PART 801—DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION SYSTEM

Authority: 38 U.S.C. 8123; 38 U.S.C. 8153; 38 U.S.C. 8303; 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Source: 87 FR 70744, Nov. 21, 2022, unless otherwise noted.

801.000 Scope of part.

Subpart 801.1—Purpose, Authority, Issuance

801.101 Purpose.

801.103 Authority.

801.104 Applicability.

801.104-70 Exclusions.

801.106 OMB approval under the Paperwork Reduction Act.

Subpart 801.3—Agency Acquisition Regulations

801.301 Policy.

801.304 Agency control and compliance procedures.

Subpart 801.4—Deviations From the FAR

801.403 Individual deviations.

801.404 Class deviations.

Subpart 801.6—Career Development, Contracting Authority, and Responsibilities

801.601 General.

801.602-3 Ratification of unauthorized commitments.

801.604 Contracting Officer`s Representative (COR).

Parent topic: SUBCHAPTER A—GENERAL

801.000 Scope of part.

This part includes general Department of Veterans Affairs (VA) Acquisition Regulation (VAAR) policies, including information regarding the maintenance and administration of the VAAR,

acquisition policies and practices, and procedures for deviation from the VAAR and the Federal Acquisition Regulation (FAR).

Subpart 801.1—Purpose, Authority, Issuance

801.101 Purpose.

(a) VA established the VAAR to codify and publish uniform policies and procedures for VA's acquisition of supplies and services, including construction.

(b) The VAAR implements and supplements the FAR.

801.103 Authority.

The VA issues the VAAR under the authority of 41 U.S.C. 1707 and 48 CFR 1.301 through 1.304, and other authorities as cited.

801.104 Applicability.

The FAR and the VAAR apply to all FAR-based VA actions using appropriated funds unless otherwise specified in this regulation. Supply Fund monies (38 U.S.C. 8121) and General Post Funds (38 U.S.C. 8302) are appropriated funds.

801.104-70 Exclusions.

(a) *Restricted gifts.* The FAR and VAAR do not apply to purchases and contracts that use General Post Funds if using the FAR and the VAAR would infringe upon a donor's right to specify the exact item to be purchased and/or the source of supply (38 U.S.C. 8303).

(b) *Procurement of prosthetic appliances.* The VA may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the VA may determine to be proper, without regard to any other provision of law (38 U.S.C. 8123).

(c) *Sharing of health-care resources.*

(1) To secure health-care resources which otherwise might not be feasibly available, or to effectively utilize certain other health-care resources, the VA may, when the VA determines it to be in the best interest of the prevailing standards of the Department medical care program, make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual.

(2) The VA may enter into a contract or other agreement under paragraph (c)(1) of this section if such resources are not, or would not be, used to their maximum effective capacity.

(3)

(i) If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with 38 U.S.C. 7302, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the VA may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.

(ii) If the health-care resource required is a commercial service or the use of medical equipment or space, and is not to be acquired from an entity described in paragraph (c)(3)(i) of this section, any procurement of the resource may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource, but only if the procurement is conducted in accordance with the simplified procedures prescribed in part 873. (38 U.S.C. 8153).

801.106 OMB approval under the Paperwork Reduction Act.

See VA Acquisition Manual (VAAM) M801.106 for a list of the information collection and recordkeeping requirements contained in this part that have been approved by the Office of Management and Budget.

Subpart 801.3—Agency Acquisition Regulations

801.301 Policy.

(a)

(1) VA implementation and supplementation of the FAR is issued in the Veterans Affairs Acquisition Regulation (VAAR) under authorization and subject to the authority, direction, and control of the Secretary of Veterans Affairs. The VAAR contains—

(i) Requirements of law;

(ii) Agency policies;

(iii) Delegations of FAR authorities;

(iv) Deviations from FAR requirements; and

(v) Policies/procedures that have a significant effect beyond the internal operating procedures of VA or a significant cost or administrative impact on contractors or offerors.

(2) Relevant internal procedures, guidance, and information (PGI) that do not meet the criteria in paragraph (a)(1) of this section are issued in the Veterans Affairs Acquisition Manual (VAAM).

(b) [Reserved]

801.304 Agency control and compliance procedures.

The Principal Executive Director of VA's Office of Acquisition, Logistics and Construction is designated as the Department's Chief Acquisition Officer. The Executive Director for the Office of Acquisition and Logistics (OAL) is designated as the Department's Senior Procurement Executive (SPE). The SPE is responsible for amending the VAAR for compliance with FAR 1.304.

Subpart 801.4—Deviations From the FAR

801.403 Individual deviations.

The SPE may authorize individual deviations from the FAR and VAAR in accordance with FAR 1.403 when an individual deviation is in the best interest of the Government.

801.404 Class deviations.

The SPE may authorize class deviations from the FAR and VAAR when a class deviation is in the best interest of the Government.

Subpart 801.6—Career Development, Contracting Authority, and Responsibilities

801.601 General.

(a) The Senior Procurement Executive is granted the authority to appoint and terminate contracting officers. This authority is further delegated to the heads of the contracting activities (HCA) and others as appropriate. The SPE may also delegate authority to execute, award, and administer contracts, purchase orders, and other agreements to other VA officials, such as HCAs and contracting officers. All delegations of authority will be made in writing.

(b) HCAs may authorize the use of ordering officers to order supplies and services in accordance with the ordering limits identified in the contract or agreement or the specific ordering guide. Ordering officers shall be delegated in writing. The written delegation must be specific to the contract or agreement and articulate the limitations of the delegated authority. Ordering officers shall only place orders against the contract or agreement if it is awarded to a single awardee. Ordering officers may not negotiate contract terms and conditions, determine price reasonableness, or determine best value. If the contracting officer determines prior to award that ordering officers will be authorized to place orders against a contract or agreement, the contracting officer will furnish the contractor with the names of individuals delegated ordering officer authority by separate letter upon issuance of the contract.

801.602-3 Ratification of unauthorized commitments.

(a) This section applies to unauthorized commitments, including any commitment made by a contracting officer that exceeds that contracting officer's contracting authority and unauthorized commitments made by a Government representative who lacked the authority to enter into that agreement on behalf of the Government.

(b) The approving authority and ratification official for unauthorized commitments is the HCA. This authority may be delegated to the chief of the contracting office or the equivalent for unauthorized commitments below $25,000.

801.604 Contracting Officer`s Representative (COR).

When the contracting officer intends to designate a Contracting Officer's Representative for a solicitation or contract, the contracting officer must include the clause in 852. 201-70, Contracting Officer`s Representative, in the solicitation and contract.