U.S. Department of JUSTICE

Justice Acquisition Regulation (Deviation)



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Justice Management Division

Office of Acquisition Management

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PART 2801 – DEPARTMENT OF JUSTICE ACQUISITION REGULATION SYSTEM

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2801.401 Contracting Functions

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Parent topic: SUBCHAPTER A - GENERAL

Subpart 2801.1- Framework

2801.101 Framework

(a) The Justice Acquisition Regulation (JAR) provides agency guidance, in accordance with Federal Acquisition Regulation (FAR) 1.201(a)(1), and establishes, in this chapter, procurement regulations that supplement the FAR, 48 Code of Federal Regulations (CFR) chapter 1, and must be utilized in conjunction with the FAR.

(b)

(1) The JAR contains Department of Justice (DOJ) policies that govern DOJ's acquisition process or otherwise control acquisition relationships between DOJ's contracting activities and contractors. The JAR contains -

(i) Requirements of law;

(ii) Deviations from the FAR requirements; and

(iii) Policies that either have a significant effect beyond the internal procedures of DOJ or a significant cost or administrative impact on contractors or offerors.

2801.103 Authority.

The JAR is issued by DOJ's Chief Acquisition Officer, who is the Assistant Attorney General for Administration, see 41 U.S.C. 1702, under authority of 5 U.S.C. 301-302, 41 U.S.C. 1121, (FAR) 48 CFR part 1, subpart 1.3, 28 C.F.R. 0.75(j) and 0.76(j), and Attorney General Order 2716-2004.

2801.104 Publication and Code Arrangement.

(b) The JAR is subdivided into parts, which correspond to FAR parts. The numbering system permits the discrete identification of every JAR paragraph. This numbering system permits immediate identification of each JAR part with coverage of the same subject matter and same numbering system as in the FAR. Supplementary material for which there is no counterpart in the FAR is identified by a numerical suffix of 70 or higher in the final position of the reference number.

2801.105 OMB approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and the Office of Management and Budget's (OMB) implementing regulations at 5 CFR part 1320, require that reporting and recordkeeping requirements affecting ten (10) or more members of the public be cleared by OMB. The OMB control number for the collection of information under this chapter is 1103-0018.

Subpart 2801.2 Agency Acquisition Regulations

2801.201 Policy

(a)(1) Authority for the promulgation of the JAR is delegated to the Assistant Attorney General for Administration.

(2) Pursuant to FAR 1.-201(a)(2), the Senior Procurement Executive (SPE) is responsible for ensuring that bureau acquisition guidance and directives do not restrain the flexibilities found in the FAR. For this reason, bureaus shall forward any bureau acquisition guidance to the SPE upon issuance. The SPE has the authority to revoke any guidance or directive considered restrictive of the regulations found in the FAR.

(c) Internal agency guidance not meeting the criteria in paragraph 2801.101(b)(1)(iii) may be issued by DOJ in announcements, internal policies, procedures, or manuals.

Subpart 2801.3 Deviations From the FAR and JAR

2801.303 Individual deviations.

The Head of the Contracting Activity (HCA) for each bureau is considered the agency head with authority to approve individual deviations from the FAR or the JAR that affect only one contract

action.

2801.304 Class deviations.

(a) Requests for deviations involving basic ordering agreements, master type contracts, or situations where multiple awards are made from one solicitation are considered to involve more than one contract and, therefore, are considered class deviation requests. Such requests will be concurred on by the Bureau Procurement Chief (BPC) prior to submission for approval.

(b) The Senior Procurement Executive is considered the agency head with authority to approve class deviations from the FAR or JAR. Requests for class deviations from the FAR or JAR shall be submitted to the SPE via the Office of Acquisition Management. The SPE will consult with FAR Council, as appropriate, and will grant or deny requests for such deviations.

Subpart 2801.4 Career Development, Contracting Authority, and Responsibilities

2801.401 Contracting Functions.

(a) In accordance with Attorney General Order 1687-93, the Attorney General (AG) has established contracting functions and delegated authority to the following officials to serve as HCAs:

(1) Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF);

(2) Director, Bureau of Prisons (BOP);

(3) Administrator, Drug Enforcement Administration (DEA);

(4) Director, Federal Bureau of Investigation (FBI);

(5) Commissioner, Federal Prison Industries (FPI/UNICOR);

(6) Inspector General, Office of the Inspector General (OIG);

(7) Assistant Attorney General, Office of Justice Programs (OJP);

(8) Director, U.S. Marshals Service (USMS); and

(9) Assistant Attorney General for Administration (AAG/A) (for the Offices, Boards, and Divisions).

(b) The acquisition authority delegated to the officials above may be redelegated to subordinate officials as necessary for the efficient and proper administration of the Department's acquisition operations, unless otherwise prohibited by the FAR or JAR. Such redelegated authority shall expressly state whether it carries the power of redelegation of authority.

2801.404 Contracting Officer's Representative (COR).

(a)(3)(ii) Contracting officers may appoint individuals to act as authorized representatives in the monitoring and administration of a contract. Such officials shall be designated as a Contracting

Officer's Representative (COR). Include JAR clause 2852.201-70 in all contracts when a COR will be designated by the contracting officer. A COR's authority is limited to the authority set forth in the subject clause.

PART 2802 - DEFINITIONS OF WORDS AND TERMS

Subpart 2802.1 - Definitions

2802.101 Definitions.

Parent topic: SUBCHAPTER A - GENERAL

Subpart 2802.1 - Definitions

2802.101 Definitions.

(a) *Agency* means the Department of Justice.

(b) *Bureau* means contracting activity. (See "contracting activity" in this subpart.)

(c) *Bureau Procurement Chief* or *BPC* means the supervisory official who is directly responsible for supervising, managing, and directing all contracting offices of the bureau.

(d) *Cardholder* means an individual entrusted with a Government Purchase Card.

(e) *Chief Acquisition Officer* or *CAO* means the official appointed to assist the head of the agency and other agency officials to ensure the mission of the agency is achieved through the management of the agency's acquisition activities.

(f) *Chief of the Contracting Office* means that supervisory official who is directly responsible for supervising, managing and directing a contracting office.

(g) *Contracting activity* means a component within the Department which has been delegated procurement authority to manage contracting functions associated with its mission (see 2801.601(a)).

(h) *Department* or *DOJ* means the Department of Justice.

(i) *Head of the Contracting Activity* or *HCA* means those officials identified in 2801.~~601(a) [~~401] having responsibility for supervising, managing, and directing the operations of the contracting activity.

(j) *Justice Acquisition Regulation* or *JAR* means the Department of Justice Acquisition Regulation in this chapter.

(k) *Justice Management Division JMD* means the Justice Management Division. (l) *OIG* means DOJ's Office of the Inspector General.

(m) *Suspension and Debarment Official* or *SDO* means the employee designated to impose suspension and debarment for the Department of Justice. The SPE is designated as the DOJ SDO under AG Order 2941-2008.

(n) *Senior Procurement Executive* or *SPE* means the official designated to be responsible for management direction of the Department of Justice procurement system, including implementation of unique procurement policies, regulations, and standards of the Department of Justice.

PART 2803 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 2803.1 - Safeguards

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2803.204 Treatment of violations.

Subpart 2803.4 - Contingent Fees

2803.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 2803.8 - Limitations on the Payment of Funds to Influence Federal Transactions

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Subpart 2803.9 - Whistleblower Protections for Contractor Employees

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2803.-904 Complaints

2803.905 Remedies and enforcement of orders.

2803.906 Contract clauses.

2803.906-70 Whistleblower Protection in General Non-Disclosure Agreement.

2803.906-71 Whistleblower Protection in Intelligence-Related Non-Disclosure Agreement.

Subpart 2803.10 - Contractor Code of Business Ethics and Conduct

2803.1004 Contract clauses.

Parent topic: SUBCHAPTER A - GENERAL

Subpart 2803.1 - Safeguards

2803.101 Standards of conduct.

2803.101-3 Agency regulations.

The DOJ regulations governing Standards of Conduct are contained in 5 CFR part 2635.

2803.104 Procurement integrity.

2803.104-7 Violations or possible violations.

(2) [Reserved].

(a)

(1) The individual designated to receive the information required by FAR 3.104-7(a)(1) is

the BPC.

(f) If the HCA-determines that award or extension of a contract potentially affected by the violation is justified by urgent and compelling circumstances, or is otherwise in the interest of the Government, then the HCA may authorize the contracting officer to award or extend the contract after notification to the SPE and OIG or other internal affairs or OPR office, if such a report has been made.

Subpart 2803.2 - Contractor Gratuities to Government Personnel

2803.203 Reporting suspected violations of the Gratuities clause.

“Other designated official” is the chief of the contracting office.

(a) Agency personnel must report suspected violations of the Gratuities clause to the contracting officer or the Chief of the Contracting Office. The report must be in writing and clearly state (1) the circumstances surrounding the incident, (2)-the nature of the gratuity, (3) the time period in which it occurred, (4) the behavior or action the gratuity was intended to influence, and (5) the persons involved.

(b) The contracting officer or Chief of the Contracting Office, after review, must forward the report along with his or her recommendations regarding the treatment of the violation in accordance with FAR 3.204(c) to the HCA, or designee.

2803.204 Treatment of violations.

(c) If the HCA or designee has determined that a violation has occurred, he or she must determine whether any of the actions at FAR 3.204(c) will be taken. In reaching the determination at FAR

3.204(c), the HCA or designee must consult with the contracting activity's legal advisor and the OIG or other internal affairs or OPR office, if such a report has been made.

The SPE must be advised of all instances where violations have been determined to have occurred and any action taken as a result.

Subpart 2803.4 - Contingent Fees

2803.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) In addition to notifying the CO in accordance with FAR 3.405(a), government personnel who suspect or have evidence of any of the activities at FAR 3.405(a)(1)-(3) must also report the matter to the SPE, through the Office of Acquisition Management, and the OIG.

Subpart 2803.8 - Limitations on the Payment of Funds to Influence Federal Transactions

2803.806 Processing suspected violations.

Evidence of suspected violations of 31 U.S.C. 1352, Limitation on the Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, must be submitted to the SPE and the OIG or other office designated in Attorney General Order 1931-94.

Subpart 2803.9 - Whistleblower Protections for Contractor Employees

2803.901 Definitions.

As used in this subpart -

Covered Individual is defined as an employee of a contractor at any tier required by the Department to sign a Non-Disclosure Agreement (NDA), whether the NDA is:

(a)(1) directly between the Covered Individual and the Department or

(2) between the Covered Individual and a contractor,

(b) required by a contract or otherwise (*e.g.,* pursuant to a vendor demonstration, product trial, market research effort, or other non-contract efforts).

General NDA means an NDA, other than an Intelligence-Related NDA, required by the Department to be signed by a Covered Individual.

Intelligence-Related NDA means any NDA required by the Department to be signed by a Covered Individual who is connected with the conduct of an intelligence or intelligence-related activity.

Non-Disclosure Agreement means any nondisclosure or confidentiality agreement, policy, or form, including the agreements in Standard Forms 312 (Classified Information Nondisclosure Agreement) and 4414 (Sensitive Compartmented Information Nondisclosure Agreement).

2803.904 Complaints.

2803.904-2 Procedures for investigating complaints.

(b) Upon receipt of a complaint filed pursuant to FAR 3.904, the Inspector General must conduct an investigation and provide a written report of findings to the HCA, or designee.

(b) The HCA or designee will ensure that the Inspector General provides the report of finding to the individuals and entities specified in FAR 3.904-2(b).

(c) The complainant and contractor must be afforded the opportunity to submit to the HCA or designee a written response to the report of findings within a timeframe set by the agency that allows the agency head to take action within 30 days after receiving the report. The HCA or designee may grant extensions of time to file a written response following consultation with the Inspector General.

(d) The HCA or designee may request that the Inspector General conduct additional investigative work on the complaint at any time.

2803.905 Remedies and enforcement of orders.

2803.905-2 Enforcement of orders

(b) Whenever a contractor fails to comply with an order issued pursuant to FAR 3.905-1(a)(2), the HCA or designee must notify the Attorney General and request that DOJ file an action for enforcement of such order in the in the appropriate district court.

2803.906 Contract clauses.

2803.906-70 Whistleblower Protection in General Non-Disclosure Agreement.

The contracting officer must ensure that any DOJ-required General NDA contains the required Whistleblower Protection Provision at JAR 2852.203-70.

2803.906-71 Whistleblower Protection in Intelligence-Related Non-Disclosure Agreement.

The contracting officer must ensure that DOJ-required Intelligence-Related NDA contains the required Whistleblower Protection Provision at JAR 2852.203-71.

Subpart 2803.10 - Contractor Code of Business Ethics and Conduct

2803.1004 Contract clauses.

(b)(2) The information required to be inserted in the clause at FAR 52.203-14, Display of Hotline Poster(s), is the following: Office of the Inspector General, Fraud Detection Office, Attn: Poster Request, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530.

PART 2804 - ADMINISTRATIVE MATTERS

Subpart 2804.2 Solicitation, Evaluation, and Award

2804.204 - Taxpayer Identification Information

Parent topic: SUBCHAPTER A - GENERAL

Subpart 2804.2 Solicitation, Evaluation, and Award

2804.204 - Taxpayer Identification Information.

2804.204-70 Special reporting exceptions.

(a) The Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, amended 26 U.S.C. 6050M to allow exceptions to the reporting requirements for certain classified or confidential contracts.

(b) The head of the agency has determined that the filing of information returns, as required by 26 U.S.C. 6050M, on confidential contracts, which involve law enforcement or foreign counterintelligence activities, would interfere with the effective conduct of those confidential law enforcement or foreign counterintelligence activities, and that the special reporting exceptions added to 26 U.S.C. 6050M by the Technical and Miscellaneous Revenue Act of 1988 apply to these types of contracts.

PART 2805 - PUBLICIZING CONTRACT ACTIONS

Subpart 2805.1 - Presolicitation

2805.101 Presolicitation notice.

2805.102 Paid advertisements.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2805.1 Presolicitation

2805.101 Presolicitation notice

The HCA or designee is the agency head for the purposes of the determination required by FAR 5.101-(b)(3).

2805.102 Paid advertisements.

This section provides policies and procedures for the procurement of paid advertising as covered by 44 U.S.C. 3702 and 3703 and 5 U.S.C. 302(b).

(a) The HCA or designee is the agency head for approving the publication of paid advertisements in newspapers under 44 U.S C. 3702 and 3703.

(b) Authority to place advertisements in media other than newspapers must be granted in writing in advance by the HCA, or designee. No advertisement, notice, or proposal should be published prior to receipt of advance written approval for such publication by the HCA or designee, and no voucher or invoice for any such advertisement or publication will be paid unless there is presented, with the voucher or invoice, a copy of the written approval. Approval shall not be granted retroactively.

PART 2806 - COMPETITION REQUIREMENTS

2806.003 Advocates for competition.

Subpart 2806.102 - Full and Open Competition After Exclusion of Sources

Subpart 2806.104 - Justification and Approval.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

2806.003 - Advocates for competition.

(a) (1) The Director, Office of Acquisition Management, Justice Management Division, is designated as the Department Competition Advocate.

(2) The HCA or designee for each bureau appoints the Bureau Competition Advocate. The Bureau Competition Advocate is vested with the overall responsibility for competition activities within his or her bureau. The delegated Bureau Competition Advocate must be at or above the level of the BPC organizationally.

Subpart 2806.1 - Presolicitation

2806.102 - Full and open competition after excluding sources.

2806.102-1 Establishing or maintaining alternative sources.

(b)(1) The HCA or designee is the agency head for the purposes of FAR 6.102-1.

2806.104 - Justification and Approval

2806.104-2 Approval of the justification.

(a) All justifications must be approved in accordance with the thresholds at FAR 6.104-2 with the Bureau Competition Advocate serving as the Advocate for competition. Justifications requiring Department Competition Advocate concurrence are established in internal department policy. Justifications requiring approval above the CO must have Bureau Competition Advocate and BPC concurrence prior to routing for higher level approval.

(b) Class justifications must be approved in accordance with established bureau procedures and FAR 6.104-2(b).

PART 2807 - ACQUISITION PLANNING

Subpart 2807.1 - Acquisition Plans

2807.103 Agency-head responsibilities.

2807.104 General procedures.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2807.1 - Acquisition Plans

2807.103 Agency-head responsibilities.

(a) The HCA is the agency head's designee for the purposes of FAR 7.103.

2807.104 General procedures.

2807.104-70 Bundled requirements.

(b)(5) If bundling requirements, the contracting officer must consult with the bureau Small Business Specialist (SBS).

PART 2808 - REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 2808.4 - Federal Supply Schedules

2808.401-70 Justification Approval Thresholds

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2808.4 - Federal Supply Schedules

2808.401-70 Justification Approval Thresholds

Actions awarded on a sole source basis to include brand name requirements, issued under 8.401(b) in accordance with GSA ordering procedures at 538.71, must adhere to the approval levels at FAR (RFO) 6.104-2(a) for the justification until such time as approval thresholds are established in the FAR or by GSA.

PART 2809 - CONTRACTOR QUALIFICATIONS

Subpart 2809.2 - Qualifications Requirements

2809.202 Policy.

Subpart 2809.4 - Debarment, Suspension, and Ineligibility

2809.402 Policy.

2809.404 Exclusions in the System for Award Management Exclusions.

2809.405 Effect of listing.

Subpart 2809.5 - Organizational and Consultant Conflicts of Interest

2809.503 Waiver.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2809.2 - Qualifications Requirements

2809.202 Policy.

The HCA or designee is the agency head for the purposes of FAR 9.202(a)(1).

Subpart 2809.4 - Debarment, Suspension, and Ineligibility

2809.402 Policy.

(a) The SPE is the agency head for purposes of suspension and debarment under FAR subpart 9.4, and serves as the Suspension and Debarment Official (SDO) for both procurement and non-procurement matters.

(b) Contracting activities shall consider recommending suspension or debarment of a contractor when cause is shown as listed under FAR 9.406-2 and 9.407-2.

(1) If a determination is made that available facts do not justify debarment or suspension, the file should be documented accordingly and no additional action is required.

(2) If the decision is made to recommend suspension or debarment of a contractor, in coordination with the activity's BPC and legal counsel, the bureau shall submit a memorandum to the SDO containing all relevant facts and analysis on which the recommendation is based. The submission also should include copies of all relevant documents.

2809.404 Exclusions in the System for Award Management.

(a) The SDO shall ensure the discharge of all agency responsibilities prescribed in FAR 9.404(c)

(1) through (6), (8), and (9).

2809.405 Effect of listing.

The HCA or designee is the agency head for the purposes of FAR 9.405.

2809.405-1 Continuation of current contracts.

The HCA or designee is the agency head for the purposes of FAR 9.405-1.

2809.405-2 Restrictions on subcontracting.

The HCA or designee is the agency head for the purposes of FAR 9.405-2.

Subpart 2809.5 - Organizational and Consultant Conflicts of Interest

2809.503 Waiver.

The HCA is the agency head for the purpose of waiving any general rule or procedure prescribed in FAR subpart 9.5. As prescribed in FAR 9.503, the authority delegated to the HCA to waive any general rule or procedure prescribed in FAR subpart 9.5 may not be delegated below the level of the HCA.

PART 2810 - MARKET RESEARCH

2810.001 Market research requirements.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

2810.001 Market research requirements

(e) The HCA or designee establishes market research documentation requirements for the contracting activity according to dollar value and complexity of the requirement.

PART 2811 – DESCRIBING AGENCY NEEDS

Subpart 2811.2 - Selecting and Developing Requirements Documents

2811.102 Policy.

2811.203 Market acceptance.

Subpart 2811.4 - Liquidated Damages

2811.401 Policy.

Subpart 2811.5 - Priorities and Allocations

2811.503 Procedures.

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2811.2 - Selecting and Developing Requirements Documents

2811.102 Policy.

(b) When acquiring products or services, the requirements of FAR 11.102(d)(1) and DOJ sustainability policies and procedures are to be followed.

Subpart 2811.2 - Selecting and Developing Requirements Documents

2811.203 Market acceptance.

The HCA is the agency head for the purposes of FAR 11.203(a).

Subpart 2811.4 - Liquidated Damages

2811.401 Policy.

The HCA or designee is the agency head for the purposes of FAR 11.401(d).

Subpart 2811.5 - Priorities and Allocations

2811.503 Procedures.

The HCA or designee is the agency head for the purposes of FAR 11.503.

PART 2812 - ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Subpart 2812.001 Applicability

Subpart 2812.2 - Solicitation, Evaluation and Award

2812.205 - Solicitation Provisions and Contract Clauses

Subpart 2812.4 Micro-purchases

2812.403 Methods

Parent topic: SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

Subpart 2812.001 Applicability

The SPE is the agency head for the purposes of FAR 12.001.

Subpart 2812.2 - Solicitation, Evaluation, and Award

2812.205 Solicitation provisions and contract clauses.

(b) JAR 2852.212-4 in all solicitations and contracts for the acquisition of commercial products and services that require FAR 52.212-4, Contract Terms and Conditions - Commercial-Products and Services.

(d) Waivers and deviations.

The HCA, or designee at a level at or above the BPC, is authorized to approve the contracting officer's request for waiver for an individual contract action submitted under FAR 12.205(d)(1)(iii)(A). The SPE is authorized to approve the contracting officer's request for waiver for a class of contracts submitted under FAR 12.205(d)(1)(iii)(B).

Subpart 2812.4 Micro-purchases

2812.403 Methods.

(c) The HCA or designee is the agency head for the purposes of FAR 12.403(c).

2812.403-70 Certified Invoice Procedures

(a) Policy. Supplies or services may be acquired on the open market from local suppliers at the site of the work or usage point. Using the vendor's invoice, instead of issuing a Government purchase order, is authorized under the certified invoice procedure. The certified invoice procedure for purchases may only be used subject to the following:

(1) The individual transaction amount does not exceed the micro-purchase threshold; or the thresholds for the Davis-Bacon Act or Service Contract Labor Standards Act, if applicable;

(2) Availability of sufficient funds is verified and documented before being used;

(3) A purchase order is not available, and the vendor does not accept purchase orders or purchase card transactions;

(4) The vendor submits approved and appropriate invoices;

(5) The items purchased are domestic source end products, except as provided in FAR subpart 25.1; and,

(6) appropriate pre-approval is authorized under the certified invoice procedure.

(b) Prohibition. Certified invoice procedures may not be used to place orders under established contracts.

(c) Compliance with Micro-purchase procedures: Using the certified invoice procedures does not eliminate the requirements in FAR Part 12.4 that apply to commercial purchases at or below the micro-purchase threshold.

(d) The BPC may delegate the authority to use the certified invoice procedure up to the MPT including any limitations placed on the individual's use of these procedures, such as limits on the amount of each purchase, or limits on the commodities, products, or services being procured.

(e) Failure to follow internal procedures for processing certified invoices may result in the delegation of authority being revoked.

(e) The administrative office or appropriate certifying officer is responsible for approving or rejecting the invoice within seven days. When sending the approved invoice for payment, include the accounting and appropriation data and the following statement:

I certify that these goods and /or services were received on _____(date) and accepted on _____(date). Oral purchase was authorized and no confirming order has been issued.
Signature_____
Date_____

_____
Printed name or Typed Name and Title

PART 2813 - SIMPLIFIED ACQUISITION PROCEDURES FOR NONCOMMERCIAL ACQUISITIONS

Subpart 2813.2 - Solicitation, Evaluation, and Award

2813.203 Award.

2813.204 Contract clauses.

Subpart 2813.4 - Micro-purchases

2813.401-70 Certified Invoice Procedure

Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

Subpart 2813.2 Solicitation, Evaluation, and Award

2813.203 Award

(c) Bureaus may use order forms other than the Standard Forms (SF) and Optional Forms (OF) identified in FAR 13.203(c). They may also include on the forms clauses as described in 2813.204.

2813.204 Contract Clauses.

(b) Contracting officers may use clauses suitable for the specific purchase, including tailored clauses, provided that proper procedures and all relevant limitations, documentation instructions, and required maintenance are followed.

2813.4 Micro-purchases

2813.401-70 Certified Invoice Procedures.

(a) Follow JAR 2812.403-70 when certified invoice procedures are needed for non-commercial requirements valued at or below the micro-purchase threshold.

(b) Compliance with Micro-purchase procedures: Using the certified invoice procedures does not eliminate the requirements in FAR Part 13.4 that apply to non-commercial purchases at or below the micro-purchase threshold.

PART 2814 – SEALED BIDDING

Subpart 2814.3 - Evaluation and award

2814.304 Mistakes in bids

2814.305 Cancellation of invitations after opening.

Subpart 2814.4 – Postaward.

2814.401 Mistakes after award.

Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

Subpart 2814.3 – Evaluation and award

2814.304 Mistakes in bids.

2814. 304-3 Other mistakes disclosed before award.

(a) The authority to make determinations under paragraphs (a)(2), (b), (c)(2), and (d) of FAR 14.3 is delegated to the HCA. The HCA may re-delegate this authority at a level at or above the chief of the contracting office. The determination must be coordinated with the contracting activity's legal counsel.

(i) The following procedures shall be followed when submitting cases of mistakes in bids to the Comptroller General for an advance decision.

(1) Requests for advance decisions submitted to the Comptroller General in cases of mistakes in bids shall be made by the HCA, or designee.

(2) Requests for advance decisions shall be in writing, dated, signed by the requestor, addressed to the Comptroller General of the United States, General Accounting Office, Washington, DC 20548, and contain the following:

(i) The name and address of the party requesting the decision;

(ii) A statement of the question to be decided, a presentation of all relevant facts, and a statement of the requesting party's position with respect to the question; and,

(iii) Copies of all pertinent records and supporting documentation.

2814.305 Cancellation of invitations after opening.

The authority to make determinations under FAR 14.305(b) and (d)(1) is delegated to the HCA. The HCA may re-delegate this authority at a level at or above the chief of the contracting office. The determination must be coordinated with the contracting activity's legal counsel.

Subpart 2814.4 – Postaward.

2814.401 Mistakes after award.

The authority to make determinations under FAR 14.401 is delegated to the HCA. The HCA may re-delegate this authority at a level at or above the chief of the contracting office. The determination must be coordinated with the contracting activity's legal counsel.

PART 2815 – CONTRACTING BY NEGOTIATION

Subpart 2815.1 - Presolicitation and Solicitation

2815.102 Structuring a request for proposals.

Subpart 2815. 2 - Evaluation and Award.

2815.201 Source selection responsibilities.

Subpart 2815.4 - Contract Pricing

2815.406 Data to support proposal analysis.

Subpart 2815.5 - Unsolicited Proposals

2815.504 Receipt and initial review of unsolicited proposals.

Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

Subpart 2815.1 - Presolicitation and Solicitation

2815.102 Structuring a request for proposals.

(b)(2)(v) The HCA or HCA's designee is the agency head for the purposes of FAR 15. 102(b)(2)(v).

Subpart 2815. 2 - Evaluation and Award

2815.201 Source selection responsibilities.

(a) The HCA or HCA's designee is the agency head for the purposes of FAR 15.201(a).

Subpart 2815.4 - Contract Pricing

2815.406 Data to support proposal analysis.

All requests for field pricing support shall be made by the contracting officer directly to the cognizant audit agency. A copy of the request for such services shall be sent to the OIG at the time it is mailed to the cognizant audit agency. A copy of each report received shall also be sent to the OIG. Requests for other audit assistance may be made to the Assistant Inspector General for Audits.

Subpart 2815. 5 - Unsolicited Proposals

2815.503-2 Content of proposals.

To ensure against contracts between DOJ and prospective offers that would exceed the limits of advance guidance set forth in FAR 15.502(d) and potentially result in an unfair advantage to an offeror, the offeror of an unsolicited proposal must include the following warranty in any unsolicited proposal. Contracting officers receiving an unsolicited proposal without this warranty shall not process the proposal until the offeror is notified and given an opportunity to submit a proper warranty. If no warranty is provided in a reasonable time, the contracting officer shall reject the unsolicited proposal and notify the offeror of the rejection and the reason therefore.

The warranty must be signed by a responsible management official of the proposing organization authorized to contractually obligate the organization.

UNSOLICITED PROPOSAL

WARRANTY BY OFFEROR

This is to warrant that -

(a) This proposal has not been prepared under Government supervision;

(b) The methods and approaches stated in the proposal were developed by this offeror;
(c) Any contact with DOJ personnel has been with the limits of appropriate advance guidance set forth in FAR 15.502; and,

(d) No prior commitments were received from DOJ personnel regarding acceptance of this proposal.

Date:

Organization:

Name:

Title:

2815.504 Receipt and initial review of unsolicited proposals.

(a) The HCA must designate a point of contact for the receipt and handling of unsolicited proposals in accordance with FAR RFO 15.504. The official designated must be the BPC or immediate subordinate.

PART 2816 - TYPES OF CONTRACTS

Subpart 2816.1 - Selecting Contract Types

2816.104 Executive order 14402 justification for covered contracts and orders.

Subpart 2816.5 - Indefinite-Delivery Contracts

2816.507 Additional ordering procedures for multiple-award contracts.

Subpart 2816.6 - Time-and-Materials, Labor-Hour, and Letter Contracts

2816.601 Time-and-materials contracts.

2816.602 Labor-hour contracts.

Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

Subpart 2816.1 - Selecting Contract Types

2816.104 Executive Order 14402 justification for covered contracts and orders.

(d)(2) Attorney General Order 7193-2026 designates the Deputy Attorney General and the Principal Deputy Assistant Attorney General as the agency officials authorized to approve the justification described in 16.104(d). When agency-head approval of the justification is required, bureaus must follow Department procedures for documentation, review, and approval.

Subpart 2816.5 - Indefinite-Delivery Contracts

2816.507 Additional ordering procedures for multiple-award contracts.

2816.507-2 Fair opportunity procedures.

(b) In accordance with FAR 16.507-2(b), the DOJ task order and delivery order ombudsman is the DOJ Competition Advocate. The bureau task order and delivery order ombudsman is appointed by the HCA and may be the bureau Competition Advocate. Bureau ombudsmen are responsible for reviewing and resolving complaints from contractors concerning bureau task or delivery orders. Contractors not satisfied with the resolution of a complaint by a bureau ombudsman may request the DOJ ombudsman to review the complaint.

2816.507-6 Exceptions to fair opportunity.

(a) Justifications for exceptions to the fair opportunity process specified in FAR 16.507-6 must be approved in accordance with the thresholds at JAR 2806.104-2 (Deviation).

Subpart 2816.6 - Time-and-Materials, Labor-Hour, and Letter Contracts

2816.601 Time-and-materials contracts.

2816.601-3 Limitations

(a)(2) The HCA may designate the BPC or designee at a level at or above the chief of the contracting office, as the agency official authorized to approve a determination and finding prescribed in FAR 16.601(a)(2).

2816.602 Labor-hour contracts.

The limitations set forth in 2816.601-3 for time-and-materials contracts also applies to labor hour contracts.

PART 2817 – SPECIAL CONTRACTING METHODS

Subpart 2817.1 - Multiyear Contracting

2817.104 – Evaluation and Award

Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

Subpart 2817.1 - Multiyear Contracting

2817.104 Evaluation and Award

2817.104-3 Congressional notification.

The SPE is the agency head for the purposes of FAR 17.104-3(a).

PART 2818 – EMERGENCY ACQUISITIONS - RESERVED

PART 2819 – SMALL BUSINESS PROGRAMS

Subpart 2819.1 Presolicitation.

2819.102 Coordination.

2819.108 Contracting With the Small Business Administration (the 8(a) Program). 2819.109 SBA appeals.

Subpart 19.3 Post Award

2819.303 8(a) Program contracts.

Parent topic: SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

Subpart 2819.1 Presolicitation.

2819.102 Coordination.

The SPE is the agency head for the purposes of FAR 19.102(f).

2819.108 Contracting With the Small Business Administration (the 8(a) Program).

2819.108-9 SBA appeals.

The SPE is the agency head for the purposes of FAR 19.108-9(c).

Subpart 2819.3 Post Award.

2819.303 8(a) Program contracts.

2819.303-1 Contract administration.

The HCA or designee is the agency head for the purposes of FAR 19.303-1(e).

PART 2820 – RESERVED

PART 2821 – RESERVED

PART 2822 – APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 2822.1 - Basic Labor Policies

2822.101 Labor relations.

2822.101-70 Domestic violence, sexual assault, sexual misconduct, and stalking.

2822.104 Postaward.

Subpart 2822.3 - Contract Work Hours and Safety Standards Act

2822.302 Postaward.

Subpart 2822.4 - Labor Standards for Contracts Involving Construction

2822.404 Postaward.

Subpart 2822.6 - Contracts for Materials, Supplies, Articles, and Equipment

2822.601 Presolicitation

Subpart 2822.13 - Equal Opportunity for Veterans

2822.1302 Presolicitation

Subpart 2822.14 - Employment of Workers With Disabilities

2822.1401 Presolicitation

Parent topic: SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

Subpart 2822.1 - Basic Labor Policies

2822.101-1 Labor relations.

2822.101-70 Domestic violence, sexual assault, sexual misconduct, and stalking.

Insert the clause, JAR 2852.222-70 Domestic Violence, Sexual Assault, Sexual Misconduct, and Stalking, in every written solicitation when services will be performed in whole or in part on DOJ premises.

2822.104 Postaward.

2822.104-2 Overtime Approvals.

(f) During contract performance, contractor requests for overtime exceeding the amount authorized in paragraph (a) of the clause at FAR 52.222-2, Payment for Overtime Premiums, must be approved at a level above the contracting officer. Such approval should be reflected by the signature of the approving official on the contracting officer's written determination made in accordance with FAR 22.104-2.

Subpart 2822.3 - Contract Work Hours and Safety Standards Act

2822.302 Postaward.

The authority to make the determination prescribed in FAR 22.302(d) is delegated to the HCA, or designee.

Subpart 2822.4 - Labor Standards for Contracts Involving Construction

2822.404 Postaward

2822.404-2 Enforcement.

(c)(1)(vii) The HCA or designee at a level at or above the BPC is the agency head responsible for the reporting requirements at FAR 22.-404-2(c)(1)(vii)(B).

(c)(4) Any information furnished to the Department of Labor, as required by FAR 22.404-2(c)(4) must be submitted through the HCA, or designee.

Subpart 2822.6 - Contracts for Materials, Supplies, Articles, and Equipment.

2822.601-3 Exemptions.

The SPE is the agency head for the purposes of FAR 22.601-3(c)(1).

Subpart 2822.13 - Equal Opportunity for Veterans

2822.1302-2 Solicitation provisions and contract clauses.

The SPE is the agency head for the purposes of FAR 22.1302-2(a)(1)(ii) and (a)(2).

2822.1302-3 Waivers.

All requests for waiver of the terms of FAR 52.222-35 pursuant to FAR 22.1302-3(a) or (b) must be forwarded from the HCA or designee to OAM, JMD, for review and approval by the SPE.

Subpart 2822.14 - Employment of Workers With Disabilities

2822.1401 Presolicitation

2822.1401-3 Waivers.

The SPE is the agency head for the purposes of FAR 22.1401-3(b).

PART 2823 – SUSTAINABLE ACQUISITION, MATERIAL SAFETY, AND POLLUTION PREVENTION

Subpart 2823. 1 - Sustainable Products.

2823.103 Procedures.

2823.107 Agency programs.

2823.104-70 Agency promotion programs

Subpart 2823.3 - Material Safety

2823.304 Contract clause.

2823.304-70 Unsafe conditions due to hazardous material.

Parent topic: SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

Subpart 2823.1 - Sustainable Products

2823.103 Procedures.

(b) The contracting officer is the approving official for justifications made pursuant to FAR 23.103(b).

2823.107 Agency programs.

2823.107-70 Agency promotion programs.

Assistant Attorney General for Administration has primary responsibility for actively promoting the acquisition of sustainable products throughout DOJ through programs addressing the requirements of 40 CFR 247.6 and 7 CFR 4270.5. The SPE is responsible for establishing the annual review and monitoring process to determine effectiveness of the programs.

2823.108 Solicitation provisions and contract clauses.

(b)(2) Enter the CO’s email address in FAR 52.223-9(b)(2) as the address for receipt of the estimate required by FAR 52.223-9.

Subpart 2823.3 - Material Safety

2823.304 Contract clauses.

2823.304-70 Unsafe conditions due to hazardous material.

Insert the clause at JAR 2852.223-70, Unsafe Conditions Due to the Presence of Hazardous Material, in all solicitations and contracts where FAR 52.223-3 is included and where the contract will require the performance of services on Government-owned or Government-leased facilities.

PART 2824 – PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION – RESERVED

PART 2825 – FOREIGN ACQUISITION

Subpart 2825.1 - Buy American - Supplies

2825.103 Exceptions.

2825.106 Determining reasonableness of cost.

Subpart 2825.2 - Buy American - Construction Materials

2825.202 Exceptions.

2825.204 Evaluating offers of foreign construction material.

2825.206 Noncompliance.

Subpart 2825.10 - Additional Foreign Acquisition Regulations

2825.1001 Waiver of right to examination of records.

Parent topic: SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

Subpart 2825.1 - Buy American - Supplies

2825.103 Exceptions.

The authority to make the determination prescribed in FAR 25.103(a) is delegated to the HCA, or designee.

2825.106 Determining reasonableness of cost.

The authority to make the determinations prescribed in FAR 25.106(a)(1) is delegated to the HCA, or designee.

Subpart 2825.2 - Buy American - Construction Materials

2825.202 Exceptions.

The authority to make the determinations prescribed in FAR 25.202(a)(1) is delegated to the HCA, or designee.

2825.204 Evaluating offers of foreign construction material.

The HCA, or designee at or above the level the BPC, is delegated the authority to specify a higher percentage in accordance with FAR 25.204(a)(1)(i).

2825.206 Noncompliance.

The CO must refer noncompliance that appears fraudulent under FAR 25.206(c)(4) to the OIG for investigation.

Subpart 2825.10 - Additional Foreign Acquisition Regulations

2825.1001 Waiver of right to examination of records.

The HCA, or designee at or a level above the BPC, is delegated the authority to make determinations under FAR 25.1001(a)(2)(iii).

PART 2826 – OTHER SOCIOECONOMIC PROGRAMS – RESERVED

PART 2827 – PATENTS, DATA, AND COPYRIGHTS

Subpart 2827.3—Patent Rights Under Government Contracts

2827.303 Contract clauses.

Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 2827.3—Patent Rights Under Government Contracts

2827.303 Contract clauses.

The SPE is the agency head for the purposes of FAR 27.303.

PART 2828 – BONDS AND INSURANCE

Subpart 2828.1—Bonds and Other Financial Protections

2828.101 Bid guarantees.

2828.106 Administration.

Subpart 2828.2—Sureties and Other Security for Bonds

2828.203 Individual Sureties.

Subpart 2828.3—Insurance

2828.307 Insurance under cost-reimbursements contracts.

Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 2828.1—Bonds and Other Financial Protections

2828.101 Bid guarantees.

2828.101-1 Policy on use.

The HCA or designee is the agency head for the purposes of authorizing class waivers in accordance with FAR 28.101-1(c).

2828.106 Administration.

2828.106-6 Furnishing information.

In accordance with FAR 28.106-6(c), the HCA, or designee at a level at or above the BPC, is the agency official authorized to furnish the certified copy of the bond and the contract.

Subpart 2828.2—Sureties and Other Security for Bonds

2828.203 Individual Sureties.

2828.203-5 Exclusion of individual sureties.

The SDO is the agency head for the purposes of FAR 28.203-5(a).

Subpart 2828.3—Insurance

2828.307 Insurance under cost-reimbursements contracts.

2828.307-1 Group insurance plans.

Under cost-reimbursement contracts, the contractor, before buying insurance under a group insurance plan, submit the plan to the contracting officer for review and approval. The

contracting officer may utilize all sources of information available such as audit, industry practices, etc., to determine if acceptance of the group insurance plan is in the Government's best interest.

PART 2829 – TAXES

Subpart 2829.3 - State and Local Taxes

2829.302 Application of State and local taxes to Government contractors and subcontractors.

Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 2829.3 - State and Local Taxes

2829.302 Application of State and local taxes to Government contractors and subcontractors.

(a) It is DOJ policy that DOJ contracts shall not contain clauses expressly designating prime contractors as agents of the Government for the purpose of avoiding State and local taxes.

(b) A DOJ contracting activity may request to the CAO, through the HCA, that a contractor be considered an agent of the Government for the purpose of claiming immunity from State and local sales and use taxes. The CAO will review such requests to ensure compliance with DOJ policy and applicable law. Each case forwarded will be reviewed by the HCA or designee for approval before referral to the CAO.

PART 2830 – COST ACCOUNTING STANDARDS ADMINISTRATION

Subpart 2830.2 - Presolicitation

2830.202 Waiver

Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 2830.2 - Presolicitation

2830.202 Waiver.

The SPE is the agency head for the purposes of FAR 30.202 and the authority may not be delegated below the BPC.

PART 2831 – CONTRACT COST PRINCIPLES AND PROCEDURES

2831.004 Deviations

Subpart 2831.1 - Applicability

2831.110 Advance agreements.

Subpart 2831.2 - Contracts With Commercial Organizations

2831.205 Selected costs.

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

2831.004 Deviations

(a) (1) The SPE is the official authorized to grant individual deviations from the cost principles of FAR part 31.

(2) Requests for class deviations from the cost principles set forth in FAR part 31 require SPE concurrence prior to submission to the CAAC.

Subpart 2831.1 - Applicability

2831.110 Advance agreements.

(a) Advance agreements in accordance with FAR 31.110 (RFO) must be negotiated prior to the contract incurring special or unusual costs.

(h) All determinations required by this subpart shall be reviewed and approved at a level above the contracting officer prior to negotiation of the agreement. The approved determination shall be placed in the contract file.

Subpart 2831.2 - Contracts With Commercial Organizations

2831.205 Selected costs.

2831.205-6 Compensation for personal services.

The HCA or designee is the agency head for the purposes FAR 31.205-6(f)(6)(ii).

PART 2832 – CONTRACT FINANCING

2832.006 Reduction or suspension of contract payments upon finding of fraud.

Subpart 2832.1 - Financing for Other than a Commercial Purchase

2832.114 Unusual contract financing.

Subpart 2832.2 - Commercial Product and Commercial Service Purchase Financing

2832.201 Statutory authority.

Subpart 2832.4 - Advance Payments for Other Than Commercial Acquisitions

2832.402 General.

2832.407 Interest.

Subpart 2832.5 - Progress Payments Based on Costs

2832.502 Preaward matters.

2832.503 Postaward matters.

Subpart 2832.7 - Contract Funding

2832.703 Contract funding requirements.

Subpart 2832.9 - Prompt Payment

2832.903 Responsibilities.

Subpart 2832.11 - Electronic Funds Transfer

2832.1110 Solicitation provision and contract clauses.

Subpart 2832.12 - Fast Payment Procedure

2832.1202 Conditions for Use.

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

2832.006 Reduction or suspension of contract payments upon finding of fraud.

2832.006-1 General.

The SPE is the agency head for the purposes of FAR 32.006-1.

2832.006-2 Definition.

The Deputy SPE is the “Remedy coordination official” for the purposes of FAR 32.006-2.

2832.006-3 Responsibilities.

(b) DOJ personnel must immediately report, in writing, to the contracting officer and the OIG any apparent or suspected contractor request for advance, partial, or progress payments based on fraud.

2832.006-4 Procedures.

The SPE is the agency head for the purposes of FAR 32.006-4.

Subpart 2832.1 - Financing for Other Than Commercial Purchase

2832.114 Unusual contract financing.

The HCA, or designee at a level at or above the BPC, is the official authorized to approve unusual contract financing as set forth in FAR 32.114.

Subpart 2832.2 - Commercial Product and Commercial Service Purchase Financing

2832.201 Statutory authority.

The HCA or designee is the agency head for the purposes of FAR 32.201.

Subpart 2832.4 - Advance Payments for Other Than Commercial Acquisitions

2832.402 General.

(e)(1) The authority to make the determinations prescribed in FAR 32.402 and sign written determinations and findings with respect to making advance payments is vested in the HCA or designee.

The contract terms and conditions concerning advance payments must be approved prior to award at a level above the contracting officer.

(2) In ensuring that all FAR and agency requirements are met, the contracting officer shall coordinate with the activity that is to provide contract financing for advance payments, the bureau's disbursing or finance office, or the Treasury Department, as appropriate.

2832.407 Interest.

The circumstance(s) permitting interest free advance payments must be included in the determination required at FAR 32.402 if interest free advance payments are considered.

Subpart 2832.5 - Progress Payments Based on Costs

2832.502 Preaward matters.

2832.502-2 Contract finance office clearance.

Before taking any of the actions prescribed in FAR 32.502-2, the contracting officer must obtain approval from the bureau's Chief Financial Officer.

2832.503 Postaward matters.

2832.503-6 Suspension or reduction of payments.

(a)(1) HCA approval is required before the CO takes any of the actions under FAR 32.503-6(1)(b)-(g).

(2) In the event immediate unilateral action is deemed necessary by the CO, HCA approval is required within 10 days.

(3) Upon approval, the contracting officer shall request the finance office to suspend or reduce payments.

Subpart 2832.7 - Contract Funding

2832.703 Contract funding requirements.

2832.703-3 Contracts crossing fiscal years.

The HCA or designee is the agency head for the purposes of FAR 32.703-3(b).

Subpart 2832.9 - Prompt Payment

2832.903 Responsibilities.

The HCA or designee is the agency head for the purposes of FAR subpart 32.9.

Subpart 2832.11 - Electronic Funds Transfer

2832.1110 Solicitation provision and contract clauses.

When the clause at FAR 52.232-34, Payment by Electronic Funds Transfer (EFT) - Other than System for Award Management, is required, the contracting officer is authorized to insert in paragraph (b)(1) of the clause a fixed number of days, or an event such as the submission of the first request for payment, to establish the point at which contractors' EFT information shall be provided.

Subpart 2832.12 - Fast Payment Procedure

2832.1202 Conditions for Use.

DOJ contracting activities are authorized to use the fast payment procedures solely for utility service payments meeting the criteria at FAR 32.12.

PART 2833 – PROTESTS, DISPUTES, AND APPEALS

Subpart 2833.1 - Protests

2833.102 Definitions.

2833.104 Protests to the agency.

Subpart 2833.2 - Disputes and Appeals

2833.202 Applicability.

2833.205 Postaward

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

Subpart 2833.1 - Protests

2833.102 Definitions.

(a) *Deciding Official* means the official who will review and decide a procurement protest filed with the agency. The Deciding Official will be the contracting officer unless the protestor requests pursuant to JAR 2833.104-4(a)(5) that the protest be decided by an independent reviewer.

2833.104 Protests to the agency.

2833.104-1 Scope.

(a) This part prescribes policies and procedures for processing protests to DOJ in accordance with FAR 33.104 and Executive Order 12979, Agency Procurement Protests.

(b) Contracting officers and contractors are encouraged to use their best efforts to resolve concerns outside of the protest process through frank and open discussion as required by FAR 33.104-4 or through alternative dispute resolution techniques where appropriate.

2833.104-2 Preaward.

(a) The filing time frames in FAR 33.104 apply. An agency protest is filed when the protest is received at the location the solicitation designates for serving protests.

(b) If an agency protest is received before contract award, the contracting officer may not make the award unless the HCA or designee approves a written justification for urgent and compelling reasons, or determines in writing that award is in the best interest of the Government.

(c) Intervenors to the protest are not permitted.

2833.104-3 Postaward.

(a) Any suspension of performance issued in accordance with FAR 33.104-3(a) remains in effect until the agency protest is decided, dismissed, or withdrawn.

(b) The HCA or designee is the individual authorized to approve the justification for urgent and compelling reasons or determination that continued performance is in the best interest of the government.

2833.104-4 Other procedures.

(a)(5)(ii)(A) Independent review of a protest is available as an alternative to the contracting officer serving as the Deciding Official. Review by an alternate Deciding Official is not available as an appeal. When an alternate Deciding Official is requested, the CO must provide a copy of the protest and any other materials the protestor has provided to the CO in support of the protest to the alternate Deciding Official.

(iii) When requested, the alternate Deciding Official is designated by the HCA and will be at a level above the contracting officer, knowledgeable about the acquisition process in general, and will not have had any previous personal involvement or programmatic interest in the procurement that is the subject of the protest. The departmental or bureau Competition Advocate may serve as the alternate Deciding Official.

(c)(2)(i) The Deciding Official's decision may be oral or written. If oral, the Deciding Official shall send a confirming letter after the decision using a means that allows proof of receipt, including electronic mail. The letter shall:

(1) State whether the protest was denied, sustained, or dismissed;

(2) Indicate the date the decision was provided; and

(3) Provide the rationale for the decision.

(ii) If the Deciding Official sustains the protest, relief may consist of any of the following:

(1) Termination of the contract for convenience or cause.

(2) Recompeting the requirement.

(3) Amending the solicitation.

(4) Refraining from exercising contract options.

(5) Reevaluating the offers or bids and making a new award determination.

(6) Other action that the deciding official determines is appropriate.

(iii) Proceedings on an agency protest shall be dismissed if a protest on the same or similar basis is filed with a protest forum outside of DOJ.

2833.107-70 Solicitation provision.

(a) Include the provision at JAR 2852.233-70 in all solicitations that are expected to exceed the simplified acquisition threshold.

Subpart 2833.2 - Disputes and Appeals

2833.202 Applicability.

The SPE is the agency head for the purposes of FAR 33.202(b).

2833.205 Postaward.

2833.205-4 Suspected fraudulent claims.

Contracting officers shall report suspected fraudulent claims to the OIG for investigation.

2833.205-6 Contracting officer's decision.

(a)(4)(ii) Within the decision required by 33.205-4(a), the CO must direct that appeals be submitted to the Civilian Board of Contract Appeals (CBCA).

PART 2834—MAJOR SYSTEM ACQUISITION

[Reserved]

All FAR citations herein reference the Department's approved deviations of the FAR, in accordance with the Revolutionary FAR Overhaul

PART 2835—RESEARCH AND DEVELOPMENT CONTRACTING – REMAINS RESERVED

PART 2836 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 2836.2 - Evaluation and award

2836.202 Architect and engineering services.

Parent topic: SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

Subpart 2836.2 - Evaluation and award

2836.202 Architect and engineering services.

2836.202-2 Selection authority.

The HCA or designee is the designated selection authority for purposes of FAR 36.202-2(a).

2836.202-4 Short selection process for contracts not to exceed the simplified acquisition threshold.

(a) The short selection process, described in FAR 36.202-4, is authorized for use in DOJ contracts not expected to exceed the simplified acquisition threshold.

(b) The HCA or designee is the designated selection authority for purposes of FAR 36.202-4(b)(2).

PART 2837 - SERVICE CONTRACTING

Subpart 2837.4 - Advisory and Assistance Services

2837.402 Presolicitation

Subpart 2837.8 - Other Service Considerations

2837.803 Evaluation and Award

Parent topic: SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

Subpart 2837.4 - Advisory and Assistance Services

2837.402 Presolicitation

2837.402-3 A & AS contracts for the evaluation of proposals

The HCA or designee is the agency head for purposes of FAR 37.402-3.

Subpart 2837.8 – Other Service Considerations

2837.803 Evaluation and award.

2837.803-2 Funding and term of service contracts.

The HCA or designee is the agency head for purposes of FAR 37.803-2(b).

PART 2838—RESERVED

PART 2839—ACQUISITION OF INFORMATION AND COMMUNICATION TECHNOLOGY

Subpart 2839.1 - Presolicitation

2839.101 Management of risk.

Parent topic: SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

Subpart 2839.1 - Presolicitation

2839.101 Management of risk.

(b) DOJ's Chief Information Officer (CIO) and SPE are responsible for issuing policies and procedures to manage the agency information technology (IT) acquisition process. Contracts involving DOJ Information and Information Systems must comply with the security requirements prescribed in FAR 39.102 and all applicable DOJ security requirements, including without limitation all DOJ Orders, Policy Statements and Instructions established by the DOJ Senior Procurement Executive or DOJ Chief Information Officer relating to the Management of Risk of DOJ Information and Information Systems.

PART 2840 – INFORMATION SECURITY AND SUPPLY CHAIN SECURITY - RESERVED

PART 2841 - ACQUISITION OF UTILITY SERVICES

Subpart 2841.2 - Acquiring Utility Services

2841.201 Policy.

Parent topic: SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

Subpart 2841.2 - Acquiring Utility Services

2841.201 Policy.

The HCA or designee is the agency head for the purposes of FAR 41.201(d)(2)(i) and (d)(3).

PART 2842 - CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 2842.4 - Corporate Administrative Contracting Officer

2842.402 Assignment and location.

Subpart 2842.5 - Indirect Cost Rates

2842.503 General.

Parent topic: SUBCHAPTER G - CONTRACT MANAGEMENT

Subpart 2842.4 - Corporate Administrative Contracting Officer

2842.402 Assignment and location.

The HCA or designee is the agency head for the purposes of FAR 42.402(a)(2).

Subpart 2842.5 - Indirect Cost Rates

2842.503 General.

2842.503-2 Certificate of indirect costs.

The HCA or designee is the agency head for the purposes of FAR 42.503-2(b)(1).

PART 2843 – CONTRACT MODIFICATIONS – REMAINS RESERVED

PART 2844 – SUBCONTRACTING POLICIES AND PROCEDURES

PART 2845 - GOVERNMENT PROPERTY

Subpart 2845.1 - General

2845.105 Contractors' property management system compliance.

2845.105-70 Contractor reporting of Government-furnished property.

Parent topic: SUBCHAPTER G - CONTRACT MANAGEMENT

Subpart 2845.1 - General

2845.105 Contractors' property management system compliance.

The contractor's records for Government-furnished property may be kept as a separate account in the bureau's internal property management system, in which case the contracting officer or formally designated property administrator shall serve as custodian of the account.

2845.105-70 Contractor reporting of Government-furnished property.

(a) No less than annually, contractors must provide an inventory of all DOJ furnished property to the contracting officer.

PART 2846 - QUALITY ASSURANCE

Subpart 2846.6 - Material Inspection and Receiving Reports

2846.601 General.

Parent topic: SUBCHAPTER G - CONTRACT MANAGEMENT

Subpart 2846.6 - Material Inspection and Receiving Reports

2846.601 General.

The HCA or HCA's designee is responsible for establishing the procedures and inspections required by FAR 46.601.

PART 2847 – TRANSPORTATION – REMAINS RESERVED

PART 2848 - VALUE ENGINEERING

Subpart 2848.1 - Policies and Procedures

2848.102 Policies.

Subpart 2848.2 - Contract Clauses

2848.201 Clauses for supply or service contracts.

Parent topic: SUBCHAPTER G - CONTRACT MANAGEMENT

Subpart 2848.1 - Policies and Procedures

2848.102 Policies.

The HCA is the agency head for purposes of FAR 48.102(a).

Subpart 2848.2 - Contract Clauses

2848.201 Clauses for supply or service contracts.

The HCA or designee is the agency head for purposes of FAR 48.201(a)(6).

PART 2849 - TERMINATION OF CONTRACTS

Subpart 2849.1 - General Principles

2849.106 Fraud or other criminal conduct

2849.111 Review of proposed settlements

Parent topic: SUBCHAPTER G—CONTRACT MANAGEMENT

Subpart 2849.1 - General Principles

2849.106 Fraud or other criminal conduct.

When fraud or other criminal conduct related to the settlement negotiations of a terminated contract is suspected, the contracting officer must discontinue negotiations and report the facts supporting the suspicion through the HCA or designee to the OIG.

2849.111 Review of proposed settlements.

When procedures for review and approval of settlement agreements and termination settlements are established by the HCA they must include at a minimum, review by legal counsel and approval at one level above the contracting officer.

PART 2850 - EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

Subpart 2850.1 - Extraordinary Contractual Actions

2850.100 Definition.

Parent topic: SUBCHAPTER G - CONTRACT MANAGEMENT

Subpart 2850.1 - Extraordinary Contractual Actions

2850.100 Definition.

Approving authority as used in this part means the Attorney General.

PART 2851 – RESERVED

PART 2852 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2852.000 Scope of part.

Subpart 2852.1 - Instructions for Using Provisions and Clauses

2852.102 Incorporating provisions and clauses.

Subpart 2852.2 - Text of Provisions and Clauses

2852.200 Scope of subpart.

2852.201-70 Contracting Officer's Representative (COR).

2852.203-70 General Non-Disclosure Agreement.

2852.203-71 Intelligence Related Non-Disclosure Agreement.

2852.212-4 Contract Terms and Conditions, Commercial Products and Commercial Services (FAR Deviation).

2852.222-70 Domestic Violence, Sexual Assault, Sexual Misconduct, and Stalking.

2852.223-70 Unsafe Conditions Due to the Presence of Hazardous Material.

2852.233-70 Protests Filed Directly with the Department of Justice.

Parent topic: SUBCHAPTER H - CLAUSES AND FORMS

Subpart 2852.2- Text of Provisions and Clauses

2852.200 Scope of subpart.

This subpart sets forth the text of all DOJ provisions and clauses. It also cross-references to the location in the JAR that prescribes the use of each provision and clause.

2852.201-70 Contracting Officer's Representative (COR).

As prescribed in JAR 2801.404, insert the following clause:

Contracting Officer's Representative (COR) (NOV 2020)

(a) Mr./Ms. (Name) of (Organization), (Address), (Area Code & Telephone No.), is hereby designated to act as Contracting Officer's Representative (COR) under (contract #), for the period of (specify the performance period of the contract that the designation covers).

(b) Performance of work under this contract is subject to the technical direction of the COR identified above, or another representative designated in writing by the Contracting Officer. The term “technical direction” includes, without limitation, the following:

(i) Receiving all deliverables;

(ii) Inspecting and accepting the supplies or services provided in accordance with the terms and conditions of this contract;

(iii) Clarifying, directing, or redirecting the contract effort, including shifting work between work areas and locations, filling in details, or otherwise serving to accomplish the contractual statement of work to ensure the work is accomplished satisfactorily;

(iv) Evaluating performance of the Contractor; and

(v) Certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.

(c) The COR does not have the authority to issue direction that:

(i) Constitutes a change of assignment or work outside the contract specification/work statement/scope of work.

(ii) Constitutes a change as defined in the clause entitled “Changes” or other similar contract term.

(iii) Causes, in any manner, an increase or decrease in the contract price or the time required for contract performance;

(iv) Causes, in any manner, any change in a term, condition, or specification or the work statement/scope of work of the contract;

(v) Causes, in any manner, any change or commitment that affects price, quality, quantity, delivery, or other term or condition of the contract or that, in any way, directs the contractor or its subcontractors to operate in conflict with the contract terms and conditions;

(vi) Interferes with the contractor's right to perform under the terms and conditions of the contract;

(vii) Directs, supervises, or otherwise controls the actions of the Contractor's employees or a Subcontractor's employees.

(d) The Contractor shall proceed promptly with performance resulting from the technical direction of the COR. If, in the opinion of the Contractor, any direction by the COR or the

designated representative falls outside the authority of (b) above and/or within the limitations of (c) above, the Contractor shall immediately notify the Contracting Officer.

(e) Failure of the Contractor and Contracting Officer to agree that technical direction is within the scope of the contract is a dispute that shall be subject to the "Disputes" clause and/or other similar contract term.

(f) COR authority is not re-delegable.

(End of Clause)

2852.203-70 General Non-Disclosure Agreement.

As prescribed in JAR 2803.906-70, insert the following provision:

General Non-Disclosure Agreement (AUG 2016)

The provisions of this Non-Disclosure Agreement (NDA) are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive Order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this agreement and are controlling.

(End of Provision)

2852.203-71 Intelligence Related Non-Disclosure Agreement.

As prescribed in JAR 2803.906-71, insert the following provision:

Intelligence Related Non-Disclosure Agreement (AUG 2016)

(1) The signatory will not disclose any classified information received in the course of such intelligence or intelligence-related activity unless specifically authorized to do so by the United States Government; and

(2) The Non-Disclosure Agreement (NDA) does not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, which are essential to reporting a substantial violation of law.

(End of Provision)

2852.212-4 Contract Terms and Conditions, Commercial Products and Commercial Services (FAR Deviation).

As prescribed in JAR 2812.-205, insert the following clause:

Contract Terms and Conditions - Commercial Products and Commercial Services (OCT 2026)

When a commercial item or service is contemplated (using FAR part 12 procedures or otherwise) and the contract will include FAR 52.212-4 (RFO DEVIATION), the following replaces subparagraph (g); paragraph (h); subparagraph (i)(2); paragraph (r); and paragraph (s), Unauthorized Obligations, of the basic FAR clause, and adds paragraph (v), as follows:

(g) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment act regulations at 5 CFR part 1315, as modified by subparagraph (i)(2), *Prompt payment,* of this clause.

(h) *Patent indemnity.* Contractor shall indemnify and hold harmless the Government and its respective affiliates, officers, directors, employees, agents, successors and assigns (collectively, "Indemnities") from and against any and all liability and losses incurred by the Indemnities that are (i) included in any settlement and/or (ii) awarded by a court of competent jurisdiction arising from or in connection with any third party claim of infringement made against Indemnities asserting that any product or service supplied under this contract constitutes infringement of any patent, copyright, trademark, service mark, trade name or other proprietary or intellectual right. This indemnity shall not apply unless Contractor shall have been informed within a reasonable time by the Government of the claim or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. This indemnity also shall not apply to any claim unreasonably settled by the Government which obligates Contractor to make any admission or pay any amount without written consent signed by an authorized officer of Contractor, unless required by final decree of a court of competent jurisdiction.

(i)(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations (5 CFR part 1315), with the following modification regarding the due date: For the sole purpose of computing an interest penalty due the Contractor, the Government agrees to inspect and determine the acceptability of any supply delivered or service performed specified in the invoice within thirty (30) days of receipt of a proper invoice from the Contractor, after which time, if no affirmative action has been taken by the Government to accept such supply or service, the supply or service will be deemed accepted and payment due thirty (30) days from the date of deemed acceptance. If the Government makes the determination that the item delivered or service performed is deficient or otherwise unacceptable, or the invoice is otherwise determined not to be a proper invoice, the terms and conditions of this paragraph regarding prompt payment will apply to the date the Contractor corrects the deficiency in the item delivered or service performed or submits a proper invoice. If actual acceptance occurs within the constructive acceptance period, the Government

will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(r) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts provisions of the basic FAR clause at 52.212-4, and the Unauthorized Obligations and Contractor's Commercial Supplier Agreements - Unenforceable Clauses provisions of JAR 2852.212-4.

(3) Other paragraphs of the basic FAR clause at 52.212-4, with the exception of paragraph (o), Warranty, and those paragraphs identified in this deviation of 52.212-4.

(4) Addenda to this solicitation, contract, or order, including contractor's Commercial supplier agreements incorporated into the contract.

(5) Solicitation provisions if this is a solicitation.

(6) Paragraph (o), Warranty, of the basic FAR clause at 52.212-4.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(s) *Unauthorized obligations.*

(1) Except as stated in paragraph (s)(2) of this clause, when any supply or service acquired under this contract or order is subject to any Commercial supplier agreement that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (see 31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an “I agree” click box or other similar mechanism (*e.g.,* “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement and have no effect.

(2) Paragraph (s)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Commercial supplier agreements - unenforceable clauses.* When any supply or service acquired under this contract or order is subject to a contractor's commercial supplier agreement, the following shall be deemed incorporated into such agreement and modifies and replaces any similar language, provision, or clause in such agreement. As used herein, "this agreement" means any contractor commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license or other similar legal instrument (including all contracts, task orders, and delivery orders under FAR part 12).

(ii) *End user.* This agreement shall bind the Government as end user but shall not operate to bind the Government employee or person acting on behalf of the Government in his or her personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language, provision, or clause purporting to subject the U.S. Government to the laws of any U.S. state, territory, district, or municipality, or the laws of a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted and shall have no effect.

(B) Any language, provision, or clause requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted and shall have no effect.

(C) Any language, provision, or clause prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted and shall have no effect.

(iv) *Continued performance.* Notwithstanding any other provision in this agreement, if the Contractor believes the Government to be in breach of this contract, order, or agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (e), Disputes, of FAR 52.212-4 (RFO DEVIATION).

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to the contract, order, or this agreement,

(A) binding arbitration shall not be used unless otherwise specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the Government only when explicitly provided by statute.

(vi) *Updating terms.*

(A) After award, the contractor may unilaterally revise terms if they are not material. Material terms are defined as:

(1) Terms that change Government rights or obligations;

(2) Terms that increase Government prices;

(3) Terms that decrease the overall level of service; or

(4) Terms that limit any other Government right addressed elsewhere in this contract.

(B) For revisions that materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provisions of this contract shall not be enforceable against the Government, and the Government shall not be deemed to have consented to them.

(vii) *Order of precedence.* Any Order of Precedence clause in any commercial supplier agreement is not enforceable against the Government. The applicable Order of Precedence for this contract, order, or agreement is FAR 52.212-4(r), as revised by JAR 2812.205 and 2852.212-4(r).

(viii) *No automatic renewals.* If any license or service tied to period payment is provided under this agreement (*e.g.,* annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by a properly warranted contracting officer, and any provision or term of any license or service purporting to provide for automatic renewal is unenforceable against the Government.

(ix) *Indemnification by the Government or end-user.* Any language, provision, or clause of this commercial supplier agreement requiring the Government or End-user to indemnify the commercial supplier or licensor is not enforceable against the Government.

(x) *Indemnification by the commercial supplier or licensor.* Any clause of this agreement requiring or permitting the commercial supplier or licensor to defend the Government as a condition of indemnifying the Government for any claim of infringement is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(xi) *Audits.* Any language, provision, or clause of this commercial supplier agreement permitting Contractor to audit the end user's compliance with this agreement is not enforceable against the Government. To the extent any language, provision or clause of this agreement permits Contractor to audit the Government's compliance under this contract, order, or agreement, such language, provision, or clause of this agreement is hereby stricken and replaced as follows:

"(A) If Contractor reasonably believes that the Government has violated the terms of this agreement with regard to the restrictions on authorized use and/or the number of authorized users, upon written request from Contractor, including an explanation of the basis for the request, DOJ will provide a redacted version of the Government's most recent Security Assessment and Authorization package (SAA) to Contractor on a confidential basis, so that Contractor may reasonably verify the Government's compliance with its obligations under this agreement. Contractor understands and agrees that the Government will remove or redact any information from the SAA that it reasonably believes may compromise (a) the security of the Government's information technology environment; (b) the confidentiality of any third-party proprietary or confidential information; (c) any confidential, sensitive law enforcement information; and (d) any other information that the Government believes may compromise a past, current, or prospective investigation, prosecution, or litigation. Notwithstanding the preceding, and subject to the Government's policies and procedures for such review, including but not limited to complying with all Government security requirements prior to being granted access to the Government's facilities, including the execution of appropriate confidentiality and/or non-disclosure agreements, the Government will arrange, upon Contractor's written request, for Contractor to view an un-redacted version of the SAA on Government premises. Contractor understands that Contractor will be provided a copy of the un-redacted SAA on Government premises only and that no un-redacted copy of the SAA, or any medium containing information relating to it, will be permitted to be removed from Government premises.

(B) The Contractor also understands and agrees that the Contractor shall make a request under this paragraph no more than on an annual basis and only during the period of the contract, and that any activities performed by Contractor under this clause will be performed at Contractor's expense, without reimbursement by the Government.

(C) Discrepancies found with regard to the restrictions on authorized use and/or the number of authorized users may result in a charge by Contractor to the Government. Any resulting invoice must comply with the proper invoicing and payment requirements specified in the contract. This charge, if disputed by the Government, will be resolved through the Disputes clause at 52.212-4(e); no payment obligation shall arise on the part of the Government until the conclusion of the dispute process."

(xii) *Taxes or surcharges.* Any taxes or surcharges which the Contractor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(xiii) *Non-assignment.* This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under FAR 52.212-4 (b), Assignment.

(xiv) *Confidential information.*

(A) During the term of this contract or order, either party may identify information as "confidential information," and there shall be no disclosure, dissemination, or publication of any such information except to the extent required for the performance of this contract or order and otherwise provided in this clause or by statute or regulation. Specifically, the parties agree that the party receiving confidential information may only disclose such information to its employees and contractors on a "need-to-know" basis to carry out the obligations of this contract or order, and that subcontractors performing under this Agreement are subject to the same stipulations provided in this provision. The parties also agree that this provision shall survive the termination of this contract or order, and any confidential information obtained or received which comes within these restrictions shall remain confidential, provided that the obligation to treat information as confidential shall not apply to information which is or becomes publicly available through no improper action of the receiving party; is or comes to be in the receiving party's possession independent of its relationship with the disclosing party; is developed by or becomes known to the receiving party without use of any confidential information of the disclosing party; or is obtained rightfully from a third party not bound by an obligation of confidentiality. Additionally, nothing in this contract or order shall restrict disclosure by the receiving party pursuant to any applicable law, including but not limited to the Freedom of Information Act, 5 U.S.C. 552, *et seq.,* or an order of any court of competent jurisdiction, provided that in either such case the receiving party gives prompt notice to the disclosing party to allow the disclosing party to interpose an objection to such disclosure, take action to assure confidential handling of the confidential information, or take such other action as it deems appropriate to protect its confidential information.

(B) The Government considers and hereby identifies as confidential any and all information related to any inquiries and/or searches performed by the Government or by contractor at the Government's direction under this contract or order, including the subject of any such inquiry or search and any and all search terms, regardless of whether provided in writing or orally to Contractor, and Contractor agrees that it may only disclose such information to its employees and contractors on a "need-to-know" basis to carry out the obligations of this contract or order and that it will not share, reveal, divulge, disclose, disseminate, or publicize any such information to any third party except as provided in this provision without the prior written approval of the Contracting Officer. Contractor also understands and agrees that any subcontractors performing under this contract or order are subject to the same stipulations and that Contractor may be held responsible for any violations of confidentiality by a subcontractor.

(C) These provisions are consistent with and do not supersede, conflict with, or otherwise alter an employee's obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste

of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by Executive orders and statutory provisions relating to whistleblower protection are incorporated into this contract and are controlling.

(D) The Government may share the terms, conditions and prices set forth in this Order with, and provide a copy of the Order to, other Executive branch agencies of the U.S. Government, provided that the Government shall ensure that other Executive branch agencies to which it provides such information will be required to treat all such information consistent with terms and conditions set forth in this Order.

(E) Notwithstanding anything in this agreement, the Government may retain any confidential information as required by law, regulation, or its internal document retention procedures for legal, regulatory, or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this Order.

(xv) *Authorized users.* Authorized users may include full and part-time employees of the Government, including those working at or from remote locations, and contractors and contractor employees working within the scope of their contract with the Government, including those at or from remote locations.

(xvi) Authorized use. Authorized users are authorized to use the product or service acquired under this contract in performing business on behalf of the Government. Any information obtained or acquired by the Government under this contract may be used by the Government in the performance of Government business.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (v)(1), the language, provisions, or clause of paragraph (v)(1) shall prevails to the extent of such inconsistency.

(End of Clause)

2852.222-70 Domestic Violence, Sexual Assault, Sexual Misconduct, and Stalking.

As prescribed in JAR 2822.101-70, insert the following clause:

Domestic Violence, Sexual Assault, Sexual Misconduct, and Stalking - DEVIATION (OCT 2026)

(a) It is DOJ 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 Workforce Responses to Domestic Violence, Sexual Assault, and Stalking,"* available in full for public viewing at: ***https://www.justice.gov/jmd/page/file/1047636/dl?inline***

(b) It is DOJ policy to enhance workplace awareness of and safety from sexual misconduct. This policy is summarized in "DOJ Order 1207, Reporting and Responding to Sexual Misconduct,

available in full for public viewing at: https://www.justice.gov/jmd/reporting-and-responding-to-sexual-misconduct-in-the-doj-workplace.

(c) Vendor agrees, upon contract award, to provide notice of these DOJ policies, including at a minimum the above-listed URLs, to all Vendor employees and employees of subcontractors who will be assigned to work on DOJ premises.

(d) Upon contract award, DOJ will provide the Contractor with the name and contact information of the point of contact for victims of domestic violence, sexual assault, sexual misconduct, and stalking for the component or components where the Contractor will be performing. The Contractor agrees to inform its employees and employees of subcontractors, who will be assigned to work on DOJ premises, with the name and contact information of the point of contact for victims of domestic violence, sexual assault, sexual misconduct, and stalking.

(End of Clause)

2852.223-70 Unsafe Conditions Due to the Presence of Hazardous Material.

As prescribed in JAR 2823.304-70, insert the following clause:

Unsafe Conditions Due to the Presence of Hazardous Material (OCT 2026)

(a) “Unsafe condition” as used in this clause means the actual or potential exposure of Contractor or Government employees to a hazardous material.

(b) “Hazardous Material” as used in this clause is defined in the latest version of Federal Standard No. 313, Material Safety Data, Transportation Data, and Disposal Data for Hazardous Materials Furnished to Government Activities including revisions adopted during the term of the contract, any other potentially hazardous material requiring safety controls, or any other material or working condition designated as hazardous by the Contracting Officer's Representative (COR).

(c) The Occupational Safety and Health Administration (OSHA) is responsible for issuing and administering regulations that require Contractors to apprise its employees of all hazards to which they may be exposed in the course of their employment; proper conditions and precautions for safe use and exposure; and related symptoms and emergency treatment in the event of exposure.

(d) Prior to commencement of work, Contractors are required to inspect for and report to the Contracting Officer the presence of, or suspected presence of, any unsafe condition including asbestos or other hazardous materials or working conditions in areas in which they will be working.

(e) If during the performance of the work under this contract, the Contractor or any of its employees, or subcontractor employees, discovers the existence of an unsafe condition, the Contractor must immediately notify the Contracting Officer, or designee (with written notice

provided not later than three (3) working days thereafter), of the existence of an unsafe condition. Such notice must include the Contractor's recommendations for the protection and the safety of Government, Contractor and subcontractor personnel and property that may be exposed to the unsafe condition.

(f) When the Government receives notice of an unsafe condition from the Contractor, the parties will agree on a course of action to mitigate the effects of that condition and, if necessary, the contract will be amended. Failure to agree on a course of action will constitute a dispute under the Disputes clause of this contract.

(g) Nothing contained in this clause shall relieve the Contractor or subcontractors from complying with applicable Federal, State, and local laws, codes, ordinances and regulations (including the obtaining of licenses and permits) in connection with hazardous material including but not limited to the use, disturbance, or disposal of such material.

(End of Clause)

2852.233-70 Protests Filed Directly with the Department of Justice.

As prescribed in JAR 2833.107-7(a), insert a clause substantially as follows:

Protests Filed Directly With the Department of Justice (DEVIATION) (OCT 2026)

(a) The following definitions apply in this provision:

(1) *Deciding Official* means the official who will review and decide a procurement protest filed with the agency. The Deciding Official will be the contracting officer unless the protestor requests pursuant to JAR 2833.104-4(a)(5) an alternate Deciding Official.

(2) “Interested Party” for the purpose of filing a protest” means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

(b) Only interested parties may file a protest.

(c) An interested party filing a protest with the DOJ has the choice of requesting either that the Contracting Officer or an alternate serve as the Deciding Official for the protest.

(d) A protest filed directly with the DOJ shall:

(1) Indicate that it is a protest to DOJ.

(2) Be filed with the Contracting Officer.

(3) State the protestor’s choice for the Deciding Official for the protest, is the Contracting Officer or an alternate. If the protestor is silent on this matter, the Contracting Officer will be the Deciding Official.

(4) Indicate whether the protestor prefers to make an oral or written presentation of arguments in support of the protest to the Deciding Official.

(5) Include the information required by FAR 33.104-4(a)(3).

(e) The Deciding Official's decision resolving an agency protest is not appealable.

(f) The Deciding Official may conduct a scheduling conference to establish deadlines for oral or written arguments in support of the agency protest and for agency officials to present information in response to the protest issues. The Deciding Official may hear oral arguments in support of the agency protest at the same time as the scheduling conference, depending on availability of the necessary parties.

(g) Oral conferences may take place either by telephone, virtually, or in person.

(h) The protestor has only one opportunity to support or explain the substance of its protest. DOJ procedures do not provide for any discovery. The Deciding Official may request additional information from the agency or the protestor. The Deciding Official will resolve the protest through informal presentations or meetings to the maximum extent practicable.

(i) A protestor may represent itself or be represented by legal counsel. The DOJ will not reimburse the protester for any legal fees related to the agency protest.

(j) The DOJ will stay award or suspend contract performance in accordance with FAR 33.104-2 or 33.104-3, unless the contract award is justified for urgent and compelling reasons or is determined to be in the best interest of the Government. The justification or determination must be in writing and approved by the Head of the Contracting Activity or designee. The stay or suspension, unless over-ridden, remains in effect until the protest is decided, dismissed, or withdrawn.

(k) The DOJ may dismiss or stay proceedings on an agency protest if a protest on the same or similar basis is filed with a forum outside DOJ.

(End of Clause)

PART 2853 – PARTS 2853 – 2899 [RESERVED]