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208.002 Priorities for use of mandatory Government supply sources.

(a)(1) Supplies.

(i) See the guidance at PGI 208.002(a)(1)(i) to obtain information on available items in DoD's property inventories.

(v) See subpart 208.70, Coordinated Acquisition, and subpart 208.74, Enterprise Software Agreements.

Subpart 208.4 - FEDERAL SUPPLY SCHEDULES

208.404 Use of Federal Supply Schedules.

See DoD Class Deviation 2014-O0011- Determination of Fair and Reasonable Prices When Using Federal Supply Schedule Contracts, dated March 13, 2014. Effective immediately, contracting officers shall comply with the following policy, in lieu of FAR 8.404(d), Pricing, when using Federal Supply Schedules. This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded.

(a)(i) If only one offer is received in response to an order exceeding the simplified acquisition threshold that is placed on a competitive basis, the procedures at 215.371 apply.

(ii) Departments and agencies shall comply with the review, approval, and reporting requirements established in accordance with subpart 217.7 when placing orders for supplies or services in amounts exceeding the simplified acquisition threshold.

(iii) When a schedule lists both foreign and domestic items that will meet the needs of the requiring activity, the ordering office must apply the procedures of part 225 and FAR part 25, Foreign Acquisition. When purchase of an item of foreign origin is specifically required, the requiring activity must furnish the ordering office sufficient information to permit the determinations required by part 225 and FAR part 25 to be made.

(iv) Use the provisions at 252.215-7007, Notice of Intent to Resolicit, and 252.215-7008, Only One Offer, as prescribed at 215.371-6 and 215.408(3), respectively.

208.405 Ordering procedures for Federal Supply Schedules.

(1) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301.

(2) See 215.101-2-70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed under Federal Supply Schedules.

(3) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

(4) See 204.7603 for procedures on the required use of the Supplier Performance Risk System (SPRS) risk assessments.

(i) The contracting officer shall ensure SPRS assessments of price risk and supplier risk are considered as a part of the award decision.

(ii) When placing an order with a schedule contractor for an end product identified by a material identifier that is available as described at 204.7603, and item risk was not previously considered during award of the schedule contract, the contracting officer shall also consider SPRS assessments of item risk in the award decision.

(iii) Use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604 to the extent permitted by the Federal Supply Schedule.

208.405-6 Limiting sources.

For an order or blanket purchase agreement (BPA) exceeding the simplified acquisition threshold that is a follow-on to an order or BPA for the same supply or service previously issued based on a limiting sources justification citing the authority at FAR 8.405-6(a)(1)(i)(B) or (C), follow the procedures at PGI 208.405-6 .

208.406 Ordering activity responsibilities.

208.406-1 Order placement.

Follow the procedures at PGI 208.406-1 when ordering from schedules.

Subpart 208.6 - ACQUISITION FROM FEDERAL PRISON INDUSTRIES, INC.

208.602 Reserved

208.602-70 Acquisition of items for which FPI has a significant market share.

(a) *Scope*. This section implements 10 U.S.C. 3905.

(b) *Definition*. "Item for which FPI has a significant market share," as used in this subsection, means an item for which FPI's share of the DoD market for the federal supply class including that item is greater than 5 percent, as determined by DoD in consultation with the Office of Federal Procurement Policy. A list of the federal supply classes of items for which FPI has a significant market share is maintained at https://www.acq.osd.mil/asda/dpc/cp/policy/other-policy-areas.html#fpi .

(c) *Policy*.

(1) When acquiring an item for which FPI has a significant market share—

(i) Acquire the item using—

(A) Competitive procedures (e.g., the procedures in FAR 6.102, the set-aside procedures in FAR Subpart 19.5, or competition conducted in accordance with FAR Part 13); or

(B) The fair opportunity procedures in FAR 16.505, if placing an order under a multiple award delivery-order contract; and

(ii) Include FPI in the solicitation process, consider a timely offer from FPI, and make an award in accordance with the policy at FAR 8.602(a)(4)(ii) through (v).

(2) When acquiring an item for which FPI does not have a significant market share, acquire the item in accordance with the policy at FAR 8.602.

208.606 Evaluating FPI performance.

See DoD Class Deviation 2013-O0018, Past Performance Evaluation Requirements, issued on September 24, 2013. This class deviation requires past performance reporting for contracts awarded under FAR 8.6, Acquisition from Federal Prison Industries, Inc., when the thresholds in this deviation are exceeded. This deviation is effective until incorporated in the DFARS or rescinded.

Subpart 208.7 - ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

208.705 Procedures.

See DoD Class Deviation 2013-O0018, Past Performance Evaluation Thresholds and Reporting Requirements, issued on September 24, 2013. This class deviation requires past performance reporting for contracts awarded under FAR subpart 8.7, Acquisition from Nonprofit Agencies Employing People Who are Blind or Severely Handicapped, when the thresholds in this deviation are exceeded. This deviation is effective until incorporated in the DFARS or rescinded.

Follow the procedures at PGI 208.705 when placing orders with central nonprofit agencies.

Subpart 208.70 - COORDINATED ACQUISITION

208.7000 Scope of subpart.

This subpart prescribes policy and procedures for acquisition of items for which contracting responsibility is assigned to one or more of the departments/agencies or the General Services Administration. Contracting responsibility is assigned through—

(a) The Coordinated Acquisition Program (commodity assignments are listed in PGI 208.7006); or

(b) The Integrated Materiel Management Program (assignments are in DoD 4140.26-M, Defense Integrated Materiel Management Manual for Consumable Items).

208.7001 Definitions.

For purposes of this subpart—

“Acquiring department” means the department, agency, or General Services Administration which has contracting responsibility under the Coordinated Acquisition Program.

“Integrated materiel management” means assignment of acquisition management responsibility to one department, agency, or the General Service Administration for all of DoD's requirements for the assigned item. Acquisition management normally includes computing requirements, funding,

budgeting, storing, issuing, cataloging, standardizing, and contracting functions.

“Requiring department” means the department or agency which has the requirement for an item.

208.7002 Assignment authority.

(a) Under the DoD Coordinated Acquisition Program, contracting responsibility for certain commodities is assigned to a single department, agency, or the General Services Administration (GSA). Commodity assignments are made—

(1) To the departments and agencies, by the Deputy Assistant Secretary of Defense (Logistics);

(2) To GSA, through agreement with GSA, by the Deputy Assistant Secretary of Defense (Logistics);

(3) Outside the contiguous United States, by the Unified Commanders; and

(4) For acquisitions to be made in the contiguous United States for commodities not assigned under paragraphs (a)(1), (2), or (3) of this section, by agreement of agency heads (10 U.S.C. 3065).

(i) Agreement may be on either a one-time or a continuing basis. The submission of a military interdepartmental purchase request (MIPR) by a requiring activity and its acceptance by the contracting activity of another department, even though based on an oral communication, constitutes a one-time agreement.

(ii) Consider repetitive delegated acquisition responsibilities for coordinated acquisition assignment. If not considered suitable for coordinated acquisition assignment, formalize continuing agreements and distribute them to all activities concerned.

(b) Under the Integrated Materiel Management Program, assignments are made by the Deputy Assistant Secretary of Defense (Logistics)—

(1) To the departments and agencies; and

(2) To GSA, through agreement with GSA.

208.7002-1 Acquiring department responsibilities.

See PGI 208.7002-1 for the acquiring department’s responsibilities.

208.7002-2 Requiring department responsibilities.

See PGI 208.7002-2 for the requiring department’s responsibilities.

208.7003 Applicability.

208.7003-1 Assignments under integrated materiel management (IMM).

(a) Acquire all items assigned for IMM from the IMM manager except—

(1) Items purchased under circumstances of unusual and compelling urgency as defined in FAR 6.302-2. After such a purchase is made, the requiring activity must send one copy of the contract and a statement of the emergency to the IMM manager;

(2) Items for which the IMM manager assigns a supply system code for local purchase or otherwise grants authority to purchase locally; or

(3) When purchase by the requiring activity is in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. This exception does not apply to items—

(i) Critical to the safe operation of a weapon system;

(ii) With special security characteristics; or

(iii) Which are dangerous (e.g., explosives, munitions).

(b) Follow the procedures at PGI 208.7003-1 (b) when an item assigned for IMM is to be acquired by the requiring department in accordance with paragraph (a)(3) of this subsection.

208.7003-2 Assignments under coordinated acquisition.

Requiring departments must submit to the acquiring department all contracting requirements for items assigned for coordinated acquisition, except—

(a) Items obtained through the sources in FAR 8.002(a)(1)(i) through (vii);

(b) Items obtained under 208.7003-1 (a);

(c) Requirements not in excess of the simplified acquisition threshold in FAR Part 2, when contracting by the requiring department is in the best interest of the Government;

(d) In an emergency. When an emergency purchase is made, the requiring department must send one copy of the contract and a statement of the emergency to the contracting activity of the acquiring department;

(e) Requirements for which the acquiring department's contracting activity delegates contracting authority to the requiring department;

(f) Items in a research and development stage (as described in FAR Part 35). Under this exception, the military departments may contract for research and development requirements, including quantities for testing purposes and items undergoing in-service evaluation (not yet in actual production, but beyond prototype). Generally, this exception applies only when research and development funds are used.

(g) Items peculiar to nuclear ordnance material where design characteristics or test-inspection requirements are controlled by the Department of Energy (DoE) or by DoD to ensure reliability of

nuclear weapons.

(1) This exception applies to all items designed for and peculiar to nuclear ordnance regardless of agency control, or to any item which requires test or inspection conducted or controlled by DoE or DoD.

(2) This exception does not cover items used for both nuclear ordnance and other purposes if the items are not subject to the special testing procedures.

(h) Items to be acquired under FAR 6.302-6 (national security requires limitation of sources);

(i) Items to be acquired under FAR 6.302-1 (supplies available only from the original source for follow-on contract);

(j) Items directly related to a major system and which are design controlled by and acquired from either the system manufacturer or a manufacturer of a major subsystem;

(k) Items subject to rapid design changes, or to continuous redesign or modification during the production and/or operational use phases, which require continual contact between industry and the requiring department to ensure that the item meets the requirements:

(1) This exception permits the requiring department to contract for items of highly unstable design. For use of this exception, it must be clearly impractical, both technically and contractually, to refer the acquisition to the acquiring department. Anticipation that contracting by negotiation will be appropriate, or that a number of design changes may occur during contract performance is not in itself sufficient reason for using this exception.

(2) This exception also applies to items requiring compatibility testing, provided such testing requires continual contact between industry and the requiring department;

(l) Containers acquired only with items for which they are designed;

(m) One-time buy of a noncataloged item.

(1) This exception permits the requiring departments to contract for a nonrecurring requirement for a noncataloged item. This exception could cover a part or component for a prototype which may be stock numbered at a later date.

(2) This exception does not permit acquisitions of recurring requirements for an item, based solely on the fact that the item is not stock numbered, nor may it be used to acquire items which have only slightly different characteristics than previously cataloged items.

208.7004 Procedures.

Follow the procedures at PGI 208.7004 for processing coordinated acquisition requirements.

208.7005 Military interdepartmental purchase requests.

Follow the procedures at—

(a) PGI 253.208-1 when using DD Form 448, Military Interdepartmental Purchase Request; and

(b) PGI 253.208-2 when using DD Form 448-2, Acceptance of MIPR.

208.7006 Coordinated acquisition assignments.

See PGI 208.7006 for coordinated acquisition assignments.

Subpart 208.71 - ACQUISITION FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

208.7100 Authorization.

NASA is authorized by Pub. L. 85-568 to use the acquisition services, personnel, equipment, and facilities of DoD departments and agencies with their consent, with or without reimbursement, and on a similar basis to cooperate with the departments/ agencies in the use of acquisition services, equipment, and facilities.

208.7101 Policy.

Departments and agencies shall cooperate fully with NASA in making acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

208.7102 Procedures.

Follow the procedures at PGI 208.7102 when contracting or performing services for NASA.

Subpart 208.72 - Reserved

Subpart 208.73 - USE OF GOVERNMENT-OWNED PRECIOUS METALS

208.7301 Definitions.

As used in this subpart—

“Defense Supply Center, Philadelphia (DSCP)” means the Defense Logistics Agency field activity located at 700 Robbins Avenue, Philadelphia, PA 19111-5096, which is the assigned commodity integrated material manager for refined precious metals and is responsible for the storage and issue of such material.

“Refined precious metal” means recovered silver, gold, platinum, palladium, iridium, rhodium, or ruthenium, in bullion, granulation or sponge form, which has been purified to at least .999 percentage of fineness.

208.7302 Policy.

DoD policy is for maximum participation in the Precious Metals Recovery Program. DoD components shall furnish recovered precious metals contained in the DSCP inventory to production contractors rather than use contractor-furnished precious metals whenever the contracting officer determines it to be in the Government's best interest.

208.7303 Procedures.

Follow the procedures at PGI 208.7303 for use of the Precious Metals Recovery Program.

208.7304 Refined precious metals.

See PGI 208.7304 for a list of refined precious metals managed by DSCP.

208.7305 Contract clause.

(a) Use the clause at 252.208-7000 , Intent to Furnish Precious Metals as Government-Furnished Material, in all solicitations and contracts except—

(1) When the contracting officer has determined that the required precious metals are not available from DSCP;

(2) When the contracting officer knows that the items being acquired do not require precious metals in their manufacture; or

(3) For acquisitions at or below the simplified acquisition threshold.

(b) To make the determination in paragraph (a)(1) of this section, the contracting officer shall consult with the end item inventory manager and comply with the procedures in Chapter 11, DoD 4160.21-M, Defense Materiel Disposition Manual.

Subpart 208.74 - ENTERPRISE SOFTWARE AGREEMENTS

208.7400 Scope of subpart.

This subpart prescribes policy and procedures for acquisition of commercial software and software maintenance, including software and software maintenance that is acquired—

(a) As part of a system or system upgrade, where practicable;

(b) Under a service contract;

(c) Under a contract or agreement administered by another agency (e.g., under an interagency agreement);

(d) Under a Federal Supply Schedule contract or blanket purchase agreement established in accordance with FAR 8.405; or

(e) By a contractor that is authorized to order from a Government supply source pursuant to FAR 51.101.

208.7401 Definitions.

As used in this subpart—

“Enterprise software agreement” means an agreement or a contract that is used to acquire designated commercial software or related commercial software services such as software maintenance.

“Enterprise Software Initiative” means an initiative led by the DoD Chief Information Officer to develop processes for DoD-wide software asset management.

“Software maintenance” means services normally provided by a software company as standard services at established catalog or market prices, e.g., the right to receive and use upgraded versions of software, updates, and revisions.

208.7402 General.

(a) Departments and agencies shall fulfill requirements for commercial software and commercial software services, such as software maintenance, in accordance with the DoD Enterprise Software Initiative (ESI) (see https://www.esi.mil/). ESI promotes the use of enterprise software agreements (ESAs) with contractors that allow DoD to obtain favorable terms and pricing for commercial software and commercial software services. ESI does not dictate the products or services to be acquired.

(b) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301 .

208.7403 Acquisition procedures.

Follow the procedures at PGI 208.7403 when acquiring commercial software and related services.