PART 2001 - NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION SYSTEM

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; 41 U.S.C. 418(b).

Source: 64 FR 49324, Sept. 10, 1999, unless otherwise noted.

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Parent topic: SUBCHAPTER A - GENERAL

Subpart 2001.1 - Purpose, Authority, Issuance

2001.101 Purpose.

This subpart establishes Chapter 20, the Nuclear Regulatory Commission Acquisition Regulation (NRCAR), and provides for the codification and publication of uniform policies and procedures for acquisitions by the NRC. The NRCAR is not, by itself, a complete document. It must be used in conjunction with the Federal Acquisition Regulation (FAR) (48 CFR chapter 1).

2001.102 Authority.

The NRCAR and the amendments to it are issued by the Senior Procurement Executive under a delegation from the Executive Director for Operations dated May 16, 1997, in accordance with the authority of the Atomic Energy Act of 1954, as amended (42. U.S.C. 161), the Energy Reorganization Act of 1974 (42 U.S.C. 5841, 5872), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)), as amended, FAR subpart 1.3, and other applicable law.

2001.103 Applicability.

The FAR and NRCAR apply to all NRC acquisitions of supplies and services which obligate appropriated funds, unless exempted by Sections 31 and 161 of the Atomic Energy Act of 1954 as amended, and Section 205 of the Energy Reorganization Act of 1974 as amended. For procurements made from nonappropriated funds, the Director, Division of Contracts and Property Management, shall determine the rules and procedures that apply.

2001.104 Issuance.

2001.104-1 Publication and code arrangement.

(a) The NRCAR and its subsequent changes are:

(1) Published in the daily issue of the Federal Register; and

(2) Codified in the Code of Federal Regulations (CFR).

(b) The NRCAR is issued as 48 CFR chapter 20.

2001.104-2 Arrangement of the regulations.

(a) *General.* Chapter 20 is divided into parts, subparts, sections, subsections, paragraphs, and further subdivisions as necessary.

(b) *Numbering.* The numbering system and part, subpart and section titles used in this Chapter conform with those used in the FAR as follows:

(1) Where Chapter 20 implements the FAR or supplements a parallel part, subpart, section, subsection, or paragraph of the FAR, that implementation or supplementation is numbered and captioned to the FAR part, subpart, section, or subsection being implemented or supplemented, except that the implementation or supplementation is preceded with a 20 or 200 so that there will always be four numbers to the left of the decimal. For example, NRC's implementation of FAR 1.104-1 is shown as 2001.104-1 and the NRC's implementation of FAR 24.1 is shown as 2024.1.

(2) When the NRC supplements material contained in the FAR, it is given a unique number containing the numerals "70" or higher. The rest of the number parallels the FAR part, subpart, section, subsection, or paragraph it is supplementing. For example, Section 170A of the Atomic Energy Act of 1954, as amended, requires a more comprehensive organizational conflict of interest review for NRC than is contemplated by FAR 9.5. This supplementary material is identified as 2009.570.

(3) Where material in the FAR requires no implementation or supplementation, there is no corresponding numbering in the NRCAR. Therefore, there may be gaps in the NRCAR sequence of numbers where the FAR requires no further implementation.

(c) *Citation.* The NRCAR will be cited in accordance with Office of the Federal Register standards approved for the FAR. Thus, this section when referred to in the NRCAR is cited as 2001.104-2(c). When this section is referred to formally in official documents, such as legal briefs, it should be cited as "48 CFR 2001.104-2(c)." Any section of the NRCAR may be formally identified by the section number, e.g., "NRCAR 2001.104-2." In the NRCAR, any reference to the FAR will be indicated by "FAR" followed by the section number, for example FAR 1-104.

2001.104-3 Copies.

Copies of the NRCAR in Federal Register and CFR form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

2001.105 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0169.

(b) The information collection requirements contained in this part appear in 2009.570-3, 2009.570-5, 2009.570-8, 2014.201-670, 2027.305-3, 2042.570-1, 2042.803, 2045.371, 2052.204-70, 2052.204-71, 2052.209-70, 2052.209-71, 2052.209-72, 2052.211-70, 2052.211-71, 2052.211-72, 2052.211-72 Alternate 1, 2052.214-71, 2052.214-72, 2052.214-74, 2052.215-70, 2052.215-71, 2052.215-74, 2052.215-75, 2052.215-75 Alternate 1, 2052.215-75 Alternate 2, 2052.215-78, 2052.216-72, 2052.227-70, 2052.235-70, 2052.235-71, 2052.242-70, and 2052.242-71.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and control numbers under which they are approved are as follows:

(1) In 2052.215-77(a) and 2052.215-78(b), NRC Form 445 is approved under control number 3150-0193.

(2) [Reserved]

Subpart 2001.3 - Agency Acquisition Regulations

2001.301 Policy.

Policy, procedures, and guidance of an internal nature will be promulgated through internal NRC issuances such as Management Directives or Division of Contracts and Property Management Instructions.

2001.303 Public participation.

FAR 1.301 and section 22 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 418b) require rulemaking for substantive acquisition rules, but allow discretion in the matter for other than significant issues meeting the stated criteria. Accordingly, the NRCAR has been promulgated and may be revised from time to time in accordance with FAR 1.301. This procedure for significant subject matter generally involves issuing a notice of proposed rulemaking that invites public comment, review and analysis of comments received, and publication of a final rule. The final rule includes a discussion of the public comments received and describes any changes made as a result of the comments.

Subpart 2001.4 - Deviations From the FAR and the NRCAR

2001.402 Policy.

(a) Deviations from the provisions of the FAR or NRCAR may be granted as specified in this subpart when necessary to meet the specific needs of the requesting office. The development and testing of new techniques and methods of acquisition should not be discouraged simply because the action would require a FAR or NRCAR deviation.

(b) Requests for authority to deviate from the provisions of the FAR or the NRCAR must be signed by the requesting office and submitted to the Director, Division of Contracts and Property Management, in writing, as far in advance as possible. Each request for deviation must contain the following:

(1) A statement of the deviation desired, including identification of the specific paragraph number(s) of the FAR or NRCAR from which a deviation is requested;

(2) The reason why the deviation is considered necessary or would be in the best interest of the Government;

(3) If applicable, the name of the contractor and identification of the contract affected;

(4) A description of the intended effect of the deviation;

(5) A statement of the period of time for which the deviation is needed; and

(6) Any pertinent background information which will contribute to a full understanding of the desired deviation.

2001.403 Individual deviations.

In individual cases, deviations from either the FAR or the NRCAR will be authorized only when essential to effect only one contracting action or where special circumstances make the deviations clearly in the best interest of the Government. Individual deviations must be authorized in advance by the Director, Division of Contracts and Property Management.

2001.404 Class deviations.

Class deviations affect more than one contracting action. Where deviations from the FAR or NRCAR are considered necessary for classes of contracts, requests for authority to deviate must be submitted in writing to the Director, Division of Contracts and Property Management, who will consider the submission jointly with the Chairperson of the Civilian Agency Acquisition Council, as appropriate.

Subpart 2001.6 - Contracting Authority and Responsibilities

2001.600-70 Scope of subpart.

This subpart deals with the placement of contracting authority and responsibility within the agency, the selection and designation of contracting officers, and the authority of contracting officers.

2001.601 General.

(a) Contracting authority vests in the Chairman. The Chairman has delegated this authority to the Executive Director for Operations (EDO). The EDO has delegated this authority to the Deputy Executive Director for Management Services (DEDM). The DEDM has delegated this authority to the Director, Office of Administration (ADM). The Director, ADM, has delegated the authority to the Director, Division of Contracts and Property Management (DCPM), who, in turn, makes contracting officer appointments within Headquarters and Regional Offices. All of these delegations are formal written delegations containing dollar limitations and conditions.

(b) The Director, Division of Contracts Division of Contracts and Property Management, establishes contracting policy throughout the agency; monitors the overall effectiveness and efficiency of the agency's contracting office; establishes controls to assure compliance with laws, regulations, and procedures; and delegates contracting officer authority.

2001.602-3 Ratification of unauthorized commitments.

(a) The Government is not bound by agreements or contractual commitments made to prospective contractors by persons to whom contracting authority has not been delegated. Any unauthorized commitment may be in violation of the Federal Property and Administrative Services Act, other Federal laws, the FAR, the NRCAR, and good acquisition practice. Certain requirements of law and regulation necessary for the proper establishment of a contractual obligation may not be met under an unauthorized commitment; for example, the certification of the availability of funds, justification for other than full and open competition, competition of sources, determination of contractor responsibility, certification of current pricing data, price/cost analysis, administrative approvals, and negotiation of appropriate contract clauses.

(b) The execution of otherwise proper contracts made by individuals without contracting authority, or by contracting officers in excess of the limits of their delegated authority, may later be ratified. To be effective, the ratification must be in the form of a written procurement document clearly stating that ratification of a previously unauthorized commitment is intended. All ratifications of procurement actions valued at $2,500 or less may be approved by the appropriate regional administrator or Headquarters contracting officer. For any such action, all other terms of subpart 2001.6 are applicable. All ratification actions exceeding $2,500 shall be approved by the Competition Advocate.

(c) Requests received by contracting officers for ratification of commitments made by personnel lacking contracting authority must be processed as follows:

(1) The Designating Official that is responsible for the office request shall furnish the contracting officer all records and documents concerning the commitment and a complete written statement of facts, including, but not limited to:

(i) A written statement consistent with the complexity and size of the action as to why the contracting office was not used including the name of the employee who made the commitment;

(ii) A statement as to why the proposed contractor was selected;

(iii) A list of other sources considered;

(iv) A description of work performed, or to be performed, or products to be furnished;

(v) The estimated or agreed upon contract price;

(vi) A certification of the appropriated funds available;

(vii) A description of how unauthorized commitments in similar circumstances will be avoided in the future.

(2) The contracting officer shall review the written statement of facts for a determination of approval of all actions valued at $2,500 or less. For actions greater than $2,500, the contracting officer shall forward the written statement of facts to the Competition Advocate through the Director, Division of Contracts and Property Management with any comments or information that should be considered in evaluating the request for ratification.

(3) The NRC legal advisor may be asked for an opinion, advice, or concurrence if there is concern regarding the propriety of the funding source, appropriateness of the expense, or when some other

legal issue is involved.

2001.603 Selection, appointment, and termination of appointment.

The Director, Division of Contracts and Property Management, is authorized by the Director, Office of Administration, to select and appoint contracting officers and to terminate their appointment as prescribed in FAR 1.603. Delegations of contracting officer authority are issued by memorandum which includes a clear statement of the delegated authority, including responsibilities and limitations in addition to the “Certificate of Appointment”, SF 1402. The Director, Division of Contracts and Property Management, may delegate micro-purchase authority in accordance with agency procedures. This delegation may be accomplished by written memorandum. (ref. FAR 1.603-3(b))