PART 1501—GENERAL

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

Source: 49 FR 8835, Mar. 8, 1984, unless otherwise noted.

1501.000 Scope of part.

Subpart 1501.1—Purpose, Authority, Issuance

1501.101 Purpose.

1501.104 Applicability.

1501.105 Issuance.

1501.105-1 Publication and code arrangement.

1501.105-2 Arrangement of regulations.

1501.105-3 Copies.

Subpart 1501.3—Agency Acquisition Regulations

1501.301 Policy.

1501.370 OMB approvals under the Paperwork Reduction Act.

Subpart 1501.4—Deviations

1501.401 Definition.

1501.403 Individual deviations.

1501.404 Class deviations.

Subpart 1501.6—Contracting Authority and Responsibilities

1501.602-3 Ratification of unauthorized commitments.

1501.603 Selection, appointment, and termination of appointment.

1501.603-1 General.

Parent topic: SUBCHAPTER A—GENERAL

1501.000 Scope of part.

The Federal Acquisition Regulation System brings together, in title 48 of the Code of Federal Regulations, the acquisition regulations applicable to all executive agencies of the Government. This

part establishes a system of Environmental Protection Agency (EPA) acquisition regulations, referred to as the EPAAR, for the codification and publication of policies and procedures of EPA which implement and supplement the Federal Acquisition Regulation (FAR).

Subpart 1501.1—Purpose, Authority, Issuance

1501.101 Purpose.

This subpart establishes Chapter 15, the Environmental Protection Agency Acquisition Regulation (EPAAR), within Title 48, the Federal Acquisition Regulations System.

1501.104 Applicability.

The FAR (48 CFR chapter 1) and the EPAAR (48 CFR chapter 15) apply to all EPA acquisitions as defined in part 2 of the FAR, except where expressly excluded.

1501.105 Issuance.

1501.105-1 Publication and code arrangement.

The EPAAR will be published in: (a) The Federal Register, (b) cumulated form in the Code of Federal Regulations (CFR), and (c) a separate loose-leaf form in a distinctive light blue color.

1501.105-2 Arrangement of regulations.

(a) *References and citations.* This regulation may be referred to as the Environmental Protection Agency Acquisition Regulation or the EPAAR. References to EPAAR materials shall be made in a manner similar to that prescribed by FAR 1.105-2(c).

1501.105-3 Copies.

Copies of the EPAAR in Federal Register and CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402. Copies of loose-leaf EPAAR are distributed within EPA and may be obtained from the EPA Facilities and Support Services Division.

Subpart 1501.3—Agency Acquisition Regulations

1501.301 Policy.

The EPAAR is prescribed by the Director, Office of Acquisition Management.

1501.370 OMB approvals under the Paperwork Reduction Act.

The information collection activities contained in the EPAAR sections listed below have been approved by the Office of Management and Budget (OMB) and have been issued OMB numbers in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

48 CFR citation	OMB control No.
Specification, Standards and other Purchase Descriptions	
1511.011-70 and 1511.011-72	2030-0005
1510.011-80 through 1510.011-81	2030-0023
Contract delivery or performance 1512.104	2030-0023
Small Purchase and Other Simplified Purchase Procedures	
1513.505 through 1513.570	2030-0007
Contract Financing	
1532.170(a)	2030-0016
Solicitation Provisions and Contract Clauses	
1552.209-71	2030-0023
1552.209-73 through 1552.209-74	2030-0023
1552.211-72	2030-0005
1552.210-80	2030-0023
1552.212-71	2030-0023
1552.215-72 through 1552.215-76	2030-0006

48 CFR citation	OMB control No.
1552.227-76	2030-0023

Subpart 1501.4—Deviations

1501.401 Definition.

A deviation to the EPAAR is defined in the same manner as a deviation to the FAR (see FAR 1.401).

1501.403 Individual deviations.

Requests for individual deviations from the FAR and the EPAAR shall be submitted to the Head of the Contracting Activity (HCA) for approval. Requests submitted shall cite the specific part of the FAR or EPAAR from which it is desired to deviate, shall set forth the nature of the deviation(s), and shall give the reasons for the action requested.

1501.404 Class deviations.

Requests for class deviations to the FAR and the EPAAR shall be submitted to the HCA for processing in accordance with FAR 1.404 and this section. Requests shall include the same type of information prescribed in 1501.403 for individual deviations.

Subpart 1501.6—Contracting Authority and Responsibilities

1501.602-3 Ratification of unauthorized commitments.

(a) *Applicability.* The provisions of this section apply to all unauthorized commitments, whether oral or written and without regard to dollar value. Examples of unauthorized commitments are;

(1) Ordering supplies or services by an individual without contracting authority;

(2) Unauthorized direction of work through assignment of orders or tasks;

(3) Unauthorized addition of new work;

(4) Unauthorized direction of contractors to subcontract with particular firms; or

(5) Any other unauthorized direction which changed the terms and conditions of the contract.

(b)

(1) *Ratification Approval*. The Senior Procurement Executive (SPE) as defined in 1502.100 is the

ratifying official for all ratification actions $25,000 and above.

(2) The Chief of the Contracting Office (CCO) as defined in 1502.100 is delegated authority to be the ratifying official for all ratification actions below $25,000.

(3) The CCOs defined in 1502.100 for purposes of ratification authority only must meet the following criteria:

(i) Must possess a contracting officer's warrant and be in the 1102 job series;

(ii) Are prohibited from re-delegating their ratification authority;

(iii) Are prohibited from approving a ratification if he/she acted as a contracting officer in preparing the determination and findings required under paragraph (c)(3) of this section; and

(iv) Must abide by the other limitations on ratification of unauthorized commitments set forth in FAR 1.602-3(c) and the EPAAR.

(2) The CCOs defined in 1502.100 for purposes of ratification authority only must meet the following criteria:

(i) Must possess a contracting officer's warrant and be in the 1102 job series;

(ii) Are prohibited from re-delegating their ratification authority;

(iii) Must submit copies of ratification actions to the cognizant Office of Acquisition Management Division Director at Headquarters; and

(iv) As with other ratifying officials, must abide by the other limitations on ratification of unauthorized commitments set forth in FAR 1.602-3(c) and the EPAAR.

(c) *Procedures.*

(1) The program office shall notify the cognizant contracting office by memorandum of the circumstances surrounding an unauthorized commitment. The notification shall include:

(i) All relevant documents and records;

(ii) Documentation of the necessity for the work and benefit derived by the Government;

(iii) A statement of the delivery status of the supplies or services associated with the unauthorized commitment;

(iv) A list of the procurement sources solicited (if any) and the rationale for the source selected;

(v) If only one source was solicited, a justification for other than full and open competition (JOFOC) as required by FAR 6.302, FAR 6.303, and 1506.303, or for simplified acquisition procedures exceeding the competition threshold in FAR 13.106, a sole source justification as required by 1513.170;

(vi) A statement of steps taken or proposed to prevent reoccurrence of any unauthorized commitment.

(2) The Division Director (or equivalent) of the responsible office shall approve the memorandum. If

expenditure of funds is involved, the program office shall include a Procurement Request/Order, EPA Form 1900-8, with funding sufficient to cover the action. The appropriation data cited on the 1900-8 shall be valid for the period in which the unauthorized commitment was made.

(3) Upon receiving the notification, the Contracting Officer shall prepare a determination and findings regarding ratification of the unauthorized commitment for the ratifying official. The determination and findings shall include sufficient detail to support the recommended action. If ratification of the unauthorized commitment is recommended, the determination and findings shall include a determination that the price is fair and reasonable. To document the determination, additional information may be required from the Contractor. Concurrence by the Office of General Counsel is not mandatory, but shall be sought in difficult or unusual cases.

(4) The ratifying official may inform the Inspector General (IG) of the action by memorandum through the Head of the Contracting Activity (HCA). For ratification actions exceeding the small purchase limitation, the ratifying official shall submit a memorandum to the Assistant Administrator for Administration and Resources Management through the HCA for transmittal to the Assistant, Associate, or Regional Administrator (or equivalent level) of the person responsible for the unauthorized commitment. This memorandum should contain a brief description of the circumstances surrounding the unauthorized commitment, recommend corrective action, and include a copy of any memorandum sent to the IG. Submission of a memorandum to the appropriate Assistant, Associate, or Regional Administrator for unauthorized commitments at or below the small purchase limitation is optional and may be accomplished at the discretion of the ratifying official.

(d) *Paid Advertisements.*

(1) EPA is generally not authorized to ratify improperly ordered paid advertisements. The ratifying official, however, may determine payment is proper subject to the limitations in FAR 1.602-3(c) if the individual responsible for the unauthorized commitment acted in good faith to comply with Agency acquisition policies and procedures.

(2) The paying office shall forward invoice claims received in its office for improper paid advertisements to the cognizant ratifying official for a determination regarding ratification of the action.

(3) If the ratifying official determines that an unauthorized commitment cannot be ratified by the Agency, the ratifying official shall instruct the submitter to present its claim to the General Accounting Office in accordance with the instructions contained in 4 CFR part 31, Claims Against the United States, General Procedures.

(e) *Payment of Properly Ratified Claims.* After the unauthorized commitment is ratified, the Contractor must submit an invoice (or resubmit an invoice if one was previously submitted) citing the appropriate contract or purchase order number.

1501.603 Selection, appointment, and termination of appointment.

1501.603-1 General.

EPA Contracting Officers shall be selected and appointed and their appointments terminated in accordance with the Contracting Officer warrant program specified in EPA Acquisition Guide (EPAAG) subsection 1.6.4.