PART 1201—FEDERAL ACQUISITION REGULATIONS SYSTEM

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 1201.1—Purpose, Authority, Issuance

1201.101 Purpose.

The Department of Transportation (DOT), Transportation Acquisition Regulation (TAR), establishes uniform acquisition policies and procedures that implement and supplement the Federal Acquisition Regulation (FAR). The TAR provides regulatory or policy instruction when coverage is needed for DOT-specific subject matter not covered in the FAR. The TAR also includes policy statements that DOT considers important to both internal and external TAR audiences. The Transportation Acquisition Manual (TAM) contains internal operating procedures, providing supplementary guidance and instructions for carrying out FAR and TAR requirements.

1201.102-70 DOT statement of guiding principles for the Department of Transportation Acquisition System.

(a) *Vision.* The TAR applies to all Department acquisitions unless otherwise excluded by statute. DOT strives to make its acquisition process effective, efficient, and transparent, and to ensure that the process embodies fairness and Governmentwide best practices.

(b) *Mission.* The TAR is a key component of DOT's acquisition process and is designed to provide clear and current regulatory and policy oversight to supplement or support implementation of the FAR.

(c) *Role of the Office of the Senior Procurement Executive.* The Office of the Senior Procurement Executive (OSPE) applies leadership and best-in-industry acquisition practices to establish acquisition policies and procedures. The OSPE supports the DOT's mission by providing timely, effective, and ethical business policies, practices, products, innovative programs, strategies, and services.

1201.104 Applicability.

(a) Applicable statutes, the FAR, 48 CFR chapter 1, and the TAR, in this chapter, apply to all

acquisitions within the Department unless otherwise specifically excluded by statute, the FAR, or the TAR.

(b) The following order of precedence applies to resolve any question of applicability concerning an acquisition regulation or a procedure found within the TAR, or the TAM which comprises the Department's internal operating procedures and guidance—

(1) U.S. Statutes;

(2) The FAR;

(3) The TAR;

(4) DOT Orders; and

(5) The TAM.

(c) The Maritime Administration may depart from the requirements of the FAR and TAR as authorized by 40 U.S.C. 113(e)(15), but shall adhere to those regulations to the maximum extent practicable. Deviations from the FAR or TAR requirements shall be documented according to Maritime Administration procedures or in each contract file, as appropriate.

(d) The FAR, TAR, and TAM do not apply to the Federal Aviation Administration as provided by 49 U.S.C. 40110(d).

(e) For purposes of the FAR, TAR, and TAM, the Office of the Assistant Secretary for Research and Technology shall have the same authority as an Operating Administration as defined in 1202.1, and the Assistant Secretary for Research and Technology shall have the same authority as a Head of the Operating Administration as defined in 1202.1.

1201.105 Issuance.

1201.105-1 Publication and code arrangement.

(a) The TAR is published or available in—

(1) The Federal Register;

(2) Cumulative form in the CFR; and

(3) Online via the internet at *https://www.acquisition.gov/tar*.

(b) The TAR is issued as this chapter.

1201.105-2 Arrangement of regulations.

(a) *General.* The TAR, which encompasses both Department and Operating Administration (OA)/Office of the Assistant Secretary for Research and Technology (OST–R)-specific guidance (*see* subpart 1201.3), conforms with the arrangement and numbering system prescribed by FAR 1.104. Guidance that is OA-specific contains the OA's acronym directly after the heading.

(b) *Numbering—*

(1) *Department-wide guidance.* (i) The numbering illustrations at FAR 1.105–2(b) apply to the TAR.

(ii) Coverage within the TAR is identified by the prefix "12" followed by the complete TAR citation. For example, 1201.201–1(b).

(iii) Coverage in the TAR that supplements the FAR will use part, subpart, section, and subsection numbers ending in "70" through "89" (*e.g.,* 1201.301–70). A series of numbers beginning with "70" is used for provisions and clauses.

(iv) Coverage in the TAR, other than that identified with a "70" or higher number, that implements the FAR uses the identical number sequence and caption of the FAR segment being implemented, which may be to the paragraph level. Paragraph numbers and letters are not always shown sequentially, but may be shown by the specific FAR paragraph implemented. For example, TAR 1201.201–1 contains only paragraph (b) because only this paragraph, correlated with the FAR, is implemented in the TAR.

(2) *Operating Administration-unique guidance.* Supplementary material for which there is no counterpart in the FAR or TAR shall be identified using chapter, part, subpart, section, or subsection numbers of "90" and higher.

(c) *References and citations.* The Department of Transportation Acquisition Regulation may be referred to as the TAR. Cross reference to the FAR in the TAR will be cited by "FAR" followed by the FAR numbered citation, and cross reference to the TAM in the TAR will be cited by "TAM" followed by the TAM numbered citations. References to specific citations within the TAR will be referenced by the numbered citation only, *e.g.,* 1201.105–3.

(3) Using the TAR coverage at 1201.105–2(b) as a typical illustration, reference to the—

(i) Part would be "TAR part 1201" outside the TAR and "part 1201" within the TAR.

(ii) Subpart would be "TAR subpart 1201.1" outside the TAR and "subpart 1201.1" within the TAR.

(iii) Section would be "TAR 1201.105" outside the TAR and "1201.105" within the TAR.

(iv) Subsection would be "TAR 1201.105–2" outside the TAR and "1201.105–2" within the TAR.

(v) Paragraph would be "TAR 1201.105–2(b)" outside the TAR and "1201.105–2(b)" within the TAR.

1201.105-3 Copies.

(a) Copies of the TAR as published in Federal Register and as set forth in the CFR may be purchased from the Government Publishing Office (GPO), U.S. Government Online Bookstore on the internet at *https://bookstore.gpo.gov/.*

(b) The TAR and Transportation Acquisition Circulars (TACs) are available on the internet at *https://www.acquisition.gov.*

1201.106 OMB approval under the Paperwork Reduction Act.

The information collection and recordkeeping requirements contained in the TAR have been approved by the Office of Management and Budget (OMB). Details concerning any TAR- related OMB approved control numbers are specified in the TAM.

Subpart 1201.2—Administration

1201.201 Maintenance of the FAR.

1201.201-1 The two councils.

(b) The Senior Procurement Executive is responsible for providing a DOT representative to the Civilian Agency Acquisition Council (CAAC).

Subpart 1201.3—Agency Acquisition Regulations

1201.301 Policy.

(a)

(1) *Acquisition regulations*—(i) *Department-wide acquisition regulations.* The Department of Transportation's (DOT's) Senior Procurement Executive (SPE) is the individual having authority to issue or authorize the issuance of agency regulations that implement or supplement the FAR to include agency-unique policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process. This authority is re-delegated from the Assistant Secretary for Administration to the SPE.

(ii) *Operating Administration (OA) acquisition regulations.* OA supplemental acquisition regulations proposed to be inserted in the TAR as a TAR supplement regulation shall be reviewed and approved by the SPE. If approved by the SPE, the Office of the Senior Procurement Executive will prepare the rule for publication in the Federal Register in accordance with FAR 1.501. OA regulations may be more restrictive or require higher approval levels than those required by the TAR unless otherwise specified.

(2) *Acquisition procedures.* The SPE issues or authorizes the issuance of internal agency guidance at any organizational level. DOT internal operating procedures are contained in the TAM. OA procedures necessary to implement or supplement the FAR, TAR, or TAM may be issued by the head of the contracting activity (HCA), who may delegate this authority to any organizational level deemed appropriate. OA procedures may be more restrictive or require higher approval levels than those permitted by the TAM unless otherwise specified.

(b) The authority of the agency head under FAR 1.301(b) to establish procedures to ensure that agency acquisition regulations are published for comment in the Federal Register in conformance with the procedures in FAR subpart 1.5 is delegated to the Office of the General Counsel, Assistant

General Counsel for Regulation.

1201.301-70 Amendment of the Transportation Acquisition Regulation.

(a) Changes to the TAR may be the result of recommendations from internal DOT personnel, other Government agencies, or the public. Proposed changes shall be submitted in the following format to the Office of the Senior Procurement Executive (OSPE), 1200 New Jersey Avenue, SE, Washington, DC 20590 or *DOTAcquisitionPolicy@dot.gov* and must include the following elements:

(1) *Problem.* Succinctly state the problems created by current TAR language and describe the factual or legal reasons necessitating regulatory change.

(2) *Recommendation.* Identify the recommended change by using the current language (if applicable) and striking through the proposed deleted words with a horizontal line. Insert proposed language in bold and brackets. If the change is extensive, reflect proposed deleted language in strikethrough and proposed new or revised language with complete paragraphs in bold and brackets.

(3) *Discussion.* Explain why the change is necessary and how it will solve the problem. Address any cost or administrative impact on Government activities, offerors, and contractors, to include potential impact to small businesses. Provide any other information and documents, such as statutes, legal decisions, regulations, and reports, that may be helpful.

(4) *Point of contact.* Provide a point of contact who can answer questions regarding the recommendation.

(b) The TAR is maintained by the SPE through the TAR/TAM change process. This process consists of input from various DOT elements including representatives from DOT OAs specifically designated to formulate Departmental acquisition policies and procedures.

(c) Transportation Acquisition Circulars (TACs) (*see* 1201.301–72) will be used to publish the TAR throughout DOT.

1201.301-71 Effective dates for Transportation Acquisition Circulars (TACs).

(a) *Effective dates set forth in TACs.* Unless otherwise stated in the body of TACs, statements to the effect that the policy or procedures are “effective upon receipt,” or “upon a specified date,” or that changes set forth in the document are “to be used upon receipt,” mean that any new or revised provisions, clauses, procedures, or forms must be included in solicitations, contracts, or modifications issued thereafter.

(b) *Effective dates for in-process acquisitions.* Unless expressly directed by statute or regulation, solicitations in process or negotiations that are completed when a TAC is issued are not required to include or insert new requirements, forms, clauses, or provisions, as may be set forth in a TAC. However, the chief of the contracting office must determine that it is in the best interest of the Government to exclude the new information and the determination and findings must be included in the contract file.

1201.301-72 Transportation Acquisition Circular numbering.

Transportation Acquisition Circulars (TACs) will be numbered consecutively on a fiscal year basis beginning with number “01” prefixed by the last two digits of the fiscal year (*e.g.,* TACs 21–01 and 21–02 indicate the first two TACs issued in fiscal year 2021).

1201.304 Agency control and compliance procedures.

(a) DOT shall control the proliferation of acquisition regulations and any revisions thereto (except as noted in paragraph (b) of this section) by using an internal TAR change process.

(b) Specific OA-unique regulations will not be processed through the TAR/TAM change process but shall be reviewed by OA legal counsel and submitted to the OSPE for review and approval. (*See* 1252.101 for additional instructions pertaining to provisions and clauses.)

Subpart 1201.470—Deviations From the FAR and TAR

1201.403 Individual deviations.

The head of the contracting activity (HCA), or designee with a rank that is no lower than that of a Senior Executive Service (SES) official, may authorize individual deviations to the FAR and TAR, unless FAR 1.405(e) applies.

1201.404 Class deviations.

The SPE may authorize and approve class deviations from the FAR and TAR, unless FAR 1.405(e) applies.

Subpart 1201.6—Career Development, Contracting Authority, and Responsibilities

1201.602 Contracting officers.

1201.602-2 Responsibilities.

(d) Each DOT OA is responsible for establishing Contracting Officer's Representative (COR) nomination and appointment procedures consistent with the DOT Acquisition Workforce Career Development Program.

1201.602-3 Ratification of unauthorized commitments.

(b) *Policy.* DOT policy requires that all procurement decisions shall be made only by Government officials having authority to carry out such acquisitions. Procurement decisions made by other than authorized personnel are contrary to Departmental policy and may be considered matters of serious misconduct on the part of the employee making an unauthorized commitment. Disciplinary action against an employee who makes an unauthorized commitment may be considered.

1201.603 Selection, appointment, and termination of appointment for contracting officers.

1201.603-1 General.

Each DOT OA is responsible for appointing its contracting officers. Each HCA shall appoint one Chief of the Contracting Office (COCO) for each OA. Individuals designated as COCOs are considered contracting officers and shall be appointed by their respective HCA. The HCA may select, appoint, and terminate the appointment of contracting officers. The HCA may re-delegate this authority to a level no lower than that of the COCO.

1201.604 Contracting Officer's Representative (COR).

1201.604-70 Contract clause.

The contracting officer shall insert the clause at 1252.201–70, Contracting Officer's Representative, in solicitations and contracts that are identified as other than firm-fixed-price, and for firm-fixed-price solicitations and contracts when appointment of a contracting officer's representative is anticipated.