PART 301—HHS ACQUISITION REGULATION SYSTEM

Authority: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

Source: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 301.1—Purpose, Authority, and Issuance

301.101 Purpose.

(a) The Department of Health and Human Services (HHS) Acquisition Regulation (HHSAR) establishes uniform HHS acquisition policies and procedures that implement and supplement the Federal Acquisition Regulation (FAR).

(b)

(1) The HHSAR contains HHS policies that govern the acquisition process or otherwise control acquisition relationships between HHS' contracting activities and contractors. The HHSAR contains—

(i) Requirements of law;

(ii) HHS-wide policies;

(iii) Deviations from FAR requirements; and

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

(2) Relevant internal procedures, guidance, and information not meeting the criteria in paragraph (b)(1) of this section are issued by HHS in other announcements, internal procedures, guidance, or information.

301.103 Authority.

(b) The Assistant Secretary for Financial Resources (ASFR) prescribes the HHSAR under the authority of 5 U.S.C. 301 and section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 121(c)(2)), as delegated by the Secretary).

(c) The HHSAR is issued in the Code of Federal Regulations (CFR) as chapter 3 of title 48, Department of Health and Human Services Acquisition Regulation. It may be referenced as "48 CFR chapter 3."

301.106 Office of Management and Budget approval under the Paperwork Reduction Act.

(a) The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget (OMB) before collecting the same information from 10 or more members of the public.

(b) The following OMB control numbers apply to the information collection and recordkeeping requirements contained in this chapter:

HHSAR Segment	OMB Control No.
311.7102	0990-0434
311.7202(b)	0990-0434
311.7300	0990-0436
337.103(d)(3)	0990-0430
337.103(d)(4)	0990-0433
370.301	0990-0431

HHSAR Segment	OMB Control No.
370.401	0990-0432
352.211-1	0990-0434
352.211-2	0990-0434
352.211-3	0990-0436
352.227-11	0990-0419
352.227-14	0990-0419
352.227-71	0990-0430
352.237-72	0990-0433
352.237-73	0990-0431
352.270-4a	0990-0431
352.270-4b	0990-0431
352.270-10	0990-0431
352.270-11	0990-0432
352.270-5a	0990-0432
352.270-5b	0990-0432

Subpart 301.2 [Reserved]

Subpart 301.4—Deviations from the FAR

301.401 Deviations.

Contracting officers are not permitted to deviate from the FAR or HHSAR without seeking proper

approval. With full acknowledgement of FAR 1.102(d) regarding innovative approaches, any deviation to FAR or the HHSAR requires approval by the Senior Procurement Executive (SPE).

Subpart 301.6—Career Development, Contracting Authority, and Responsibilities

301.602 Contracting officers.

301.602-3 Ratification of unauthorized commitments.

(b) *Policy.*

(1) The Government is not bound by agreements with, or contractual commitments made to, prospective contractors by individuals who do not have delegated contracting authority. Unauthorized commitments do not follow the appropriate process for the expenditure of Government funds. Consequently, the Government may not be able to ratify certain actions, putting a contractor at risk for taking direction from a Federal official other than the contracting officer. See FAR 1.602-1. Government employees responsible for unauthorized commitments are subject to disciplinary action. Contractors perform at their own risk when accepting direction from unauthorized officials. Failure to follow statutory and regulatory processes for the expenditure of Government funds is a very serious matter.

(2) The head of the contracting activity (HCA) is the official authorized to ratify an unauthorized commitment. No other re-delegations are authorized.

(c) *Limitations.* (5) The HCA shall coordinate the request for ratification with the Office of General Counsel, General Law Division and submit a copy to the SPE.

301.603 Selection, appointment, and termination of appointment of contracting officers.

301.603-1 General.

(a) The Agency head has delegated broad authority to the Chief Acquisition Officer, who in turn has further delegated this authority to the SPE. The SPE has further delegated specific acquisition authority to the Operating and Staff Division heads and the HCAs. The HCA (non-delegable) shall select, appoint, and terminate the appointment of contracting officers.

(b) To ensure proper control of redelegated acquisition authorities, HCAs shall maintain a file containing successive delegations of HCA authority through the contracting officer level.