropriate acquisition policies and procedures are used.

REFERENCES

Program Statements

P1221.66	Directives Management Manual (7/21/98)
P1222.06	Forms Management (9/17/97)
P1237.14	Personal Computers and Network Standards (5/7/07)
P1237.15	Information Resources Protection (12/31/07)
P1237.16	Information Security (9/27/16)
P1520.09	Printing, Distribution Management, and Electronic Documents (5/21/97)
P1600.12	National Environmental Protection Policy (6/1/17)
P2000.02	Accounting Management Manual (10/15/86)
P2100.04	Budget Execution Manual (3/18/14)
P3000.03	Human Resource Management Manual (12/19/07)
P3420.11	Standards of Employee Conduct (12/6/13)
P4200.11	Facilities Operations Manual (4/12/16)
P4400.05	Property Management Manual (5/26/04)
P4500.11	Trust Fund/Deposit Fund Manual (12/16/16)
P5360.09	Religious Beliefs and Practices (6/12/15)
P5500.14	Correctional Services Procedures Manual (8/1/16)
P7300.09	Community Corrections Manual (5/19/99)

ACA Standards

- 4th Edition Standards for Adult Correctional Institutions: 4-4038, 4-4358.
- 4th Edition Performance Based Standards for Adult Local Detention Facilities: 4-ALDF-7D-15, 4-ALDF-4C-18M.
- 2nd Edition Standards for the Administration of Correctional Agencies: 2CO-1B-09, 2C)-1B-10.

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS).

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Part 1. General

SUBPART 1.1 PURPOSE, AUTHORITY, ISSUANCE

1.101 – Purpose, Authority, Issuance

(a) BPAP is established to provide uniform acquisition policy for offices within the Bureau of Prisons (Bureau). The BPAP supplements the Federal Acquisition Regulation (FAR) and the Justice Acquisition Regulations (JAR). Contracting officers shall consult all three sources as well as applicable statutes, Operations Memoranda (OM), and Department of Justice (DOJ) Procurement Guidance Documents (PGD) to ascertain the total acquisition policy in any area.

(b) The BPAP has been established pursuant to the FAR and JAR. Authority to issue acquisition policy has been delegated to the Director. The Administration Division, Bureau Procurement Executive, maintains the BPAP. The BPAP is subdivided into Parts 1 through 53, which correspond to FAR and JAR Parts 1 through 53. This numbering system permits immediate identification of each BPAP Part with coverage of the same subject matter and same numbering system as in the FAR and JAR.

(c) Supplementary material for which there is no counterpart in the FAR or JAR is identified by a numerical suffix of 70 or higher in the final position of the reference number. The following example illustrates the numbering system:

- FAR 1.602-3 ----- Ratification of Unauthorized Commitments
- JAR 2801.602-3 -- Ratification of Unauthorized Commitments
- BPAP 1.602-3 ----- Ratification of Unauthorized Commitments
- BPAP 1.602-2-70 -- Acquisitions Branch Responsibility

SUBPART 1.2 ADMINISTRATION

1.201-70 – Maintenance of the Bureau of Prisons Acquisition Policy

Suggestions for revisions to the BPAP or acquisition forms shall be submitted to the Bureau Procurement Executive.

SUBPART 1.4 DEVIATIONS FROM THE FAR

1.402-70 – Deviations From the BPAP

Deviations (both individual and class) from the BPAP must be authorized in writing by the Assistant Director for Administration, in accordance with the current Program Statement **Directives Management Manual**. The contracting officer must document the contract file with the approved deviation.

SUBPART 1.6 CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

1.601-70 – General

Review and/or advice by the Commercial Law Branch, Office of General Counsel (CLB) is understood to be an integral part of the entire Bureau acquisition process. Necessary consultation with CLB is identified throughout the BPAP.

1.602-1-70 – Authority

- (a) Only contracting officers delegated warrant authority in accordance with BPAP 1.603 may enter into and sign contract actions on behalf of the Government.
- (b) When executing a contract action, contracting officers must hold a warrant that meets or exceeds the estimated maximum value of the action.
- (c) Staff having supervision over contracting officers must bear in mind actions exceeding the authority of a contracting officer are not binding on the Government. Therefore, Bureau personnel shall not direct, or otherwise exert influence upon, a contracting officer to take such actions.

1.602-2-70 – Procurement Executive Office

The Procurement Executive Office (PEO) provides guidance and expertise in the overall vision and interactive strategy of the Bureau's procurement and property operations, including Central Office, Regions, Institutions, and Agency program initiatives. The PEO is comprised of Branches that each have specific responsibilities to handle a variety of acquisition/property functions. The structure of the PEO will be maintained on Sallyport.

The PEO is responsible for the review of applicable procurement actions for compliance with Federal, DOJ, Bureau, and other regulatory guidelines.

All Central Office acquisition staff must ensure compliance with the following requirements:

(a) Actions and Dollar Thresholds Subject to Review:

(1) **All high risk solicitations/contracts** (which include the following: Privatized Corrections [PCC], Residential Reentry [RRC], Energy Saving Performance Contracts [ESPC], new construction, and “competitive” Comprehensive Medical Services contracts) with an estimated or actual value of \$1,000,000 or more. CLB should be consulted prior to award when appropriate.

(2) **All other solicitations/contracts** exceeding the thresholds at FAR 13.500.

(3) **All modifications** (prior to issuance) exceeding \$1,000,000, excluding option renewal files.

(4) **Upon Request by the Bureau Procurement Executive:** Regardless of dollar value, the Bureau Procurement Executive may request review for a particular acquisition or for all actions processed during a given time frame.

(b) File Submittals and Review Time Frames:

(1) Files shall be submitted by the procuring contracting officer to allow maximum lead times, at a minimum of two (2) weeks prior to the scheduled issuance/award dates. If the PEO cannot meet this required deadline, the respective Section Chief will be notified.

(2) Files will be submitted for review via Content Manager in accordance with BPAP 4.802-70(a).

(3) Any additional information regarding the review should be included in the “Comments” section located in Content Manager for the action.

(4) The PEO will e-mail each completed review to the respective Section Chief and to the contracting officer.

(c) Urgent Requirements/Reviews:

If the actions at BPAP 1.602-2-70(a)(1), (2), or (3) cannot be reviewed prior to issuance/award, the following shall apply:

- (1) The contracting officer may, with the **written** approval of the Chief of the Contracting Office, issue/award the action provided the contracting officer's supervisor (or other designee) conducts a solicitation/pre-award review. A copy of the Chief of the Contracting Office's written approval, the supervisory review, and the contracting officer's response to the supervisory review shall be included in the pre-award/award file.
- (2) Within 15 calendar days after the action is issued/awarded, the file shall be submitted to the PEO for a post-solicitation/award review.

(d) Responsibilities of Contracting Officers and Supervisors/Senior Contract Specialists Following Receipt of Reviews:

- (1) Prior to issuance/award, contracting officers shall clearly indicate the actions taken (including the location of any changes or corrections) regarding findings identified as "Correction Required." If corrections are not made, file documentation must contain the contracting officer's rationale.
- (2) Within 30 calendar days of receipt of the final review, the Supervisor/Senior Contract Specialist shall provide the PEO a copy of all written review responses.

1.602-2-71 – Field Acquisition Office Responsibility

The Field Acquisition Office (FAO) is responsible for soliciting and awarding all contracts for supplies, services, and construction for the local contracting office (with the exception of COBO) in amounts exceeding the SAT, excluding option renewals and quarterly food requirements. The local contracting office is allowed to issue task and delivery orders, exercise option renewals, and award quarterly food requirements within the Contracting Officer's warrant level.

1.602-2-72 – Reviewing Local Contracting Office's Acquisition Operations

- (a) FAO shall review acquisition documents to ensure acquisitions meet applicable statutes, regulations, and agency policies and procedures. Government purchase card files shall be reviewed no less than biennially.

(b) Upon review, the applicable FAO Section Chief shall prepare a memorandum to the institution Supervisory Contract Specialist (SCS) or, in the absence of that position, the Business Administrator (BA), or regional Procurement & Property Specialist (PPS), which identifies deficiencies and corrective actions required. Prior to issuance/award, contracting officers shall clearly indicate the actions taken regarding all review comments. If corrections are not made, the file must contain the contracting officer's rationale. Within 30 calendar days of the review, the FAO Section Chief shall be provided a copy of all written review responses, as appropriate.

(c) FAO shall obtain confirmation of follow-up actions necessary to ensure all findings noted in oversight reviews are corrected.

1.602-3 – Ratification of Unauthorized Commitments

(a) Only warranted contracting officers may enter into and sign contract actions on behalf of the Government. The Government is not bound by agreements or commitments made by persons to whom contracting authority has not been delegated. Unauthorized acts violate Federal statutes, regulations, and acquisition best practices.

(b) Invoices for unauthorized commitments shall not be paid until the unauthorized commitment has been approved and ratified. In cases where invoices have already been paid prior to identifying the unauthorized commitment, ratification is still required.

(c) All suspected irregularities that may involve fraud against the Government, or any type of misconduct punishable as a criminal offense, must be immediately reported by the employee's supervisor or the contracting officer in accordance with the Program Statement **Standards of Employee Conduct**.

(d) Each Contracting Office shall maintain an electronic log, by fiscal year, of all unauthorized commitments. The log must contain, at a minimum, the department, a brief description, dollar amount, date submitted, and date ratified.

(e) A request for ratification must contain the following:

(1) The Cost Center Manager (CCM) shall furnish all records and documents concerning the commitment and a complete written statement of facts and shall include procedures developed by the CCM to preclude recurrence. The submission shall include a copy of vendor's invoice and all supporting documents as needed.

(2) The request shall include a copy of the letter from the contracting officer to the vendor, advising the purchase was not authorized by a warranted contracting officer and will be paid upon ratification.

(f) Contracting officers who receive requests for ratifications shall ensure all requirements in the FAR and JAR are addressed. Requests from the local contracting office shall be routed by the SCS or BA through the respective CEO to the Chief of the Contracting Office. Central Office (other than COBO) requests for ratification shall be routed by the Section Chief through the Chief of the Contracting Office to the Bureau Procurement Executive.

(g) For unauthorized commitments at \$25,000 and below:

(1) The Chief, FAO, is the ratifying official for unauthorized commitments submitted by the local contracting office. This authority may not be further delegated. FAO shall provide copies of all ratifications to the Chief, Procurement Policy Section, within 30 calendar days after ratification.

(2) The Bureau Procurement Executive is the ratifying official of unauthorized commitments at or below \$25,000 made by Central Office (other than COBO) staff.

(h) For unauthorized commitments exceeding \$25,000:

(1) Unauthorized commitments referred by the local contracting office will be submitted to the FAO for further processing. The Chief, FAO, shall forward requests to the Central Office. Prior to ratification by the Bureau Procurement Executive, concurrence must be obtained from CLB.

(2) All Central Office (other than COBO) unauthorized commitments exceeding \$25,000 shall have the concurrence of the respective Branch Chief prior to forwarding to the Bureau Procurement Executive for ratification. Prior to ratification by the Bureau Procurement Executive, concurrence must be obtained from CLB.

1.603 – Selection, Appointment, and Termination of Appointment

1.603-1 – General

(a) The Federal Acquisition Institute Training Application System (FAITAS) is the official system of record for the federal civilian agency acquisition workforce and is maintained by the

Federal Acquisition Institute (FAI). The following members of the Bureau's acquisition workforce and their supervisors must be registered in FAITAS:

- (1) All positions in the GS-1102 contracting series.
 - (2) All acquisition staff, regardless of series, with the authority to obligate funds above the micropurchase threshold (with the exception of staff appointed a Trust Fund warrant or the limited warrant).
 - (3) Program and project managers.
 - (4) Contracting Officer's Representatives (CORs).
 - (5) Any acquisition-related position identified by the Chief of the Contracting Office, the Bureau Procurement Executive or the Head of the Contracting Activity (HCA).
- (b) All acquisition staff identified as applicable in 1.603-1(a) must ensure their Defense Acquisition University (DAU) registrations remain current.
- (c) The Bureau's acquisition workforce members are responsible for ensuring their individual training record is accurate and up to date in accordance with FAI and for uploading training certificates or supporting documentation from vendors other than FAI or DAU within 21 days.
- (d) Supervisors of acquisition workforce members are responsible for:
- (1) Ensuring staff are registered in FAITAS.
 - (2) Recommending approval of training requests.
 - (3) Recommending approval of continuous learning points (CLPs).
 - (4) Recommending approval of certification.
 - (5) Verifying the accuracy of all data within FAITAS.
- (e) The Federal Acquisition Certification (FAC) program is a Government-wide, competency-based certification program for the acquisition workforce; this certification program is distinct from Bureau warrant authority. The FAC program applies to contract specialists, program and project managers, and CORs. This requirement does not apply to individuals with a Trust Fund or limited warrant. The Office of Federal Procurement Policy (OFPP) establishes the training, education and experience requirements for the FAC program. The competencies, training, education and experience requirements can be found at the FAI website. The Bureau must also adhere to any DOJ policy issued to supplement OFPP's policy.

(1) All FAC-certified members of the Bureau's acquisition workforce are required to earn CLPs every two years from the date of issuance of the certification. All CLPs must be in support of the competencies associated with the certification as outlined by the FAI.

(2) Failure to complete the required CLPs or properly obtain approval through FAITAS prior to the ending date of the continuous learning period will result in the system revocation of the FAC certification, which will impact the acquisition workforce member's ability to award and/or administer contracts.

1.603-2 – Selection

(a) Contracting authority has been delegated by the JAR to the Director as HCA. This authority is further delegated to the Bureau Procurement Executive, who shall issue all Bureau contracting warrants. Warranted contracting officers' signatory authority shall consist of all duties associated with the entire acquisition process, including, but not limited to: pre-award, contract award, administration, termination, and related determinations and findings. Contracting officers lack authority to execute contract awards or modification actions that exceed their stated Bureau warrant level. Warranted contracting officers need not obtain a separate cardholder delegation of authority for Government purchase card acquisitions.

(b) Each candidate recommended for a warrant must meet the required training and experience as established by the OFPP, DOJ, and herein.

(c) The Bureau Warrant Levels and Thresholds are as follows:

Warrant Level	FAC-Level	Dollar Threshold
Limited	(Non-FAC-C)	\$25,000
Trust Fund	(Non-FAC-C)	\$30,000
Level I	(FAC-C Level I)	\$500,000 (see BPAP 1.602-2-71)
Level II	(FAC-C Level II)	\$10 million
Level III	(FAC-C Level III)	Unlimited

(1) **Limited Authority.** This warrant is reserved for the Inventory Management Specialist/Procurement and Property Specialist positions. The following requirements will apply: have a minimum of three months of acquisition experience, complete the Bureau's entry-level procurement training course, complete purchase card training (BPAP 13.301-70[k]), and complete FAI's Federal Procurement Data System (FPDS) training. The FAC-

Contracting (FAC-C) program does not apply to this authority. Limited Authority warrant holders shall not procure construction or architect/engineering requirements. IMS/PPS positions are not precluded from requesting a Level I Authority.

(2) **Trust Fund Authority.** Trust Fund Authority applies only to the Trust Fund acquisitions for resale items using only the Government purchase card. Each candidate must complete card holder purchase card training (BPAP 13.301-70[k]) and the Basic Procurement Trust Fund training prior to receiving this authority. The FAC-C program does not apply to this authority.

(3) **Level I Authority.** Prior to obtaining Level I authority, acquisition staff must have a minimum of one year of acquisition experience, complete the Bureau's entry-level procurement training course, complete purchase card training (BPAP 13.301-70[k]), and shall have completed FAI's FPDS training. Contracting officers must achieve FAC-C Level I certification prior to receiving a Level I warrant.

(4) **Level II Authority.** Prior to obtaining Level II authority, contracting officers must achieve FAC-C Level II certification.

(5) **Level III Authority.** Prior to obtaining Level III authority, contracting officers must achieve FAC-C Level III certification.

(6) **Real Property Leasing Authority** is unlimited. Once staff have received the necessary Real Property Lease classes and delegated leasing authority, they can enter into leases after receiving a delegation from GSA. All Requests for Space shall be approved by the Assistant Director for Administration.

(7) **Rehabilitation Act of 1973 (29 U.S.C. 794d) (Section 508) Awareness Training.** Acquisition staff, Purchase Card holders, and Approving Officials must receive training in Section 508 requirements which addresses accessibility standards for electronic and information technology (IT) standards.

(d) Warranted Contracting Staff, except individuals holding a Trust Fund warrant, must complete 80 CLPs every two fiscal years to maintain their warrants.

1.603-4 – Termination

Warrant authority of employees separated from the Bureau or assigned to positions not directly involved with acquisition as a primary responsibility, is automatically revoked on the date of

separation or reassignment. Additionally, the Bureau Procurement Executive may formally revoke contracting authority; this revocation and supporting justification shall be in writing. The SCS or, in the absence of that position, the BA, shall immediately notify the Procurement Policy Section and Field Acquisition Office via e-mail of Certificates of Appointment that are revoked.

1.604 – Contracting Officer’s Representative (COR)

The COR’s role is to develop proper requirements and ensure during contract administration that contractors meet the commitments of their contracts, including the timeliness and delivery of quality supplies and services. Information regarding FAC-COR certification requirements can be found on the FAI website.

(a) **Applicability.** Any Bureau employee assigned to perform COR duties, regardless of series, must obtain FAC-COR certification. FAC-COR levels apply as follows:

(1) Level I is for basic supply and service contracts (other than personal service contracts). FAC-COR Level I must be certified no later than three (3) months from the date of their appointment.

(2) Level II is for contract actions with a moderate to high complexity such as Comprehensive Medical Services, Community Treatment services, institution building, and facilities construction or similar type contracts. FAC-COR Level II must be certified no later than 12 months from the date of their appointment.

(3) Level III is for the most complex and mission critical contracts such as Residential Reentry Center (RRC) services, Privatized Corrections, and new prison construction. FAC-COR Level III must be certified no later than 24 months from the date of their appointment.

(b) Staff must refer to the guidance at OFPP and FAI for training requirements and levels of experience for each level FAC-COR. In addition, staff seeking COR certifications must complete the following: Green Procurement and Procurement Integrity training from either BOP-Learn or online DAU/FAI course.

(c) Appointment, termination, and limitations of authority shall be in accordance with the training, certification, and experience requirements established by the OFPP and DOJ, as applicable.

(d) **Reciprocity of Certifications.** As described in OMB memorandum, “Revisions to the Federal Acquisition Certification for Contracting Officers’ Representatives,” September 6, 2011,

individuals certified as Federal Acquisition Certification in Contracting (FAC-C) Levels I or II or Federal Acquisition Certification for Program and Project Managers (FAC-P/PM) Mid-Level/Journeyman are considered to have met the FAC-COR requirements for Level II. Individuals certified as FAC-C Level III or FAC-P/PM Senior/Expert are considered to have met the FAC-COR requirements for Level III. These individuals must submit their FAC certificates and continuous learning documents through FAITAS.

(e) The ACM and BCMs do the following:

- (1) Manage (ACM) and monitor (ACM/BCM) the FAC-COR program.
- (2) Review (BCM) and grant (ACM) certifications.
- (3) Evaluate candidate proficiencies and determine course equivalencies for certification, in accordance with FAI's required COR competencies.
- (4) Resolve any certification-related disputes.

(f) **FAC-COR Application Process.** Applicants are responsible for preparing an application package in accordance with FAI policies and procedures for submission electronically through FAITAS to his or her supervisor. The supervisor is responsible for verifying the accuracy and completeness of the application package in FAITAS. After supervisory review, the certification request is routed electronically to the Bureau Certification Manager (BCM). If the BCM recommends approval, the application is routed to the ACM for final approval. After the ACM approves, the FAC-COR certificate is generated through FAITAS.

(g) **Contracting Officer's Responsibilities.**

- (1) In appointing CORs, the contracting officer must take into consideration the appropriate FAC-COR Level needed to protect the Government's interest. The contracting officer must consider the risk associated with the acquisition, including contract type, in order to determine the appropriate level of FAC-COR coverage.
- (2) Contracting officers must provide appointment letters in writing to the contractor, outlining the COR's responsibilities under the contract and the limits of the COR's authority to the contractor. The contracting officer must also provide a copy to the COR and maintain a copy in the official contract file, or a central file referenced in the contract file.

(3) The contracting officer is authorized to revoke a COR appointment on a specific contract. Any revoked COR appointment must be documented in writing, notifying the COR, the contractor, and the ACM within three calendar days of the revocation.

Part 2. Definitions of Words and Terms

SUBPART 2.1 DEFINITIONS

“Agency Certification Manager” means the Chief, Procurement Policy Section, or his/her designee, who is responsible for facilitating the Bureau acquisition workforce career management program.

“Agency,” “Department,” or “DOJ” means the Department of Justice.

“Approving Official” for the Purchase Card Program means Cost Center Manager or designee.

“Bureau” means the Federal Bureau of Prisons.

“Bureau Certification Manager” means those staff who review and recommend approval/disapproval of certification requests for Bureau acquisition staff prior to the approval of the Agency Certification Manager.

“Bureau Procurement Chief” or “Chief, Contracting Activity” means the Bureau Procurement Executive.

“Business Administrator” means the Head of Financial Management at the individual institution level with supervisory responsibility for acquisitions staff. In instances when the institution’s Financial Management program is equally supervised by each of the three primary programs (Budget and Accounting [B&A], Procurement, and Trust Fund); the Business Administrator is responsible only for B&A.

“Cardholder” means a staff member entrusted with a Government purchase card.

“Central Office” means any components of the nine (9) Divisions located at Bureau headquarters in Washington, D.C. (i.e., Administration Division; Correctional Programs Division; Health Services Division; Human Resource Management Division; Information, Policy, and Public Affairs Division; National Institute of Corrections; Office of General Counsel; Reentry Services; and Program Review Division). This definition does not include Federal Prison Industries (UNICOR).

“Chief Executive Officer (CEO)” means the Warden, Regional Director, National Training Center Director, or Assistant Director.

“Chief of the Contracting Office” means the Chief, Field Acquisition Office (FAO) (for the local contracting office and FAO), Chief, Acquisitions Branch (AB) (for sections in that branch), or Chief, Procurement Management Branch (PMB) (for sections in that branch).

“Continuous Learning Points (CLP)” means continuous learning points as defined by the Office of Federal Procurement Policy.

“Competition Advocate” means the Assistant Director for Administration.

“Content Manager” means the electronic storage program used by the Procurement Executive Office for Bureau procurements, excluding purchase card transactions

“Contract Action” means award of contract, execution of a modification, or expenditure of appropriated funds.

“Contracting Activity” means the Federal Bureau of Prisons.

“Contractor Victim Point of Contact (CV POC)” means the Bureau Procurement Executive, who is the Bureau point of contact for contractors to report incidents of domestic violence, sexual assault, and stalking perpetrated against them in the Federal workplace.

“Digital Signature” is the mandatory method for signing all contract documentation and correspondence when the IT capability exists and where use of original signature is not appropriate (i.e., if network is unavailable).

“Director,” “Head of the Contracting Activity,” or “Head of the Contracting Agency” means the Director, Federal Bureau of Prisons.

“DOJ Senior Procurement Executive” means the Procurement Executive for the Department of Justice.

“Federal Acquisition Certification in Contracting Program” (FAC-C) is the nationally recognized certification program for contracting officers established by the Office of Federal Procurement Policy via Policy Letter 05-01. Its purpose is to establish core requirements for education, training, and experience for contracting professionals in civilian agencies.

“Head of the Program Office” means the head of the discipline, section, branch, or division (irrespective of the actual physical location) responsible for submission of a contract action.

“Local Contracting Office” means institution/regional business office, Central Office Business Office (COBO), or national training centers.

“National Training Centers” means designated Bureau national training facilities, which include a functioning procurement/acquisitions office.

“One Level Above the Contracting Officer” means Supervisory Contract Specialist, Lead Contract Specialist, Oversight Contract Specialist, Senior Contract Specialist, or Chief of the Contracting Office within the 1102 series. A Contract Specialist cannot review his/her own work.

“Personally Identifiable Information” (PII) includes, but is not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual’s identity, such as name, Social Security number, date and place of birth, mother’s maiden name, biometric records, etc., including other personal information which is linked or linkable to an individual.

“Request for Contract Action” (RCA) means the transmittal sheet utilized by acquisition staff to initiate an acquisition. There are several different types of submittal sheets utilized by the Bureau.

“Request for Purchase” (RP) means the form used to initiate an acquisition. There are several different types of forms used by the Bureau that meet this criteria, including, but not limited to: the RP (BP-A0101), RP Purchase Card Form (BP-A0611), and approved Trust Fund Form.

“SAT” means simplified acquisition threshold as defined by FAR Part 2.

“Small Business Specialist” (SBS) means the Bureau employee delegated responsibility to provide oversight to the Bureau’s small business program.

“Split Order” means for micro-purchases –a single purchase is intentionally divided into two or more separate purchases to avoid exceeding the single purchase limit or to avoid competition; for actions above the micro-purchase threshold – splitting up a single requirement to circumvent legal guidelines prescribed at a certain dollar amount.

“Training Manager” means the staff members(s) responsible for verifying compliance with the training requirements and for validating the information entered into the Federal Acquisition Institute Training Application System (FAITAS).

“Trinkets” means items of nominal value which serve no operational purpose.

“Unified Financial Management System (UFMS)” means the Bureau’s official contract writing tool.

Part 3. Improper Business Practices and Personal Conflicts of Interest

Contracting Officers shall consult with the CLB for legal guidance in regard to Improper Business Practices and Personal Conflicts of Interest. If a violation or possible violation as outlined in this Part involves a Bureau employee, it shall also be reported in accordance with the Program Statement **Standards of Employee Conduct**.

SUBPART 3.1 SAFEGUARDS

3.101-3 – Bureau Policies

The Bureau's Standards of Employee Conduct are contained in the Program Statement **Standards of Employee Conduct** and are based on the Restrictions on Obtaining and Disclosing Certain Information statute as it relates to procurement officials. Persons having questions regarding Restrictions on Obtaining and Disclosing Certain Information, post-employment restrictions, gratuities, or ethics shall contact the Bureau Ethics Officer, Office of General Counsel (OGC).

3.104-1 – Procurement Integrity

(a) Procurement Ethics Training (for Procurement Officials)

(1) Because of the nature of their duties, the following individuals are deemed Procurement Officials and must receive procurement ethics training and sign the Bureau procurement integrity certification:

- (i) Cost center managers and alternate cost center managers;
- (ii) Government purchase cardholders;
- (iii) CORs (FAC-COR);
- (iv) Program Managers (FAC-P/PM); and
- (v) Any additional employees designated to serve as Procurement Officials.

(2) SCS or, in their absence, the BA shall ensure all employees meeting the criteria as Procurement Officials are scheduled to receive the appropriate ethics training and sign a BP-A0645, Procurement Integrity Certification for Procurement Officials. Signed certificates shall be maintained and copies placed in the files of applicable procurement actions exceeding the SAT.

(b) Processing Violations or Possible Violations

(1) Violations or possible violations shall be reported through the Chief of the Contracting Office to the Bureau Procurement Executive. Contracting officers shall not proceed with award until the Bureau Procurement Executive concurs in writing.

(2) Notification shall be provided by the PEO to the Office of the Inspector General as required by JAR 2803.104 for possible violations. For determined violations, the Director shall first be notified through the Assistant Director for Administration, after coordination with CLB. When directed, the contract file containing a description of the violation that occurred, and a plan of corrective action shall be forwarded to the DOJ Senior Procurement Executive for consideration and concurrence.

(3) If a violation or possible violation occurred and the contract action is of unusual and compelling urgency, or if it is otherwise determined in the best interest of the Government to proceed with award, the Bureau Procurement Executive may authorize the contracting officer to proceed, after the Assistant Director for Administration, CLB, Director, DOJ Senior Procurement Executive, and the Office of the Inspector General have been notified.

SUBPART 3.2 CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

3.203 – Reporting Suspected Violations of the Gratuities Clause

In accordance with FAR Part 3.203, non-Central Office Bureau personnel shall report suspected violations of the Gratuities clause to the SCS or BA through the Chief of the Contracting Office to the Bureau Procurement Executive, who shall report the suspected violation(s) to CLB. Central Office Bureau personnel shall report suspected violations of the Gratuities clause through the Chief of the Contracting Office to the Bureau Procurement Executive, who shall report the suspected violation(s) to CLB. Additionally, all suspected staff misconduct shall be reported in accordance with the Program Statement **Standards of Employee Conduct**.

SUBPART 3.3 REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

3.303 – Reporting Suspected Antitrust Violations

Reports of suspected antitrust violations shall be referred through the Chief of the Contracting Office to the Bureau Procurement Executive. The CLB and the Assistant Director for Administration shall be consulted prior to forwarding the report to the Director. The Director shall submit the report to the Senior Procurement Executive and the Office of the Attorney General.

SUBPART 3.4 CONTINGENT FEES

3.405 – Misrepresentations or Violations of the Covenant Against Contingent Fees

Bureau personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentation of contingent fee arrangements, or other violations of the Covenant Against Contingent Fees shall immediately report the matter to the SCS or BA through the Chief of the Contracting Office to the Bureau Procurement Executive. Central Office personnel should report through the Chief of the Contracting Office to the Bureau Procurement Executive. The Bureau Procurement Executive shall consult with the CLB and the Assistant Director for Administration prior to forwarding to the Director.

SUBPART 3.5 OTHER IMPROPER BUSINESS PRACTICES

3.502 – Subcontractor Kickbacks

Bureau personnel shall report suspected violations of the Kickbacks (41 U.S.C. Chapter 87) through the Chief of the Contracting Office to the Bureau Procurement Executive. For Central Office, Bureau personnel shall report suspected violations through the Chief of the Contracting Office to the Bureau Procurement Executive. All reported suspected violations shall consult with the CLB and the Assistant Director for Administration.

SUBPART 3.6 CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM

3.602 – Exceptions

Only the HCA has authority to authorize an exception to FAR 3.601. Requests for exceptions shall be submitted, in writing, through the Regional Director (for Local Contracting Office matters) to the Chief of the Contracting Office, to the Bureau Procurement Executive, who shall consult with CLB. The request shall have the concurrence of the Assistant Director for Administration, prior to forwarding to the HCA for approval.

SUBPART 3.10 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT

3.1004 – Clauses

The following address in accordance with FAR clause 52.203-14, “Display of Hotline Poster(s)” is to be included in all solicitations for requirements that are non-commercial, will be performed in the United States, and are expected to exceed \$5 million.

Office of the Inspector General (OIG)
Fraud Detection Office
Attn: Poster Request
1300 N. 17th Street, STE 3200
Arlington, VA 22209

Part 4. Administrative Matters

SUBPART 4.1 CONTRACT EXECUTION

4.101-70 – Reviews Prior to Contract Award

When a pre-award review is required, the complete contract and solicitation file must be submitted for review in Content Manager. All contract actions (excluding supply orders resulting from FAR Part 8 and quarterly food requirements) exceeding the SAT must be reviewed at one level above the contracting officer unless submitted to the PEO. However, the Chief of the Contracting Office may review any acquisition documents below this threshold as determined appropriate. All findings must be addressed to identify corrective action(s) taken.

SUBPART 4.2 CONTRACT DISTRIBUTION

4.202-70 – Bureau Distribution Requirements

Contracting officers shall forward electronic copies of contracts (including all pertinent documents), modifications, purchase/task/delivery orders, or other accounting documents, to the payment office, CCM, COR, and Warehouse, as applicable.

SUBPART 4.4 SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

4.402-70 – General

(a) **Homeland Security Presidential Directive-12 (HSPD-12):** The goal of HSPD-12 is to establish a mandatory Government-wide standard for secure and reliable forms of identification issued by the Government to its employees and contractors with access to Federally controlled facilities and information systems.

(b) Federally controlled facilities are defined to include Federally owned buildings or leased space, whether for single- or multi-tenant occupancy, its grounds, and approaches, all or any portion of which is under the jurisdiction, custody, or control of the Bureau. If commercial space is shared with non-Government tenants, the requirements of HSPD-12 extend only to the area occupied by the Bureau. Additionally, HSPD-12 extends to Government-owned contractor-operated facilities and facilities under a management and operating contract.

(c) Federally controlled information systems include information technology systems or information systems used or operated by the DOJ and/or Bureau, or the contractor or other agency on behalf of the Bureau.

Note: The requirements of HSPD-12 do not apply to the following:

- Construction of new Bureau correctional facilities, since these facilities are not under the control of the Government until they have been completed and turned over to the Bureau.
- American Correctional Association (ACA) Auditors, as they will be escorted and within line of site of Bureau staff at all times and will have no access to Bureau information systems.

4.403-70 – Responsibilities of Contracting Officers

(a) It is the responsibility of the contracting officer to consult with program staff to determine whether long-term access to Bureau facilities or information systems will be required by contractor personnel during performance; and if the requirements of HSPD-12, “Policy for a Common Identifiable Standard for Federal Employees and Contractors,” are applicable.

(b) The contracting officer, in conjunction with program staff, shall determine whether performance requirements include long-term contractor personnel, short-term contractor personnel, or intermittent contractor personnel. It is the responsibility of program staff to ensure appropriate investigative procedures are followed for all contractor personnel assigned to perform under that contract.

SUBPART 4.6 CONTRACT REPORTING

4.600 – Scope of Subpart

(a) Staff are authorized to use the FPDS once they have completed the requirements outlined in BPAP 1.603-2(c)(1) or BPAP 1.603-2(c)(3) and the Procurement System Support Team (PSST) has issued an ID and password.

(b) All technical support questions regarding FPDS shall be addressed to the PSST.

(c) For Central Office, the respective Section Chief, or designee, shall notify the PSST, via e-mail, when an individual transfers locations, leaves a procurement position, or leaves the employment of the Bureau. For the local contracting office, the Chief, FAO shall make these notifications to the PSST.

4.606 – Reporting Data

All reportable actions shall be reported through the FPDS in accordance with the BPAP and the FPDS User's Manual.

The following actions shall **not** be reported in the FPDS:

- (a) Trust Fund Purchase Orders and Contracts made with X4 funds, including commissary/resale.
- (b) Documents generated solely for the purpose of obligating funds, but do not result in a contract action (e.g., inmate pay, inmate gratuities, etc.).

4.606-70 – FPDS Reports

(a) All acquisition staff shall ensure the office default information in the UFMS is accurate and complete.

(b) When a contract action is awarded, it shall be entered into FPDS within 3 business days of award. For purchase card transactions exceeding the micro-purchase threshold, the transaction shall be reported within 3 business days of receipt of the purchase card monthly statement. The Purchase Card Monthly statement shall be marked received by the card holder with the date of receipt in order to ensure timely FPDS entry was made. Modifications to purchase card transactions already entered into FPDS, regardless of dollar value, shall also be entered into FPDS. The reported action showing the status as "Final" shall be filed with the appropriate contractual document.

(c) Individual delivery/task order and BPA calls placed against comprehensive medical contracts as well as RRC medical modifications shall be reported by entering one reportable action against the contract for each month. This entry shall be entered into FPDS within 3 business days after the completion of each reporting period.

(d) When a contract action is subject to a pre-award review, the action shall be entered into FPDS, validated, and saved as a draft. The action shall be printed and included in the file submitted for review. Note: This printed action must show a **Draft** status.

(e) If an action that has been finalized (approved) in FPDS needs to be deleted, the contracting officer must contact the PSST for assistance.

4.606-71 – FPDS Certification

(a) Based on certification by the SCS or other designee, institutions, national training centers, and regional office Chief Executive Officers, and the Chief of the Finance Branch for COBO, will provide written certification of the accuracy, completeness, and timeliness of all data entries made in FPDS by the Contracting Office. The Chief of the Contracting Office will certify the data for their respective programs. Upon receipt and consolidation of the final package by the Procurement Policy Section, it will be signed by the Bureau Procurement Executive and submitted to the Senior Procurement Executive.

(b) Time frames for submission of the Certification document are as follows:

(1) The SCS/BA shall send the certification to FAO for receipt by the 7th calendar day of the month after each quarter ends.

(2) After review, FAO will forward all certifications to the Procurement Policy Section to ensure receipt by the 10th calendar day of the month.

(3) The Chief of the Contracting Office shall forward their certifications to the Procurement Policy Section by the 10th calendar day of the month after each quarter ends.

(4) The Procurement Policy Section will be responsible for preparing the final package for submission to the Bureau Procurement Executive by the 13th day after each quarter ends.

(5) The Bureau Procurement Executive will provide the Bureau Certification to the Senior Procurement Executive by the 14th day after each quarter ends.

4.606-72 – Requirements for Copiers Leased or Purchased

DOJ Form 450, Request for Printing, Copying, or Duplicating Equipment (fillable form) must be completed when requesting any copying or duplicating machine, regardless of rated pages per minute. The form should be submitted to BOP-IPP/Mailroom Center~. Purchase or lease of printers, facsimile machines, and scanners do not require completion of this form. Refer to BPAP Part 8.802-70 for additional guidance.

4.606-73 – Reporting of Service Contracts in FPDS

(a) Awards for services and all modifications of the covered awards must include in the “Description of Requirement” field one of the following Inherently Governmental Functions (IGF) values as the *initial* text:

Code	IGF Meaning	IGF Values (to be Entered)
CL	Closely Associated Functions	IGF: : CL: : IGF
CT	Critical Functions	IGF: : CT: : IGF
OT	Other Functions	IGF: : OT: : IGF
CL,CT or CT,CL	A combination of Closely Associated Functions and Critical Functions	IGF: : CL, CT: : IGF or IGF: : CT, CL: : IGF

(b) The reporting format applies to the following document types and modifications:

- Purchase Orders.
- Definitive Contracts.
- Delivery/Task Orders.
- Blanket Purchase Agreement Calls.
- Basic Ordering Agreements.
- Blanket Purchase Agreements.
- Indefinite Delivery Contracts.

(c) Only Privatized Corrections Contracting (PCC) contracts and institution Guard Services contracts will be entered in FPDS as “IGF: :CL: :IGF” (“Closely Associated Functions”). All other service contracts should be reported as “IGF: :OT: : IGF” (“Other Functions”). All words/characters in each phrase must be consecutive.

SUBPART 4.8 GOVERNMENT CONTRACT FILES

4.802-70 – Content Manager

(a) Content Manager is the official system used to electronically maintain all contract files (e.g., Purchase Orders, Task/Delivery Orders, Agreements, and Modifications, excluding Purchase Card transactions). An exception to Content Manager must be approved by the Chief of the Contracting Office.

(b) Instructions for accessing Content Manager and technical support are provided by PSST.

4.802-71 – Contract File Numbering System Identification

The following documents must be numbered:

- (a) Contracts;
- (b) Requests for Proposals (RFP)/Invitations for Bids (IFB)/Requests for Quotations (RFQ)/SF-1449 or SF-1442;
- (c) Modification log for each contract (and maintained in contract files);
- (d) Purchase/Task/Delivery Orders/BPA Calls (including Trust Fund). Contracting officers shall ensure all Purchase/Task/Delivery Orders/BPA Calls are numbered with an YREGDOC (Year Register Document) number;
- (e) Requests for Purchase (RP)/Requests for Contract Action (RCA);
- (g) Memoranda of Understanding;
- (h) Interagency Agreements;
- (i) Intergovernmental Agreements;
- (j) Reimbursement Agreements; and
- (k) Occupancy Agreements.

4.804-5-70 – Closeout Procedures for Contracts

For reference and uniformity, contracting officers shall use the following for closing out all contracts.

(a) Major B&F Construction Projects

(1) Requirements for Final Payment

- (i) Final inspections and punch list have been completed and accepted;

(ii) All warranties, guarantees, and operating manuals have been received including complete equipment operation and maintenance instructions;

(iii) Sufficient funds have been set aside to offset any liquidated damages or other indebtedness of the Contractor to the Bureau under the contract;

(iv) Clearance has been obtained from the surety company confirming that the Contractor has met all obligations. There are no outstanding litigation, appeal, or termination actions;

(v) There are no pending labor disputes;

(vi) All as-built drawings have been received; and

(vii) Contractor's final invoice has been submitted.

(2) Contractor's Closeout Checklist

(i) The Contractor has submitted a "Contractor's Affidavit Release of Lien" (AIA document G706A) and "Contractor's Affidavit of Debts and Claims" (AIA document G706) pertaining to payment of Subcontractors and suppliers;

(ii) All as-built drawings have been received;

(iii) Contractor's final invoice has been submitted;

(iv) Release of Claims Form; and

(v) Consent of Surety Company to Final Payment [AIA form G707].

(3) The contracting officer is required to furnish the following items:

(i) Certificate of Substantial Completion (AIA Form G704) (If granted);

(ii) Certificate of Contract Completion;

(iii) Multiple Payment Register (From Accounting);

(iv) Contracting officer's Completion Statement; and

(v) Contract Close-out Checklist.

(4) The Project Representative/COR is required to submit a memorandum to the contracting officer stating:

- (i) Final inspection has been completed;
- (ii) Punch list items have been corrected;
- (iii) Location of all warranties, guarantees, operations manuals, and keying schedule;
- (iv) Location of “as-built” drawings and A/E prints; and
- (v) Statement that all deliverables have been received and that the contract should be considered complete.

(5) Job Closeout – contracting officers shall assure the following actions have been accomplished prior to job closeout:

(i) Transfer:

- (a) Keys.
- (b) Utilities.

(ii) Obtain from the Contractor:

- (a) Letter establishing warranty dates.
- (b) As-built documents including record documents, final shop drawings, etc.
- (c) Complete list of subcontractors with telephone numbers and points of contact.
- (d) Guarantees and warranties.
- (e) All balance and test reports.
- (f) Equipment operating and maintenance instructions.
- (g) Final Modification, confirm final payment due Contractor.
- (h) All permits and certifications.

(b) Contracts Greater Than SAT - Other Than Construction (i.e., Nonpersonal, National Contracts, etc.)

The procedures set forth in FAR 4.804 shall be followed to include, but not limited to, the following:

- (1) Contractor Final Performance Report;
- (2) Evidence of final payment;
- (3) Statement from Program Manager/COR that all services have been completed or all supplies have been received;
- (4) Release of Claims from the contractor; and
- (5) Contracting officer's Completion Statement.

Part 5. Publicizing Contract Actions

SUBPART 5.2 SYNOPSES OF PROPOSED CONTRACT ACTIONS

5.202 – Exceptions

The contracting officer shall issue a synopsis for all applicable food purchases except as noted by FAR 5.202(a)(9). Such exceptions include food that is not heat-treated, not frozen, and not otherwise preserved in a manner that prevents the quality of the food from being adversely affected if held longer than 7 calendar days under normal shipping and storage conditions. Examples of perishable food include, but are not limited to, fresh vegetables, dairy, eggs, and bread.

5.205-70 – Publicizing Sensitive But Unclassified Requirements

(a) The Federal Business Opportunities (FBO) provides for the dissemination of Sensitive But Unclassified (SBU) materials. The sensitive/secure package upload option in FBO ensures that SBU documents are only accessible to those individuals and companies deemed eligible by the information they previously provided to the System for Award Management (SAM). Only those vendors who have been issued a valid Marketing Partner Identification Number (MPIN) from SAM will be able to access SBU documents which have been uploaded to FBO utilizing the sensitive/secure package option. Any information deemed sensitive (e.g., “For Official Use Only,” “Law Enforcement Sensitive,” etc.) could cause harm or compromise programs or operations essential to the safeguarding of Bureau or other national interests. Precautions to restrict dissemination of information to unauthorized individuals or companies should be taken as circumstances dictate, utilizing the following principles as they apply:

- (1) Only give information to those who need to know;
- (2) Keep records of who was provided the information;
- (3) Safeguard the information during use and destroy it in accordance with FAR 4.805.

(b) In order to comply with the need to know and record keeping requirements, once a user has selected the sensitive/secure option in FBO the user should then also select the Explicit Access option. This additional option will require interested vendors to individually request access to the SBU documents via the Explicit Access Request in the FBO posting. The user will receive notification of the request from FBO and may then authorize or reject the request. A record of

the granted authorizations is available in FBO, which can be printed for retention in the procurement file.

(c) A listing of acquisitions deemed to include SBU:

- Building designs (such as floor plans).
- Construction plans and specifications.
- Renovation/alterations plans.
- Equipment plans and locations.
- Building operating plans.
- Information used for building service contracts.
- Services essential to the security and management of a facility.
- Location of utilities, information technology systems, power distribution systems, emergency generation equipment, uninterrupted power sources.
- Gas and oil storage and transportation.
- Contract guard services.
- Continuity of operations information.
- Electronic surveillance operations.
- Detention services and facilities.
- Judicial services.
- Security equipment and installation.
- Information system or infrastructure development or modification.
- Contingency plan(s) and disaster recovery information.
- System security information.

SUBPART 5.4 RELEASE OF INFORMATION

5.404-1 – Release Procedures

The Bureau Procurement Executive is authorized to issue releases of long-range acquisition estimates.

SUBPART 5.5 PAID ADVERTISEMENTS

5.502 – Authority

Written authority must be obtained prior to publication and may not be granted retroactively. The following individuals may authorize paid advertisements:

(a) The Chief of the Contracting Office may authorize paid advertisements for other than personnel actions for offices under their purview.

(b) Regional Directors, Wardens, and the National Recruitment Coordinator may authorize paid advertisements concerning personnel actions.

Part 6. Competition Requirements

SUBPART 6.3 OTHER THAN FULL AND OPEN COMPETITION

6.301 – Policy

Contracting without providing for full and open competition shall not be justified based on the lack of acquisition planning or on concerns related to funds availability (e.g., funds will expire).

6.304 – Approval of the Justification

- (a) Acquisitions at or below the SAT acquired through other than full and open competition shall be approved by the awarding contracting officer.
- (b) Acquisitions above the SAT, but less than or equal to the threshold at FAR 6.304 (a)(1), acquired through other than full and open competition shall have the concurrence of the affected Chief Executive Officer (for local contracting office or Section Chief for Central Office) prior to submittal to the Chief of the Contracting Office for approval. The Chief of the Contracting Office should consult with CLB when appropriate.
- (c) Acquisitions within the thresholds at FAR 6.304 (a)(2), acquired through other than full and open competition, shall have the concurrence of the affected Chief Executive Officer (for local contracting office or Section Chief for Central Office), Chief of the Contracting Office (who should consult with CLB when appropriate), and Bureau Procurement Executive, prior to submittal to the Bureau Competition Advocate for approval.
- (d) Acquisitions within the thresholds at FAR 6.304(a)(3), acquired through other than full and open competition, shall have the concurrence of the affected Chief Executive Officer (for local contracting office or Section Chief for Central Office), Chief of the Contracting Office, CLB, and Bureau Procurement Executive, prior to submittal to the Bureau Competition Advocate for approval.
- (e) Acquisitions over the threshold at FAR 6.304(a)(4), acquired through other than full and open competition, shall have the concurrence of all appropriate officials (i.e., affected Chief Executive Officer [for local contracting office or Section Chief for Central Office], Chief of the Contracting Office, Regional Director [for local contracting office], CLB, Bureau Procurement Executive, Bureau Competition Advocate, and Director) prior to submittal to the DOJ Senior Procurement Executive for approval.

(f) The procedures in this section are applicable to Trust Fund acquisitions, unless the authority in FAR 6.302-5(a)(2)(ii) is applicable.

Part 7. Acquisition Planning

SUBPART 7.1 ACQUISITION PLANS

7.102-70 – Policy – Acquisition Lead Times

- (a) Established acquisition lead times allow sufficient time to process acquisitions.
- (b) The minimum adequate time for general types of acquisitions is listed below. “Minimum days” indicates the required time from acceptance/approval of the request for contract action by contracting officers (includes approval of funds, various justifications, etc.) through contract award and is calendar days. Lead times do not include time for delivery.

<i>Type of Acquisition</i>	<i>Estimated Value</i>	<i>Minimum Days</i>
Simplified Acquisition	\$25,000 or less	15
Information Technology (IT)	\$25,000 or less	30
Acquisitions for Commercial Items	\$25,000 to the SAT	45
Sealed Bid/Supplies	Exceeding SAT	90
Sealed Bid/Construction/Services	Exceeding SAT	95
Community Treatment	Exceeding SAT	120
Negotiated Procurements	Exceeding SAT	180
IT/Telecommunications	Exceeding SAT	180
Medical Contracts	Exceeding SAT	365
Privatized Corrections	Exceeding SAT	540
Residential Reentry	Exceeding SAT	540
Contract Option Renewals	Any Value	75
PCC Option Renewals	Any Value	120
RRC Option Renewals	Any Value	120
Reimbursable Agreements	Any Value	120
IAAs and IGAs	Any Value	120
Architect/Engineering	Any Value	180

7.102-71– Strategic Sourcing

Acquisition planning shall be accomplished in such a manner as to promote strategic sourcing, as appropriate, and in accordance with the Bureau’s strategic sourcing plan maintained by the Procurement Executive.

7.103-70 – Head of the Program Office Responsibilities

Formal acquisition plans shall be prepared in accordance with FAR Part 7.104 and 7.105. A formal acquisition plan shall be prepared by the Head of the Program Office for approval by the contracting officer and Bureau SBS. The approved plan shall be maintained in the solicitation file.

7.104-70 – General Procedures – Year End Procurements

Funds appropriated by Congress for a particular fiscal year are available only to cover expenses during that year, or for the fulfillment of contracts properly made within that year (with the exception of acquisition using Trust Fund (X4) or Building and Facilities (X3) appropriations).

7.105-70 – Request for Purchase/Request for Contract Action

(a) One or more of the following acquisition request forms must be used in submitting requirements, as applicable:

- (1) Request for Purchase (RP) (BP-A0101) or Request for Purchase/Purchase Card Acquisition Form (BP-A0611);
- (2) Special Purpose Order Request (BP-A0200) for acquisition of special purpose order items for inmates;
- (3) Electronic requisition forms generated by Trust Fund systems;
- (4) RCA Transmittal sheet for FAO, AB, and PMB conducted acquisitions;
- (5) Electronic requisition forms generated by the Bureau's Food Service computer application.

(b) Acquisitions in advance of funding shall not be initiated by contracting officers until CCMs provide notice of their intent to make funds available.

(c) RPs and/or other prescribed forms shall be signed and dated by CCMs, or designees, responsible for the particular cost center and shall include the appropriate accounting string and YREGDOC number. RPs and supporting documentation transmitted electronically must be sent from the CCM or designee to the contracting office.

(d) CCMs shall obtain all pre-approvals for acquisitions requiring special approvals prior to submission of RPs to the contracting office.

(e) RPs shall include required delivery dates. If the delivery date is critical to the facility, include a statement in the RP explaining any adverse effects if the requested delivery date is not obtainable. Delivery time frames such as “Rush,” “Urgent,” “As Soon As Possible,” etc., shall not be used. Requests containing immediate needs should be given top priority. CCMs shall provide recommended sources.

(f) The series of blocks on the RP marked “Price Quotes” may be used to document oral solicitations.

7.105-71 – Requirements for Special Approvals

(a) Whether acquired new, used, leased, or from excess, certain items require advance approval or authorization. Among the reasons to control or monitor certain types of acquisitions are the need for standardization and compatibility of equipment, or the need to obtain approval from higher authority. Special approval for some items may be granted at the local or regional office level, while others require approval by the Central Office, or higher. The approval must reflect the description and quantity requested and may be given using a signature on the face of the RP, memorandums, e-mails, special authorization number, etc.

(b) CCMs shall obtain all approvals and authorizations in accordance with the appropriate Program Statement. Once all approvals have been obtained, CCMs shall submit the authorizations with the RP to the contracting office, or, if appropriate, acquire using the purchase card.

(c) Listed below are supplies or services requiring special approvals:

(1) Central Office Approval Required

(i) Staff Housing Furnishing requests (for other than approved items) shall be submitted to the Chief, PPB, as specified in the Program Statement **Property Management Manual**.

(ii) Approval for acquisition/disposal of motor vehicles shall adhere to the Program Statement **Facilities Operations Manual**.

(iii) Approval for lease or purchase of copying/duplicating (see BPAP 8).

(2) **Regional Office Approval Required**

(i) Security, surveillance, or electronic communications equipment, not previously approved by the regional office, shall be submitted to the appropriate regional administrator for approval. Examples include, but are not limited to: security or communications systems, emergency response equipment, forced entry equipment, identification systems, intelligence systems, intrusion detection, metal detectors, perimeter security, vehicle security, personnel security, secure grills and doors, video systems (including identification, conferencing, surveillance, detection), access controls, and security x-ray equipment.

(ii) Any type of firearm not previously approved for Bureau use shall be submitted to the Regional Correctional Services Administrator for approval.

(3) **Local Approval**

(i) All RPs for acquisition or rental of information technology (IT) hardware, software, or services (i.e., personal computers, desktop computers, servers, and mainframes), or other resources defined in FAR 2.101, “information technology,” by any Bureau facility shall be approved by the local Computer Services Manager (CSM) or designee in accordance with the Program Statement **Information Security Programs**. See BPAP 39 concerning RPs of \$30,000 or more (regardless of individual item cost).

(ii) Memberships in community or professional organizations:

(a) Require approval of the Chief Executive Officer (CEO). Upon a determination that the expenditure is a direct benefit to the agency or is a necessary expense to further the agency’s mission (5 U.S.C. Section 5946), it may be appropriate to expend Government funds to pay agency membership fees in local and professional organizations. Examples of memberships that may be approved are: local Chamber of Commerce, American Correctional Association, National Fire Protection Association, etc.

(b) Membership may be acquired only in the name of Bureau, or in the name of the organizational Bureau element (United States Penitentiary Leavenworth, Mid-Atlantic Regional Office, Central Office, etc.).

- (c) Only one membership per organization at each respective location is acceptable.
- (d) Funds may not be used for memberships in an individual employee's name. Even if a membership is job-related, it does not overcome the prohibition against memberships in an individual employee's name (e.g., membership in a state bar association). However, it may be necessary to identify and associate the membership with a specific position (Warden, Health Services Administrator, etc.).
- (iii) Appropriated funds may be used to purchase seasonal decorations in accordance with the Program Statement **Property Management Manual**.
- (iv) All purchases involving chemicals must be pre-approved in accordance with the Program Statement **National Environmental Protection Policy**.
- (v) All purchases involving tools must be pre-approved by a local Captain.

Part 8. Required Sources of Supplies and Services

SUBPART 8.000 SCOPE OF PART

All Bureau acquisition staff shall use mandatory DOJ agency-wide contracts and BPAs, Bureau national contracts and BPAs, and interagency agreements for requirements. All Bureau acquisition staff shall consider using non-mandatory DOJ agency-wide contracts and BPAs and non-mandatory Bureau national contracts and BPAs for requirements.

SUBPART 8.4 FEDERAL SUPPLY SCHEDULES

8.405-2 – Order Placement

All requests for Activity Address Codes (AAC) shall be forwarded to the Procurement Policy Section.

8.405-6 – Limiting Sources

Limited Source Justifications shall require the same approval process as BPAP Part 6.

8.405-70 – Use of Federal Strategic Sourcing Initiative

The Federal Strategic Sourcing Initiative (FSSI) for office supplies is mandatory except when FSSI vendors cannot supply the item(s) or do not offer the lowest price.

SUBPART 8.6 ACQUISITION FROM FEDERAL PRISON INDUSTRIES, INC.

8.601-70 – Intent

The Bureau will purchase from UNICOR to the maximum extent practicable consistent with FAR.

SUBPART 8.8 ACQUISITION OF PRINTING AND RELATED SUPPLIES

8.802-70 - Policy

(a) Acquisitions of printing, binding, and blank-book work are prohibited, except from:

- (1) Government Printing Office, and

(2) UNICOR field printing plants.

(b) Acquisition of Duplicating Equipment: DOJ Order 2510.9 and the Program Statement **Printing, Distribution Management, and Electronic Documents** require advance approval be granted by the Director, Justice Publications Services Facility, for the purchase, rental, exchange, or transfer of any printing, duplicating, binding, copying, and related printing and graphic arts equipment. DOJ Form 450, Request for Copying/Duplicating (fillable form) is to be completed when requesting any copying or duplicating machine, regardless of rated pages per minute. The form should be submitted to BOP-IPP/Mailroom Center~. Purchase or lease of printers, facsimile machines, and scanners do not require completion of this form.

(c) Acquisitions of business cards shall be made from approved AbilityOne vendors.

Part 9. Contractor Qualifications

SUBPART 9.1 RESPONSIBLE PROSPECTIVE CONTRACTORS

9.103 – Policy

(a) Bureau contracting officers who make a determination of nonresponsibility must forward all documents related to the determination to the Bureau Procurement Executive as early as practicable, but no later than three (3) working days after reaching the determination. If a protest is filed that relates to a determination of nonresponsibility, contracting officers must include this information with the materials sent to the Procurement Executive Office.

(b) Documents related to nonresponsibility determinations made at the local contracting office must be routed through the contracting officer's supervisor and Chief, FAO. Documents related to nonresponsibility determinations made at the Central Office level must be routed through the contracting officer's supervisor and the respective Chief of the Contracting Office. Contractors who have been found to be nonresponsible will be posted to Sallyport.

(c) For determinations of nonresponsibility involving small business concerns, contracting officers should make every effort to contact the SBA Government Contracting Area Office regarding an applicable nonresponsibility determination within one (1) business day of the determination and forward all materials accordingly. The contracting officer is to notify the Small Business Representative in the Procurement Policy Section at the same time of this action.

(d) Contracting officers shall consult with the CLB prior to making a determination of nonresponsibility involving a contractor or subcontractor's record of integrity and business ethics.

SUBPART 9.4 DEBARMENT, SUSPENSION, AND INELIGIBILITY

9.404 – System for Award Management Exclusions

(a) The SAM Exclusions are available on the Internet at www.sam.gov.

(b) This requirement applies to all contract awards, purchase card transactions (regardless of dollar amount), and option year renewals. This requirement also applies to all types of awards and purchase card transactions using Trust Fund Appropriations.

(c) Acquisition staff and purchase card holders must review SAM Exclusions on the same day as award to verify contractor status before the award is made.

(d) Acquisition staff and purchase card holders shall document the procurement file that the SAM Exclusions have been verified.

9.405-1 – Continuation of Current Contracts

(a) All Bureau contracts must be considered for termination when the contractor is currently debarred or suspended.

(b) If it is necessary to place an order or exercise an option with a contractor who is debarred or suspended, a waiver to SAM shall be requested through the Chief of the Contracting Office no later than three (3) working days of becoming aware of the debarment.

(c) The CCM shall submit to the contracting officer an explanation supporting why the Bureau would be harmed if the supplies or services are not provided.

(d) If the contracting officer supports the CCM's recommendation, he/she shall submit a request for waiver no later than three (3) working days of becoming aware of the debarment. The request shall be submitted through the respective Chief Executive Officer, Chief of the Contracting Office, Regional Director (for institutions and regional offices), or the respective Assistant Director (for Central Office), CLB, Bureau Procurement Executive, and Assistant Director for Administration, prior to submittal to the Director for approval.

(e) The approved waiver shall be included in the contract file.

9.406-3 – Procedures

(a) Any information that may form the basis for debarment or suspension of a contractor shall immediately be submitted through the Chief of Contracting Office to the Bureau Procurement Executive.

(b) Pursuant to JAR, if the Bureau Procurement Executive decides to initiate debarment and/or suspension of a contractor, a notice must be prepared in accordance with the FAR and have the CLB's concurrence prior to forwarding to the DOJ Senior Procurement Executive for a final determination.

PART 10.

[RESERVED]

Part 11. Describing Agency Needs

SUBPART 11.2 USING AND MAINTAINING REQUIREMENTS DOCUMENTS

11.201-70 – Identification and Availability of Specifications

CCMs shall identify and document on RPs or RCAs applicable standardized specifications or work statements that may be required by other disciplines and programs. (e.g., National Menu specifications, AOE work statements, Guard Services work statement, Requirements for Disposition of Deceased Inmates, etc.)

SUBPART 11.5 LIQUIDATED DAMAGES

11.501 – Policy

Subject to the approval of the Commissioner, Financial Management Services (see Treasury Order 145-10), the Head of the Agency may remit or waive all or part of the amount of liquidated damages assessed under a contract. Any such remittance or waiver requests shall be fully documented to support the remittance or waiver. The request shall be forwarded through the Chief of the Contracting Office to the Bureau Procurement Executive.

Part 12. Acquisition of Commercial Items

SUBPART 12.2 SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

12.204 – Solicitation/Contract/Order Form

For commercial acquisitions not exceeding the SAT, the SF-1449 or OF-347 may be used. For commercial acquisitions exceeding the SAT, the SF-1449 is mandatory.

SUBPART 12.3 SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

12.302 – Tailoring of Provisions and Contract Clauses for the Acquisition of Commercial Items

When tailoring terms and conditions of a commercial item contract, the contracting officer shall document why he/she believes the resulting terms and conditions are consistent with customary commercial practices. The Chief of the Contracting Office must approve any clauses, terms, or conditions that are inconsistent with customary commercial practices.

SUBPART 12.4 UNIQUE REQUIREMENTS REGARDING TERMS AND CONDITIONS FOR COMMERCIAL ITEMS

12.403 – Termination

(a) Only contracting officers may terminate Bureau contracts. Ordinarily, contract terminations are made as a last resort. The contracting officer shall attempt to effectuate no-cost settlements if circumstances are appropriate.

(b) All contract terminations and all contract settlement agreements must receive prior written concurrence and approval as follows:

(1) The Chief of the Contracting Office may approve “No-Cost Terminations for Convenience” for contracts utilizing SAP.

(2) The Chief of the Contracting Office may approve “Terminations for Cause” for commercial item acquisitions at or below the SAT. In accordance with FAR 12.403, the contracting officer should consult with CLB (coordinated through the Chief of the Contracting Office) prior to terminating for cause, when appropriate.

(3) The contracting officer must document fully all other requests to terminate or settle contracts. Requests shall include the solicitation and contract files and be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

(c) When appropriate, the contracting officer should consult with CLB (coordinated through the Chief of the Contracting Office) for terminations for convenience and no-cost terminations for convenience.

Part 13. Simplified Acquisition Procedures

SUBPART 13.1 PROCEDURES

13.106-1 – Soliciting Competition

- (a) Past performance will be listed as a significant evaluation factor in all competitively negotiated acquisitions when considering price and other than price evaluation factors.
- (b) Requests for waivers to eliminate past performance as an evaluation factor when considering other than price shall be submitted by the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

13.106-3 – Award and Documentation

For written solicitations, contracting officers shall require vendors to submit electronic/digital media quotes.

13.106-70 – Reverse Auctions

- (a) An online reverse auction is a procurement tool used to increase competition and maximize the possibility of decreasing purchase prices. Reverse auctions have demonstrated significant cost savings in acquisitions. In addition, use of reverse auctions may successfully reduce procurement lead time, improve small business access to requirements, and gain efficiencies for Contracting Offices.
- (b) Unless superseded by other statutory or regulatory guidance, first consideration shall be given to using an online reverse auction when competitively purchasing commercial item supplies above the micro-purchase threshold, pursuant to the following:
 - (1) FAR Part 8.4, *Federal Supply Schedules*, with no limit on dollar amounts; and
 - (2) FAR Part 13, *Simplified Acquisition Procedures*, up to and including the dollar amounts described in FAR Subpart 13.5, *Simplified Procedures for Certain Commercial Items*.
- (c) The use of on-line reverse auctions does not in any way diminish the requirement to comply with all laws, statutes, policies, and stipulations contained in the FAR (see FAR 1.602-1(b)).

(d) Reverse auctions work best for commodity purchases where price is the primary evaluation factor and where technical evaluations are unnecessary. They are appropriate when multiple sources are available for competition, and they are best suited for widely-available standardized products that have well-defined specifications and universally-accepted standards .

SUBPART 13.3 SIMPLIFIED ACQUISITION METHODS

13.301-70 – Government-Wide Commercial Purchase Card

(a) Use of the purchase card is mandatory for acquisitions at or below the micro-purchase threshold, per transaction, for all items not otherwise prohibited (pharmaceuticals are not mandatory). The purchase card program is intended to streamline and simplify acquisition and payment procedures, giving staff the opportunity to make practical business decisions in obtaining supplies or services of which they are knowledgeable.

(b) The CCM is responsible for advising on procedures for obtaining a purchase card.

(c) Standards and guidelines to implement, use, and manage the purchase card program for simplified acquisitions throughout the Bureau are specified below:

(d) Each facility shall complete an Authorization Designation form containing the following information:

(1) Original signatures for the Level 3 Agency Program Coordinator (APC) and alternates.

(2) Facility name, address, telephone and fax numbers, and internet office e-mail address.

(3) Level 3 Identification Number: Facility Financial Management Information System (FMIS) Allotment Code (five-digit identification number).

(4) Level 3 APC (facility BA/Regional Comptrollers and their respective designated alternates) to include individual name, address, telephone number, Internet office e-mail address, and fax number, etc.

(e) Unless otherwise noted, this program delegates authority at or below the micro-purchase threshold to cardholders. Trust Fund cardholders are authorized to purchase resale items for \$30,000 or less. Contracting officers are authorized to use the purchase card to acquire

supplies/services between the micro-purchase threshold and the SAT per transaction, on behalf of other cost centers

(1) Contracting officer use of the Purchase Card above the micro-purchase threshold is restricted exclusively to task or delivery orders as authorized by the contract or BPA.

(2) When placing task or delivery orders against Bureau Indefinite-Delivery/Indefinite-Quantity contracts, use of the purchase card is prohibited until the guaranteed minimum amount of the contract has been met. The local contracting office is responsible for tracking orders up to the minimum guaranteed amount to ensure FPDS reporting is accurate. Once the guaranteed minimum amount has been met:

(i) CCMs may place task or delivery orders up to the micro-purchase threshold against the contract.

(ii) Contracting officers may place orders up to the SAT against the contract.

(f) Ordering, receiving, and reconciliation procedures for orders placed by contracting officers on behalf of other cost centers shall be in accordance with the procedures outlined below:

- Local Contracting Offices may use the purchase card under the terms of this Part, providing contracting officer staffing and workloads at each location have been taken into consideration.
- Local Contracting Offices' internal procedures shall not place an undue burden on the contracting officer. This shall be accomplished by delegating all responsibilities normally belonging to the cardholder, except final statement reconciliation, to the representative cost center.
- The SCS is the Approving Official (AO) for reconciliation purposes only, and carries additional oversight responsibilities to ensure applicable purchasing procedures were followed and that the file contains the appropriate documentation (e.g., approvals, competition, or when applicable, the same documentation required as if a contracting officer processed the order by any other method). In the absence of the SCS, the BA may serve as AO for the reconciliation process.
- The contracting officer will apply all purchase card acquisitions to one card, which will result in the contracting officer designating the correct re-post accounting information on each line item listed on the purchase card statement. The Contracting Office may choose

to set up additional purchase cards to support acquisitions on behalf of a single cost center.

- The cost center may present a pre-approved and funded Purchase Card Acquisition Form that is estimated above the micro-purchase threshold, but not more than SAT, to the contracting officer cardholder. Each cost center must include accurate accounting information for re-post purposes. The request must contain an adequate description to allow for price quotes. **Note:** This does not preclude the contracting officer cardholder from obtaining electronic quotes. Three vendors should be recommended along with their telephone numbers included on the form.
- Those quotations resulting in a price in excess of the micro-purchase threshold, but not exceeding SAT, will be ordered by the contracting officer using the purchase card. The Purchase Card Acquisition Form (showing agreed-upon pricing, etc.) is immediately forwarded to the receiving area and to the person responsible for receipt/pick-up.
- Variations between the quoted purchase price and the funded amount shall be reported immediately to the CCM, and if necessary, some type of notation (or e-mail), is to be provided to document the cost center's concurrence for additional funding availability.
- The respective cost center shall be responsible for pick-up from the Warehouse or vendor.
- Under no circumstances will the contracting officer's card number be compromised by assigning the statement reconciliation to the cost center. The cardholder shall reconcile the statement, using the documentation provided by the cost center.
- At the time of reconciliation of the cardholder's monthly statement, it shall be the contracting officer's responsibility to notify CCMs of the actual amount of the charges made and/or any disputed amounts applicable to their cost center(s). This should also include information of any outstanding orders not yet appearing on the statement. Once the contracting officer has reconciled each monthly statement, he/she shall forward the entire package to the SCS/AO for approval of the statement.
- For those acquisitions affecting multiple cost centers, a copy of the files originally submitted shall be maintained by the CCM. However, this does not preclude the contracting officer cardholder from keeping copies of documents necessary for future reconciliations, etc.

- These procedures are not intended to prompt the cost center to combine, and consequently divert what were previously separate purchase card actions back to the contracting officer. Nor are these procedures intended to result in a more complicated or cumbersome reconciliation process than if the supplies or services were ordered via BPAs or POs.

(g) Bureau's Level I Agency Program Coordinator (APC) is located in the Procurement Executive Office and is the Bureau's primary representative to the card-issuing bank. The Chief, FAO, shall be the Level II APC; the BA or designee and the Regional Comptroller shall be Level III APCs. Level III APCs shall have direct overall responsibility for the purchase card program at each location.

(h) Definitions of positions, forms, reports, and terms are below:

(1) **Local Agency Program Coordinator (APC) (Level 3).** The facility BA, Regional Comptroller, or designee is the APC for each facility and regional office, respectively.

(2) **Approving Official (AO) (Level 4).** The AO is usually the CCM. However, the CCM can designate another supervisory staff member in writing from his/her cost center to serve in that capacity. An alternate AO shall be designated to avoid statement processing delays and late payment penalties in case of his/her absence.

An AO may not be organizationally subordinate to his/her cardholders. Furthermore, a cardholder may not be his/her own AO. Therefore, if an AO holds a card, a separate AO must be designated within the local organization. A CCM who is a cardholder need not obtain pre-approval for expenditure of his/her own funds. However, all miscellaneous approvals must be obtained, and post-approval by the AO Cardholder's approving official must be obtained at the time of statement reconciliation.

(3) **Cardholder.** An individual Government employee who has been granted a written Delegation of Cardholder Authority, or a warranted contracting officer authorized to use the purchase card. The card is in the cardholder's name and must only be used by the cardholder to pay for official government acquisitions in compliance with the FAR and Bureau's internal procedures.

(4) **Purchase Card Bank (PCB).** The PCB may provide service to support the Bureau during the contract, as arranged by the Central Office. The PCB produces and disseminates purchase card statements and investigates all amounts disputed by the cardholder and

disputes office contact. The PCB aids the Level 3 APC in account set-up, coordination, disputes, etc., of the Purchase Card Program.

(5) **Billing Office Contact (BOC).** The Central Office Finance Branch coordinates payment for the PCB. The Central Office makes payments to the PCB on behalf of the entire Bureau.

(6) **Disputes Office Contact.** The Level 3 APC is the disputes office contact.

(7) **Financial Management.** The BA/Regional Comptroller (or respective designee) is responsible for monthly verification of his/her facility's purchase card charges. Monthly cardholder statement charge totals from the PCB are reconciled with the purchase card payment total assessed the facility by the Central Office Finance Branch. This position is also the coordinator for the settlement of discrepancies or disputes that arise from defective, faulty, undelivered, or returned merchandise, credits for sales tax refunds, and credits for billing errors with the PCB **only** after the cardholder has exhausted all avenues for disputes/discrepancies.

(8) **Supervisory Contract Specialist.** The SCS (or designee) is responsible for providing technical advice regarding acquisition regulations to all staff involved in the purchase card program. The SCS is also the AO for reconciliation purposes for contracting officer cardholders authorized to make acquisitions not exceeding SAT on behalf of other cost centers.

(9) **Chief, FAO.** The Chief, FAO, is responsible for issuing the "Delegation of Cardholder Authority" for the local contracting office. This authority may **not** be further delegated.

(10) **PE.** The PE is responsible for issuing the "Delegation of Cardholder Authority" for Central Office, excluding those requested by COBO.

(11) **Cardholder Monthly Statement.** A monthly statement is available in the PCB's Electronic Access System (PaymentNet), or provided by the local APC, to each cardholder itemizing all purchase card transactions made within the established billing period.

(12) **Transaction Detail by Hierarchy.** A monthly report sent by the APC to each AO listing the transactions and acquisitions of each cardholder under the AO's control.

(13) **Approving Official/Span of Control.** A monthly report sent by the APC to each AO summarizing the number of transactions and totaling the dollar amount for each cardholder under the AO's control.

(14) **Finance Office (Level 3) Summary.** A monthly report for each Bureau financial management office summarizing monthly purchase card activity.

(15) **Authorization Designation form for National APC and/or AOPC.** Prepared by the NAPC when a local APC/alternate submits an e-mail request to add or delete a local APC/alternate. The NAPC signs and submits the form electronically to the PCB, and provides an electronic copy to the local APC/alternate for their records.

(16) **GSA's SmartPay Contract.** Purchase Account form ("cardholder application"): prepared by the APC or alternate when a new card is created in PaymentNet. It is signed by the cardholder when he/she receives the card, and is maintained in the cardholder's file.

(17) **Purchase Card Dispute Form.** When a cardholder discovers a discrepancy with his/her monthly statement (i.e., amount, quantity, etc.), the cardholder must immediately seek to resolve the problem with the vendor. However, if the cardholder is unable to resolve the issue with the vendor within a short period of time, the cardholder should complete a Dispute Form indicating the nature of the problem, and forward it to the Level III APC, who notifies the PCB of the dispute. A copy must also be forwarded along with the cardholder's monthly statement to the AO. The local APC may elect to dispute the cardholder's transaction in PaymentNet, instead.

Note: The cardholder should attempt to dispute sales tax charged erroneously. In accordance with Treasury procedures, the Bureau may pay the sales tax, but cardholders should make an effort to obtain a credit from the vendor.

(18) **Purchase Card Acquisition Form.** Prepared by the cardholder and approved by the AO prior to placing a purchase card order. The form should include a complete description of items to be ordered, quantities, unit prices, line item totals, shipping charges, pre-approval signatures, and other applicable information. This documentation shall be used by the cardholder to reconcile his/her monthly statement.

Note 1: The standard Bureau RP shall not be used for purchase card acquisitions below the micro-purchase threshold.

Note 2: When using the SF-182, "Training Authorization", the Purchase Card Acquisition form is not needed. However, all required information and approvals/signatures normally included on the Purchase Card Acquisition form must be evident on the SF-182.

(19) **Request for Delegation of Cardholder Authority.** The application form to obtain a delegation of authority for cardholders.

(20) **Account Set-Up Information.** The specific information required by the PCB for each cardholder or AO so that an active account can be established for that cardholder.

(21) **Delegation of Cardholder Authority.** After receiving the required training, and prior to making application to the PCB, each prospective cardholder shall obtain specific purchase authority (i.e., delegation of authority) for use of the purchase card. Warranted contracting officers do not need to obtain a separate Delegation of Cardholder Authority letter.

(22) **Single Purchase Limit.** The limitation on the single amount a cardholder is permitted to purchase at one time. An acquisition will not be authorized by the PCB if the acquisition exceeds the cardholder's single purchase limit. This limit (set by the AO) applies to total amount, not per item or line item total. Except for warranted contracting officers or staff with a Trust Fund Warrant for resale items, the single purchase limitation shall be set at the micro-purchase threshold per transaction (not per item), for those cardholders holding a Delegation of Cardholder Authority letter. The single purchase limit cannot exceed the cardholder's Delegation of Cardholder Authority.

(23) **Monthly Cycle Limit.** The monthly purchase limitation (set by the AO) is the total amount that each cardholder may purchase during the monthly billing cycle, and may be reflective of funding limitations. The billing cycle runs from the 14th of one month through the 13th of the following month.

(i) **General Acquisition Procedures**

(1) If the price of an item is unknown before making an acquisition, the cardholder must contact the vendor and obtain the complete pricing, shipping, and delivery information prior to placing the order. When procuring items by telephone or over the counter, the cardholder must inform the vendor that the acquisition is for official U.S. Government purposes and therefore is not subject to state or local sales tax. The Bureau tax identification number (TIN) is 53-0205705; Local Contracting Offices may continue to use their TIN, if available. Either number is acceptable.

(2) Items purchased over the counter should be available immediately. Those supplies ordered by telephone should be delivered as soon as practicable. Vendors should be advised that partial orders and back orders are discouraged. **Note:** Orders placed with a single vendor that originate from multiple locations and are filled and shipped within 48 hours of the order

may be accepted. Cardholders shall obtain confirmation from the vendor that the purchase card will be charged only when shipment is made, and should note on the Purchase Card Acquisition form if the items are shipped from multiple locations.

(3) Cardholders must notify vendors to place their names on the shipping document. When acquisition staff are purchasing on behalf of other CCMs, the cardholder must notify vendors to place the respective Department name on the shipping document.

(4) The vendor should also be informed that due to security concerns, the order may be returned if the shipping document does not contain the above information. The cardholder should direct the vendor delivering to the facility that the purchase card number shall not appear on any of the shipping documents.

(5) For supplies, partial orders and back orders should not be accepted for purchase card acquisitions. In cases where partial orders and/or back orders occur, the cardholder is responsible for ensuring all supplies are received, and future monthly statements are properly reconciled. A copy of the Purchase Card Acquisition form should be used along with the statement and any receipt/packing slip. It is the cardholder's responsibility to resolve any discrepancy, whether in quantity or price.

(6) Vendor selection is made on the basis of a reasonable price or value to the Government. Cardholders shall not split orders to circumvent the micro-purchase competition threshold.

(7) The cardholder/requestor shall prepare a Purchase Card Acquisition form to reflect all detailed item descriptions, unit prices, extended totals, shipping/handling charges, and other applicable information (i.e., pre-approvals, accounting information, signatures). The cardholder obtains the AO's signature and a YREGDOC number on the form prior to placing the order. Any increase in funding must be documented by the AO by initialing price/quantity change(s) prior to placing the order. Once the order is placed, a copy of this form is immediately forwarded to the Warehouse (**prior** to receipt of the order), unless the order is to be picked up by the cardholder. Upon reconciliation of the cardholder's monthly statement, the original copy is forwarded with receipts, packing lists, etc., to the AO, and retained for a period of not less than six (6) years. Additionally, the cardholder is responsible for maintenance of all records, reports, packing slips, or receipts to verify charges against his/her monthly statement until forwarded to the AO. These cardholder records are retained for future review purposes. If the cardholder cannot substantiate the acquisition was necessary and for official use, the institution must address this situation by referring it to the Office of Internal Affairs, and if warranted, requiring reimbursement by the employee.

(j) Delegations/Responsibilities.

(1) **Cardholder.** Each cardholder must take the required training. Once training is completed, the cardholder is submitted for Delegation of Cardholder Authority. After receipt of the Delegation of Cardholder Authority, the APC submits the cardholder's purchase card application to the PCB through PaymentNet. The cardholder is responsible for:

(i) Immediate activation of the card, either by using the PCB's Voice Response Unit, or by having the local APC activate it in PaymentNet.

(ii) Abiding by the Local Contracting Office's administrative control for obtaining authority to place an individual purchase card order.

(iii) Abiding by the acquisition guidelines and documentation requirements as trained. The cardholder shall consult the SCS or designated contracting officer for technical acquisition assistance if questions arise regarding acquisition regulations.

(iv) Maintaining complete records of each order placed, including detailed item description, quantity, unit prices and extended subtotals, shipping/handling charges, and totals on the Purchase Card Acquisition form.

Note: If the merchandise is to be delivered to the Warehouse, the cardholder must send a copy of the form to the Warehouse, prior to delivery.

(v) Maintaining any itemized receipts and any packing slips.

(vi) Documenting any follow-up action with vendors concerning undelivered orders.

(vii) Accounting/Budget staff are precluded for a delegation due to GAO Manual of Financial Management-required separation of duties between ordering, receiving, and paying for goods and services.

(viii) Cardholder Reconciliation Procedures:

The statement is available to the cardholders each month in the PCB's electronic access system (PaymentNet) or from the Local APC. The cardholder shall perform the following duties:

(1) Mark the statement as received with the date of receipt.

(2) Reconcile the Purchase Card Acquisition form with the receipt/packing slip and verify each item, quantity, price, line item total, and shipping/handling charges. Make pen/ pencil corrections to any discrepancies between the Purchase Card Acquisition form and the supporting documents. This information is then reconciled with the monthly statement to ensure the total charges reported on the statement are correct.

(3) On the purchase card statement, assign the correct accounting classification information to each expenditure **only** if the information is different from the cardholder's default accounting code.

(4) Sign and date the statement, attach all Purchase Card Acquisition forms and itemized receipts, invoices, packing slips, and any other additional documentation, and forward to the AO within five working days after statement is received.

(5) If there is a discrepancy and it cannot be resolved with the vendor, the cardholder is to immediately contact the APC and complete a Dispute Form and forward it to the APC, and aid in any investigation of disputed charges.

(6) Return the purchase card to the APC upon termination of employment or demand made by the AO or APC.

(7) Be responsible for proper use of the purchase card. Improper use of the purchase card may result in disciplinary action.

Note: Cardholder accounts without any transactions for six (6) consecutive months will be automatically cancelled by the Level 1 APC unless the local APC has suspended the card.

(2) **Local Agency Program Coordinator (APC) (Level 3).** This APC shall oversee the technical and administrative aspects of the purchase card program at each respective facility. The APC (or alternate) shall serve as a coordinator between the PCB, AOs, and cardholders at each facility. The APC shall ensure all requests for alternate APCs or new APCs, or for deletions, are submitted to the Level 1 APC, who will prepare the Authorization Designation form and submit it to the PCB.

The local APC receives all applications for new cardholders, and requests for cancellations, changes to limits, etc., and processes the requests and submits cardholder applications through PaymentNet. The APC's responsibilities include:

- (i) Verifying that AOs have received all relevant purchase card training, and maintaining documentation of the AO's training.
- (ii) Maintaining an electronic copy of the following documentation for each cardholder at their facility: Cardholder applications, signed Delegation of Authority letter, Procurement Integrity certification, and evidence that purchase card training (to include procurement ethics, green procurement, Section 508 training, and biennial refresher training) has been completed. Responsible for ensuring documentation is kept on file until the cardholder is no longer affiliated with that location.
- (iii) Ensuring a default accounting classification code is included on each cardholder application in PaymentNet, in accordance with designated accounting procedures, including project code and sub-object. The exact entry on the application shall be inserted in block entitled, "Chart of Accounts," "Bureau," "Bureau Accounting Classification Code."
- (iv) Ensuring each application has the approved single purchase limit (not to exceed the Cardholder Delegation of Authority), and the monthly cycle limit, as specified by the AO. Changes to the cardholder's single or monthly cycle limit must be communicated to the respective AO and cardholder.
- (v) Keeping an updated master list of cardholders for each AO (including single purchase limits and monthly cycle limits).
- (vi) Collecting, cancelling, and appropriately disposing (mutilating) purchase cards upon notification of the cardholder's transfer to a different office or department (and use of a purchase card will not be authorized), or separation from the Bureau.
- (vii) Providing written and/or electronic information on disputes to the PCB.

(3) **Approving Official (AO).** Once the local APC has verified completion of training, each CCM or his/her designee may be designated as an AO. An AO may not be organizationally subordinate to his/her cardholders and shall not be related to his/her cardholders. Should an AO desire to become a cardholder, a separate AO must be designated within the organization. AO responsibilities include:

- (i) Satisfying the training requirements.
- (ii) Nominating cardholders and initiating issuance of purchase cards through the APC. This includes providing a copy of the Cardholders Delegation Authority letter to the APC. The AO ensures that the number of cardholders under his/her control is not so excessive that it unnecessarily exposes the Bureau to waste, fraud, and abuse; the AO should be responsible for no more than 300 transactions per review cycle.
 - (iii) Specifying the single purchase limit and monthly cycle limit for all cardholders within his/her responsibility.
- (iv) Tracking budgetary restraints in accordance with national policy and local supplements, and authorizing individual acquisitions on the Purchase Card Acquisition form for cardholders under his/her responsibility. Estimate monthly accruals and submit to Financial Management, when applicable. (In cases when the AO is the cardholder, the budgetary duties shall remain the CCM's responsibility.)
- (v) Pre-approving all cardholder acquisitions.
- (vi) Obtaining/receiving the monthly statement for each cardholder under his/her responsibility, and taking the following steps:
 - (1) Reviewing each cardholder's statement and accompanying documentation to determine if the acquisitions are appropriate and necessary Government acquisitions, and are in accordance with acquisition guidelines;
 - (2) Verifying the charges appearing on the cardholder's monthly statement and the account classification codes used. If different from the default code, including the appropriate code for re-posting purposes;
 - (3) Signing each monthly statement as the AO and forwarding to the Financial Management Office as quickly as possible after receipt of statement.
- (vii) Once the monthly purchase card statement is reconciled by the cardholder, the AO shall verify reconciliation and approve, sign, and date the cardholder's monthly purchase card statements. Files containing cardholder monthly statements (including purchase card acquisition form, packing slip/invoice, and any other backup documentation) and the AO's accounting summary shall be maintained by the CCM or designee.

(viii) Receiving the Monthly AO Summary, which is a composite of all charges by the individual cardholders assigned to each AO. The CCM (if different from the AO) shall be responsible for keeping the “official” purchase card files for review purposes. The CCM should consider that Cardholder numbers are included in these files and should be appropriately secured. AOs will be responsible for keeping their own copies of purchase card statement summaries on file, as well as a copy of each individual cardholder’s statements (with attachments) for six years. The attachments will include:

- Monthly AO account summary statements (Transaction Detail by Hierarchy Report);
- Approving Official/Span of Control report;
- Monthly cardholder statements;
- Purchase Card Acquisition forms listing items acquired;
- Receipt, invoice, or packing list that includes pricing; and
- Any backup documentation necessary.

(ix) Authorizing the PCB, through the APC, to accept deviations from the pre-established single purchase and/or monthly cycle dollar limits in emergency situations.

(4) **Financial Management Staff.** Responsibilities of the Financial Management staff include the following:

- (i) Reconcile monthly AO’s Summary Report and/or cardholder’s monthly statements to the charges made by the Central Office Finance Branch in FMIS.
- (ii) Assist in resolution of disputes regarding purchase card charges, and report to the APC.

(5) **Supervisory Contract Specialist (or other designated contracting staff).** The SCS serves as technical acquisition advisor to cardholders, AOs, and others involved in the program. The SCS shall also be the AO for reconciliation purposes for contracting officer cardholders, making purchases between the micro-purchase threshold and SAT on behalf of other cost centers.

Note: The Trust Fund Supervisor shall be the AO for Trust Fund staff cardholders.

(6) **Finance Branch.** Responsibilities of the Central Office Finance Branch include making timely payments for each facility and then billing each facility by using FMIS.

(7) **Warehouse Staff.** The following procedures shall be implemented and included in the local institution supplement addressing receiving procedures:

- (i) Upon receipt of a Purchase Card Acquisition form, the Warehouse staff establishes and maintains the form in a separate, alphabetical file, by vendor name.
 - (ii) The Purchase Card Acquisition form is used in the identification of deliveries. Warehouse staff are responsible for identification of the order and notifying the appropriate staff member for order pick-up.
 - (iii) The Warehouse staff establishes and maintains a Closed Purchase Card Acquisition file.
- (k) Personnel designated to become cardholders or AOs must receive procurement ethics, green procurement, Section 508, and purchase card training, and must complete and submit the appropriate Procurement Integrity certification to the Level 3 APC. Cardholders shall obtain a Delegation of Cardholder Authority prior to being issued the purchase card. Warranted contracting officers are not required to obtain a separate Delegation of Cardholder Authority. All cardholders (including warranted contracting officers), AOs, and APCs are required to complete purchase card refresher training biennially.
- (l) Proposed cardholders and AOs may be credited for the ethics portion of the training if they have completed the CCM self-study course, the COR course, or Procurement Integrity/Ethics training. At a minimum, purchase card training shall be completed by viewing the relevant Government Purchase Card training module on BOP-Learn. Upon completion of the ethics, green procurement, Section 508, and purchase card training, the APC at the institution level, national training centers, or Regional Comptroller must request cardholder authority for the proposed cardholder from the Chief, FAO.
- (m) Staff transferring to a new office or department (where they will not be a cardholder), different facility, or otherwise separating from the Bureau must surrender their purchase card to the local APC, who will immediately destroy the card and close the account.
- (n) Contracting staff shall be the only individuals authorized to process purchase card requirements for services requiring compliance with the Service Contract Labor Standards; and are responsible for ensuring all requirements of FAR 22 are met.
- (o) Prohibited items, disallowed acquisitions, and regulated acquisitions:

(1) The purchase card shall not, under any circumstances, be used for: cash advances, rental or lease of land or buildings, travel, major telecommunications or complete telephone systems (e.g., PBX for staff or inmates), perimeter intrusion detection systems, door and gate controls, alarms, or any personal items (i.e., not related to the performance of a staff member's duties).

(2) Card Holders may enroll the Government, at no additional cost, in vendor reward/discount programs; however, any rewards (points, dollars, etc.) accrued through the use of the GPC must be used exclusively for the Government's (i.e., not the individual employee's) benefit.

(3) Disallowed acquisitions under the purchase card include: gift cards, meals, lodging, uniform allowance items, rental or lease of vehicles for travel purposes, construction services exceeding \$2,000, incentive awards (except for those authorized by local employee services offices), trinkets, advisory and assistance services, portable devices (i.e., laptops, tablets, notebook), lethal and non-lethal weapons, and ammunition.

(4) Regulated Acquisitions: The use of the purchase card is limited in the following ways:

(i) Once advance approvals and/or other requirements have been received or met, the following may be purchased with a purchase card: paid advertisements, temporary services, lease or purchase of information technology (IT) software, and computer equipment (e.g., printers, monitors, internal modems, repairs, etc.). See BPAP 7.105-71(c) for required approvals and the **Property Management Manual** for a list of controlled items.

(ii) Controlled property as identified in the **Property Management Manual** may be procured with a purchase card. However, these items must:

- Be received in the Warehouse;
- Be assigned Federal Prison System (FPS) numbers; and
- Include a receiving report number on the Purchase Card Acquisition form.

(iii) When placing orders against a mandatory contract in which the vendor does not accept the purchase card or the terms and conditions of the contract do not allow for the use of the purchase card as a payment method.

(p) Once the monthly purchase card statement is reconciled by the cardholder, the AO shall verify reconciliation and approve the cardholder's monthly purchase card statements. Files containing cardholder monthly statements (including purchase card acquisition form, packing

slip/invoice that includes pricing and any other backup documentation) and the AO's accounting summary shall be maintained by the Approving Official.

(q) Cases of waste, fraud, or abuse must be immediately reported according to the Program Statement **Standards of Employee Conduct**.

(r) The overall responsibility for the integrity of the purchase card program is with the individual cardholder. However, AOs shall ensure each acquisition is in accordance with policy, and in the best interest of the Government.

(s) Local APCs shall conduct an annual review of each AO's purchase card files to ensure acquisitions comply with policy (statement reconciliation, mandatory sources, prohibited or personal use items, conformance to the cost center's mission, etc.). Reviews shall also consider any evidence that someone other than the cardholder is making acquisitions with the purchase card. Local APCs shall maintain an electronic copy of the review, identifying deficiencies found, required corrective actions taken, and, if applicable, any follow-up actions.

(t) The scope of each annual review shall consist of the following for each AO:

(1) All cardholders under the AO shall be reviewed;

(2) A minimum of 150 transactions per AO; or

(3) If 150 transactions are not available, then six (6) monthly statements for each AO;

(4) All reviews shall be completed by November 30 for the previous fiscal year.

(u) The FAO shall biennially review a random sample of AOs purchase card files at each local contracting office to determine program compliance. Additionally, the FAO shall review the findings of the local APC's reviews (see paragraph "s" above) to ensure compliance. Written reports of the reviews identifying deficiencies, any corrective measures, and follow-up action (if applicable) shall be prepared and forwarded to the BA or designee, with a courtesy copy to the Chief, Procurement Policy Section, and the Level 1 APC no later than 60 days from the date of the review.

(v) Cardholders shall safeguard the purchase card and account number at all times. All necessary precautions shall be taken to ensure that under no circumstances are inmates to have access to a card number. Cardholders must not allow anyone to use their cards or account

numbers. Any intentional violation or gross negligence of this security shall be reported to according to the Program Statement **Standards of Employee Conduct**.

Lost/Stolen/Compromised Cards: The Bureau will not be liable for any unauthorized use of the purchase card. Unauthorized use is defined as use of a purchase card by a person other than the cardholder, who does not have actual, implied, or apparent authority for such use, and from which the cardholder receives no benefit.

If a card is lost or stolen, the cardholder must report it immediately to the PCB via telephone, and to the AO and local APC. The PCB's toll-free customer service number is located on the back of the card (The PCB or the APC will change the status of the card to "lost/stolen" in PaymentNet, and a new card will be issued automatically.) The cardholder will not be personally responsible for charges on a lost or stolen card if reported properly.

(w) AOs shall maintain records of purchase card acquisitions for a period of not less than six years. Records are to be maintained in a systematic and chronological order to facilitate review. Each file shall include copies of the following:

- Monthly AO account summary statements (Transaction Detail by Hierarchy Report);
- Approving Official/Span of Control Report;
- Monthly cardholder statements;
- Purchase Card Acquisition forms listing items acquired;
- Receipt, invoice, or packing list that includes pricing; and
- Any backup documentation necessary (e.g., "Department of Justice Residency Requirement Certification Form" completed by vendor).

AOs shall ensure statements are reconciled monthly to include verifying activity on all cardholders, supplies, or services acquired met the Bureau's minimum needs, were not for personal items, and conformed to the cost center's mission.

NOTICE: The DOJ Inspector General has the right to perform data mining on all purchase card transactions against requirements contracts to evaluate the effectiveness of cardholder training.

13.302-70 – Purchase Order Preparation – General

(a) Approval thresholds listed in BPAP 6 apply to all acquisitions processed under SAP. Contracting officers shall use an abbreviated justification format pursuant to FAR 13.

(b) A justification is not required for AbilityOne or UNICOR products purchased from GSA.

(c) The following forms shall be used to acquire supplies/services: OF-347 (Order for Supplies or Services), SF-1449, (Solicitation/Contract/Order for Commercial Items, reference BPAP 12.204), approved Trust Fund Form, or any GSA electronic order forms, providing the contracting officer incorporates the accounting, receiving, and payment information and contracting officer's signature . The Chief of the Contracting Office may approve other forms. Contracting officers shall complete all applicable purchase/delivery order data elements on the form used.

(d) The following special procedures/notices apply to all orders for ammunition, weapons, and other controlled substances. (These special procedures/notices also apply to purchase card acquisitions for security devices or controlled substances.):

(1) **All Ammunition/Weapons/Security Devices.** The contracting officer shall include the statement in the "remarks column" of the purchase/delivery order when ordering any ammunition, weapons, or security devices (i.e., handcuffs and locks), along with any additional instructions concerning shipment:

"SECURITY HAZARD TO BE DELIVERED TO THE SECURITY OFFICER ONLY"

(2) **Controlled Substance/Dangerous Substances.** Orders for all controlled substances shall not list any other items. All orders for controlled substances, except orders issued electronically against the Pharmaceutical Prime Vendor (PPV) contract, shall bear the following statement,

"Instructions to consignor: Controlled substances and/or dangerous substances for a prison facility. To be packed entirely separate from other items, shipped by certified mail or overnight carrier to the (insert the name of the CCM or designee and the address and the phone number of the facility), who shall be notified in advance concerning the date of this shipment."

(3) **Delivery of Medications.** The contracting officer shall include a statement similar to the following in the "remarks column" of the purchase/delivery order when ordering any medications, except orders issued electronically against the PPV contract, along with any additional instructions concerning shipment:

"SECURITY HAZARD, DELIVER TO HEALTH SERVICES STAFF ONLY"

Part 14. Sealed Bidding

SUBPART 14.4 OPENING OF BIDS AND AWARD OF CONTRACT

14.404-1 – Cancellation of Invitations After Bid Opening

The authority to approve cancellation of invitations for bid after opening and the authority to approve the acquisition after cancellation as provided in FAR 14.404-1 is delegated to the Bureau Procurement Executive. Requests to cancel solicitations after bid opening (when at least one bid was received) shall be routed through the applicable Head of the Program Office through the Chief of the Contracting Office to the Procurement Executive for approval.

14.404-3 – Notice to Bidders of Rejection of All Bids

Upon determination by the Chief of the Contracting Office that rejection of all bids is in the best interest of the Bureau, contracting officers shall notify each bidder in writing using the SF-30. The notification shall include the reason for rejection of all bids.

14.407 – Mistakes in bids

Requests to allow corrections of mistakes in bids will be fully documented and routed through the Chief of the Contracting Office for determination. The authority to make such a determination shall not be further delegated. Additionally, the Chief of the Contracting Office shall obtain concurrence from CLB prior to issuance of the determination. Copies shall be made available to the Bureau Procurement Executive.

Part 15. Contracting By Negotiation

SUBPART 15.2 SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

15.208 – Submission, Modification, Revision, and Withdrawal of Proposals

The use of electronic offers is mandatory.

SUBPART 15.3 SOURCE SELECTION

15.303 – Responsibilities

Contracting officers are the source selection authority (SSA) for all acquisitions, except for the following acquisitions, where the Director has designated other individuals to serve as the SSA for a particular group of acquisitions:

- (a) For Architect and Engineering contracts for existing institutions, the SSA shall be the Chief, Facilities Management.
- (b) For Architect and Engineering contracts for the Central Office, the SSA shall be the Senior Deputy Assistant Director for Administration assigned responsibility for the Capacity Planning and Construction Branch.

15.304 - Evaluation Factors and Significant Subfactors

- (a) Technical evaluation factors shall be recommended by the Program Office requiring the service or supply. Contracting officers shall ensure the factors are not unduly restrictive and may reject them if it appears competition may be limited if used.
- (b) Past Performance as an evaluation factor shall be included in all competitively negotiated procurements. The relative importance of past performance shall be determined by the Chief of Contracting Office or designee.
- (c) The Determination and Findings (D&F) to eliminate past performance as an evaluation factor must have the approval of the Chief of the Contracting Office or designee. The Chief of the Contracting Office shall provide a copy of the approved D&F to the Bureau Procurement Executive.

15.305-70 – Proposal Evaluation Panel

(a) In cases when multiple offers are received the Head of the Program Office or the SSA, as appropriate, shall appoint at least two members who are technically capable of evaluating proposals to serve on an evaluation panel and designate the Chairperson.

(b) The Chairperson of the technical evaluation panel shall convene the panel, provide detailed instructions for completion of evaluations, ensure individual evaluations are completed by each panel member pursuant to the solicitation's stated evaluation criteria, and ensure individual evaluations are documented to include supporting rationale for assignment of any ratings. Following completion of individual panel evaluations, the Chairperson shall conduct consensus meetings with all panel members and provide the contracting officer with a summary of the evaluation (including individual and consensus evaluations/scoresheets, listing of strengths, weaknesses, and any deficiencies that require discussions with offerors, etc.).

15.305-71 – Cancellation of Request for Proposals After Closing Date

Requests to cancel solicitations after closing (when at least one proposal was received) shall be routed through the applicable Head of the Program Office to the Chief of the Contracting Office for approval. Copies shall be made available to the Bureau Procurement Executive.

15.306 – Exchanges with Offerors After Receipt of Proposals

(a) Mistakes in an offer may be resolved during communications or discussions.

(b) However, if communications or discussions are not initiated by the contracting officer, but an offeror requests permission to correct a mistake in its proposal after the closing date and time, but prior to award, the request shall be forwarded to the Chief of the Contracting Office for a determination. Contracting officers shall forward all available information/documentation which supports the existence of a mistake together with the intended proposal.

(c) The Chief of the Contracting Office shall make a written determination permitting correction of mistakes in proposals if appropriate. Where appropriate, the Chief of the Contracting Office may obtain guidance from CLB prior to issuance of the determination. Copies shall be made available to the Bureau Procurement Executive.

SUBPART 15.5 PREAWARD, AWARD, AND POSTAWARD NOTIFICATIONS, PROTESTS AND MISTAKES

15.504-70 – Award to Successful Offeror

Privatization Contracts Only. After contract award, the Council of Prison Locals President will be notified and provided an electronic copy of the full-text contract, in accordance with appropriate laws, rules, and regulations.

SUBPART 15.6 UNSOLICITED PROPOSALS

15.606 – Agency Procedures

The agency authority to establish procedures for receiving, reviewing and evaluating, and timely disposing of unsolicited proposals, consistent with the requirements of FAR 15.6 and this subpart, is the Chief, PPS.

15.606-1 – Receipt and Initial Review

The agency contact point shall make an initial review determination within 14 calendar days after receiving a proposal.

If the proposal does not meet the requirements of FAR 15.606-1(a), the agency contact point shall return the proposal within three calendar days after making the determination. The offeror shall be informed, in writing, of the reasons for returning the proposal.

15.606-2 – Evaluation

The agency contact point will coordinate comprehensive evaluations. Comprehensive evaluations should be completed within 60 calendar days after making the initial review determination. If additional time is needed, then the agency contact point shall advise the offeror accordingly and provide a new evaluation completion date. The evaluators shall neither reproduce nor disseminate the proposal without the consent of the agency contact point. If the evaluators require additional information from the offeror, the evaluators shall convey this request to the agency contact point. The evaluators shall not directly contact the proposal originator.

Part 16. Types of Contracts

SUBPART 16.3 COST REIMBURSEMENT CONTRACTS

16.301-3 – Limitations

A written determination that no other contract type is suitable shall be prepared by the contracting officer and submitted through the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

SUBPART 16.5 INDEFINITE-DELIVERY CONTRACTS

16.504 – Indefinite-Quantity Contracts

Solicitations that may result in multiple-award, indefinite-delivery/indefinite-quantity contracts shall include the name, address, telephone number, fax number, and e-mail address of the Bureau Agency Task Order and Delivery Order Ombudsman. The Bureau Competition Advocate is the Ombudsman for task and delivery order contracts.

SUBPART 16.6 TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

16.601 – Time-and-Material Contracts

A written determination that no other contract type is suitable shall be prepared by the contracting officer and submitted through the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

16.602 – Labor-Hour Contracts

A written determination that no other contract type is suitable shall be prepared by the contracting officer and submitted through the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

16.603 – Letter Contracts

A written determination that no other contract type is suitable shall be prepared by the contracting officer and submitted through the Chief of the Contracting Office to the Bureau Procurement Executive. If adequate rationale has been provided to support use of a letter

contract, it will be forwarded to the HCA for approval following review by CLB. Approval must be obtained prior to execution of a Letter Contract.

Part 17. Special Contracting Methods

SUBPART 17.2 OPTIONS

17.207 – Exercise of Options

(a) Contracting officers must follow all procedures under FAR Subpart 9.1 prior to exercising an option only when known problems exist with a contractor. The problems must be significant enough, in the contracting officer's determination, to potentially impact performance under the new option. The contracting officer must document the following in the option period file: whether or not a Part 9 determination was conducted; and, if yes, all findings in relation to the determination. The documentation must address any concerns related to the contractor continuing or not continuing to provide the best value to the Government. This information can be a part of the document that contains all FAR Part 17 considerations as well, or it can be its own document in the file. The contracting officer should consult with CLB coordinated through the Chief of the Contracting Office if he/she determines to follow the relevant procedures under FAR Subpart 9.1.

(b) Uses of FAR Clause 52.217-8, Option to Extend Services include:

(1) Contracting officers must continue to include FAR Clause 52.217-8, Option to Extend Services, in all service contracts when the inclusion of options is appropriate (whether using sole source or competitive procedures).

(2) When the solicitation includes 52.217-8, the Contracting Officer must ensure the pricing schedule allows for a line item so this clause can be priced by the offeror and properly evaluated.

(3) Offerors must submit the proposed price for 52.217-8 along with all other option prices (52.217-9), as prescribed in Section B, Supplies or Services and Prices/Costs, of the solicitation.

(4) The price for exercising 52.217-8 must be evaluated as part of the total price. Each solicitation for "other than commercial items" must include the following language in Section M: "The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement."

(5) In the event that a contract includes FAR Clause 52.217-8, Option to Extend Services, and the option pricing was not evaluated before contract award, a properly approved justification is required prior to exercising the option.

SUBPART 17.5 INTERAGENCY ACQUISITIONS

17.500 – Scope of Subpart

(a) In order to meet its mission, the Bureau acquires and/or provides services to and from other Federal agencies, the military, and state and local governments. This is accomplished utilizing a variety of contract types, including agreements. All agreements shall use an electronic numbering and log system which contains information that allows for easy reference of the documents (see BPAP 4.802-71).

(b) The following describes the different types of agreements and prescribes policies and procedures for executing them. Agreements must comply with all appropriations statutes and regulations, including the Anti-Deficiency Act. Agreements shall be reviewed annually on the anniversary date to determine continuing need, sufficient funding, and appropriate approvals.

17.501 – General

(a) **Interagency Agreement (IAA).** IAAs are formal agreements with other Federal agencies for supplies and/or services provided by one supplier agency to one or more receiving agencies. The BOP must have the authority (e.g., of the Economy Act, 31 U.S.C. § 1535) to enter into an IAA. Federal agencies may also use other agreement forms known as Interagency Agreement 7600a and 7600b for acquiring supplies and services. IAAs define the responsibilities of the parties to the agreement to include financial responsibilities for services provided in the agreement. The total duration of the agreement may be for multiple years. The Director has delegated authority to the Chief of the Contracting Office or designee to sign all IAAs.

(b) **Interservice Support Agreement (ISA).** The military equivalent of an IAA, an ISA is a formal agreement that defines recurring services to be provided by one supplying agency (usually a military organization) to one or more receiving agencies and defines the basis for calculating reimbursement charges for the services. Bureau can enter into an ISA with a military service under authority of the Economy Act, 31 U.S.C. § 1535. An ISA may be in effect for multiple years. The Director has delegated authority to the Chief of the Contracting Office or designee to sign all ISAs.

(c) **Reimbursement Agreement (RA).** An agreement between one or more Department of Justice (DOJ) organizations only (DOJ, Justice Management Division, U.S. Marshals, etc.) for supplies and/or services provided by one or more DOJ supplying organizations to one or more DOJ receiving organizations. The performance period for this type of agreement cannot extend beyond the fiscal year in which the agreement was executed. Most RAs are paid out of appropriated funds and must be renewed annually. The Director has delegated authority to sign RAs to the Chief of the Contracting Office or designee.

17.501-70 – Review Thresholds

For Central Office Agreements, prior to execution of the agreement, a review of the file must be conducted by the Section Chief or designee. All other agreements exceeding the SAT must be reviewed at one level above the contracting officer.

17.502 - General

Minimum Requirements. Although agreements may vary in format, all agreements under the Economy Act that involve the obligation of Bureau funds shall include the following provisions:

(a) **Authority.** The authority is the Federal statute or regulation authorizing the Bureau to enter into a particular agreement. Authorities include the Economy Act and the Government Employees Training Act. The Economy Act should be cited as the authorizing statute only when no other more specific authorizing statute exists.

(b) **Estimated Amount.** To limit the Bureau's financial exposure, the agreement must provide a "not to exceed" total estimated cost or a method to calculate a "not to exceed" total estimated cost.

(c) **Method of Billing and Payment.** A description of invoice and payment procedures must be included, and identify any allowable and/or unallowable costs, addresses, accounting information, and billing dates.

(d) **Anti-Deficiency Act.** In recognition of long-established appropriations law, the agreement must include the following: "Nothing contained herein shall be construed to violate the Anti-Deficiency Act, 31 U.S.C. §1341, by obligating the Federal Bureau of Prisons to any expenditure or obligation of funds in excess or in advance of appropriations."

(e) **Period of Agreement.** The term of the agreement shall be identified and shall not exceed 5 calendar years.

(f) **Modification.** Modifications may be initiated by any party to the agreement and shall be mutually agreed upon in writing, except for terminations.

(g) **Termination.** Either party may terminate with appropriate notification. Agreements shall specify the notification time frame.

(h) **Liability.** The agreement shall include provisions to clarify that each party is responsible for any liability arising from its own conduct. The agreement may include provisions that each party shall cooperate with the other party in the investigation and resolution of claims arising from the agreement; and that neither party shall be responsible for delays or failures in performance from acts beyond the reasonable control of the party (e.g., a natural or man-made disaster). The agreement may not include any provision requiring the Bureau to indemnify any other party.

17.503 – Ordering Procedures

(a) To ensure that it is in the best interest of the Government to obtain the supplies and/or services from another Federal agency rather than directly contracting with a private source, all Economy Act agreements shall be supported by a D&F. The D&F shall be prepared by the program office and signed by the head of the program office and the Chief of the Contracting Office or designee.

(b) Consideration must be given to FAR 7.3, Contractor versus Government Performance requirements, and OMB Circular A-76, in determining that an IAA is in the best interest of the Government.

SUBPART 17.7 AGREEMENTS UNDER OTHER STATUTES

17.700-70 – Definitions and Signature Authority

(a) **Memorandum of Understanding (MOU).**

(1) An MOU is a formal agreement that defines areas of mutual understanding for certain responsibilities between two or more parties, usually the trading of services between the parties; an MOU does not involve the obligation of funds between any of the parties. The definition of MOU includes “Gratuitous Service Agreements.” An MOU may be in effect for multiple years.

(2) Signature authority for a national MOU (affecting more than one location) requires review by the Procurement Management Branch (PMB) and the concurrence of the appropriate Assistant Director, depending upon subject matter, prior to signature by the Chief of the Contracting Office or designee. In some cases, it may be preferable for the Director to sign some national agreements. Local MOUs (affecting only one institution) require the concurrence of the Regional Director and the review and signature by the Chief, FAO. MOUs further supplemented by another agreement (IGA or IAA) that details the fund and billing information shall be forwarded to the Chief of Contracting Office or designee for signature. MOUs established pursuant to the Program Statements **Correctional Services Procedures Manual** and **Correctional Services Manual** may be executed by the CEO. MOUs established pursuant to IT policies for information sharing may be executed by the Chief Information Officer (CIO).

(b) **Memorandum of Agreement (MOA).** An MOA is a formal agreement (usually initiated by the military) that defines general areas of responsibility and understanding between two or more parties. An MOA may include general financial obligations and a reference to a supplemental IAA and ISA that will detail specific services and define the basis for reimbursement. The military services often use MOAs and MOUs interchangeably. An MOA may be in effect for multiple years. The Director has delegated authority to sign MOAs to the Chief of the Contracting Office or designee. Local MOAs (affecting only one institution) require the concurrence of the Regional Director prior to the review, approval, and signature by the Chief, FAO.

(c) **Inter-Governmental Agreement (IGA).**

(1) Agreements between the Bureau and one or more governments other than the Federal Government (states, territories, commonwealths, counties, cities) for supplies and/or services provided by any of the parties to the other parties, either in exchange for appropriate reimbursement or for services provided by the other parties. The Bureau may enter IGAs to house Federal prisoners in state or local facilities using an IGA under the authority of 18 U.S.C. § 4002. The Bureau may provide housing for certain state inmates (state boarders) using an IGA pursuant to 18 U.S.C. § 5003. The authorizing statute determines the length of time an IGA may be in effect; e.g., an IGA with a state or local government to house Bureau inmates pursuant to 18 U.S.C. § 4002 cannot exceed three years, while a state boarder may be housed by Bureau under 18 U.S.C. § 5003 for multiple years. The agreements must comply with all applicable appropriations laws and regulations, including the Anti-Deficiency Act, 31 U.S.C. § 1341. The costs for IGAs are governed by OMB Circular A-87. The Director has delegated authority to sign IGAs authorized under 18 U.S.C. to the Chief of the Contracting Office or designee.

(2) For IGAs other than those under Title 18 (e.g., state licensing agreements) signatory authority has been delegated to the Chief, FAO, or as otherwise determined by the Bureau Procurement Executive. For such actions, specific authority must be identified and referenced in the agreement.

(d) **Occupancy Agreement (OA).** An OA is a complete, two-part document which includes a concise statement of the customer agency's financial terms and conditions for occupying GSA controlled space and is signed by both parties. An OA is not a lease, nor is it a document for detailing building rules and regulations. The Chief of the Contracting Office or designee has authority to sign these agreements. The OA requires signature from Bureau Program, Acquisition, and GSA approving officials.

(1) The first part of the document includes the signed agreement, detailing the customer's requirements; i.e., square footage (in both usable and rentable terms), parking, type of space, building name (street address, city and state), period of the term (in months including a commencement date), annual rental rate per square foot, joint use charges, any additional or reduced services, any forced moved costs to relocate, information regarding the type of space, and any tenant-specific clauses.

(2) The second part of the document provides a preview of the customer's Rent Bill and summarizes all the lump sum payments associated with this requirement. It also presents a recapitulation of the financial terms and conditions.

(e) The following shall be included in all agreements issued pursuant to statutes other than the Economy Act:

(1) Authority. The agreement must include a reference to the Federal statute authorizing the agreement, which will vary with the subject matter of the agreement.

(2) Period of Agreement. The term of the agreement shall be identified. Indefinite terms of period of performance shall not be used.

(3) Liability. Normally, the agreement will include provisions to clarify that each party is responsible for any liability arising from its own conduct; that each party shall cooperate with the other party in the investigation and resolution of claims arising from the agreement; and that neither party shall be responsible for delays or failures in performance from acts beyond the reasonable control of the party; e.g., a natural or man-made disaster.

(4) Modification. Modifications may be initiated by any party to the agreement and shall be mutually agreed upon in writing, except for terminations.

(5) Termination. Either party may terminate with appropriate notification. Agreements shall specify the notification time frame.

Part 18. Emergency Acquisitions

SUBPART 18.2 EMERGENCY ACQUISITION FLEXIBILITIES

18.201 – Contingency Operation

- (a) If a pandemic or other mission-critical emergency is declared, either nationally or by the Bureau, acquisition staff will be notified of any changes to the micro-purchase threshold, SAT, and/or increase in purchase card thresholds.
- (b) The Bureau Level I APC, or designated alternate, will be responsible for notifying the card-issuing bank of any threshold increases to individual purchase card holder accounts.

Part 19. Small Business Programs

SUBPART 19.5 SET-ASIDES FOR SMALL BUSINESS

19.501 – General

Prior to initiating any procurement action greater than the micro-purchase threshold, the contracting officer shall:

- (a) Consider a set-aside for any one of the socio-economic programs before utilizing a total small business set-aside. To the maximum extent practicable, acquisition staff should prioritize, based on market research and any other significant considerations related to the requirement (such as location), those specific socioeconomic programs where the Bureau may be falling short of its goals.
- (b) Document the file justifying an unrestricted acquisition between the micro-purchase threshold and SAT.
- (c) Include a D&F in the contract file, when a total small business set-aside is used, justifying why a set-aside under FAR 19.8, FAR 19.13, FAR 19.14 or 19.15 was not utilized for acquisitions exceeding the SAT.
- (d) Complete the “DOJ SB Review Form,” along with supporting documentation, and submit through the Chief of the Contracting Office to the Bureau SBS/designee for review of all unrestricted acquisitions exceeding the SAT. The “DOJ SB Review Form” is not applicable to privatized corrections, residential reentry, comprehensive medical, and utility services.
- (e) For unrestricted acquisitions exceeding \$2,500,000, the “DOJ SB Review Form” and all supporting documentation shall be submitted to the Bureau SBS/designee for review through the Chief of the Contracting Office or designee. The Bureau SBS shall submit the documentation to the DOJ Office of Small and Disadvantaged Business Utilization (OSDBU) for review.

SUBPART 19.7 THE SMALL BUSINESS SUBCONTRACTING PROGRAM

19.705-2 – Determining the Need for a Subcontracting Plan

A determination that a particular contract has no subcontracting possibilities must be made in writing and approved at One Level above the contracting officer.

19.705-4 – Reviewing and Approving the Subcontracting Plan

(a) Contracting officers shall ensure proposed subcontracting plans are prepared in consideration of established DOJ and Bureau Small Business Goals and provide small businesses with the maximum practicable opportunity to participate in the contract.

(b) Prior to acceptance by the contracting officer, all subcontracting plans must be reviewed and approved by the Bureau SBS, or designee. The contracting officer will submit the proposed Subcontracting Plan to the Bureau SBS, who will notify the contracting officer of approval or disapproval at the Bureau level within 5 calendar days of submission

19.705-6 – Post Award Responsibilities of the Contracting Officer

(a) Once the contracting officer accepts the Subcontracting Plan, the contracting officer shall incorporate it into the contract.

(b) The Electronic Subcontracting Reporting System (eSRS) requires the electronic submission of subcontracting reports, Individual Subcontracting Report (ISR) and Summary Subcontract Report (SSR) by prime contractors. Contracting officers must access the ISR at <http://www.esrs.gov>. Contracting officers shall review the ISR for completeness by acknowledging receipt of or rejecting the ISR within 15 days (30 days for residential reentry contracts). Contracting officers shall review the ISRs against the approved subcontracting plan as required by 52.219-9 and accepted/rejected within 30 days. For residential reentry contracts, accepted/rejected within 60 days.

(c) If the contractor is unable to meet small business goals and fails to demonstrate a good faith effort, the contracting officer shall follow the procedures outlined in FAR 19.705-7, Liquidated Damages. The contract file shall be documented accordingly.

SUBPART 19.8 CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8[A] PROGRAM)

19.800-70 – General

(a) When entering into any 8(a) contract using the expedited procedures allowed by SBA, the acquisition shall comply with the current Partnership Agreement between SBA and DOJ authorizing these procedures.

(b) Prior to issuance of a purchase order or award of a contract under the SAT, the contracting officer shall request an eligibility determination from the SBA's district office responsible for servicing the selected 8(a) participant.

(1) When this occurs, the contracting officer will provide a signed award document with clause BOP 2852.219-71 "Notification to Delay Performance," located in BPAP 52.

(2) This serves to put on notice the 8(a) participant that performance may begin on the third working day following receipt of the purchase order or contract, absent a determination of ineligibility by SBA.

(3) Performance may begin earlier if the 8(a) participant receives notification by the SBA or the contracting officer that it is eligible for an 8(a) award.

(c) Prior to issuance of a solicitation expected to exceed the SAT, the contracting officer shall submit an offering letter for sole source requirements to the SBA's district office responsible for servicing the selected 8(a) participant, when an 8(a) participant has been identified.

PART 20

[RESERVED]

PART 21

[RESERVED]

Part 22. Application of Labor Laws to Government Acquisitions

SUBPART 22.1 BASIC LABOR POLICIES

22.101-3 – Reporting Labor Disputes

Contracting officers shall immediately report any potential or actual labor disputes that may interfere with contract performance through the Chief of the Contracting Office to the Bureau Procurement Executive.

22.101-4 – Removal of Items From Contractors’ Facilities Affected By Work Stoppages

Prior to taking any actions to remove items from a contractors’ facility, contracting officers shall contact the Chief of the Contracting Office for instructions.

SUBPART 22.8 EQUAL EMPLOYMENT OPPORTUNITY

22.803 – Responsibilities

Questions concerning the applicability of Executive Order (EO) 11246, “Equal Employment Opportunity,” shall be referred to the Chief of the Contracting Office.

22.805 – Procedures

The Department of Labor (DOL) “Equal Employment Opportunity is the Law” poster is available at <http://www.dol.gov>. Also, copies may be obtained upon written request from:

Office of Federal Contract Compliance Programs
Department of Labor
Room C-3325
200 Constitution Ave., NW
Washington, DC 20210

22.807 – Exemptions

Requests for exemptions to the requirements of EO 11246 shall be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive.

22.808 – Complaints

Contracting officers shall immediately advise the Bureau Procurement Executive through the Chief of the Contracting Office of any complaints prior to referral to the Office of Federal Contract Compliance Programs (OFCCP).

SUBPART 22.13 EQUAL OPPORTUNITY FOR VETERANS

22.1305 – Waivers

Requests for waivers shall be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive.

22.1308 – Complaint Procedures

Contracting officers shall immediately advise the Bureau Procurement Executive through the Chief of the Contracting Office of any complaints prior to referral to DOL.

SUBPART 22.14 EMPLOYMENT OF WORKERS WITH DISABILITIES

22.1403 – Waivers

Requests for waivers shall be forwarded to the Bureau Procurement Executive through the Chief of the Contracting Office.

22.1406 – Complaint Procedures

Contracting officers shall immediately advise the Bureau Procurement Executive through Chief of the Contracting Office of any complaints prior to referral to OFCCP.

Part 23. Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

SUBPART 23.3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

23.302 – Policy

(a) CCMs shall alert contracting officers that materials being requested are considered hazardous materials by including the following statement on the face of the RP:

“The Contractor shall forward Safety Data Sheets (SDS) for all hazardous materials to the attention of the Safety Manager at the destination address indicated on the order or contract at least one day prior to delivery.”

(b) If the RP contains a hazardous material notification, contracting officers shall take the following actions:

(1) For requirements exceeding the SAT, include the clause at FAR 52.223-3, “Hazardous Material Identification and Material Safety Data,” in solicitations and resulting contracts.

(2) For orders less than the SAT, contracting officers shall include the hazardous material notification (see BPAP 23.302(a)) in the purchase order.

(c) For requirements involving the disposal of hazardous waste, CCMs shall prepare a statement of work that includes a detailed description of tasks to be performed and all related requirements listed in the Program Statement **National Environmental Protection Policy**.

SUBPART 23.4 USE OF RECOVERED MATERIALS AND BIOBASED PRODUCTS

23.403 – Policy

Bureau contracting activities shall acquire Environmental Protection Agency (EPA)-designated items in accordance with EPA’s Comprehensive Procurement Guideline for Products Containing Recovered Materials (40 CFR, Part 247). The recommended minimum recovered materials content of EPA-designated items is set forth in EPA’s Recovered Materials Advisory Notices (RMAN) and in Executive Order (E.O.) 13423 and 13514, as amended.

23.404 – Procedures

(a) The program office initiating the acquisition is responsible for determining if recovered materials should be included in the specification. Procurement offices are responsible for informing program offices of the requirement for writing specifications for designated items that include minimum content standards specified in the RMANs.

(b) If the program office chooses to procure designated items containing less than the minimum content standards, the program office must justify that decision in writing and include a copy of the signed justification with the procurement request package. FAR sets forth the only acceptable justifications for acquiring EPA-designated items that do not meet the minimum content standard.

(1) The contracting officer is the approving official for justifications.

(2) Contracting officers are responsible for including a signed copy of the justification in the acquisition file and submitting a copy of the approved justification to the Bureau Environmental Program Manager (EPM), Health Services Division.

23.404-70 – Affirmative Procurement Program for Recycled Materials

(a) **Recovered Materials Preference Program.** Preference will be given to procuring and using products containing recovered materials rather than products made with virgin materials when adequate competition exists, and when price, performance, and availability are equal.

(b) **Promotion Program.** The Bureau EPM has primary responsibility for actively promoting the acquisition of products containing recycled materials throughout the Bureau. Technical and procurement personnel will cooperate with the Bureau EPM to actively promote Bureau EPM's affirmative Procurement Program.

(c) Procedures for vendor estimation, verification, and certification.

(1) **Estimation.** The contractor shall provide estimates of the total percentage(s) of recovered material for EPA-designated items to be used in products or services provided.

(2) **Certification.** Contracting officers shall provide copies of all vendor and subcontractor certifications required by FAR to the Bureau EPM.

(3) **Verification.** The Bureau EPM is responsible for periodically reviewing vendor

certification documents and waivers as part of the annual review and monitoring process to determine if Bureau is in compliance with EO 13423 and EO 13514 and subsequent amendments.

SUBPART 23.7 CONTRACTING FOR ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

23.703-70 – Policy

In accordance with E.O. 12873 and the Program Statement **National Environmental Protection Policy**, the program office in conjunction with the Procurement Executive's Office must identify and implement cost-effective contracting preference programs that promote energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services, including the use of bio-based products.

Part 24. Protection Of Privacy and Freedom Of Information

SUBPART 24.2 FREEDOM OF INFORMATION ACT

24.203 – Policy

All requests for Freedom of Information Act (FOIA)-related information shall be referred to:

Freedom of Information Act/Privacy Act Section
Office of General Counsel
Federal Bureau of Prisons
320 First Street NW, Room 841
Washington, DC 20534

Part 25. Foreign Acquisition

SUBPART 25.1 BUY AMERICAN - SUPPLIES

25.105 – Determining Reasonableness of Cost

Requests for use of higher evaluation factors as prescribed in FAR shall be submitted for approval through the Chief of the Contracting Office to the Bureau Procurement Executive.

PART 26

[RESERVED]

PART 27

[RESERVED]

Part 28. Bonds and Insurance

SUBPART 28.1 BONDS AND OTHER FINANCIAL PROTECTIONS

28.101 – Bid Guarantees

(a) Requirements for bid guarantees for construction contracts are waived when performance and payment bonds are required under the following conditions:

- (1) The construction contract has been set aside for the SBA's 8(a) Program on a sole-source basis, or
- (2) The contracting officer has determined a bid guarantee is not in the best interest of the Government.

(b) The solicitation file shall document the basis for the contracting officer's determination.

28.105 – Other Types of Bonds

Requests for approval to use other types of bonds allowed by FAR shall be forwarded through the Chief of the Contracting Office to the Bureau Procurement Executive.

28.106-2 – Substitution of Surety Bonds

Requests for approval to substitute a new surety bond for a bond previously approved shall be approved by the Chief of the Contracting Office.

28.106-6 – Furnishing Information

The Chief of the Contracting Office is the authority for taking actions on payment bonds.

SUBPART 28.2 SURETIES AND OTHER SECURITY FOR BONDS

28.204-70 – Alternatives in Lieu of Corporate or Individual Sureties

(a) When contractors elect to deposit any of the types of security listed in FAR instead of furnishing corporate or individual sureties on payment and performance bonds, contracting officers shall notify the Chief of the Contracting Office, describing fully the proposed security. When appropriate, contracting officers shall obtain the opinion of CLB through coordination

with the Chief of the Contracting Office as to the adequacy of the documents pledging the assets prior to accepting the bid guarantee and payment and insurance bonds.

(b) Work under the contract shall not commence until the contracting officer has received approval from the Chief of the Contracting Office or designee.

PART 29

[RESERVED]

PART 30

[RESERVED]

PART 31

[RESERVED]

PART 32.

[RESERVED]

Part 33. Protests, Disputes, and Appeals

SUBPART 33.1 PROTESTS

33.103-70 – Protests Filed With the Bureau

- (a) Protesters may file protests with the contracting officer or may request an independent review from the Agency Protest Official (APO). The Bureau's APO is the Chief, Procurement Policy Section. Contracting officers shall seek legal advice for all protests filed with the agency, whether they are filed with the contracting officer or the APO.
- (b) Contracting officers shall immediately notify the Chief of the Contracting Office of pre-award agency-level protests. The Chief of the Contracting Office will notify the Chief, Procurement Policy Section. The local contracting office shall upload all documents related to the protest into Content Manager within two business days of receipt of the protest; if Content Manager is unavailable, the local contracting office shall forward the necessary documents to the Chief of the Contracting Office. The contracting officer must stay an award in the event of a timely pre-award agency-level protest. Awards shall only be made with the written approval of the Bureau Procurement Executive, and must be consistent with the requirements of FAR.
- (c) If an agency-level protest is filed within 10 calendar days after award or within 5 calendar days after a debriefing date offered to the protester under a timely debriefing request, the contracting officer must stay performance unless the Bureau Procurement Executive makes a determination to proceed. Contracting officers shall immediately notify the Chief of the Contracting Office of post-award agency-level protests. The Chief of the Contracting Office will notify the Chief, Procurement Policy Section.
- (d) For protests to the contracting officer, the contracting officer shall:
- (1) Establish a scheduling conference with the protester which must be held within five (5) calendar days after the protest is filed.
 - (2) Prepare a written draft of the proposed response letter to the protester, which shall be forwarded within 14 calendar days to the Chief of the Contracting Office.
 - (3) Upon review and approval of the contracting officer's proposed response letter by the Chief of the Contracting Office, the contracting officer shall notify the protester of the decision. Best efforts shall be made to issue a decision on the protest and provide

notification within 20 calendar days, with written confirmation of receipt requested to show the date the response letter was delivered to the protester.

(4) Provide a copy of the decision to the Chief of the Contracting Office and Chief, Procurement Policy Section.

(e) For APO protests, contracting officers shall immediately notify the Chief of the Contracting Office and the Chief, Procurement Policy Section. The contracting officer must ensure that the APO receives a copy of the protest within one business day after the filing date, and upload all documents related to the protest into Content Manager within two business days of receipt of the protest. A scheduling conference with the protester will be held within five (5) calendar days after the protest is filed. This conference establishes deadlines for oral or written arguments, and other procedures necessary to resolve the protest. Best efforts shall be made to issue a decision on the protest and provide notification within 20 calendar days, with written confirmation of receipt requested to show the date the response letter was delivered to the protester.

33.104 – Protests to Government Accountability Office (GAO)

(a) General:

(1) The DOJ will promptly notify the Bureau of any protest filed at GAO.

(2) For the local contracting office, contracting officers shall notify the Chief of the Contracting Office immediately upon receipt of a protest notification.

(3) The Chief of the Contracting Office will notify the Bureau Procurement Executive and the CLB.

(4) Contracting officers shall seek legal advice for protests filed with the GAO and shall coordinate with CLB to prepare the agency report.

(5) With the exception of the agency response to GAO, all other documents submitted to GAO shall be copies and not the originals.

(6) The contracting officer must provide a copy of the decision to the Chief of the Contracting Office and Chief, Procurement Policy Section.

(b) Protests Before Award. When contracting officers receive notice of a GAO protest, the contract shall not be awarded unless authorized by the Director and GAO is notified. Requests

must be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive and the advice of CLB shall be sought prior to being forwarded to the HCA for approval. CLB is responsible for notifying GAO.

(c) **Protests After Award.** When a contracting officer receives notice of a GAO protest after award, the procedures in FAR 33.104 shall be followed. The Director may authorize contract performance pursuant to FAR 33.104 and upon the Bureau's notification to GAO. Requests must be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive, and the advice of CLB shall be sought prior to being forwarded to the HCA for approval. CLB is responsible for notifying GAO.

(d) If the Bureau decides not to follow GAO's recommendation, the contracting officer responsible for the acquisition shall prepare a report documenting the agency's rationale for not following that recommendation. The report shall be routed for the Director's signature, to be filed with the Comptroller General within 60 calendar days of receipt of GAO's recommendation. For the local contracting office, the report must be submitted to the Chief of the Contracting Office through the respective Regional Director. For the Central Office, the report must be submitted to the Chief of the Contracting Office through the Bureau Procurement Executive. All reports will be submitted to the Director through the Assistant Director for Administration.

(e) Before paying a recommended award of protest costs, acquisition staff must coordinate with CLB and the Chief of the Contracting Office.

33.106 – Solicitation Provision and Contract Clause

Contracting officers shall complete the provision at FAR 52.233-2, "Service of Protest," by inserting the following information in the space provided in paragraph (a):

"...the Bureau Procurement Executive, Federal Bureau of Prisons, 320 First Street, NW, Room 5005, Washington, DC 20534."

SUBPART 33.2 DISPUTES AND APPEALS

33.211 – Contracting Officer's Decision

(a) When a dispute with or a claim by or against a contractor, cannot be satisfied or settled by mutual agreement and a decision on the claim is necessary, contracting officers shall:

- (1) Review the facts pertinent to the dispute or claim.
 - (2) Immediately provide written notice of the dispute or claim to the Chief of the Contracting Office. The Chief of the Contracting Office must notify the Bureau Procurement Executive.
 - (3) Coordinate with the Chief of the Contracting Office and CLB to resolve the dispute or claim.
 - (4) Prepare a proposed written final decision pursuant to FAR. A draft copy of the proposed decision shall be forwarded to the Chief of the Contracting Office where it shall be reviewed and subsequently forwarded to the CLB for review and comment. Upon approval, the decision shall be returned to the Chief of the Contracting Office and forwarded to the contracting officer for issuance.
- (b) The Chief of the Contracting Office shall notify the Chief, Procurement Policy Section of the outcome of the final resolution.

33.212 – Contracting Officer’s Duties Upon Appeal

(a) If the contracting officer’s decision under BPAP 33.211 is appealed to the Civilian Board of Contract Appeals (CBCA), the contracting officer shall:

- (1) Notify the Chief of the Contracting Office, upon receipt of the appeal. The Chief of the Contracting Office must notify the Bureau Procurement Executive.
- (2) Within 15 calendar days after receipt of notice that an appeal has been docketed, assemble and transmit to the CLB an indexed appeal (Rule 4) file consisting of copies of all documents pertinent to the appeal, including:
 - a. The claim itself;
 - b. The contracting officer’s final decision on the claim;
 - c. The contract, including pertinent specifications, modifications, plans, and drawings;
 - d. All correspondence between the parties pertinent to the appeal, including the letters of claim in response to which the decision was issued;

- e. Transcripts of any testimony taken during the course of the proceedings and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with CBCA; and

- f. Any additional pertinent information.

(3) With the exception of the response to CBCA, submit copies (not the originals) of all other documents.

(b) The Chief of the Contracting Office shall notify the Chief, Procurement Policy Section, of the outcome of the CBCA appeal.

Part 34

[RESERVED]

Part 35

[RESERVED]

Part 36. Construction and Architect-Engineer Contracts

SUBPART 36.1 GENERAL

36.103 – Methods of Contracting

(a) **Construction Contracts.** The offer due date for all construction contracts under SAP shall be sufficient to allow adequate time for interested offerors to review the requirements and submit an offer.

(b) **A&E Contracts.** A&E acquisition authority shall not be delegated below the FAO, Construction Contracting Section, PCB level, or COBO, unless specifically authorized in advance and in writing by the Chief of the Contracting Office.

SUBPART 36.2 SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

36.202 – Specifications

Prior to issuing construction solicitations, contracting officers shall have written documentation certifying that all specifications and drawings have been approved by the Regional Facilities Administrator for institutions and regional offices, or the Chief, Facilities Management Branch, for the Central Office and national training centers. This certification shall be included in the pre-award file. Likewise, this certification is required prior to issuing any solicitation amendments or contract modifications involving any changes to the previously approved construction documents (specifications and/or drawings).

36.203 – Government Estimates of Construction Costs

(a) Program Offices shall provide contracting officers with an Independent Government Estimate (IGE).

(b) The IGE shall be treated as confidential and disclosed only to persons whose official duties require knowledge of the information.

36.206 – Liquidated Damages

- (a) Before including liquidated damages in a construction contract, the amount must be justified in writing by the institution Facility Manager, Regional Facilities Administrator, or Central Office Project Manager. The final determination for the amount of liquidated damages is the contracting officer's responsibility.
- (b) When the contract provides for liquidated damages and the contractor does not complete the work within the specified time (including any contract time extensions because of suspensions of work, modifications, etc.), the contracting officer must notify the contractor in writing of the amount assessed and deduct the amount from the final payment.

36.209 – Construction Contracts With Architect-Engineer Firms

Approval shall be obtained prior to awarding a construction contract to the firm, or its subsidiaries or affiliates that designed the project. Requests for approval shall be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive. This requirement is not applicable to contracts awarded under design-build procedures.

36.210 – Inspection of Site and Examination of Data

- (a) Contracting officers shall include in solicitations/contracts the applicable security and investigative procedures. Additionally, the requirements of HSPD-12 for Bureau-controlled facilities are to be incorporated into the requirement, as applicable.
- (b) Contracting officers should hold pre-bid/proposal conferences with prospective bidders/offerors and applicable institution personnel, as determined by the Warden, to discuss complicated specifications, institution security requirements, and to allow an opportunity to provide data (see FAR 14.207). Pre-bid/proposal conferences are not to be used as a means to substitute or amend defective or ambiguous specifications. If conferences result in the discovery of defective specifications, they must be corrected by an amendment to the solicitation. Because all interested parties may not attend pre-bid/proposal conferences, it is essential that conference minutes be recorded and posted to FedBizOpps. A notice shall be included when posting the minutes in FedBizOpps stating that the minutes are provided for informational purposes only; are not intended to change any specifications, terms, or conditions of the solicitation; and any changes to the solicitation shall be issued in subsequent amendments.
- (c) When FAR clauses 52.236-2 Differing Site Conditions and 52.236-3 Site Investigation and Conditions Affecting the Work are required by FAR prescription to be included in the

solicitation, FAR provision 52.236-27 Site Visit (Construction) is likewise required to be included and offerors must be given the opportunity to inspect the site (site visit). This requirement is independent of the determination of whether or not to hold a pre-bid/proposal conference (see FAR 36.523).

36.212-70 – Pre-Construction Conference

(a) Prior to the start of construction, contracting officers shall conduct a conference with the contractor, subcontractor(s), and applicable facility personnel to discuss the statutory labor standards, prevailing wage requirements, submission of the contractor's payrolls, subcontractor's responsibilities, work schedules, local policies, contraband, tool control, escort procedures, parking, storage of vehicles and equipment, etc.

(b) Minutes of the conference shall be recorded to include the names and titles of all attendees. The minutes shall be signed by the contractor and the contracting officer, and a signed copy placed in the contract file.

36.213-70 – Wage Rate Requirements (Construction)

(a) Construction solicitations expected to exceed \$2,000 shall include all applicable Wage Rate Requirements (Construction) wage determinations. Wage determinations can be obtained at the DOL website and are immediately effective upon publication. If a general wage determination is not available, the contracting officer shall request a wage determination by submitting an SF-308, "Request for Wage Determination and Response to Request," to the address listed in FAR 22.404-3. Requested wage determinations are effective upon receipt from the Department of Labor (DOL).

(b) Program offices shall provide the Contracting Office with the type of construction and the name of the county and state where work shall be performed. The program office shall select the job classifications required in performance of the work.

(c) The following procedures apply to all construction contracts using Wage Rate Requirements (Construction) wage determinations:

(1) Contracting officers shall ensure posters entitled "Equal Employment Opportunity is the Law" (see BPAP 22.8) and a completely legible copy of the prevailing wage determination(s) are posted by the contractor in an area readily accessible to workers.

(2) Prime contractors shall submit weekly payrolls to contracting officers.

(3) Throughout construction projects, contracting officers or authorized representatives shall interview randomly-selected contractor employees of various classifications and trades to assure compliance with contract labor provisions. Data obtained in these interviews shall be used in examination of certified payrolls submitted by the contractor. A memorandum of the interviews, or SF-1445 (Labor Standards Interview) form showing project number, name, date, employer, employee, classification or trade, period of apprenticeship (if applicable), hourly rate of pay, and comments shall be attached to the applicable payroll. Interviews should not be held in the presence of the employer. The purpose and need for the interview should be explained to the employee.

(4) Certified payrolls shall be reviewed in accordance with FAR 22.406-6 and 22.406-7.

36.213-71 – Daily Construction Log Book

(a) Facility Managers or Project Representatives shall supervise operations and maintain a complete progress log book for each construction project/contract in accordance with the Program Statement **Facilities Operations Manual**. This progress record shall become a part of the official contract file. The log should be so complete so as to provide a detailed, written record in the event the contractor claims an extension of contract time, remission of liquidated damages, etc. Facility Managers or Project Representatives shall monitor the contractor's progress, provide status reports with each pay application (or as required by the contracting officer), and submit reports to the contracting officer. Additionally, status reports shall be provided to the contracting officer immediately whenever:

(1) The work is not proceeding on schedule or in accordance with specifications. In such events, contracting officers shall put the contractor on notice, in writing, with copies furnished to the Chief of the Contracting Office, the Project, the surety, and the contract file; or

(2) A contract modification may be required (change orders, time extension, stop-work order, etc.)

(b) As a supplement to the log book maintained by Facilities, the contracting officer shall establish a record to show the essential progress information in chronological order under the following:

- Contract number.
- Name and address of contractor.

- Brief description of the project.
- Contract price.
- Date of contract.
- Time required for completion.
- Date contractor received notice to proceed.
- Dates and durations of suspensions of work, if any, issued by the Government.

SUBPART 36.5 CONTRACT CLAUSES

36.515-70 – Schedules for Construction Contracts

The Program Office must provide the contracting officer with a written statement and adequate supporting documentation identifying the anticipated period of performance for the resulting contract. This information shall be incorporated into the solicitation prior to issuance. Any changes to the performance period shall be supported with documentation to reflect the recommendation.

SUBPART 36.6 ARCHITECT-ENGINEER SERVICES

36.602-1 – Selection Criteria

The Bureau shall evaluate each potential A&E firm in accordance with the selection criteria outlined in FAR 36.6 and the Program Statement **Facilities Operations Manual**.

36.602-2 – Evaluation Boards

Evaluation board members for A&E services shall be appointed by the Regional Facilities Administrator (for institutions and regional offices) or the Central Office Facilities Administrator or designee (for Central Office projects). Members appointed shall collectively have the requisite experience and technical competence in architecture, engineering, construction, and related acquisition matters to enable effective evaluations. Evaluation boards shall consist of a minimum of two members, one being the Regional Facilities Administrator or designee (for institution or regional offices) or the Central Office Facilities Administrator or designee (for Central Office projects).

Part 37. Service Contracting

SUBPART 37.1 SERVICE CONTRACTS – GENERAL

37.102 – Policy

Requirements for services are generally satisfied by appointing individuals pursuant to Office of Personnel Management (OPM) regulations. OPM regulations shall not be circumvented by contracting for services when positions have already been allocated by the Bureau. Contracts for professional non-personal services, properly written and administered, represent an approved method for accomplishing Bureau programs and objectives when positions are not assigned. The Bureau does not have the authority to enter into personal service contracts.

37.103 – Contracting Officer Responsibility

(a) For services to be performed, contracting officers shall:

- (1) Obtain from CCMs completed RP/RCA packages addressing all elements listed in BPAP 37.103-70;
- (2) Ensure statements of work for all non-personal services contracts include a statement that the contract does not constitute an employer/employee relationship; and
- (3) Ensure the requirements of DOJ Order 2640.2F, Information Technology Security, are included in service contracts having access to DOJ information technology systems (pharmacy system, SENTRY, etc.).

(b) Security requirements, as outlined in the Program Statement **Human Resource Management Manual**, apply to all services performed at Bureau facilities, and certain other services performed outside institutions when covered under other Program Statements (e.g., Privatized Corrections Contracting [PCC], Residential Reentry Center [RRC], etc.). Contracting officers will ensure prospective contractors agree to security investigative procedures by incorporating the following requirements into solicitations:

- (1) National Crime Information Center (NCIC) check;
- (2) Declaration of Federal Employment (OF-306);
- (3) FD-258 (fingerprint check);
- (4) Law Enforcement Agency checks;
- (5) Vouchering of Employers;

- (6) Employment Resume;
- (7) Completed Contractor Pre-employment Questionnaire;
- (8) Release of Information;
- (9) Questionnaire for Sensitive Positions (SF-85 for Low Risk, SF-85P for above low risk);
- (10) Credit Check, if applicable;
- (11) Urinalysis, if applicable.

(c) Short-term requirements, as defined by BPAP 4.403-70, only require a NACI check and completion of the Contractor Pre-employment form.

(d) The requirements of HSPD-12 are to be incorporated into the contract when access to Bureau-controlled facilities or systems is required (See BPAP 4.403-70).

(e) Contracting officers shall ensure all prospective contractors are advised during the solicitation or quotation phase that a urinalysis test is required (for detection of drug usage).

(f) Prior to contract award with individuals or prior to performance for contracts awarded to companies, contracting officers shall obtain written assurance from the Human Resource office that investigative procedures have been completed pursuant to the Program Statement **Human Resource Management Manual**. Contractors may enter the facility after receiving an approved pre-employment waiver or notification of a favorably adjudicated background investigation.

(g) All contracts for services performed at Bureau facilities must contain the following statements:

- (1) The service is a contractual arrangement and not a personnel appointment;
- (2) Payment is based on an end product or the accomplishment of a specific result;
- (3) The service does not constitute an employer/employee relationship; and
- (4) The contractor will not be subject to Government supervision, except for security-related matters. However, contractor performance shall be monitored.

(h) Contracting officers shall ensure contract compliance, and may appoint CORs pursuant to BPAP 1.603. The clause BOP 2852.201-71, "Contracting Officer's Representative" shall be used to establish COR responsibility and authority for highly complex and/or visible contracts.

(i) The Administrative contracting officer shall conduct progress meetings, as needed, with respective program managers to address contract administration issues related various services contracts. Contract files shall be documented accordingly.

37.103-70 – Cost Center Manager Responsibility

(a) CCMs shall:

(1) Conduct market research pursuant to FAR Part 10 for all acquisitions submitted to the contracting officer for processing.

(2) Provide an estimate of the cost of services which may, among other things, be based upon the prior years' experience (e.g., cost of operating the previous year plus any economic or requirements adjustments). For new requirements with no prior years' experience, CCMs shall estimate the cost based upon experience with established contractors, information obtained through market research, and an estimate of the required work.

(3) Identify potential contract sources.

(4) Submit to contracting officers RPs/RCAs within the acquisition lead times established in BPAP Part 7, addressing the following:

(i) Description of the services required/SOW. Descriptions shall provide, at a minimum, specific descriptions of the services to be performed and delivery schedules. Descriptions shall address requirements identified in relevant Bureau Program Statements and other regulatory requirements. Descriptions shall be neither so narrow as to unduly restrict competition or to restrict the contractor's efforts, nor so broad as to permit contractors to stray into peripheral areas in performing the required work. Descriptions must include expected performance-based standards and incentives, if applicable;

(ii) Provide technical evaluation criteria;

(iii) Academic, experience, and/or special qualifications required;

(iv) Management, consultant, advisory, evaluative, or analytical services to be provided;

(b) CCMs shall conduct appropriate vouchering and law enforcement checks and ensure appropriate fingerprinting and urinalysis testing are completed in accordance with the current

Program Statement **Human Resource Managaement Manual**; to include the items listed in BPAP 37.103(b).

37.103-71 – Procurement of Religious Services

- (a) The monitoring procedures identified in the Program Statement **Religious Beliefs and Practices** shall be followed when contracting for religious services. These procedures apply to all solicitations and are applicable throughout the life of the contract.
- (b) The determination for intermittent or constant monitoring will be made by the Chaplain and documented on the RP or by forwarding an e-mail to the local procurement office. All forms required for completion will be determined by the Chaplain and provided to the contracting officer for distribution to the contractor.
- (c) Vendors responding to solicitation requests for religious services must document personal information before a contract can be awarded. The Chaplain is responsible for making all determinations concerning the technical acceptability of the documentation submitted by the vendors or if additional documentation is required. As in item (b) above, all forms required for completion by the vendor will be determined by the Chaplain and provided to the contracting officer for inclusion in the solicitation.
- (d) All solicitations for religious services in which the resulting contract will require intermittent monitoring must include the provision BOP 2852.237-71 “Requirements for Religious Services,” located in BPAP Part 52.
- (e) There are no exceptions to the certification requirements for incumbent contractors.

37.103-72 – Department of Justice (DOJ) Residency Requirements

- (a) The DOJ Residency Requirement is applicable to all contractors performing services on federally owned or leased property, and includes the following:
 - (1) All services performed off-site at non Bureau facilities that involve public trust. Such services involve public safety, health, law enforcement duties, and other services involving access to, operation of, or control of Bureau financial records. Examples include: Bureau-contracted privately owned prisons and residential reentry centers, guard services, equal employment opportunity investigators, medical services (not applicable to transportation of inmates), and community treatment services.

(2) Access to DOJ information technology and information systems.

(b) If the contractor employee is a non-U.S. citizen, the individual must be from a country allied with the United States. The full list of allied countries can be found on the United States Collective Defense Arrangements webpage, which is maintained by the United States Department of State.

(c) Written certification by contractors whose services are obtained via the Government purchase card shall be obtained and included with the purchase card acquisition form. Certifications for recurring services obtained via Government purchase card are valid for a period not to exceed 12 months.

(d) The DOJ Residency Requirement certification may only be waived by DOJ's Security Officer.

37.103-73 – Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking

(a) In accordance with Contractor Notice Regarding DOJ Policy Statement 1200.02, “**Federal Workplace Responses To Domestic Violence, Sexual Assault, and Stalking**,” the contracting officer shall:

(1) Instruct the CV POC in writing that, if a contractor contacts the CV POC to report actual or suspected domestic violence, sexual assault, and/or stalking, *by a Department employee*, the CV POC shall notify the CEO of that employee for appropriate action consistent with existing law, regulation and Department policy:

(2) Instruct the CV POC in writing that, if a contractor contacts the CV POC to report actual or suspected domestic violence, sexual assault, and/or stalking *by another contractor*, the CV POC shall notify the CO immediately;

(b) If the CO receives from the CV POC notification of actual or suspected domestic violence, sexual assault, and/or stalking by another contractor, the CO shall immediately

(1) Consult with the CO's immediate supervisor regarding the report (including whether to seek human resources or legal expertise); and

(2) After such consultation with the CO's supervisor, notify the Contracting Entity of the report.

(c) In every written solicitation seeking services that will be performed in whole or in part on Department premises, the Department shall include the following:

(1) Department Policy on Domestic Violence, Sexual Assault, and Stalking.

It is the Department's policy to enhance workplace awareness of and safety for victims of domestic violence, sexual assault, and stalking. This policy is summarized in DOJ Policy Statement 1200.02 (**Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking**), available in full for public viewing at <http://www.justice.gov/sites/default/files/ovw/legacy/2013/12/19/federal-workplace-responses-to-domesticviolence-sexualassault-stalking.pdf>. Vendor agrees, upon contract award, to provide notice of this Policy Statement, including at a minimum the above-listed URL, to all of Vendor's employees and employees of subcontractors who will be assigned to work on Department premises.

(2) Point of Contact for Victims of Domestic Violence, Sexual Assault, and Stalking.

Upon contract award, the Department will notify contractor of the name and contact information for the Point of Contact for Victims of domestic violence, sexual assault, and stalking for the component or components where Contractor will be performing. Contractor agrees to inform its employees and employees of subcontractors who will be assigned to work on Department premises of the name and contact information for the Victim Point of Contact.

(d) Where the Department is seeking to acquire goods or services without using a written solicitation and contractor employees are expected to have a presence on Department premises, the CO must:

(1) Inform all offerors/contractors in writing, by electronic mail or other written means, as follows:

"It is the Department's policy to enhance workplace awareness of and safety for victims of domestic violence, sexual assault, and stalking. This policy is summarized in DOJ Policy Statement 1200.02 (**Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking**), available in full for public viewing on the DOJ website. Vendor agrees, upon contract award, to provide notice of this Policy Statement, including at a minimum the above-listed URL, to all of Vendor's employees and employees of subcontractors who will be assigned to work on Department premises.

(2) Provide in writing the name and contact information for the Contractor Victim POC for the component or components where performance will take place, and direct that the vendor provide this name and contact information to all its employees and employees of subcontractors who will be assigned to work on Department premises.

37.106 – Funding and Term of Service Contracts

Prior to funding any severable service contract actions under the authority of FAR 32.703-3(b) or 37.106(b), concurrence must be obtained from the BA and Regional Comptroller prior to submittal to the Chief, Budget Execution Branch, Central Office, for approval. CCMs shall obtain all such approvals prior to forwarding to the contracting officer.

37.112-70 – Government Use of Private Sector Temporaries

(a) “Temporary Private Sector Services” are defined as temporary help acquired from temporary help service firms for meeting short-term temporary work needs (5 CFR 300).

(b) Temporary services may be contracted through the private sector to temporarily replace any service provided by an assigned civil service position. Positions classified as managerial, supervisory, or consultants may not be filled by temporaries.

(c) Criteria:

(1) One or more of the following short-term situations must exist:

- (i) Unforeseen personal need (including illness, parental, or family responsibilities);
- (ii) Mandatory jury duty;
- (iii) Permanent change of duty for the benefit of the Government;
- (iv) Work critical to the operation, which, in the judgment of the agency, cannot be delayed; or
- (v) The need cannot be met with current staff or “appointment” of temporary employees.

(2) The services are not:

- (i) In lieu of regular recruitment and hiring procedures under civil service law;
- (ii) To displace Federal employees;
- (iii) To supplement current staffing above authorized position guidelines; or
- (iv) Creating an employer/employee relationship or appearance of such relationship.

(d) Contract Period:

(1) Agencies may use temporary help service firm(s) in single situations, as defined in 5 CFR 300.503, initially for no more than 120 workdays. Provided the situation continues to exist beyond the initial 120 workdays, the agency may extend its use of temporary help services up to the maximum limit of 240 workdays.

(2) Time limit on use of individual employees of a temporary help service firm:

(i) Individual employees of any temporary help firm may work for up to 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment.

(ii) Agencies may make exceptions for individuals to work up to a maximum of 240 workdays only when the agency has determined that using the services of the same individual for the same situation will prevent significant delay.

(e) Acceptable Service Provider:

(1) A “Temporary Help Service Provider” is an entity that provides specific services for brief or intermittent periods by its employees. The “provider” shall be the employer legally responsible for recruiting, testing, hiring, training, assigning, paying (including benefits, leave, payroll deductions, and taxes), disciplining, providing unemployment insurance, providing workers’ compensation, providing liability insurance, and bonding.

(2) A “Temporary Help Service Provider” is not an individual person.

(f) CCMs shall submit to contracting officers RPs/RCAs addressing the following (documentation required under BPAP 37.103-71 is not applicable):

(1) Description of service required;

(2) Vacant staff positions;

(3) Number of work days required;

(4) Number of hours per day, number of days per week;

- (5) Documentation of market research, to include estimated cost per hour/session/day and estimated cost of contract;
- (6) Reason for position vacancy;
- (7) Number of days position has been vacant;
- (8) Circumstances creating the critical need, and that the services cannot be accomplished by current staffing; and
- (9) Certification that no employer/employee relationship or appearance of such relationship will be created, and that the service will not be supervised by the Government except for technical instructions and security-related matters.
- (10) The HRM shall certify the services being acquired are not in lieu of regular recruitment and hiring procedures under civil service laws and regulations, services will not displace Federal employees, services will not supplement current staffing above authorized position guidelines, and services are not classified as supervisory, managerial, or Senior Executive Service positions.

37.114-70 – Common Law Employees

- (a) The Internal Revenue Service (IRS) has determined the basic definition of a common law employee, for Federal income tax purposes, as the person for whom services are performed has the right to control and direct the individual who performs the services. This ruling is based on common law principles of the Agency and the CFR. As a result, contracts with individuals performing services at Bureau facilities are considered, for Federal income tax purposes, common law employees.
- (b) Solicitations and contracts for services to be performed at a Bureau facility which may result in award to an individual shall include the provision BOP 2852.237-78, “Submission/Evaluation of Quotations/Offers by Individuals” and the clause BOP 2852.237-77, “Contractors Classified for Federal Income Tax Purposes as Common Law Employees,” located in BPAP Part 52.
- (c) Solicitations and contracts shall express time units as a one-hour session. Partial sessions are not authorized. Solicitations must also identify the maximum number of sessions a contractor is allowed to work per week. Contractors may not work in excess of the established number of sessions per week.

(d) When evaluating quotations or offers from individuals, an additional 7.65 percent shall be added to prices offered by individuals.

(e) If the award is made to an individual, the contracting officer shall complete the Common Law Employee Data Sheet (maintained on Sallyport) and forward it to the Human Resource Office. Common law contractors will not be required to submit invoices; payment will be based on time and attendance records. At the completion of each pay period, time and attendance records for common law contractors should be forwarded to the Administrative contracting officer for inclusion in the official contract file.

SUBPART 37.2 ADVISORY AND ASSISTANCE SERVICES

37.200-70 – Policy

Advisory and assistance services shall be acquired in strict accordance with FAR Subpart 37.2. Advisory and assistance services shall be obtained from organizations and persons outside the Federal Government only when such services and/or special abilities are necessary and are not available from DOJ or other Federal agencies.

37.200-71 – Management Controls

The Director shall approve acquisitions for advisory and assistance contracts, regardless of value, in advance of solicitation issuance. All requests from the local contracting office shall be submitted to the Bureau Procurement Executive from the Chief, FAO. All other requests for advisory and assistance services shall be submitted to the Bureau Procurement Executive's Office.

PART 38

[RESERVED]

Part 39. Acquisition of Information Technology

SUBPART 39.1 GENERAL

39.101 – Policy

(a) Acquisitions for Information Technology (IT) resources shall be conducted in accordance with the policy and procedures in FAR 39; DOJ Orders 2640.2F (Information Technology Security); 2880.1C (Information Resources Management Program); and 2740.1A (Use and Monitoring of DOJ Computers and Computer Systems); and the Program Statements **Information Resources Protection, Personal Computers and Network Standards, and Information Security Programs.**

(b) DOJ's Chief Information Officer (DOJ CIO) is responsible for issuing IT management policies and procedures to supplement the FAR and the implementation of E.O. 13011 (Federal Information Technology).

(c) The Bureau CIO is responsible for disseminating policies and procedures published by the DOJ CIO and establishing/ensuring the use of an approved IT management process. Requests for IT policy deviations shall be submitted to the Bureau CIO, who shall approve or obtain approval from DOJ CIO or other authorities, as appropriate.

39.101-70 – Policy – Responsibilities and Approvals

(a) The Office of Information Systems (OIS) is responsible for coordinating IT acquisition approvals. Questions and correspondence relating to IT acquisitions should be directed to the Chief, IT, Planning and Development, OIS.

(b) IT Management Approval Procedures:

(1) All RPs/Purchase Card Forms for IT resources shall be approved in writing by the local Computer Services Manager (CSM) prior to submission to the contracting officer. Written approval for the purchase of a BlackBerry, or similar device (e.g., e-mail-enabled mobile telephone) must be obtained from the respective Assistant Director or Regional Director prior to purchase. The memorandum must contain the name of the employee who will be issued the device and a justification of need.

(2) Acquisitions of \$30,000 or more require Central Office approval. A "Special Authorization (SA)" number/approval is required prior to submission to the contracting

officer for all IT-related purchases, regardless of whether the purchases are for new activations, the expansions of existing sites, an installation of a new system, or merely an upgrade to an existing system or network. An SA number/approval is required for any network or system, including both staff and inmate Local Area Networks.

(3) Requirements involving the Trust Fund Network are to be directed to the Trust Fund Branch, Central Office.

(4) IT resource requirements shall not be split between multiple RPs/purchase cards to avoid required approval and competition requirements.

(5) Acquisitions for any security technology purchase (i.e., whole body imaging device, walk-through metal detector, etc.) over \$5,000 require the approval from the Chief, Office of Security Technology, prior to submission to the contracting officer.

PART 40

[RESERVED]

Part 41. Acquisition of Utility Services

SUBPART 41.1 SCOPE OF PART

41.103-70 – Statutory and Delegated Authority

A copy of the Delegation of Contracting Authority from GSA giving the Bureau authority to negotiate and execute utility service contracts shall be included in the contract file.

SUBPART 41.2 ACQUIRING UTILITY SERVICES

41.202-70 – Procedures

(a) In cases when a GSA contract is not available and there is only one known provider available to supply the required utility services (e.g., water, sewer, natural gas, and electric), proof must be provided to the contracting officer that the utility supplier has a right to serve because it is within a franchise territory, it has a certificate of public convenience and necessity, or via other legal means.

(b) If such proof is not available, a Sources Sought Notice for the requirement must be posted to FBO allowing sufficient time to determine the availability of commercial sources and provided as supporting documentation to accompany the JOFOC for approval of a sole source utility requirement.

Part 42. Contract Administration and Audit Services

SUBPART 42.13 SUSPENSION OF WORK, STOP-WORK ORDERS, AND GOVERNMENT DELAY OF WORK

42.1303 – Stop-Work Orders

Prior to the local contracting office issuing or canceling stop-work orders, requests shall be fully documented and submitted to the Chief of the Contracting Office for approval. Prior to Central Office issuing or canceling stop-work orders, requests shall be fully documented and submitted to the respective Section Chief for approval.

SUBPART 42.15 CONTRACTOR PERFORMANCE INFORMATION

42.1502 – Policy

The clause BOP 2852.242-71 “Evaluation of Contractor Performance Utilizing CPARS,” located in Part 52, shall be utilized in all applicable solicitations and awards when performance will be evaluated.

Part 43. Contract Modifications

SUBPART 43.1 GENERAL

43.102 – Policy

Prior to issuing a modification to remove or relax any contractual requirements (e.g., extension of delivery time frames, reduction of specifications, substitutions of product/services, etc.), contracting officers shall document the file in writing with the extent to which the Government is entitled to consideration. Contracting officers shall consult with the requesting staff or requisition office prior to executing this modification.

PART 44

[RESERVED]

PART 45

[RESERVED]

PART 46

[RESERVED]

PART 47

[RESERVED]

Part 48. Value Engineering

SUBPART 48.1 Policies and Procedures

48.103 – Processing Value Engineering Change Proposals

- (a) If value engineering clauses are included in contracts, the Government may realize cost savings or improved performance, upon receipt and acceptance of a Value Engineering Change Proposal (VECP). A VECP requires a change to the contract and results in reducing the price, without impairing essential functions or characteristics of the contract.
- (b) The CCM will review and recommend to the contracting officer whether to accept or reject VECPs. The CCM will provide documentation to support his/her recommendations.
- (c) The contracting officer must accept or reject a VECP within 45 calendar days from its receipt by the Government.
- (d) If the VECP and the CCM's recommendation are acceptable to the contracting officer, a bilateral modification will be completed to accomplish the following:
 - (1) Accept the VECP;
 - (2) Reduce the contract price by the amount of the instant contract savings; and
 - (3) Provide the contractor a share of the savings, in accordance with the method prescribed in FAR 48.104-1.
- (e) The contracting officer shall obtain the approval of the Chief of the Contracting Office prior to issuance of the modification.

Part 49. Termination of Contracts

SUBPART 49.1 GENERAL PRINCIPLES

49.101-70 – Authorities and Responsibilities

(a) Only contracting officers may terminate Bureau contracts. Ordinarily, contract terminations are made as a last resort. The contracting officer shall attempt to effectuate no-cost settlements if circumstances are appropriate.

(b) All contract terminations and all contract settlement agreements must receive prior written concurrence and approval as follows:

(1) The Chief of the Contracting Office may approve “No-Cost Terminations for Convenience” for contracts utilizing SAP.

(2) The contracting officer must document fully all other requests to terminate or settle contracts. Requests shall include the solicitation and contract files and be submitted through the Chief of the Contracting Office to the Bureau Procurement Executive for approval.

(c) The contracting officer shall consult with CLB (coordinated through the Chief of the Contracting Office) prior to terminating for default.

(d) When appropriate, the contracting officer should consult with CLB (coordinated through the Chief of the Contracting Office) for terminations for convenience and no-cost terminations for convenience.

49.106-70 – Fraud or Other Criminal Conduct

If a Contractor is suspected of fraud or other criminal conduct related to the settlement of a terminated contract, it will be reported from the Contract Administration Office through the Chief of the Contracting Office to the Bureau Procurement Executive.

PART 50

[RESERVED]

PART 51

[RESERVED]

Part 52. Solicitation Provisions and Contract Clauses

SUBPART 52.1 INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

52.102 – Incorporating Provisions and Clauses

All Bureau-issued provisions and clauses should be incorporated in full text unless otherwise noted.

SUBPART 52.2 TEXTS OF PROVISIONS AND CLAUSES

As prescribed in 19.800-70, insert the following clause:

BOP 2852.219-71 – Notification to Delay Performance (June 2007)

Performance under this purchase order may begin on the third working day following receipt of the purchase order absent a determination of ineligibility by SBA (or earlier if the 8(a) Participant receives notification by the SBA or the contracting officer that it is eligible for an 8(a) award). If a determination of ineligibility is issued within the 2-day period, the purchase order shall be considered cancelled.

[End of Clause]

As prescribed in 37.103-71(d), insert the following provision:

BOP 2852.237-7 – Requirements for Religious Services (July 2017)

Vendors responding to this solicitation must complete and submit with their quote the attached form, “Credentials of Religious Services Contractor.” Vendors must submit two personal references and one letter of endorsement from their local religious organization.

Vendors failing to submit any of the required documents will be removed from further consideration for award. Vendors providing unfavorable responses to the Credentials Form may be ineligible for award.

[End of Provision]

As prescribed in 37.114-70, insert the following clause:

BOP 2852.237-77 – Contractors Classified as Common Law Employees for Federal Income Tax Purposes (July 2017)

(a) When award is made to an individual other than a corporation, the provision of these services by an individual makes that individual a “common law employee” of the Bureau for federal income tax purposes only. Therefore, the Bureau is responsible for the payment of FICA taxes and the withholding of the individual contractor’s taxes.

(b) An award made to an individual resulting from this solicitation is not subject to FAR 52.212-4(i), Prompt Payment Act.

(c) Upon contract award, the following forms shall be completed by the individual awardee:

- Direct Deposit (SF-1199A).
- Federal/State/City/County Tax forms (as applicable).
- Employee Locator Form (DOJ-233).
- Ethnicity and Race Information (SF-181).
- Self-Identification of Disability (SF-256).
- Employment Eligibility Verification (I-9).

(d) Even if an individual contractor is denoted a “common law employee” for federal income tax withholding purposes, the contractor remains an independent contractor. No employment relationship will be created between the Bureau and the contractor by the award of this contract to an individual contractor. An individual contractor awardee is not entitled to other aspects of employment with the Bureau, such as the filing of Equal Employment Opportunity claims, tort claims, etc.

[End of Clause]

As prescribed in 37.114-70, insert the following provision:

BOP 2852.237-78 – Submission/Evaluation of Quotations/Offer by Individuals (Nov 2014)

(a) Individuals, other than corporations, shall submit a fully completed W-4, Employee’s Withholding Allowance Certificate, along with their quotation or offer.

(b) For evaluation purposes, an additional 7.65 percent will be added to the price submitted by individuals.

[End of Provision]

As prescribed in 42.2502, insert the following clause:

BOP 2852.242-71 – Evaluation of Contractor Performance Utilizing CPARS (APR 2011)

The services, although not directly supervised, shall be reviewed by Federal Bureau of Prisons (Bureau) staff to ensure contract compliance. The contractor's performance will be evaluated in accordance with FAR 42.15. Contract monitoring reports will be prepared by the Contracting Officer's Representative (COR) and maintained in the contract file.

In accordance with FAR 42.1502 and 42.1503, agencies shall prepare an evaluation of contractor performance and submit it to the Past Performance Information Retrieval System (PPIRS). The Bureau utilizes the Department of Defense (DOD) web-based Contractor Performance Assessment Reporting System (CPARS) to provide contractor performance evaluations. The contractor shall provide and maintain a current e-mail address throughout the life of the contract. The contractor will receive an e-mail from the Focal Point through the following website address webptsmh@navy.mil when the contract is registered in CPARS. The e-mail will contain a "user ID" and temporary password to register in the CPARS system. The contractor must be registered to access and review its evaluation and/or provide a response. If assistance is required when registering, please contact the Contracting Staff/Focal Point.

[End of Clause]