PART 1301 - DEPARTMENT OF COMMERCE ACQUISITION REGULATIONS SYSTEM

Authority: 41 U.S.C. 414; 48 CFR 1.301-1.304.

Source: 75 FR 10570, Mar. 8, 2010, unless otherwise noted.

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Parent topic: SUBCHAPTER A - GENERAL

1301.000 Scope of part.

This part sets out general Department of Commerce Acquisition Regulation (CAR) policies, including information regarding the maintenance and administration of the CAR, acquisition policies and practices, and procedures for deviation from the CAR and the Federal Acquisition Regulation (FAR). This part describes the Commerce Acquisition Regulation in terms of establishment, relationship to the Federal Acquisition Regulation, arrangement, applicability, and deviation procedures.

Subpart 1301.1 - Purpose, Authority, Issuance

1301.101 Purpose.

The CAR establishes uniform acquisition policies and procedures that implement and supplement the FAR. If there is a discrepancy between the CAR and FAR, the FAR will take precedence.

1301.103 Authority.

The CAR is issued under the authority of section 22 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 418b), and FAR Subpart 1.3 by the Department Procurement Executive pursuant to a delegation initiating from the Secretary of Commerce.

1301.104 Applicability.

The CAR applies to all Department of Commerce (DOC) acquisitions as defined in part 2 of the FAR,

except where expressly excluded.

1301.105 Issuance.

1301.105-1 Publication and code arrangement.

(a) The CAR is published in the Federal Register, in cumulative form in the Code of Federal Regulations (CFR), and is available online at the U.S. Department of Commerce, Office of Acquisition Management Web site.

(b) The CAR is issued as chapter 13 of title 48 of the CFR.

1301.105-2 Arrangement of regulations.

(a) *General.* The CAR is divided into the same parts, subparts, sections, and subsections as the FAR.

(b) *Numbering.* If the DOC does not have supplemental regulations there will be no corresponding coverage in the CAR, and there will be gaps in the CAR numbering system.

1301.105-3 Copies.

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

(b) The CAR is available online at the U.S. Department of Commerce, Office of Acquisition Management Web site (*http://oam.ocs.doc.gov*).

Subpart 1301.3 - Agency Acquisition Regulations

1301.301 Policy.

(a) The designee authorized to prescribe the CAR is set forth in the Commerce Acquisition Manual (CAM) 1301.70.

(b) The DOC internal operating guidance and procedures are contained in the CAM and other policy guidance documents issued by the Procurement Executive relating to acquisitions. The DOC Contracting Offices may issue additional guidance and procedures.

1301.303 Publication and codification.

(a) The CAR parallels the FAR in format, arrangement and numbering system. Coverage within the CAR is identified by the prefix “13” or “130” followed by the complete FAR citation to the subsection level (*e.g.,* CAR coverage of FAR 1.602-1 is cited as 1301.602-1).

(b) Supplementary material without a FAR counterpart will be codified using 70 and up as appropriate for the part, subpart, section, or subsection number (*e.g.,* part 1370, subpart 1301.70, section 1301.370 or subsection 1301.301-70).

1301.304 Agency control and compliance procedures.

Operating unit counsel shall limit issuance of directives that restrain the flexibilities found in the FAR.

Subpart 1301.4 - Deviations From the FAR

1301.403 Individual deviations.

The designee authorized to approve individual deviations from the FAR is set forth in CAM 1301.70.

1301.404 Class deviations.

The designee authorized to approve class deviations from the FAR is set forth in CAM 1301.70.

Subpart 1301.6 - Career Development, Contracting Authority, and Responsibilities

1301.601 General.

The agency head for procurement matters is the Chief Financial Officer/Assistant Secretary for Administration (CFO/ASA), unless prohibited by statute. The authority for agency head for procurement matters is delegated to the Procurement Executive as the authority to establish lines of contracting authority within DOC and to implement policies and procedures related to the acquisition process. Specific contracting authorities are set forth in CAM 1301.70.

1301.602 Contracting officers.

1301.602-1 Authority.

In accordance with CAM 1301.70, only individuals who have been certified as contracting officers through issuance of a Certificate of Appointment by the Senior Bureau Procurement Official may exercise the authority of DOC contracting officers. In addition to the authority to enter into, administer, and terminate contracts, contracting officers have been delegated certain functions as set out in appendix A to CAM 1301.70.

1301.602-170 Provisions and clauses.

Insert clause 1352.201-70, *Contracting Officer's Authority,* in all solicitations and contracts.

1301.602-3 Ratification of unauthorized commitments.

(a) Insert clause 1352.201-71, *Ratification Release,* in a contract document under which payment is made for unauthorized commitments after a ratification has been processed.

(b)

(1) Unauthorized commitments occur when the Department accepts goods or services in the absence of an enforceable contract entered into by an authorized official. It is the policy of DOC that all acquisitions are to be made only by Government officials having authority to make such acquisitions. Acquisitions made by other than authorized personnel are contrary to Departmental policy and the Department is not bound by any formal or informal type of agreement or contractual commitment which is made by persons who are not delegated contracting authority. Payment for goods or services accepted in the absence of an authorized commitment may be made only through the ratification process. Unauthorized commitments may be considered matters of serious misconduct and may subject the responsible employees to appropriate disciplinary actions.

(2) The delegation of the ratification authority is set forth in CAM 1301.70. All requests for ratification must fully explain the circumstances that gave rise to the unauthorized commitment and detail, if appropriate, any disciplinary action taken with respect to any responsible employee. Ratifications may be approved only if all criteria in FAR 1.602-3 have been met.

1301.602-370 Ratification approval by Procurement Counsel.

Ratifications may not be approved unless the concurrence of Procurement Counsel is obtained.

1301.603 Selection, appointment, and termination of appointment.

1301.603-1 General.

The Department's procurement career management program and system for the selection, appointment, and termination of appointment of contracting officers are described in CAM 1301.6.

1301.603-2 Selection.

In addition to the criteria set forth in FAR 1.603-2, selection of contracting officers shall be based upon Section 4 of CAM 1301.6.

1301.603-3 Appointment.

In addition to the criteria set forth in FAR 1.603-3, appointment of contracting officers shall be based upon Section 4 of CAM 1301.6.

1301.603-4 Termination.

In addition to the criteria set forth in FAR 1.603-4, termination of contracting officers shall be based upon Section 4 of CAM 1301.6.

1301.670 Appointment of contracting officer's representative (COR).

The Department's Contracting Officer's Representative certification program for the nomination, appointment and cancellation of CORs is described in CAM 1301.670.

1301.670-70 Provisions and clauses.

Insert clause 1352.201-72, *Contracting Officer's Representative (COR),* in all solicitations and contracts where a COR will be appointed.

1301.671 Assignment of program and project managers.

The Department's Program and Project Manager certification program for the assignment and certification of Program and Project Managers is described in CAM 1301.671.

Subpart 1301.7 - Determinations and Findings

1301.707 Signatory authority.

Signatory authority for determinations and findings (D&Fs) is specified in the FAR for the associated subject matter unless otherwise noted in CAM 1301.70.