



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.1 Procurement Authority and Oversight

A. GENERAL: The purpose of this section is threefold: to provide an easy-to-read explanation of the procurement process; to help non-procurement U.S. Marshals Service (USMS) employees understand the procurement process and use it more effectively; and to serve as a guide on contracting procedures. While this section does not contain regulations, it conforms to current procurement rules and regulations. In addition, future procurement laws and regulations may change current procedures. All actions must be based on current and appropriate regulations which include the *Federal Acquisition Regulations* ([FAR](#)) and the *Department of Justice Acquisition Regulations* ([JAR](#)).

B. PROCUREMENT LAWS AND REGULATIONS AND POLICY

1. **Regulations:** Based on the laws passed by Congress, the basic rules, policies and procedures for Government purchasing are established in the FAR for military and civilian agencies. With regard to the Department of Justice (DOJ), the FAR is supplemented by the JAR, both of which are described below.
 - a. **FAR:** The [FAR](#) is the primary regulation establishing policies for all federal executive agencies acquiring supplies and services with appropriated funds and is published in the *Code of Federal Regulations* (CFR) as [48 C.F.R. Chapter 1](#) as well as in a loose-leaf edition. It is divided into 53 separate parts that deal with the different aspects of procurement.
 - b. **JAR:** The [JAR](#) provides additional rules, policies and procedures for acquisitions by DOJ and its bureaus, both implementing and supplementing the FAR. The JAR is not a complete system of regulations and must be used in conjunction with the FAR. The JAR is published in the CFR as [48 C.F.R. Chapter 28](#).
2. **Policies and Other Information:** In addition to regulations, several Government entities are authorized to issue policies or procedures that must be adhered to by all contracting personnel, as follows:
 - a. Office of Management and Budget (OMB): issues [OMB circulars](#) to cover specific areas such as "Contracting for Commercial Activities." Employees must adhere to applicable OMB circulars for all purchases.
 - b. Office of Federal Procurement Policy (OFPP): issues policy from time to time to implement procurement-related statutes, regulations and executive orders. Employees must follow applicable [OFPP policy notices](#) for all purchases.
 - c. USMS Policy and Procedures: USMS acquisition policy and procedures are contained in this USMS web-based policy directive system. All USMS employees must adhere to the policy and procedures.

C. CONTRACTING AUTHORITY AND RESPONSIBILITY

1. **General:** Only Contracting Officers may enter into and sign contracts on behalf of the Government. Also, only employees with written delegated procurement authority may enter into binding agreements with commercial vendors on behalf of the USMS. All other USMS employees are strictly prohibited from taking any action or making any statements which may be interpreted by vendors as a commitment to acquire their services or supplies.
2. **Director, USMS:** The USMS Director has contracting authority as delegated by the Attorney General in [JAR 2801.601](#). The Director is considered the “head of contracting activity.”
3. **Procurement Chief:** As the senior procurement official within the USMS, the Procurement Chief oversees the acquisition work force. The Director delegates contracting authority to the Procurement Chief, who may redelegate it to other USMS employees as appropriate and in accordance with the [Contracting Officer Warrants Program](#) outlined below.
4. **U.S. Marshals and Assistant Directors**
 - a. U.S. Marshals and Assistant Directors are responsible for assuring that Contracting Officers assigned to their staffs are performing their procurement duties according to applicable regulations, are participating in the continuing education requirements outlined in [JAR 2801.603-1](#) and are making procurement documents and files available for inspection by USMS Procurement Office staff upon request. In addition, Assistant Directors and U.S. Marshals must notify the Procurement Chief of changes in the status of contracting officers, including reassignments, retirements, deaths and name changes.
 - b. U.S. Marshals are permitted to designate individuals within their own districts to use the *Purchase Order-Invoice-Voucher*, SF-44 and certified invoice procedures (CIP) to obtain goods or services at work sites or while away from the office when necessary to perform their assigned duties. This authority may not be redelegated to others. The procedures and limits of this authority are outlined in this directive.
5. **The Office of General Counsel** is responsible for the following:
 - a. Providing general legal assistance and advice to Contracting Officers and the Procurement Chief;
 - b. Performing oversight reviews of all solicitations and contracts expected to exceed \$500,000 before the Contracting Officer executes them.
6. **The Procurement Office, Procurement Policy and Oversight Team** will assist the Procurement Chief in managing and overseeing the USMS acquisition program by doing the following:
 - a. Managing the Acquisition Career Management Program, including the Contracting Officer's Warrant Program and the Contracting Officer's Technical Representative Program;
 - b. Managing the Purchase and Fleet Credit Card Programs;
 - c. Managing the contract reporting system;

- d. Performing oversight reviews of all solicitations and contracts expected to exceed \$300,000 before the Contracting Officer executes them and performing oversight reviews of selected acquisition documents and files on either a pre-award or post-award basis.
7. **Contracting Officers** are responsible for the following:
- a. Assuring that all acquisitions are processed according to applicable laws, regulations and policy;
 - b. Complying with the Acquisition Career Management Program, including the continuing education requirements outlined by [Part 2801.603-1](#) (c) (4). Contracting Officers shall supply copies of all training certificates or other evidence of procurement or acquisition-related training to the Procurement Office so compliance with the continuing education requirement can be monitored;
 - c. Submitting files for oversight review as required by this policy or as requested by the Procurement Chief, the Office of General Counsel, or the Assistant Director of the Financial Services Division (FSD).
8. **Internal Controls and Separation of Duties:**
- a. The purpose of internal controls is to ensure that all transactions are properly authorized, recorded, accessed, and accounted for. Effective internal controls ensure that transactions are clearly documented, leaving an audit trail readily available for examination; are properly recorded and classified; and are authorized and executed only by persons acting within their delegation of authority.
 - b. One key internal control is separation of duties. Separation of duties means that no single individual has control over certain phases of a transaction or operation. Three benefits of separation of duties are: (1) it reduces the risk of fraud; (2) it provides a complimentary crosscheck in order to catch any mistakes before a transaction is fully executed; and (3) it ensures that important decisions are not made based on erroneous data.
 - c. Separation of duties is the responsibility of all personnel, both at Headquarters and in the Districts. The first objective in ensuring separation of duties is to develop a list of steps involved in a process. Key steps in the acquisition process include:
 - 1) Approving the requisition;
 - 2) Committing the funds;
 - 3) Obligating the funds/Awarding the contract;
 - 4) Receiving and accepting the supplies and services;
 - 5) Certifying the invoice for payment; and
 - 6) Paying the vendor.
 - d. In an ideal system, a different employee would perform each step in the process. However, total separation of duties is difficult to accomplish in a small office environment with minimum resources. When the same individual must perform

multiple tasks, the office must compensate for this limitation by increased supervision and monitoring.

- e. The benefits of any internal control system must exceed its costs. The primary goals are to reduce errors and prevent loss. If prevention fails, early detection and correction are essential to reduce future losses.
- f. The following are examples of acquisition functions that must be separated:
 - 1) The person who certifies that funds are available for a transaction must not order or receive the supplies or services;
 - 2) The person who approves a requisition must not sign the resulting contract;
 - 3) The person who approves an invoice for payment must not pay the vendor.
- g. Training and support for staff involved in acquisitions are key elements in the implementation of internal controls. All acquisitions personnel must be provided with a clear description of their roles and responsibilities and be held accountable for performing them. In the absence of dedicated individuals, district personnel should be cross trained and qualified to ensure internal controls.

D. PROCEDURES FOR U.S. MARSHALS TO DELEGATE USE OF PURCHASE ORDER-INVOICE-VOUCHER (SF-44) AND CERTIFIED INVOICE PROCEDURES (CIP): U.S. Marshals are authorized to designate individuals in their districts the authority to use SF-44s and CIPs to obtain goods or services at work sites or while away from the office as needed to perform their assigned duties. These simplified procedures are designed for on-the-spot and over-the-counter purchases, but must be used in accordance with all applicable rules and regulations. Each individual delegated this authority must be provided written instructions that give all the conditions and limitations for their purchases. A sample written delegation is provided below. This should be modified to provide specific limitations and dollar thresholds for each individual. The following are mandatory limits for each procedure:

- 1. **Purchase Order-Invoice-Voucher (SF-44):** The SF-44 may only be used for on-the-spot, over-the-counter purchases of supplies and services when the individual is away from the office. Ongoing requirements must be addressed for the entire fiscal year and awarded through the proper procurement process in accordance with FAR Subpart 13.003(g). In addition, the following criteria apply to SF-44s:
 - a. SF-44 forms must be pre-numbered before being issued, and the individual must sign and acknowledge the date of issue and receipt;
 - b. No single purchase may exceed the micro-purchase threshold;
 - c. All goods/services must be immediately available;
 - d. One delivery and one payment will be made;
 - e. Copies must be distributed as required;
 - f. Accountable property may not be purchased on SF-44s; and
 - g. GSA/FSS orders may not be issued on SF-44s.

2. **Certified Invoice Procedures (CIP):** Pursuant to JAR Subpart [2813.70](#), supplies or services directly related to accomplishing a mission may be acquired on the open market from local suppliers at the work site using a vendor's invoice instead of a purchase order or the Government-wide commercial credit card. The Certified Invoice Procedure (CIP) may be used only under the following conditions:
- a. All purchases are conducted in accordance with FAR Part 13 and JAR Part 2813;
 - b. No single purchase for supplies may exceed the applicable micro-purchase threshold;
 - c. No single purchase for services may exceed the applicable micro-purchase threshold;
 - d. One delivery and one payment will be made;
 - e. Neither the vendor nor the Government requires a purchase order;
 - f. The vendor does not accept the Government-wide commercial credit card as a form of payment;
 - g. Funds must be certified as available prior to purchase;
 - h. Appropriate pre-procurement approvals must be obtained;
 - i. Items purchased must be domestic source end products, except as provided in [FAR Subpart 25.1](#);
 - j. No accountable property may be purchased;
 - k. The procedures cannot be used as a delivery order or task order for supplies or services available on GSA Federal Supply Schedules or other agency contracts;
 - l. The vendor can provide a "proper" invoice in accordance with FAR Subpart 32.905;
 - m. Within five (5) days of receipt of the vendor's invoice or acceptance of the supplies or services (whichever is later), the individual making the purchase shall:
 - 1) verify the unit and total prices;
 - 2) annotate the invoice with the date the supplies or services were accepted;
 - 3) attach any packing lists or delivery receipts; and
 - 4) forward the invoice to the Administrative Officer or Supervisor for payment processing.
 - n. Before submitting the invoice to the Finance Office for payment, the Administrative Officer or Supervisor shall place the following statement on the invoice, together with the applicable accounting and appropriation data:

"I certify that these goods and/or services were received on _____
(date) and accepted on _____ (date). Oral purchase was authorized and

no confirming order has been issued.”

Signature: _____ Date: _____

Printed or Typed Name and Title

3. **Sample Delegation of Authority to Use Certified Invoice and SF-44 Procedures:**

Delegation of Authority to Use
Certified Invoice Procedures
and Standard Form-44s

I, _____, do hereby authorize
_____ to use the Certified Invoice Procedures and Standard
Form-44. This delegation is effective during your assignment in this District or unless
terminated in writing.

Also, you have the authority to incur obligations up to \$_____ (not to exceed the
micro-purchase threshold for supplies or services) for each individual transaction. The
supplies and services purchased must be for official business and required as part of
your official assigned duties/responsibilities. All SF-44s must be maintained in a secured
place (under lock and key), pre-numbered, and completely filled out. You are responsible
for coordinating your purchases with the contracting officer on a periodic basis, as
specified by the Administrative Officer or Supervisor.

Your signature below indicates your understanding and agreement to comply with the
above Delegation and Limitations.

Name: _____ Title: _____

Date: _____

E. CONTRACTING OFFICER’S WARRANT PROGRAM

1. **Policy:** It is the policy of the USMS Procurement Office to ensure that only individuals who are fully qualified to obligate the Government for the expenditure of public funds are appointed as Contracting Officers. Training and qualifications for all contracting personnel are delineated in the Acquisition Career Management Program and the [Acquisition Career Management Handbook](#), Pub. 113. Certification is not mandatory for all GS-1102s or existing warrant holders. However, personnel issued new Contracting Officer Warrants on or after January 1, 2007, regardless of GS series, must be certified at the appropriate level, unless exempt. New Contracting Officer Warrants are those issued to employees for the first time by the USMS.
2. **Delegations of Contracting Authority:** The Procurement Chief will delegate Contracting Officer authority on a SF-1402, Certificate of Appointment. Delegations of Contracting Officer authority may be issued in four levels: Basic Level, FAC-C Level I, FAC-C Level II, and FAC-C Level III. These levels are described in the USMS Publication No. 113, [Acquisition Career Management Handbook](#).

3. **Exemptions:** The authority to make micro-purchases through purchase cards, calls against blanket purchase agreements, imprest funds, CIP and SF-44s is exempt from the Contracting Officer's Warrant Program.
4. **Procedures:** Submission of Requests for Contracting Officer Appointment form
 - a. District and Headquarters Division requests for a Basic Level authority: All requests must be submitted in writing to the Procurement Chief and include the following:
 - 1) A completed form, *Request for Contracting Officer Appointment*, [USM-414](#);
 - 2) Copies of all procurement or acquisition related training certificates (one of the certificates must be for the completion of a CON 100 course and either a 40-hour Simplified Acquisitions course that was taken after July 3, 1995, or the 16-hour CON 237 on-line course).
 - b. Requests for Levels I, II, and III Contracting Authority: Candidates for Levels II and III authority must be in the 1102 occupational series. Level I may include non-1102s.
 - 1) The request shall be in memorandum form, include justification for delegation of authority, the level requested, delegation amount, and be signed by the candidate's supervisor.
 - 2) The request must include a copy of the applicable FAC-C certificate and all supporting documentation, including résumé and training certificates.
 - c. All candidates for Contracting Officer Appointments must be registered in the Acquisition Career Management Information System (ACMIS).
5. **Issuance of Certificates of Appointments**
 - a. Contracting Officers shall be appointed using an SF-1402, [Certificate of Appointment](#).
 - b. The certificate must state the following:
 - 1) The name of the Contracting Officer;
 - 2) The contracting level, including dollar limitations on open market, directed sources and, if applicable, the limits on delivery or task orders;
 - 3) Whether or not Leasing transactions are authorized;
 - 4) Whether or not authority can be re-delegated; and
 - 5) Conditions deactivating the Contracting Officer warrant.
6. **Suspension or Termination of Contracting Officer Authority:** Contracting Officer authority may be suspended or terminated administratively or for cause, in writing, by the Procurement Chief. It should be noted that patterns of negligent use of Contracting Officer authority need not be a prerequisite for suspending or terminating that authority. Rather, the circumstances should be examined on a case-by-case basis and corrective action taken in a timely manner.

- a. Suspensions: The Procurement Chief may suspend contracting authority in writing on Form [USM-410](#), Notice of Suspension of Contracting Authority, after determining that sufficient cause exists. Suspensions may be administrative or for cause. The following are examples of reasons for suspension:

- 1) Failure to follow established policy, procedures or regulations;
- 2) Violation of standards of conduct or procurement integrity regulations;
- 3) Failure to comply with continuing education requirements; and
- 4) During investigations relating to procurement abuses.

While on suspension, the individual may not represent himself/herself as a Contracting Officer to any person or organization, nor execute any contractual documents. Failure to comply with this provision will result in immediate termination of the contracting authority.

Failure of a Contracting Officer to complete continuing education requirements justifies suspending his/her authority for up to six months, after which he/she may be terminated for noncompliance. During this timeframe the Contracting Officer should take corrective action and provide evidence of compliance with continuing education requirements to the Procurement Chief with the Form [USM-410](#) prior to the effective termination date.

- b. Terminations: A termination occurs when the Procurement Chief determines that an individual's continued appointment as a Contracting Officer is not in the Government's best interest, or for cause. The termination is accomplished by issuance of Form [USM-411](#), Notice of Termination of Contracting Authority. Reasons for terminations include, but are not necessarily limited to, the following:

- 1) Failure to comply with statutes, executive orders, Office of Management and Budget circulars, the Federal Acquisition Regulations, the Justice Acquisition Regulations, USMS policies or procedures, limits in this policy or good business judgment;
- 2) Failure to comply with limitations on delegated authority (i.e., exceeding the stated dollar limits of authority and requiring ratifications);
- 3) Failure to complete continuing education requirements after appointment;
- 4) Violation of the standards of conduct and/or procurement integrity restrictions;
- 5) The employee has been reassigned to another position/location in the USMS which may require a new appointment;
- 6) The individual has left the USMS through transfer, retirement, resignation or other termination of employment.

- c. Contracting Officer Departure: Form [USM-412](#), Notice of Contracting Officer Departure, shall be used to provide notification to the Procurement Chief that a Contracting Officer has:

- 1) Left employment with the USMS either by retirement, transfer to another Government Agency, or other; or
- 2) Transferred to another USMS office.

7. **FAC-C and Warrant Levels, Career Paths, and Education and Training**

Requirements - The following chart ties certification levels, warrant levels, and career paths together with the applicable grade levels, dollar thresholds, experience, education, and training requirements. There is a Basic Level and three FAC-C and Warrant Levels: I, II, and III. The Basic Level, which is not FAC-C Certified, covers Non-1102s for acquisitions up to \$25,000 and for those with existing warrants up to \$100,000. The grade levels shown are the minimum grades for each career path.

FAC-C Level	Warrant Level	Career Path	Grade Level GS	\$ Threshold	Experience (minimum)	Education	Training Requirements
N/A	Basic Warrant (for Non-1102s)	Basic Level A Basic Level B	N/A	Up to \$25K Open Market and FAR Part 8 Existing Warrant Holders Up to \$100,000	N/A	N/A	CON 100, CON 237 16 hour on-line training or a 40 hour commercially available Simplified Acquisition Class
Level I	Level I	Junior	GS-5 Minimum	Up to \$100K \$5.5M Commercial Items	1 year of current contracting experience with progressively broader assignments	Baccalaureate Degree or 24 Hours Business-related Courses	Simplified Acquisition Class CON 100 CON 110 CON 111 CON 112 CON 120 (Or the equivalents/ predecessors of the above CON requirements) 80 CLP every 2 Years
Level II	Level II	Intermediate	GS-9 Minimum	Up to \$10M	2 years of current contracting experience with progressively broader assignments	Baccalaureate Degree or 24 Hours Business-related Courses	CON 214 CON 215 CON 216 CON 217 CON218 (Or their equivalents/ predecessors) 2 Electives 80 CLP every 2 Years

Level III	Level III	Senior	GS-13 Minimum	Unlimited	4 years of current contracting experience with progressively broader assignments	Baccalaureate Degree and 24 Hours Business- related Courses	CON 353 (Or equivalents/ predecessors) 2 Electives 80 CLP every 2 Years
-----------	-----------	--------	------------------	-----------	---	--	--

F. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

1. Contracting Officer's Technical Representatives (COTRs) may be involved in all phases of the acquisition process from pre-solicitation to post-award. A COTR shall be designated in writing for contracts or simplified acquisitions whose primary purpose is services.
2. The COTR designation shall be for the life of the contract unless changed in writing by the Contracting Officer. Unless specifically stated in the contract, only one COTR shall be designated for each contract. An alternate COTR may be identified in the contract if deemed appropriate.
3. Pre-award COTR responsibilities may include but are not limited to the following:
 - a. Establish contract objectives;
 - b. Develop specifications and/or statements of work;
 - c. Budget, estimate, and secure adequate fiscal year funding;
 - d. Develop evaluation criteria and evaluate proposals;
 - e. Protect privileged and/or sensitive procurement information;
 - f. Assist in pre-award orientations and conferences.
4. Post-award COTR responsibilities may include but are not limited to the following:
 - a. Conduct inspections for the purpose of evaluating contractor performance.
 - b. Review and certify contractor invoices.
 - c. Notify the Contracting Officer of any changes in COTR status.
 - d. Notify the Contracting Officer of any suspected procurement fraud, bribery, conflict of interest, or other improper conduct.
5. To be certified as a COTR, all candidates must complete the following mandatory training:
 - a. A minimum of 40 hours of training, either classroom or on-line, that includes course work in COTR-critical skills. If taken on-line, the following continuous learning (CL) modules, available from the [Federal Acquisition Institute](#) (FAI) may be used to qualify for a COTR Certification of Appointment. These modules total 40 training hours:

- 1) CLC 106 – COR with a Mission Focus (8 CLPs)
 - 2) CLC 004 – Market Research (3 CLPs)
 - 3) CLC 006 – Contract Termination (2 CLPs)
 - 4) CLC 007 – Contract Source Selection (2 CLP)
 - 5) CLC 013 – Performance-Based Services (6 CLPs)
 - 6) CLM 024 – Contracting Overview (8 CLPs)
 - 7) CLC 028 – Past Performance Information (3 CLPs)
 - 8) CLM 003 – Ethics Training for Acquisition, Technology, and Logistics (2 CLPs)
 - 9) CLM 031– Improved Statement of Work (4 CLPs)
 - 10) CLC 132 – Organizational Conflict of Interest (1 CLP)
 - 11) CLC 133 – Contract Payment Instructions (1 CLP)
- b. A minimum of one hour of training in procurement ethics such as courses available through commercial sources, other Government agencies, or the USMS Ethics Officer in the Office of General Counsel.
 - c. Forty (40) hours of refresher training at least every two years. Failure to meet this requirement may render the COTR ineligible to continue to serve and cause his/her certificate or designation to be revoked. Refresher courses may be completed on-line through the [FAI](#) website.
6. In addition to the mandatory training listed above, COTRs may routinely access the *Acquisition Central* [homepage](#) and other procurement-related websites to keep abreast of developments in the area. COTRs may also complete other specialized training related to their specific duties, such as writing statements of work, conducting market analyses, or evaluating contractor performance. These CL modules are available on-line through the *Defense Acquisition University* at <http://www.dau.mil>.
 7. Another training resource for COTRs is the DOJ Justice Management Division's, [Procurement Information Guide](#) for COTRs.
 8. All COTR candidates must be registered in the Acquisition Career Management Information System (ACMIS).
 9. Federal Acquisition Certification for Contracting Officer Technical Representatives (FAC-COTR) requirements are applicable to U.S. Marshals Service COTRs. FAC-COTR certification requires completion of 40 hours of COTR training and registration in ACMIS.
 10. All COTRs appointed to a contract after August 6, 2008, must be FAC-COTR certified not later than six months from the date of appointment.
 11. All existing COTRs who hold delegation letters on active U.S. Marshals Service contracts and who are not FAC-COTR certified must achieve certification not later than April 30, 2009.

12. Prior COTR training may be used towards obtaining FAC-COTR provided it was completed on, or after November 26, 2002.
13. Individuals who have completed COTR training prior to November 26, 2002, but have served as COTRs within the last five years, may apply their prior training towards the FAC-COTR training requirements.
14. Individuals who completed COTR training prior to November 26, 2002, and have not served as a COTR within the previous five years may not apply their training towards the FAC-COTR training, and will be required to complete 40 hours of training and become FAC-COTR certified prior to being eligible to be appointed as a COTR.
15. After existing COTRs requiring FAC-COTR Certification or new COTR candidates have completed the mandatory training listed above, the program office may request a Certificate of Appointment (Form USM-418) from the Procurement Chief. Nominations should be submitted using Form USM-415, Request for COTR Certificate of Appointment. Requests must be in writing, must be accompanied by training certificates or other documentation verifying the required courses were completed, and must be accompanied by a completed and signed DOJ FAC-COTR. Application can be found at <http://dojnet.doj.gov/jmd/cao/pdfs/fac-cotr-app.pdf>.
16. A COTR certificate does not authorize an individual to serve as COTR on any specific contract. After receiving a certificate and being nominated to serve as COTR, the individual must be designated in writing by the Contracting Officer for a specific contract. See sample Memorandum of Appointment.
17. COTRs shall immediately notify the Contracting Officer in writing of any changes in their status, such as transfer, reassignment, or retirement from the USMS. The Contracting Officer shall terminate the outgoing COTR by memorandum. If necessary, the Contracting Officer will execute a modification to the contract to terminate or change the COTR.
18. The outgoing COTR shall provide the Contracting Officer all records pertaining to the contract, including a detailed report describing the contractor's timeliness, quality of performance, and compliance with contract terms and conditions.

G. RATIFICATIONS OF UNAUTHORIZED COMMITMENTS (Superseded 06/28/12 by Policy Directive 6.1.G, Ratifications)

H. ACQUISITION CAREER MANAGEMENT PROGRAM: The [Acquisition Career Management Handbook](#), USMS Publication No. 113, provides guidance and assistance for implementation of the U.S. Marshals Service Acquisition Career Management Program.

I. CANCELLATION: Supersedes the prior USMS Policy Directive 6.1, Procurement Authority and Oversight.

By Order of:

Effective Date:

 /S/

 3/17/09

John F. Clark
Director
U.S. Marshals Service



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.1.G RATIFICATIONS OF UNAUTHORIZED COMMITMENTS

- A. Proponent:** Policy and Compliance, Office of Procurement, Financial Services Division (FSD). Telephone: 202-307-8640, Fax: 202-307-9695.
- B. Purpose:** This section establishes policies and procedures for ratifying unauthorized commitments made by United States Marshals Service (USMS) employees and contractors.
- C. Authority:** [Title 5, Code of Federal Regulations \(CFR\), Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch](#); [Federal Acquisition Regulation \(FAR\), Subpart 1.602-3, Ratification of Unauthorized Commitments](#); [Justice Acquisition Regulation \(JAR\) Subpart 2801.602-3, Ratification of Unauthorized Commitments](#).

The USMS Director (Head of the Contracting Activity) is the official authorized to ratify an unauthorized commitment. The Director has re-delegated approval of ratifications valued at \$500,000 or less as follows:

1. Between \$100,001 and \$500,000 - Deputy Director.
 2. Between \$0 and \$100,000 - Deputy Assistant Director, Office of Procurement (except unauthorized commitments made by the Office of Procurement for which the Assistant Director, FSD, will make the final ratification decision).
- D. Policy:** The policy of the USMS is to preclude the need for ratifications. Only warranted Contracting Officers, or other employees with written delegated procurement authority, acting within the scope of their stated authority to enter into and sign contracts, may enter into binding agreements with commercial vendors on behalf of the USMS. Contracting Officer's Representatives (CORs), formerly known as a Contracting Officer's Technical Representative (COTR), do not have the authority to enter into contractual agreements, modifications, or otherwise direct the performance of contractors outside the authority of their delegation. All USMS employees and any contractors engaged by USMS employees are strictly prohibited from taking any action or making any statements that may be interpreted by vendors as a commitment to commence work, unless the individual is specifically authorized to do so under the terms of an existing contract and sufficient funding is available. The Government is not bound by agreements with, or contractual commitments made to, prospective contractors by individuals who do not have delegated contracting authority, or by Contracting Officers in excess of their delegated authority. Nevertheless, the Government must honor those commitments made to a contractor upon the Government's request and that a contractor provides in good faith, *even if the unauthorized commitment cannot be ratified*. The Government is obliged to pay the reasonable value (not necessarily the contract value) of the goods and services it receives in these

circumstances to avoid being unjustly enriched. Individuals who knowingly make unauthorized commitments or promises of any kind purporting to bind the Government, risk disciplinary action, up to and/or including removal, regardless of the circumstances surrounding the transaction or dollar amount involved.

E. Responsibilities: All USMS employees, whether operational or administrative, must comply with USMS policies and procedures when acquiring goods and services on behalf of the USMS. Individuals at all levels of the organization must understand the limits of their contractual authority and the consequences of making unauthorized commitments.

F. Procedures: Immediately upon discovery that an unauthorized commitment has been made, the immediate supervisor of the individual responsible for the action must submit to the Deputy Assistant Director, Office of Procurement, a memorandum/statement of facts including the following information:

1. Description of the requirement and an explanation of how the unauthorized commitment occurred;
2. Explanation of why proper procurement procedures were not followed;
3. Name of the individual(s) who made the unauthorized commitment and any other employees who were involved in the action;
4. Name of the vendor, total dollar value, accounting and appropriation information, date of the agreement, and estimated delivery or completion date;
5. Description of any attempts made by the responsible individual(s) to involve authorized procurement officials before the commitment was made, or any factors that prevented such involvement;
6. Explanation of how the Contractor was selected and any quotations received, including contact information for each;
7. Status of work performed or products furnished;
8. Original invoice or certified copy of the original invoice;
9. Requisition (Form [USM-157](#), *Requisition for Procurement of Supplies, Service, and Equipment*) including a description of the requirement, total cost, approval signatures, and a statement by the Chief, Office of Finance, that funds are available for the year in which the unauthorized commitment occurred; and
10. Description of measures taken to prevent a recurrence of the unauthorized commitment by the responsible individual(s).

Approval: Upon review of the information provided by the individual responsible for the proposed unauthorized action, the ratifying official will approve, disapprove, or determine that the action is not subject to ratification. An action may be ratified only when:

1. The supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;
2. The ratifying official has the authority to enter into a contractual commitment;
3. The resulting contract would otherwise have been proper if made by an appropriate Contracting Officer;
4. The Contracting Officer reviewing the unauthorized commitment determines the price to be fair and reasonable;
5. The Contracting Officer recommends payment and legal counsel concurs in the recommendation;
6. Funds are available and were available at the time the unauthorized commitment was made; and
7. The ratification is in accordance with any other limitations prescribed under USMS procedures.

Disapproval: The Government is not bound by commitments made by employees with no contracting authority. Further, unauthorized commitments that violate laws or regulations or constitute serious misconduct may not be ratified. Unauthorized commitments not ratified by the ratification official will be automatically referred to a Ratification Review Board (RRB) for final disposition. Individuals who make unratified, unauthorized commitments will be subject to disciplinary action up to and including suspension or removal. The Agency will make every effort to prevent the occurrence of future unauthorized commitments.

RRB: For purposes of determining whether the unauthorized commitment constitutes potential misconduct on the part of the responsible individual(s) and what, if any consequences are appropriate, the USMS will establish a RRB consisting of representatives from the Office of General Counsel, Office of Procurement, FSD; Office of Inspection (OI); and Employee Relations (ER), Human Resources Division (HRD). The RRB will meet on a quarterly or as-needed basis to review the circumstances surrounding all unauthorized commitments made during the prior quarter. If the RRB finds the responsible individual(s) knowingly made an unauthorized commitment, the RRB will forward the ratification package to OI and/or ER, HRD, for further investigation of potential misconduct or performance based action, if appropriate. This will occur regardless of whether or not the unauthorized commitment is ultimately approved for ratification. At a minimum, the RRB will provide a summary ratification report to the USMS Director on a semi-annual basis. The report will be broken down by office/division and show the number, dollar amounts, dates, and responsible individuals.

Justice Management Division (JMD) Procurement Executive: Pursuant to [JAR 2801.602-3](#), the Office of Procurement shall submit a copy of all approved and disapproved ratifications of unauthorized commitments to the Office of the Procurement Executive, JMD.

Examples of Unauthorized Commitments: The following are common examples of unauthorized commitments:

1. An employee requests that a vendor deliver supplies or services and submit an invoice for work performed, but there is no requisition or purchase document to support the transaction.
2. A USMS purchase cardholder places an order with a vendor that exceeds his/her warrant authority or the purchase is prohibited.
3. A COR instructs a contractor to perform work outside the scope of an existing contract.
4. A contractor mistakes a request for information as a purchase order and ships the item. Once received, the USMS accepts the item rather than rejecting and returning it to the vendor.
5. A program official continues to order and accept services from a contractor whose contract has expired.
6. An employee renews a subscription by web, mail, or phone without advanced approval or authorization.
7. An employee arranges for meeting rooms at a hotel without a purchase document.
8. Call orders are issued under a Blanket Purchase Agreement (BPA) by a person who is not authorized to place calls, or calls exceed the call order limit as stated in the BPA.
9. Invoices are paid based on a requisition (Form [USM-157](#)), but there is no obligating document.

How to Avoid Making an Unauthorized Commitment:

1. Plan your acquisition far in advance of procurement milestones. Always consult a Contracting Officer and the Office of Procurement website before submitting a procurement request.
2. Thoroughly research your requirement to ensure selection of the best procurement strategy. Make sure the items you need are within the procurement official's written delegated procurement authority.
3. Ensure that funds are available, committed, and supported by an approved requisition.
4. Conduct market research well in advance of procurement due dates. When communicating with vendors, explain that you are obtaining information for planning purposes only and you are not authorized to bind the Government.
5. Know your contract. Be familiar with its terms and conditions.

6. If you are a COR under an existing contract, remember that you do not have the authority to do the following:
 - a. Make commitments or promises to any contractor regarding the award of a contract, modification, or exercise of an option;
 - b. Discuss procurement plans or any other information that might provide preferential treatment to one firm over another;
 - c. Solicit proposals for enhancements to the contract;
 - d. Commit or obligate the Government, verbally or in writing, to any action that would cause a modification to the terms and conditions of the contract; and
 - e. Provide guidance to a contractor, either verbally or in writing, which might be interpreted as a change in the scope or terms of the contract.

G. Definitions:

1. **Ratification:** The act of approving an unauthorized commitment by a Government official who has the authority to do so.
2. **Unauthorized Commitment:** An agreement or purchase that is not binding solely because the employee who made it lacked the authority to enter into the agreement on behalf of the Government.

H. References:

1. [Executive Order 12731](#), dated October 17, 1990, *Principles of Ethical Conduct for Government Officers and Employees*.
2. [5 CFR Chapter XVI, Subchapter B, Part 2635](#), *Standards for Ethical Conduct for Employees of the Executive Branch*.
3. Department of Justice Regulations, Procurement Guidance Document 10-08 dated May 13, 2010.
4. Policy Directive 1.1, *Legal Authority*, section, [Code of Professional Responsibility](#)
5. [FAR Subpart 1.602-3](#).
6. [JAR Subpart 2801.602-3](#).

- I. **Cancellation Clause:** Supersedes USMS Policy Directive 6.1, Section G, *Ratifications of Unauthorized Commitments*.

J. Authorization and Date of Approval:

By Order of:

Effective Date:

 /S/
Stacia A. Hylton
Director
U.S. Marshals Service

 6/28/12



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.2 Acquisition Processing

A. ADVANCE PROCUREMENT PLANNING PROGRAM

1. **Purpose:** To explain the United States Marshals Service (USMS) Advance Procurement Planning program.
2. **Authority:** Advance procurement planning at the USMS is implemented under Federal Acquisition Regulations ([FAR](#)) Part 7 and Department of Justice (DOJ) Acquisition Regulations ([JAR](#)) Part 2807.
3. **Policy**
 - a. Form [USM-416](#), *Individual Acquisition Planning*, must be completed for each new contract action above the dollar threshold of \$100,000. This form also must be completed before the program official submits the purchase request (PR) package to the Procurement Office.
 - b. There is an additional requirement for contract actions of \$1,000,000 or more (inclusive of the base and all option years) must be supported by a written advance procurement plan. The planning, done by the contracting officer and the program office, should begin as soon as the need is identified.
 - c. Form [USM-417](#), *Advance Procurement Planning Checklist*, must be completed for each contract, supplemental agreement and negotiated task order placed under indefinite-delivery-type contracts estimated at or above \$1,000,000 cumulatively. The checklist indicates the contents of each advance procurement plan, which varies depending upon the nature of the acquisition. Instructions for preparing the advance procurement plan are included with the form.
 - d. Contract extensions resulting from contractor delinquencies, excusable delays and government-caused delays do not meet the requirement to submit Forms [USM-416](#) or [USM-417](#). Additionally, these forms are not required for the following actions: terminations, pre-priced delivery orders, intergovernmental agreements, and contract modifications that exercise an option or add funds to an incrementally funded contract (provided there is an approved acquisition planning document for the original action and there is no significant deviation from the plan).
4. **Procedures**
 - a. Annual Review: Before each new fiscal year, the Procurement Chief will request each District and Division Office to identify requirements that meet the dollar thresholds for submission of Forms [USM-417](#) and [USM-416](#).
 - b. Subsequent to receipt of the requirements from the program offices, the applicable Procurement Assistant Chief will assign a Contracting Officer for the

action. The Contracting Officer will contact the program official to schedule a planning meeting.

- c. **Planning Meeting:** During the planning meeting the Contracting Officer and program official will discuss matters such as market research, the contract statement of work/specifications, estimated contract dollar amount per year (including quantities, minimums and maximums, as applicable), performance or delivery schedules, extent of competition (or the need and basis for preparing a "Justification and Approval for Other than Full and Open Competition"), technical evaluation factors, and basis for award, sources and procurement administration lead times (PALT). After the meeting, forms [USM-416](#) and [USM-417](#), as applicable, must be completed and signed by the Contracting Officer and program official. The program official will include the original in the purchase request package that is submitted to the Procurement Office or Contracting Officer for processing.

5. **Responsibilities**

a. **Program Office**

- 1) **Division Head:** appoints acquisition planners for all programs and activities with contract actions with a cumulative value of \$1,000,000 or more.
 - a) **Program Official**
 - 1) Participates in a meeting with the Contracting Officer to complete Form [USM-416](#).
 - 2) Prepares and submits the purchase request package.

b. **Procurement Chief**

- 1) Requests identification of all requirements that meet the dollar thresholds for submission of Form [USM-417](#) and [USM-416](#).
- 2) Establishes acquisition lead times and cutoff dates to be used in planning and monitoring contracts.
- 3) Ensures that the total obligations planned for award during the fourth quarter do not exceed the average planned for award during the first quarter except when justified by seasonal requirements, program objectives and procurement lead times.
- 4) Ensures that full and open competition is built into the contract, or if it is not, that this is adequately explained.

c. **Assistant Chief**

- 1) Assigns a Contracting Officer to the contract action.
- 2) Monitors receipt of purchase request packages for compliance and notifies the program official about cases of noncompliance.
- 3) Ensures that commercial items are used as much as possible.

d. **Contracting Officer**

- 1) Meets with the program official to discuss the contract action and to provide advice about procurement documentation, strategy and techniques.
- 2) In cooperation with program official, undertakes the completion of [USM-416](#) and [USM-417](#), as applicable and provides a signed copy to the program official.

B. REQUISITIONS AND PRE-PROCUREMENT APPROVALS

1. **Purpose:** To outline the standards that must be met before Contracting Officers may accept a procurement request for processing. Adherence to these standards will prevent incomplete PR packages that cause processing delays and confusion.
2. **Policy**
 - a. Headquarters and district offices will submit only valid, complete and fully documented PRs for processing.
 - b. The total amount of the contract will not be broken down into smaller amounts merely to avoid regulatory requirements. Attempting to bypass formal contracting or purchasing procedures by "splitting" a requirement is strictly prohibited.
 - c. When the Assistant Chief receives an incomplete PR package he/she will contact the client office on the day of receipt of the incomplete PR package and explain that the missing documents must be submitted within five days or the package will be returned.
3. **Procurement Request Package (PR):** All procurement packages must include the following:
 - a. Form [USM-157](#), *Requisition for Supplies, Service, and Equipment*: At a minimum, the form must include:
 - 1) The requisition number
 - 2) The requesting organization
 - 3) The requisition date
 - 4) Signatures of both approving and certifying officials. Requisitions shall not be certified for funds available and approved by the same individual. The U.S. Marshal, Chief Deputy or an individual acting on their behalf, must sign district requisitions. Requisitions for accountable property from headquarters divisions must be signed at the Assistant Director's level or equivalent, while other requests may be signed by Assistant Chiefs or equivalent. The [Form USM-157](#) and detailed instructions for completing and using it may be accessed on the USMS Intranet.
 - 5) A print out of one of the following reports with the [USM-157](#) affixed to it. The reports are:
 - a) STARSWeb Report: "Workplan Committed Status of Funds by Document Number as of (DATE)" reflecting the commitment or

- b) STARS "Requisition Maintenance" screen reflecting the commitment.

Either of these reports provides documentation from the financial "system of record" (STARS) that funds are available for the procurement. Simply signing the [USM-157](#) is no longer sufficient as evidence of the commitment of funding. A procurement official with a commitment report can award a contract to obligate funds on behalf of the Government.

- 6) Applicable accounting and appropriation data and dollar value. If funds are not available at the time the PR is submitted, the form must be annotated as "subject to availability of funds." When funds become available, a written notice signed by an authorized individual must be submitted to the Contracting Officer.

- b. **Approval of Contract Action:** All required pre-procurement approvals must be obtained before the PR package is submitted to the Procurement Office (or Contracting Officer). The type of supplies or services being procured will determine the required approval authority, as indicated below. Additional regulatory approvals may be required, as addressed in the JAR.

CLASSIFICATION OF ITEM/SERVICE	PRE-PROCUREMENT APPROVAL
Copiers/Printing Equipment	Publishing & Distribution Team Management Support Division
Motor Vehicles: All purchases or GSA leases (all district and headquarters offices)	Fleet Management Team Management Support Division
Electronic Surveillance Equipment (tracking, telephone, covert audio and surveillance training, etc.)	Electronic Surveillance Unit Investigative Operations Division
All IT hardware, software, services, regardless of value (including pagers and cellular telephones)	Information Technology Division
Wireless Communications Equipment (radios, repeaters, etc., excluding pagers and cellular telephones)	Tactical Support Branch, Investigative Operations Division
Weapons (service-owned weapons)	Training Division (cont'd)
All procurement actions with a cumulative value between \$25,000 and \$100,000	U.S. Marshals, requesting office's Assistant Director, General Counsel, Equal Employment Office (EEO) Officer, as appropriate
All requisitions for contracts and re-competed actions with a cumulative value of \$100,000 or more for approval of funds availability.	Chief Financial Officer (CFO) Financial Services Division
All requisitions for contracts and re-competed actions totaling \$250,000	U.S. Marshals, requesting office's Assistant Director, General Counsel, EEO Officer, as appropriate
All requisitions for contracts and re-competed actions exceeding \$250,000 but not greater than \$500,000	Associate Director for Operations, Associate Director for Administration, or as appropriate, Acting Associate Director for Operations, Acting Associate Director for Administration

CLASSIFICATION OF ITEM/SERVICE	PRE-PROCUREMENT APPROVAL
All requisitions for contracts and recompleted actions exceeding \$500,000.	Deputy Director
Publication of Advertisement	United States Marshals, Chief Deputy United States Marshals and Assistant Directors (This authority cannot be re-delegated to others.)
Authority to enter into interagency acquisitions or issue orders under another Agency's Contract (i.e., Economy Act, 31 U.S.C. § 1535) and FAR 17.5	Procurement Chief Procurement Office Financial Services Division
Use of Private-Sector Temporaries (5 C.F.R. § 300 , Subpart 300.501)	Assistant Director, Human Resources Division
Jail Space Via Contract	Prisoner Operations Division
Nonstandard Ammunition (does not meet ammunition supply letter standards)	Deputy Director
Aircraft: Lease or Purchase	Deputy Director
Training Courses	Training Division
The standardization of any supply, equipment or service for USMS use	Deputy Director
Large and Expensive Conferences exceeding \$500,000 or 500 or more attendees	Procurement Chief Procurement Office Financial Services Division
Certification from Security Program Manager that personnel security requirements are adequate for contracted personnel	Security Program Manager Tactical Operational Division

- c. Statement of Work/Specification of Item: The Statement of Work (SOW) or specification must be a full and complete description of the requirements.
- 1) The Statement of Work (SOW) is one of the most important documents in the acquisition process. It describes the essential work to be performed or services to be rendered, defines the responsibilities of the Contractor and the Government, and provides an objective measure for determining if and when the work is complete. FAR Part 37.6 requires the use of Performance Based Acquisition Methods for services to the maximum extent practicable. This requires development of a Performance Work Statement (PWS) which: describes the work in terms of the required results rather than "how" the work is to be accomplished or the number of hours to be provided; and enables assessment of the work performance against measurable performance standards.
 - 2) A well-defined SOW will accomplish the following contract objectives:
 - a) Ensure the Government receives what it contracts for;
 - b) Ensure a fair and reasonable price;
 - c) Save time and effort in the acquisition process;
 - d) Shorten the acquisition lead-time;
 - e) Improve contract administration; and

- f) Reduce cost overruns.
- 3) All SOWs should include the following elements:
- a) Description of the work;
 - b) Location of the work;
 - c) Period of performance;
 - d) Delivery schedule;
 - e) Performance standards; and
 - f) Any other requirements.
- 4) The following template may be used to develop SOWs:
- a) Background: Explain how the requirement evolved, why the work is needed, and how it relates to other agency projects. Cite any statutory authority or regulations and identify any background materials attached to the SOW.
 - b) Scope: Explain what the Government expects to accomplish under the contract, the breadth and limitations of the effort, and the expected results.
 - c) Objectives: Explain the goals and objectives of the contract and how the results or end products will be used.
 - d) Tasks: Describe the tasks the Contractor must complete during contract performance. Exclude any inherently governmental functions. Describe the work in terms of expected outcomes rather than how the work is to be accomplished. State only the Government's actual minimum needs. Include specific measurements, tolerances, materials, or quality controls. Describe the tasks in manner that permits the Contractor to perform the service without direct Government supervision.
 - e) Performance Standards: Set measurable standards in terms of quantity, quality, and timeliness for each task. Express standards in terms of the minimum level of service required. Standards should be necessary, realistic, and not unduly burdensome. For example, a performance standard for custodial services might read, "Receives no more than three valid customer complaints per month."
 - f) Quality Assurance Plan: Clearly state how and when the Contractor's performance will be evaluated.
 - g) Delivery: State what specifically the Contractor must deliver. If different tasks have different delivery requirements, so state. Identify the actual dates of delivery which may be expressed in terms of days after contract award. Specify where and to whom the Contractor must deliver the item or service. This may be a

location, organization, or person identified by position, such as the Contracting Officer's Technical Representative (COTR). State what documentation, if any, the Government will need from the Contractor to confirm receipt.

- h) Government-Furnished Property: Identify any Government furnished property to be provided to the Contractor including material, equipment, or information. If the list of property is extensive, state where the list can be found.
 - i) Reporting Requirements: List what reports will be required, report frequency, what topics the reports should cover, and the criteria that will be used to evaluate the reports.
 - j) Security: Identify any unique security requirements associated with the contract, such as identification, security clearance, or escort.
 - k) Place of Performance: Identify where the work will be performed. If performance will occur at multiple locations, state which tasks will be completed where. If performance will be at the Contractor's facility, so state.
 - l) Period of Performance: State when the work will begin and end, using actual dates or dates after contract award. If different periods will apply to different tasks, so state.
 - m) Other Requirements: List any special requirements not covered elsewhere in the SOW, like travel, data management, warranties, or payment procedures.
- 5) Writing an Effective SOW
- a) Use simple words, phrases, and sentences whenever possible.
 - b) Be concise, precise, and consistent. Keep sentences short and to the point.
 - c) Use verbs in the active voice. For example, "The Contract shall report contract progress quarterly."
 - d) Avoid using verbs in the passive voice. For example, "contract progress shall be reported quarterly by the Contractor."
 - e) Use words "shall" or "must" when writing a requirement binding on the Contractor. Avoid using the words "should" or "may" which leave the decision up to the Contractor.
 - f) Use the word "will" to identify actions to be performed by the Government.
 - g) Be consistent when using terminology. Use the same word to mean the same thing throughout the SOW.
 - h) Avoid redundancy.

- i) Avoid vague or inexact phrases or generalizations.
 - j) Avoid catch-all phrases like, “is common practice in the industry,” “as directed,” or “subject to approval.” If you want to give the Contractor the opportunity to use its standard commercial practices, require each offeror to specify the practices in their proposal and then make the proposal part of the contract.
 - k) Define any technical or unfamiliar terms.
 - l) Avoid using Government jargon.
 - m) Use abbreviations or acronyms only after spelling them out the first time they are used [e.g. United States Marshals Service (USMS)]. Spell them out even if they are commonly used.
 - n) Only use the words “any,” “either,” “and/or,” or “etc.” when allowing the Contractor to select an alternative.
 - o) Identify the location, date, and/or version of any document referenced in the SOW.
- d. The program office must provide a written statement that none of the functions to be performed in the SOW for a service contract are inherently governmental. A sample of [Inherently Governmental Determinations and Findings](#) is included on the Procurement website.
- e. **Government Estimate of Cost/Price, and Rationale for Determination of Estimated Amount:** This document must address the required or estimated quantities, minimums and maximums. At a minimum, the amount of and basis for computing the quantities and unit prices for the basic and optional quantities must be explained.
- f. **Determining the Level of Competition:** When a program office requests something other than full and open competition, written statements or justifications are required. The appropriate program official is responsible for providing necessary data and certifying it as accurate and complete to support the recommendation for limited competition. Statements of determination of limited competition and approvals of Justifications and Approvals will be prepared and processed as detailed in FAR 13.106 or FAR 6.303.
- g. Required time of delivery or performance must be stated as required in FAR 11.4.
- h. Suggested source list.
- i. If an award is to be made on a basis other than price, an evaluation plan must be submitted giving specific criterion, the relative importance, and the award basis. For open-market acquisitions above the simplified acquisition threshold, the evaluation plan must be consistent with FAR 15.3.
- j. Individual Acquisition Planning, Form [USM-416](#).
- k. Advance Procurement Planning Checklist, Form [USM-417](#).

- I. COTR Nomination, Form [USM-415](#).
- m. Determination of Inherently Governmental Functions.
- n. [Section 508 Compliance](#).

C. DETERMINATION OF SET-ASIDES

1. **Policy:** The USMS provides maximum practicable opportunities in its acquisitions to businesses that are small (including HUBZone and disadvantaged), women-owned and veteran-owned, as required by FAR Part 19.
2. **Procedures:** All complete acquisition packages estimated over the micro-purchase threshold up to \$100,000 are automatically set-aside for small businesses unless exceptions in the FAR 19.502-2 apply. All complete acquisition packages estimated to exceed \$100,000 will be reviewed by the USMS Small Business Technical Adviser (SBTA) to ensure that a fair portion of contracts for supplies and services are placed with small businesses. Acquisitions for option exercises, task or delivery orders under established contracts, and modifications within established contracts are exempt from this requirement.
 - a. The Contracting Officer will perform an independent review in accordance with FAR Part 19 to determine if acquisition is appropriate for a set-aside or partial set-aside. He or she will then put a written explanation of the decision in the file.
 - b. Contracting Officers will forward the acquisition package to the SBTA. The acquisition package should include, an approved USM-157, SOW/Specification, completed Market Research document, and as applicable, a Justification for Other Than Full and Open Competition.
 - c. The SBTA will recommend a set-aside status using the Set-Aside Advisory Record and forward it, along with the requisition package, to the Contracting Officer.
 - d. The Contracting Officer will either agree or disagree with the SBTA recommendation on the Set-Aside Advisory Record and forward a copy of both documents to the SBTA.
 - e. The SBTA may appeal the Contracting Officer's rejection of the set-aside advisory report to the Competition Advocate, in which case work on the acquisition will be suspended until the Competition Advocate resolves the matter (unless procurement processing is justified in writing and approved by the Procurement Chief and the Competition Advocate for urgent and compelling reasons).
 - f. The Competition Advocate will issue a written determination.

D. PROCUREMENT ACTION LEAD TIMES (PALT)

1. **Purpose:** To establish uniform PALTs for processing acquisitions and to provide program offices a guide to use in ascertaining the normal amount of time it will take to issue a contract.
2. **Procedures:** The standard [PALT](#) (after receipt of a complete requisition) for processing acquisitions is provided on the Procurement Office website. Assistant Chiefs may modify

these for individual acquisitions if unusual circumstances justify a longer or shorter completion period.

3. **Dates for Submission of Procurement Requirements:** Each year, the Procurement Office establishes due dates for the receipt of procurement actions to be awarded prior to the end of the fiscal year. A memorandum is issued so timely action can be taken to comply with the due dates.

E. LOGS AND NUMBERING OF PROCUREMENT DOCUMENTS

1. All written solicitations and contract documents should be logged and numbered as indicated below.
2. **Simplified Acquisitions:** Each district and headquarters office issuing simplified acquisitions under FAR Part 8 and open market purchases at or below \$100,000 will establish logs and a numbering system for simplified acquisitions.
 - a. The numbering system must identify the procurement document as belonging to a particular district or office, provide the fiscal year in which it was issued and sequentially number the documents as prescribed below:

	DESCRIPTION
1-4	USMS action. The code will be DJMS, DOJ, USMS
5-6	Fields 5 and 6 will be a two-digit numerical code that identifies the fiscal year. For example, for fiscal year 2009, the digits are 09.
7-9	Fields 7 through 8 will be the two-digit numerical number of the district office. [For example: The Northern District of Alabama would be: 01 Field 9 is blank.] Fields 7 through 9 will be the alpha code applicable to headquarter division offices. [For example, the Office of Security Contracts would be OSC.]
10	Field 10 will be a one-digit alpha code that identifies the type of procurement action. The codes available for use in this field are:
	A – Blanket Purchase Agreements, any other Basic Agreement.
	F – Delivery order or task order against a Federal Supply Schedule contracts, government-wide area contracts, USMS or other federal contracts.
	M – Open market purchases.
	Q – Requests for quotations. (Not applicable for OF-347 awards)
11-14	Fields 11 through 14 will be a four-digit numerical serial number for the instrument. The number used in these fields should be the next available number from the log. The first number for each fiscal year should begin with 0001.

Sample district award number: Northern District of Alabama, DJMS-09-01-F-0001
Sample headquarters office award number: Office of Security Contracts, DJMS-09-OSC-F-0001.

- b. Each office issuing procurement documents must keep a log either electronic or paper which includes every procurement action issued (i.e., solicitation and contract log books). At a minimum, the log must include the purchase/delivery order or contract number, vendor, contracting officer and the amount. The USMS uses the following logs:

Form [USM-400](#), *Bank Card Ordering Log (Credit Card Log)*

Form [USM-401](#), *Requisition Log*

Form [USM-402](#), *Blanket Purchase Agreement (BPA) Ordering Log*

Form [USM-403](#), *BPA/Delivery/Purchase Order Log*

Form [USM-404](#), *Request for Quotation Log*

Form [USM-405](#), *Certified Invoice Procedure (CIP) Log*

- c. Logs are to be submitted to the Procurement Chief for oversight purposes within a week of receiving a written request.

3. Formal Contracts and Open Market Purchases Above \$100,000

- a. The Procurement Office will maintain two logs (one for solicitations and another for awards) for formal contracts and open market purchases above \$100,000. District and headquarters offices outside of the Procurement Office that are authorized to issue formal contracts or open-market purchases above \$100,000 must contact the Procurement Office to obtain a number for the procurement instrument and have the action entered into the appropriate Procurement Office log.
- b. **Numbering of Solicitations and Award Documents:** All procurement award actions will be numbered using an eleven-position numbering system as prescribed below.

FIELD	DESCRIPTION
1-4	Fields 1 and 4 will be a four-digit alpha code that identifies the award action as an USMS action. The code will be DJMS, DOJ, USMS.
5-6	Fields 5 and 6 will be a two-digit numerical code that identifies the fiscal year. For example, for fiscal year 2009 the digits are 09.
7	The seventh field will be a one-digit alpha code that identifies the type of procurement document. The codes available for use in this field are:
	A – Basic Ordering Agreement, or any other Basic Agreement.
	B – Invitation for Bids (IFB).
	C – Contracts, including letter contracts. This code may not be used for indefinite delivery contracts or for purchase orders for commercial items using FAR 13.5
	D – Indefinite Delivery Contracts.
	L – Lease agreements
	P – Purchase orders for commercial acquisitions using FAR 13.5.
	Q – Requests for Quotations (RFQ)
	R – Request for Proposals (RFP)
8-11	Fields 8 through 11 will be a four-digit numerical serial number for the instrument. The number used in these fields should be the next available number from the log. The first number for each fiscal year should begin with 0001.

- c. **Numbering of Amendments, Modifications, and Delivery or Task Orders:** The Contracting Officer will assign and track numbers for amendments, modifications, and delivery or task orders used in conjunction with solicitations or contract numbers. Centralized logs will not be created for these items; however, each purchase order, BPA, Basic Ordering Agreement, or contract file will

contain a log of the numbers used for that particular file. The numbering systems used for these instruments are as follows:

- 1) **Amendments to Solicitations:** Amendment numbers to solicitations will be five-position, alpha-numerical serial numbers. The first character of the number will be A for amendments followed by four sequential numbers beginning with 0001. The second amendment to that same document will be A0002.
- 2) **Modifications to Contracts:** Modification numbers to contracts, purchase orders, lease agreements, BPAs or other procurement instruments will be five-position, alpha-numerical serial numbers. The character of the number will be M for modifications followed by four sequential numbers beginning with 0001. The second modification to that same document will be M0002.
- 3) **Delivery/Task Orders**
 - a) Basic methodology: Delivery/task order numbers under a USMS-awarded contract will be nine-position, alpha-numerical serial numbers. The first four positions of each delivery/task order will be: DJMS, followed by D or T, then followed by four sequential numbers beginning with 0001.
 - b) Alternate methodology: When it is necessary or desirable to have a mechanism for identifying the office for which the delivery/task order is issued by or on behalf of, the Contracting Officer has the option of changing only the numbering after the first four positions of DJMS. Instructions for the numbering system should be included in the solicitation/contract.

F. CONTRACT FILES AND DOCUMENTATION

1. **File Documentation:** The Contracting Officer/Contract Specialist is responsible for assuring that all documents required by the FAR, JAR, DOJ or USMS policy, or other government procurement directives and policies are appropriately filed and tabbed in file folders. The documents in contract files must comply with FAR 4.801 and 4.803. Thus, when preparing file documentation, the Contracting Officer must ensure that all facts and data providing the rationale for decisions or actions are clearly documented in the file.
2. **Documentation Standards**
 - a. **Government Estimate:** Each contact action must be supported by a detailed government estimate showing the quantities, unit prices, and extended prices of all items/services to be procured. The estimate will also include a statement giving the basis for determining the quantities and the unit prices, as required. Contracting Officers/Contract Specialists will assist program offices in preparing and documenting government estimates.
 - b. **Market Research:** Appropriate market research shall be done for all requirements that exceed the simplified acquisition threshold. A memorandum will be prepared and placed in the pre-award folder, containing, at a minimum, the following information:
 - 1) Description of requirement;

- 2) A list of the sources from which market information was obtained, which should include, as appropriate:
 - a) Names, companies and telephone numbers of commercial sources the Contracting Officer or program representative contacted for the items/services, and the information provided by each; and
 - b) A statement of whether trade journals, catalogs or Internet sources were used in the market research, and a description of the findings;
 - 3) Customary practices regarding customizing, modifying or tailoring items to meet customer needs, and associated cost;
 - 4) Customary practices, including warranty, buyer financing, discounts, etc., under which commercial sales of the products or services are made;
 - 5) The general price range of the items/services;
 - 6) Any legal regulations unique to the items being acquired;
 - 7) The size and status of potential sources (See FAR Part 19); and
 - 8) A determination of whether the items meet the definition of a commercial item and an explanation supporting that conclusion.
- c. **Competitive Range Determination:** This must give a complete detailed explanation of the rationale used to include or exclude individual offerors. The Determination of Competitive Range should include, at minimum, the following:
- 1) A summary ranking of the offerors in terms of all evaluation factors and total score received,
 - 2) A detailed discussion of each proposal, in narrative form, describing the technical, past performance and price strengths, as well as weaknesses, deficiencies and/or omissions, and
 - 3) A summary discussion of each proposal, clearly stating whether or not it is in the competitive range and why. (For example, the technical proposal would require major revisions, tantamount to a new, late proposal, in order to be made acceptable.)
- d. **Pre-negotiation Plan:** A written prenegotiation plan, addressing price and technical issues, should be established before discussions. The prenegotiation objectives should include at a minimum:
- 1) Pre-negotiation Price Objectives as required by FAR 15.406: Volume I, Chapter 9 of the Contract Pricing Reference Guide should be used as a standard for setting objectives. The documentation to support and establish the objectives must include at least the following:
 - a) Spreadsheet(s) showing the unit prices, extended prices and total prices for each offeror;

- b) Pricing which identifies the minimum, target, and maximum prices or a cost for each item, group of items, and/or the total evaluated price; and
 - c) Based on a comparison with the Government estimate, competing proposals or other data, a list of pricing issues to be discussed with each offeror.
- 2) Technical Objectives: a list of the technical issues to be discussed with each offeror, including one or more technical objectives for each issue. In deciding the technical issues to be discussed, the Contracting Officer should at least:
- a) Thoroughly review the technical evaluation report and consider all technical issues contained in it, whether or not the board recommended them for discussions.
 - b) Include every technical issue that contributed to a reduced technical rating/score by the technical evaluation board unless the Contracting Officer explains, in writing, why that issue should not be the subject of discussion (i.e., it would constitute technical leveling or transfusion).
- 3) Cost and Price Analysis: A detailed cost or price analysis is required for every pricing action. The Contract Pricing Reference Guides published by the Defense Procurement for Cost, Pricing, and Finance (DP/CPF) should be used to prepare the analysis.
- 4) Price Negotiation Memorandum (PNM): This should be prepared in accordance with FAR 15.406-3 as follows:
- a) The elements of a PNM, as specified in FAR 15.406-3(a), subparagraphs 1 through 11, must be prepared for every pricing action when applicable. Volume 5, Chapters 4 and 8 of the DPAP Contract Pricing Reference Guide, "Federal Negotiation Contract Techniques," should be used as the standard.
 - b) If discussions take place with an offeror, the Contracting Officer should prepare a detailed summary of all issues discussed or identified and any agreements reached. To the extent possible, the summary should identify each party's position on issues. The summary may be a separate document appended to the PNM, or a section within the PNM memorandum. In addition, the date, time and place of the discussion should be noted.
- 5) Award Selection: The basis for the award selection must be clearly specified in the contract file.
- a) The award selection document may be a separate document filed under flap D, item 21, of the pre-award folder, or it may be the final portion of the PNM.
 - b) The document must list the final price as well as the technical and past performance ratings, as specified by the solicitation.

- c) The award document must describe, in narrative form, the rationale for making the selection. If the solicitation provided for more than one selection methodology, a discussion of why a certain methodology was used should be included.
- d) The document must be signed and dated by the source selection official.

e. **Wage Determination**

- 1) Pursuant to FAR Subpart 22.10 and the Service Contract Act of 1965, as Amended (SCA), all service contracts over \$2,500 must incorporate a wage determination from the Wage and Hour Division of the U.S. Department of Labor (WDOL), unless exempted. Wage determinations are available on-line at <http://www.wdol.gov>.
- 2) Using the Service Contract Act Directory of Occupations available on the WDOL website, the Contracting Officer shall determine the classes of service employees to be utilized in performance of the contract. A service employee is any employee; other than a bona fide executive, administrative or professional employee; who is engaged in performing services on a covered contract. This includes full-time, part-time, temporary, and permanent employees.
- 3) Unless exempted, Contracting Officers must obtain a wage determination for every covered contract over \$2,500, regardless of the number of employees working on the contract.
- 4) Service employees must be paid not less than the prevailing wage rate, including fringe benefits, as determined by the wage determination. The prevailing wage rate is based on a statistical evaluation of pay data for a specific locality. The minimum hourly wage paid to a majority of employees in that area is determined to prevail.
- 5) If no determination is applicable to the contract, service employees must be paid no less than the minimum wage provided under the Fair Labor Standards Act of 1938.
- 6) Exceptions to the SCA include the following types of contracts:
 - a) Construction, alteration, and/or repair, including painting and decorating of public buildings or public works (i.e., those covered by the Davis-Bacon Act);
 - b) Those covered under the Walsh-Healey Public Contracts Act;
 - c) Transportation of freight or personnel where published tariff rates are in effect;
 - d) Furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;
 - e) Public utility services;
 - f) Employment contracts providing direct services to a federal agency by individual(s) (e.g., personal guard services).

- g) Operation of postal contract stations; and
 - h) Services performed outside the U.S. or its territories.
- 7) Unless a specific exemption applies, contractors and subcontractors performing under covered contracts must observe minimum wage and safety and health standards and must maintain certain employee records, such as name, address, social security number, work classification, wages, and fringe benefits paid.
 - 8) Services covered under the SCA will not be performed in buildings, surroundings, or under working conditions that are unsanitary, hazardous, or dangerous to the health and safety of service employees.
 - 9) All provisions of the SCA except safety and health requirements are administered by the Wage and Hour Division of the U.S. Department of Labor. Health and safety issues are administered by the Occupational Safety and Health Administration (OSHA).
 - 10) The Contractor must classify any class of service employee not listed in the wage determination in order to provide a reasonable relationship between the unlisted classifications and the classifications listed in the wage determination.
 - 11) Any service employee that performs in two or more job classifications must be paid at the highest wage rate for each classification.
 - 12) For any contract involving a union that succeeds another contract providing essentially the same services under a union agreement, the replacement Contractor must pay at least the wage and fringe benefit levels of the predecessor contract.
 - 13) Contractors and subcontractors that do not comply with the SCA may be held accountable in the following ways:
 - a) Withhold contract funds to pay legal costs or to reimburse underpaid employees.
 - b) Hold liable for any resulting costs to the Government.
 - c) Terminate the contract.
 - d) Debar from future contracts for a period of three years.
 - 14) Pursuant to FAR Subpart 22.1006, the Contracting Officer shall insert the following clauses in solicitations and contracts expected to exceed \$2,500 where the SCA is applicable.
 - a) 52.222-41 Service Contract Act of 1965, as Amended.
 - b) 52.222-42 Statement of Equivalent Rates for Federal Hires.
 - c) 52.222-43 Fair Labor Standards Act and Service Contract Act- Price Adjustment (Multiple Year and Option Contracts) – Use for fixed price service contracts that contain the clause at 52.222-41

and are multiple-year contracts or contracts with options to renew.

- d) 52.222-44 Fair Labor Standards Act and Service Contract Act-Price Adjustment – Use for fixed-price service contracts that contain the clause at 52.222-41 and are NOT multiple-year contracts or contracts with options to renew.
- e) 52.222-48 Exemption from Application of Service Contract Act Provision-Contractor Certification – Use for contracts calling for the maintenance, calibration, and/or repair of information technology, scientific and medical and office and business equipment if the Contracting Officer determines and the Contractor certifies that the resultant contract is exempt from SCA coverage as described in FAR Subpart 22.1003-4(b)(4). If the Contractor does not certify that the exemption applies, the Contracting Officer shall not insert the clause at 52.222-48, but instead insert the applicable SCA clauses and WDOL wage determination.
- f) 52.222-49 Service Contract Act-Place of Performance Unknown – Use if the Contracting Officer is using procedures prescribed in FAR Subpart 22.1009-4.

f. Central Contractor Registration (CCR)

- 1) The Central Contractor Registration (CCR) website, available at <http://www.ccr.gov/> is the primary source of vendor information for the U.S. Government. CCR validates, stores, and disseminates contractor data in support of agency missions. All prospective contractors must register with CCR prior to being awarded contracts, grants or cooperative agreements by the federal government. Registrants must update their information at least once annually to remain in active status. Registration with CCR does not guarantee contract award.
 - a) Exceptions to CCR include the following:
 - (1) Supplies or services purchased and paid for using the government-wide commercial credit card;
 - (2) Classified contracts;
 - (3) Contracts awarded by deployed Contracting Officers in connection with military operations;
 - (4) Contracts awarded in the conduct of emergency operations;
 - (5) Awards made to foreign vendors for work performed outside the U.S.; and
 - (6) Micro-purchases that do not use the electronics funds transfer payment method.
 - (a) Unless an acquisition is exempt under the provisions in paragraph 2), the Contracting

Officer shall verify the prospective contractor is registered in the CCR database before awarding any contract. Contracting Officers are encouraged to check the CCR early in the acquisition process and communicate to unregistered offers that they must register. Copies of the results of the CCR database search shall be included in the contract file.

- (b) The Contracting Officer shall advise the apparently successful offeror of the deadline for CCR registration. If the offeror does not become registered within the time prescribed by the Contracting Officer, and the needs of the ordering office allow for a delay, the Contracting Officer will proceed to award the contractor after the successful offeror has registered with CCR. If the needs of the ordering office do not allow for a delay, the Contracting Officer shall award the contract to the next otherwise successful registered offeror, provided that approval is obtained at one level about the Contracting Officer.
- (c) Contractors must remain registered with the CCR prior to award, during performance and through final payment of any federal contract. Information on registration and annual confirmation requirements are available on the CCR website.

g. Responsibility Determination and the Excluded Parties List System (EPLS)

- 1) Pursuant to FAR Subpart 9.4, all entities excluded from receiving government contracts, subcontracts, and other assistance programs are listed on the General Services Administration's EPLS, available at <http://www.epls.gov/>. Suspension and debarment actions prevent companies from participating in government contracts, subcontracts, loans, grants, and other financial and non-financial assistance programs.
- 2) The effect of suspension and/or debarment by a federal agency is government-wide. Suspension and debarment actions protect the Government from doing business with individuals, companies, or recipients that pose a business risk and can be extended to include subsidiaries and parent companies.
- 3) EPLS includes the name of the agency taking the action, the cause for the action, and any other statutory or regulatory authority. Contractors listed in EPLS that have been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and subcontracts under the conditions and for the period set forth in the statute or regulation. Ordering offices shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors under those conditions and for that period.

- 4) Unless the contract is awarded under a Federal Supply Schedule (FSS) or other existing contract, the Contracting Officer must always make a definitive determination of responsibility in accordance with FAR Subpart 9.1.
- 5) After the opening of bids or receipt of proposals, the Contracting Officer shall review the EPLS. Bids received from any listed contractor in response to an invitation for bids shall be entered on the abstract of bids and rejected outright unless the agency head determines there is a compelling reason to consider the bid. Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor shall discussions be conducted with a listed offeror during the period of ineligibility unless the agency head determines, in writing, that there is a compelling reason to do so.
- 6) Immediately before award, the Contracting Officer shall again review the EPLS to ensure that no award is made to a listed contractor.
- 7) If an existing contractor is debarred, suspended, or proposed for debarment, the Contracting Officer must obtain written approval from the agency head to:
 - a) place an order exceeding the guaranteed minimum under an indefinite-quantity contract;
 - b) place an order under the optional-use Federal Supply Schedule contract, blanket purchase agreement, or basic ordering agreement; or
 - c) add new work, exercise options, or otherwise extend the duration of existing contracts or orders.
- 8) Copies of the ELPS search results shall be included in the contract file.
- 9) If negative information about a prospective contractor comes to the attention of the Contracting Officer prior to awarding the contract, the Contracting Officer must determine the validity of the information before making award of the contract.

3. File Folders

- a. **Form USM-248:** The [USM-248](#) should be used as a file folder for all acquisitions processed under FAR Part 8, as well as for simplified acquisitions of \$100,000 or less, processed under FAR Part 13 (not applicable for micro-purchases using credit card, SF 44 or CIP).
- b. Contract files for all other acquisitions should be kept in two folders as described below:
 - 1) **Pre-award Folders:** These will contain all required pre-award documents, which should be filed under the appropriate tabs, as indicated on the pre-award checklist.
 - 2) **Award Folders:** These will contain all documents that support the award and contract administration actions, with all award and postaward

documents filed under the appropriate tabs, as indicated on the postaward checklist.

- 3) Pre-award and Postaward File Checklists: These checklists describe various documents that must be placed in the file. They consist of multiple pages that are to be used for each of the major dividers within the file folder. Each major divider is to be further divided using manila tabs, appropriately labeled to correspond to the outline system on the [checklist](#) which are available on the Procurement website.
 - 4) Multiple Folders: If more than one folder is needed for either the pre-award or postaward, the folders should be numbered consecutively (i.e., pre-award folder #1 of 2 and pre-award folder #2 of 2). To maintain the integrity of the file system, checklists should be placed in folder #1 (as described above) and all documents filed, to the extent possible, in this folder under the appropriate flaps. Excess documents should be placed in separate folders, with the checklist annotated to indicate where the documents may be found.
4. **Close-Out of Simplified Acquisition Files:** The purpose of contract close-out is to verify that both parties to the contract have fulfilled their contractual obligations and there are no responsibilities remaining.
- a. The close-out process requires close coordination between the Contracting Office, the Finance Office, the Program Office, and the Contractor.
 - b. Files for contracts using simplified acquisition procedures are ready for close-out when:
 - 1) All deliverables, including reports, have been delivered and accepted.
 - 2) All monitoring issues have been resolved.
 - 3) All Government-furnished equipment and materials have been returned.
 - 4) Final payment has been made.
 - c. A contract file should not be closed if the contract is under litigation or appeal or involved in a termination action.
 - d. After receipt, inspection and acceptance of the goods or services, the individual who requested the items shall sign the receiving report or delivery ticket, attach it to the contractor's invoice, and forward it to the Finance Office for payment.
 - e. Prior to contract close-out, the Contracting Officer shall contact the Finance Office to verify that final payment has been made on each obligation.
 - f. The Contracting Officer shall complete and sign the [Simplified Acquisition Close-Out Statement](#) and place it, together with copies of the receiving report and final invoice, in the contract file.
 - g. After simplified acquisition files have been properly closed, they should be moved to an inactive file area.

- h. Pursuant to FAR Subpart 4.805(b), contracts and related records or documents, including successful proposals, at or below the simplified acquisition threshold, shall be retained for three (3) years after final payment.

G. CONTRACT CLAUSES: Contracting Officers shall incorporate the following clauses into all solicitations/contracts issued by the USMS. The inclusion of these clauses should facilitate the deobligation of residual funds remaining on our contracts.

1. **RELEASE OF RESIDUAL FUNDS (\$100 OR LESS):** The contractor is advised when submitting the final invoice under this contract to submit an information copy of the invoice to the Contracting Officer. The invoice must be marked "Information Copy – Final Invoice." If residual funds on the contract total \$100 or less, the Government will automatically deobligate the residual funds without further communication with the vendor. Upon receipt and payment of the final invoice, it is understood and agreed that all outstanding obligations incurred on the above referenced contract have been satisfied. Therefore, it is further understood and agreed that the Government shall not be liable for the payment of any future invoices that may be submitted under the above referenced contract. (Applies to all contracts)
2. **RELEASE OF RESIDUAL FUNDS (GREATER THAN \$100):** If funds greater than \$100 remain on this contract after the final invoice, the Contracting Officer will issue a bilateral modification to authorize release of those funds. The contractor's signature on the modification will constitute understanding and agreement that all outstanding obligations incurred on this contract have been satisfied. The Government shall not be held liable for the payment of any further invoices submitted under this contract. The contractor will have up to 30 calendar days after issuance of the modification to sign and return it. Further, failure to sign and return the modification within the stated time period shall be considered acceptance of the Government's intent to deobligate the residual funds; and releases the Government from any future liability stemming from or related to this contract. (Applies to all contracts.)

H. PAST PERFORMANCE

1. **National Institutes of Health (NIH) Contractor Performance System (CPS)**
(<http://oamp.od.nih.gov/>)
 - a. **Use of the NIH CPS**
 - 1) The NIH CPS will be the mandatory data source for contractor performance information within the USMS.
 - 2) All source selection decisions requiring use of past performance information will use the CPS as the primary source of contractor performance information, in addition to any other sources that the Contracting Officer may deem appropriate.
 - 3) All past performance evaluations will be entered in the NIH CPS.
 - b. **Access to NIH Contractor Performance System:** Passwords may be obtained from the Procurement Office. Only USMS employees may be issued permanent or temporary passwords.
 - 1) Contracting Officers may be issued permanent passwords to enable them to enter and retrieve data.

- 2) Contracting Officer's Technical Representatives (COTR) and individuals serving on source selection boards may obtain temporary passwords in order to perform such tasks as evaluating contractors and retrieving information for individual acquisitions. The Contracting Officer is responsible for training the COTR and individuals on source selection boards on how to enter/retrieve data, as appropriate.
- 3) Once issued, a password is to be used only by the individual to whom it has been issued. Sharing of passwords or allowing access to the CPS by individuals without a password is prohibited.

2. **Evaluation of Past Performance during Pre-award Source Selection**

- a. Past performance will be evaluated in all source selections for all negotiated competitive acquisitions expected to exceed \$100,000, except as indicated in paragraph 2.b. below. In determining the valuation of acquisitions, the total maximum price or cost, including all options will be used. Past performance should be at least equal in significance to any other non-cost evaluation factor.
- b. Past performance is not required to be evaluated if the Contracting Officer determines that it is not an appropriate evaluation factor for the acquisition and documents the file with the basis for the determination.
- c. **Solicitations will:**
 - 1) Describe the approach for evaluating past performance.
 - 2) Provide that an offeror without a record of relevant past performance or for whom no information on past performance is available will not be evaluated favorably or unfavorably on the factor of past performance.
 - 3) Provide that offerors will be given an opportunity to respond to adverse past performance information for which they have not had a previous opportunity to respond. The names of individuals providing performance information will not be disclosed.
- d. **Relevance of Experience:** While some aspects of the past performance evaluation may be delegated, the authority to determine the relevancy of past performance information is the sole responsibility of the Source Selection Authority (normally the Contracting Officer).

3. **Evaluation of Post-Award Contractor Performance**

- a. An evaluation of contractor performance will be prepared for each contract valued above \$100,000 (regardless of date of contract award) after the work is completed. The Contracting Officer is responsible for assuring that the evaluations are completed, including those by the COTR.
- b. An evaluation of contractor performance will be prepared for each contract above \$100,000 annually, prior to exercise of any options or renewals. The results of the annual evaluation are to be used in determining if options should be exercised. The Contracting Officer's determination to exercise options will address the results of the evaluation.

- c. The Contracting Officer will assure that all evaluations are completed in accordance with the NIH CPS requirements and that the contractor is afforded an opportunity to review and comment on the evaluation.

I. INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT PURCHASES

1. **Interagency and Intra-agency Purchases:** Contracting Officers may make interagency and intra-agency purchases with the prerequisite contracting authority under the procedures specified in FAR 17.5 and this policy. These policies apply to all types of inter- or intra-agency acquisitions described in FAR 17.500, including those where USMS Contracting Officers issue orders under another agency's established contract (except where the other agency contract is government-wide).
2. **Determination and Finding (D&F):** A D&F meeting the requirements of FAR 17.503 and approved by the Procurement Chief, is required before any inter- or intra-agency order is placed.
3. **Competition:** Use of the Economy Act as a procurement method does not automatically exempt a particular acquisition from competition.
 - a. When the USMS requirements are included in the other agencies' requirements as part of the competitive process, no additional competition is required.
 - b. When the USMS requirements are not included in the other agencies' requirements as part of the competitive process, the provisions of FAR Part 6 regarding competition apply. The Contracting Officer will obtain competitive bids or provide the justification and approval required by FAR Part 6 before placing orders.
 - c. When another agency whose requirements are not included in a USMS contract wishes to place orders under such a contract, the Contracting Officer must obtain a copy of the requesting agency's J&A for other than full and open competition (or other authorizing document) before modifying the contract to allow that agency to place orders.

J. ISSUING TASK/DELIVERY ORDERS UNDER GSA SCHEDULE CONTRACTS

1. The General Services Administration (GSA) has established indefinite delivery, indefinite quantity (IDIQ) contracts with commercial firms that are available for use by federal agencies worldwide. These contracts are referred to as FSS or GSA Schedule contracts.
2. Agencies do not need a special delegation of procurement authority (DPA) to place orders against GSA Schedule contracts.
3. GSA Schedule contracts are negotiated with the intent of achieving the contractor's "most favored customer" pricing. In this way, the Government can be assured of receiving the best value. Ordering offices are encouraged to seek additional price reductions and discounts whenever possible.
4. Purchasing from a GSA Schedule offers the following advantages over the open market:
 - a. No price reasonableness determination is required.
 - b. No synopsis is required.
 - c. Simplifies the acquisition process.

- d. Wide selection of state-of-the-art commercial supplies and services.
5. Orders placed under a GSA Schedule contract are not exempt from the development of acquisition plans and must be consistent with the Advanced Procurement Planning Program discussed above.
6. Orders at or below the micro-purchase threshold may be placed with any GSA Schedule contractor that can meet the agency's needs. No competition is required; however, ordering offices should attempt to distribute orders among contractors.
7. For orders above the micro purchase threshold that do not exceed the maximum order threshold (MOT) and do not require a Statement of Work (SOW), ordering offices should use the GSA Advantage! Shopping and ordering service available at <http://www.gsaadvantage.gov/>. GSA Advantage! Includes supplies and services under all GSA Schedules. Electronic ordering allows customers to send an order directly to the GSA Schedule contractor. The following are basic procedures for using GSA Advantage!:
 - a. Log on to the website at <http://www.gsaadvantage.gov/>.
 - b. Search for the supplies or services to be purchased by keyword (e.g., part number, manufacturer, contractor, contract number), category (e.g., Office Solutions, Furniture, Recreation & Apparel), or special category (e.g., Disaster Relief, Homeland Security).
 - c. Results are listed by price, delivery terms, business size, and other options. Sort results as needed by price, part number, product name, manufacturer, contractor, or contract number.
 - d. The "Product Detail" page allows buyers to compare prices, quantities, warranty provisions, and minimum/maximum order limitations before ordering.
 - e. Click to select the desired vendor. Enter the item quantity in the appropriate box and click "Add to Cart."
 - f. The "Shopping Cart" page allows buyers to track the items selected for purchase. To change the quantity of an item, click the "Update Cart" button.
 - g. Buyers can "park" their shopping cart at any time and retrieve it again by clicking on the "Parked Carts" link. Parking allows buyers to save their shopping list for a future purchase or to forward it to another person.
 - h. GSA Advantage! Provides for payment by government-wide commercial credit card. Buyers can select "Line Item Billing" to show each line item ordered on their credit card statement or "Consolidated Billing" to show only one line item for the entire order.
 - i. GSA Advantage! Allows buyers to store "Ship To" addresses in their Profile or to create new "Ship To" addresses.
 - j. The "Checkout Review" page gives buyers the option to view and select from multiple vendors, if available, and to make any last-minute changes to their order.
 - k. The "Order Confirmation" page allows buyers to print a copy of the purchase order, if desired.

- l. All buyers should register for a user ID and password on GSA Advantage! Member registration allows buyers to make purchases, park carts, and check their order history.
 - m. Using the "Profile" page, buyers can access and update their personal information, address book, or method(s) of payment at any time.
 - n. The "Order History/Status" page allows buyers to view the status of their four most recent orders. Buyers can search for specific orders by keyword or search for orders within a specified date range. Buyers can cancel any order scheduled for delivery in not less than one business day.
8. For orders above the micro purchase threshold that do not exceed the MOT but DO require a SOW or include brand name specifications, ordering offices may prepare a Request for Quotation (RFQ) using e-Buy, a component of GSA Advantage!
9. E-Buy is an online RFQ reference tool that allows customers to maximize their buying power by publicizing requirements and soliciting quotations among GSA Schedule contractors. e-Buy may be accessed on the Internet at <http://www.ebuy.gsa.gov> and offers the following advantages over traditional RFQ systems:
- a. Leverages the power of the Internet to increase contractor participation.
 - b. Improves the likelihood that ordering offices will make a best value decision.
 - c. Provides sellers more opportunities to offer quotations and increase business.
 - d. Electronic ordering streamlines the buying process.
10. The RFQ must include both the SOW and evaluation criteria. Using e-Buy, ordering offices transmit the RFQ to at least three GSA Schedule contractors, evaluate responses, and make a best value selection. Best value decisions should consider the following factors:
- a. Past performance.
 - b. Special features required for effective program performance.
 - c. Trade-in considerations.
 - d. Probable life of the item selected as compared with that of a comparable item.
 - e. Warranty considerations.
 - f. Maintenance availability.
 - g. Environmental and energy efficient considerations.
 - h. Delivery terms.
11. For orders that exceed both the micro-purchase threshold and the MOT, ordering offices should seek price reductions from the GSA Schedule contractor(s) considered to offer the best value.

12. With over 10 million commercial items available, GSA Schedules can meet the majority of agencies' needs. Most schedule contract periods are as long as five years with three five-year option periods. In this way, GSA Schedules offer agencies state-of-the-art technology on a continuing basis.
13. Contractors may request that GSA modify their contracts at any time to add new supplies and services to meet customer requirements.
14. Agencies may add open market, non-GSA Schedule items to individual delivery orders under the following conditions:
 - a. All applicable procurement regulations are followed.
 - b. The ordering office has determined the prices are fair and reasonable.
 - c. The items are clearly labeled on the order as "open market."
 - d. All clauses not applicable to the GSA Schedule contract are included in the order.
15. GSA Schedule contractors are required to accept the government-wide commercial credit card for purchases equal to or less than the micro-purchase threshold and encouraged to accept the card for orders above the threshold. Ordering offices may consider purchase card acceptance as a criterion for deciding which contractor represents the best value.
16. For all orders that propose payment by the government-wide commercial credit card, the Contractor must advise the ordering office within 24 hours after receipt of the order if the order cannot be filled. Otherwise, the order is considered to be accepted by the Contractor and all provisions of the GSA Schedule apply.
17. Supplies available on GSA Schedules are listed at fixed prices. Services available on GSA Schedules are priced at either hourly rates or at a fixed price for performance of a specific task.
18. Ordering offices may place time-and-materials or labor-hour orders under GSA Schedule contracts for commercial supplies or services. Whenever possible, the agency should request a firm-fixed price quotation. Pursuant to FAR Subpart 12.207(b) (1) (ii) (A), time-and-materials or labor-hour orders must include a determination and findings (D&F) that no other contract type is suitable. These D&Fs must be submitted and approved by the Procurement Chief. A sample D&F, which can be tailored to your requirement, is included on the Procurement website at <http://156.9.232.31/procurement/forms.htm>.
19. These orders must also include a ceiling price that contractors exceed at their own risk. Any subsequent changes to the ceiling price must be justified and documented.

K. BLANKET PURCHASE AGREEMENTS (BPAS)

1. Blanket Purchase Agreements (BPAs) are a simplified acquisition method used to fill anticipated recurring needs for the same or similar supplies or services. Ordering offices establish "charge accounts" with qualified suppliers that enable them to streamline procedures, reduce administrative costs, and obtain better value through volume purchasing. BPAs allow ordering offices to place multiple orders without the need to issue separate documents for each transaction.
2. BPAs should be used under the following circumstances:

- a. There is a need for a wide variety of supplies and services, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably.
 - b. There is a need to provide commercial sources of supply for one or more offices in a given area that do not need the authority to purchase otherwise.
 - c. Use of a BPA would avoid the need to use purchase orders.
 - d. There is no existing requirements contract for the same supplies or services.
3. Individual call orders under a BPA are restricted to the simplified acquisition threshold.
 4. Use of a BPA does not exempt the ordering office from responsibility for keeping obligations and expenditures within available funds.
 5. The existence of a BPA does not eliminate the need for competition.
 6. The policy of reserving simplified acquisitions for purchase from small businesses is still applicable when using a BPA.
 7. The Service Contract Act of 1965 is still applicable for the purchase of non-personal services over \$2,500.
 8. The ordering office is under no obligation to purchase from a supplier with whom it has a BPA.
 9. BPAs may be established with:
 - a. More than one vendor of the same type to provide maximum practicable competition; or
 - b. A single firm from which numerous purchases at or below the simplified acquisition threshold will be made within a specified time period.
 10. The number of BPAs to be established is within the discretion of the ordering office and should be based on a strategy designed to maximize the effectiveness of each BPA.
 11. The need to establish a BPA should be based on the following factors:
 - a. Scope and complexity of the requirement;
 - b. Need to periodically compare technical approaches or prices;
 - c. Administrative costs of the BPA; and
 - d. Technical qualifications of the Contractor.
 12. BPAs for hourly rate services must include a statement of work (SOW). All orders under the BPA shall specify a price for performance of the tasks specified in the SOW.
 13. Ordering offices should consider establishing BPAs with vendors who have: (1) dependable past performance; (2) a history of quality supplies and services at lower prices; and (3) provided numerous purchases at or below the simplified acquisition threshold.

14. Once a BPA is in place, ordering offices must still seek competition for purchases that exceed the micro-purchase threshold, unless a sole source justification has been approved.
15. To initiate a BPA, ordering offices shall complete a Form [USM-157](#), Requisition for Procurement of Supplies, Service, and Equipment. No funds shall be included on the BPA.
16. BPAs should be prepared using a format similar to that shown on the Procurement Office website.
17. The date the Contracting Officer signs the agreement is the date the BPA is established.
18. All BPAs must include the following terms and conditions:
 - a. The Government is obligated only to the extent of authorized purchases actually made under the BPA;
 - b. The prices offered shall be as low as or lower than those charged the supplier's most favorable customer for comparable quantities under similar terms and conditions, in addition to any discounts for prompt payment;
 - c. A statement that specifies the dollar limitation for each individual call order to be made under the BPA;
 - d. A list of individuals and titles authorized to purchase under the BPA and any dollar limitations on their authority;
 - e. A requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals, be accompanied by delivery tickets or sales slips containing the following minimum information:
 - 1) Name of supplier;
 - 2) BPA number;
 - 3) Date of purchase;
 - 4) Call order number;
 - 5) Itemized list of supplies or services;
 - 6) Quantity, unit price, and extension of each item, less applicable discounts;
 - 7) Date of delivery or shipment; and
 - 8) A requirement that the supplier submit a summary invoice monthly or upon expiration of the BPA, whichever occurs first, for all deliveries made during the billing period, identifying the delivery tickets covered therein, stating their dollar value and supported by receipts.
19. The ordering office shall maintain a separate ordering log for each BPA using Form USM-402, Blanket Purchase Agreement Ordering Log.

20. A BPA is considered complete when the purchases under it equal its total dollar limitation (if any) or when its stated time period expires, whichever comes first.

21. In accordance with FAR Subpart 13.303-6, Contracting Officers shall review each BPA annually and maintain awareness of changes in market conditions, sources of supply, or other factors that may warrant changes in BPA terms and conditions.

L. CANCELLATION: Supersedes the prior USMS Policy Directive 6.2, *Acquisition Processing*.

By Order of:

Effective Date:

 /S/
John F. Clark
Director
U.S. Marshals Service

 3/17/09



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.3 Contract Reporting

- A. FEDERAL PROCUREMENT DATA SYSTEM – NEXT GENERATION (FPDS-NG):** The FPDS-NG (<https://www.fpds.gov>) is a comprehensive system for assembling, organizing and presenting contract award data for the federal government. Federal agencies report data to the FPDS-NG which collects processes and disseminates official statistical data on federal contracting. The data provides a basis for recurring and special reports to the President, Congress, the General Accountability Office, federal executive agencies and the general public; a means of measuring and assessing the impact of federal contracting on the nation's economy and the extent to which small, disadvantaged, women-owned, veteran-owned, disabled veteran-owned and HUB Zone businesses are sharing in federal contracts; and data for other policy and management-control purposes.
1. Contract actions exceeding \$25,000 shall be entered into FPDS-NG by the procuring office.
 2. Awards for Personal Guard Service Contracts are reported by entering the following DUNS Number: 136721201. Pre-populated data will appear after the insertion of the DUNS Number. Subsequently, include the guard's name and period of performance.
 3. Each district and headquarters office with contracting authority shall have at least one person with access to FPDS-NG for data entry of awards. Access will be granted after completion of training through the Procurement Office, Procurement Policy and Oversight Team (PPOT). Individuals with a current warrant needing access to FPDS-NG may submit an application form through their supervisor to the Procurement Policy and Oversight Team.
 4. Reporting Agency and Office Codes:
 - a. The USMS Agency code is 1544;
 - b. The office code for use by each district and headquarters office is unique to that office. The appropriate code for each office can be found on the Procurement Office's [FPDS web page](#); and
 - c. Additional instructions and links on reporting can also be found on the Procurement Office's [FPDS web page](#).
 5. Pursuant to the Federal Funding and Accountability and Transparency Act (FFATA) of 2006, the appropriation code for each award must be included in each new entry and modification in FPDS-NG. Examples of appropriation codes are 15**9**0324 or 15**9**1020 (the bolded 9 represents the fiscal year).
- B. AUTOMATED STATISTICAL REPORTING SYSTEM – NEXT GENERATION (ASRS–NG):** (ASRS - NG replaces the Standard Form (SF) 281, *Federal Procurement Data System (FPDS) Summary Contract Action Report (\$25,000 or Less)*).

1. Headquarters and district offices with written delegated procurement authority shall record, collect, and transmit all reportable simplified acquisitions that are awarded in each quarter. The data is to be transmitted to the Procurement Office for the periods set forth below:
 - a. 1st Quarter: October 1 – December 31
 - b. 2nd Quarter: January 1 – March 31
 - c. 3rd Quarter: April 1 – June 30
 - d. 4th Quarter: July 1 – September 30
2. The ASRS-NG report shall be completed and transmitted to the Procurement Policy, PPOT, no later than the tenth business day (if it is not a Saturday or Sunday) after the end of the reporting period, except for the fourth quarter when the reports are to be submitted not later than twenty calendar days (if it is not a Saturday or Sunday) after the end of the reporting period. A consolidated ASRS-NG report of all USMS actions will be prepared by PPOT and submitted to the Procurement Policy and Review Group, Department of Justice.
 - a. Additional information can be found on the Procurement Office's [FPDS web page](#).
3. Do NOT Include the following transactions in the ASRS-NG report:
 - a. Any OF-347 award (purchase orders/delivery orders or modifications) issued by the Procurement Office on behalf of the district or office;
 - b. GSA Customer Supply Center Account or other agency supply store purchases (i.e., stock office supplies);
 - c. Purchases using the purchase card or gasoline credit cards;
 - d. Printing of envelopes or stationery;
 - e. Purchase Order-Invoice-Voucher, SF-44s;
 - f. Travel authorizations and expenses;
 - g. Training authorizations processed through Learn Management processing (learnDOJ);
 - h. Government bills of lading (i.e., household goods of employees);
 - i. Transfer of supplies from one government agency to another;
 - j. Appropriated funds transferred from one agency to another (i.e., bankruptcy court transfers for bankruptcy actions);
 - k. Payments direct to protected or fact witnesses;
 - l. Stocked supplies received from the warehouse; and
 - m. Excess property transfers from another agency.

C. CANCELLATION: Supersedes the prior USMS Policy Directive 6.3, Contract Reporting.

By Order of:

Effective Date:

 /S/
John F. Clark
Director
U.S. Marshals Service

 3/17/09



United States Marshals Service **POLICY DIRECTIVES**

PROCUREMENT

6.4 Disputes, Claims, and Protests

- A. GENERAL:** Disputes, claims and protests will be processed in accordance with Federal Acquisition Regulations ([FAR](#)) [Part 33](#), Department of Justice Acquisition Regulations ([JAR](#)) [2833](#) and this directive.
- B. RESPONSIBILITIES AND AUTHORITY**
1. **Competition Advocate**
 - a. Agency Protest Official: The agency protest official for the USMS, as defined by [JAR 2833.101](#), is the Competition Advocate.
 - b. Task and Delivery Order Ombudsman: The Competition Advocate will serve as the task and delivery order ombudsman as described in [FAR 16.505\(b\)\(6\)](#).
 2. **Contracting Officer:** This official is primarily responsible for preparing all documentation in response to disputes, claims and protests. In addition, the Contracting Officer must do the following:
 - a. Provide copies of all disputes, claims and protests to the Procurement Chief and the Office of General Counsel within one working day of receiving them;
 - b. Make final decisions and settlements on disputes, claims and protests unless another individual has been designated in accordance with applicable regulation or policy; and
 - c. Obtain advice from the Office of General Counsel before making a final decision or agreeing to a settlement on any dispute, claim or protest.
- C. CANCELLATION:** Supersedes the prior USMS Policy Directive 6.4, Disputes, Claims and Protests.

By Order of:

Effective Date:

 /S/
John F. Clark
Director
U.S. Marshals Service

 3/17/09



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.5 Guidelines for Value Engineering

- A. PURPOSE:** This directive establishes the United States Marshals Service (USMS) Value Engineering (VE) Program mandated by Department of Justice [\(DOJ\) Order 2300.10A](#).
- B. SCOPE:** These procedures apply to all USMS personnel.
- C. REFERENCES:**
1. [DOJ Order 2300.10A](#), *Value Engineering Program*;
 2. Federal Acquisition Regulation [\(FAR\), PART 48](#), *Value Engineering*;
 3. [FAR, PART 52](#), Solicitation Provisions and Contract Clauses (52.248-1 AND 52-248-2);
 4. Office of Management and Budget (OMB) [Circular A-131](#), *Value Engineering (VE)*.
- D. BACKGROUND:** OMB [Circular A-131](#), as implemented by DOJ Order 2300.10A, requires the establishment of a Value Engineering Program in the USMS. This program provides both the contracting officers and contractors the means to modify plans and statements of work in order to lower USMS contract costs without jeopardizing quality. Initially, the concept for the program emphasized contractor-initiated savings on hardware and major system contracts. Currently, the applicability has been expanded to include facilities, services and supplies. The objective of VE in USMS contracts is to reduce acquisition costs while maintaining the necessary high performance level. This policy contains the essential elements and the procedures required to implement a viable VE plan as mandated by the FAR, OMB and DOJ.
- E. DEFINITIONS:**
1. **Value Engineering:** an organized effort to analyze the functions of the systems, equipment, facilities, services, and supplies for the purpose of achieving the lowest life-cycle cost consistent with the required level of performance, reliability, quality and safety.
 2. **Value Engineering Change Proposal (VECP):** a change proposal a contractor submits under a VE incentive or program requirement clause included in a USMS contract.
 3. **Value Engineering Proposal (VEP):** a change proposal developed by federal employees or contractor VE personnel employed by the agency to provide VE services for a contract or program.
- F. RESPONSIBILITIES:**
1. **Value Engineering Manager (VEM):** The Assistant Chief, Procurement Policy and Oversight Team must implement and operate the VE Program. The VEM executes the following:

- a. Plan and implement the program according to the references in paragraph 3 of this policy;
 - b. Communicate regularly with the DOJ Value Engineering Manager and provide guidance to USMS personnel;
 - c. Coordinate operational activities of the program;
 - d. Work with the USMS Chief of Procurement and assist individual Contracting Officers with changes incorporating approved VECs as may be required;
 - e. Assist individual VECs and USMS contractors in identifying potential VECs;
 - f. Identify projects that may be appropriate for VE action;
 - g. Identify potential VE training activities for USMS personnel;
 - h. Submit an annual report to the DOJ procurement executive by November 1 regarding the previous fiscal year's VE activities; and
 - i. Keep USMS top management advised of VE activities.
2. **Value Engineering Coordinator (VEC):** The VEM coordinates with appropriate program officials to appoint a VEC for particular programs or projects. The VEC does the following:
- a. Be aware of program office contractual requirements to immediately identify VE opportunities. VECs will be actively involved in the procurement planning process for their offices or bureaus as well as in reviewing each Request for Contract Action for potential VE opportunities;
 - b. Communicate regularly with program office COTRs to identify VE opportunities and elicit VECs from contractors;
 - c. Promote and encourage submission and development of VECs by COTRs and other government personnel involved in contract oversight;
 - d. Emphasize through meetings, training, evaluation and other programs the potential for VE application to reduce unnecessary costs;
 - e. Refer operational VE problems to the VEM for resolution;
 - f. Represent their respective offices/bureaus in meetings with the VEM;
 - g. Make sure that COTRs properly identify VE opportunities. The identification benchmark for developing individual VE submissions simplify procedures for processing VECs and VECs; and
 - h. Prepare documentation on VE activity for their respective offices. The information will be submitted and used by the VEM for reporting purposes.
3. **Contracting Officer:** Contracting Officers ensure that the requirements of the FAR are followed when the VE Program is implemented. Their duties are as follows:
- a. Include required VE clauses in all USMS contracts valued at more than \$100,000;

- b. Explain the VE program at all scheduled pre-proposal conferences and promote it at contractor meetings and by providing informational literature;
 - c. Identify projects that may be appropriate for VE action;
 - d. Actively elicit VECs from contractors;
 - e. Acknowledge receipt of VECs and VEPs;
 - f. Process and evaluate VECs in a timely manner and document contract files when it takes more than 45 days to accept or reject a VEC;
 - g. Document contract files to explain the rationale for accepting or rejecting VECs;
 - h. Advise contractors of the status of VECs;
 - i. Advise the VEM of the status of the VE program; and
 - j. Issue contractual modifications as required to accommodate approved VECs.
4. **Contracting Officer Technical Representative (COTR):** Contracting Officers will make sure that VE responsibility is clearly delineated in delegations to the Contracting Officer's Technical Representatives (COTR). COTRs will do the following:
- a. In addition to responsibilities delineated in COTR delegations from the Contracting Officer or in the contract, COTRs are encouraged to promote the VE Program to USMS contractors;
 - b. Work closely with designated VECs and analyze contractor-submitted VECs. The COTR should initiate an Identification of Value Engineering Opportunities for each VEC received or VEP developed in-house; and
 - c. Upon request, provide information concerning VE activity to VECs for reporting purposes.
- G. PROCEDURES:** The USMS will use VE, when appropriate, in project activities and the procurement process to reduce non-essential costs and improve productivity.
1. **Criteria for Identifying Programs and Projects Appropriate for VE**
- a. General: Before undertaking an organized effort to determine VE opportunities, COTRs, along with program office VECs, should analyze both existing and future contract requirements to determine the feasibility of undertaking a VE analysis. This analysis may include previous or similar contractual activity and any unique or specialized contractor activity that may be appropriate for effective contract implementation. Performing a critical evaluation of the contract operation (performance) and a further examination of the contract itself, including the Statement of Work, may be considered.
 - b. Criteria:
 - 1) The Dollar Amount of the Contract: The FAR requires that the appropriate VE clause be applied in contracts of \$100,000 or more. This does not prohibit VEPs for contracts under \$100,000.

- 2) Statement of Work Analysis: The following should be evaluated:
 - a) Excessive contract performance specifications or unnecessary tasks;
 - b) A contractor using duplicate or wasteful procedures;
 - c) Use of out-of-date technologies; and
 - d) Other areas identified by system or executive management for review.

2. **Guidelines for Implementation of Programs and Projects Appropriate for VE Application**

- a. After the previously stated criteria are considered, each contract for VE application should be addressed as follows:
 - 1) How workable is the contract for VE application?
 - 2) How feasible is the proposed VE implementation?
 - 3) Will VE implementation save USMS dollars?
 - 4) Will VE implementation improve the contractor's performance?
- b. If the requirement is under \$100,000 and is considered appropriate for government input only, consideration should be given to developing and processing a VEP. The Identification of VE opportunities may be used for both VEPs and VECPs (contractor initiated).
- c. In the case of a VECP, the Contracting Officer has 45 days to respond. Additional time to evaluate the VECP may be requested.
- d. Questions concerning procedural aspects and calculation of savings should be referred to the Chief, Policy and Procedures Branch, Procurement Division.

3. **Evaluation Procedures for VE Proposals**

- a. Each VE proposal (VEP or VECP) should be evaluated by a task group which recommends to the Contracting Officer whether it should be accepted or rejected.
- b. The task group should consider the contractor's operational procedures when evaluating VE proposals. Examples are:
 - 1) Administrative (personnel, management, computerization);
 - 2) Engineering (cost studies, state-of-the-art techniques);
 - 3) Transportation (travel, shipping, use of [Government Bill of Lading](#));
 - 4) Procurement and Property (competitive mandates, strict accountability); and
 - 5) Any other relevant operational procedures.

- c. Calculate net cost savings of the proposed VE changes. The FAR requires that government costs and any negative contract savings be deducted from the proposed VE savings to arrive at a net savings.
 - d. Changes to the contract delivery schedule should be determined and analyzed and the impact documented. For example, is a compressed delivery schedule resulting from a VE change worth the net cost savings achieved?
 - e. The VE task group should develop evaluation criteria similar to competitive proposal criteria used in negotiated procurements. Since there will be no comparison of respective scores, a minimum acceptable score should be set initially for the VEP or VECP. Procedures included in this subparagraph are optional. Examples of criteria for evaluating VE proposals are as follows:
 - 1) Net savings (deduct government cost of implementing);
 - 2) Impact VE changes will have on contractor operational procedures;
 - 3) Timeliness of VE proposals;
 - 4) Clarity of proposed VE change; and
 - 5) On VECPs, contractor's past success in implementing VE.
4. **External VE Guidelines:** During contract life, early promotion of the VE Program will assure both government and contractor exposure to the VE Program, prompting the development of specific external VE guidelines.

H. EXEMPTIONS:

- 1. The Director, USMS, is delegated the authority to exempt individual contracts from the requirements of this policy.
- 2. The Assistant Attorney General for Administration, DOJ, is the approving authority for all class exemptions.
- 3. Each procurement made under either the contract or class of contracts exemptions must have a copy of the exemption document placed in the contract file along with any documentation supporting the exemption.

- I. REPORTING REQUIREMENTS:** The VEM will submit an annual summary of the VE Program to the VE Program Manager, Office of the Procurement Executive, Justice Management Division. This report will include a description of USMS implementation efforts, training received, programs identified for future VE analysis, and problems encountered in implementing the program. The VEM report and the annual cost-savings report are due to the Office of the Procurement Executive by November 1.

J. Identification of Value Engineering Opportunities:

Contractor or RFP No: _____ Award Date: _____

COTR (Name): _____

- 1. **Brief Description of Contractual Requirements (SOW)**

2. **VE Opportunity Identification: check one (attached copy)**

/ Value Engineering Change Proposal (VECP) (Contractor Submission)

/ Value Engineering Proposal (VEP) (Government Employee)

3. **Narrative description of proposed VE savings (in detail): Include the following criteria to be considered in the VE analysis:**

a. Description of the difference between the existing contract requirement and the proposed change;

b. Suggested Statement of Work changes.

4. **Calculation of net dollar savings (includes remaining contract life)**

(Deduct government costs for implementation)

5. **Integrity certification of quality improvement resulting from proposed change(s)**

COTR: _____
Signature and Date

Concurrence: Value Engineering Coordinator: _____
Signature and Date

Review: Value Engineering Manager: _____
Signature and Date

Receipt: USMS Contracting Officer: _____
Signature and Date

K. FORMAT FOR VALUE ENGINEERING REPORTING

Bureau: _____

Fiscal Year: _____

1. Please estimate the amount of funds invested in VE by your agency in the fiscal year.

Funds invested ^[1] :	In-House	Contractor Related
	\$ _____	\$ _____

2. What were the estimated VE savings by your agency in the fiscal year? List these savings for in-house savings and contractor-generated savings. What was the estimated return on investment (ROI) for each of these categories?

Current FY savings ^[2] :	ROI ^[3]
In-House	\$ _____
Contractor	\$ _____

3. How many people are now assigned full time to VE in your agency? How many full-time equivalents (FTE)?

People assigned: _____

Full time: _____

FTE: _____

4. Please identify the number of people in your agency receiving VE training in this fiscal year.

Training (people): _____

8 hours or more: _____

Under 8 hours: _____

5. How many VE proposals did your agency receive in the past fiscal year? Report in-house and contractor-generated proposals separately. How many in-house and contractor-generated VE proposals were approved for the same time period?

Proposals:	Received	Approved
------------	----------	----------

In-house origin:	_____	_____
------------------	-------	-------

Industry origin:	_____	_____
------------------	-------	-------

- L. **CANCELLATION:** Supersedes the prior USMS Policy Directive 6.5, *Guidelines for Value Engineering*.

By Order of:

Effective Date:

/S/
John F. Clark
Director
U.S. Marshals Service

3/17/09

Reference: Section K. Format For VE Reporting

^[1] **Funds invested:** Estimates should include salaries and overhead expenses of value engineering employees, value engineering training costs, costs for contracting or value engineering services, VEP or VECP development and implementation costs, and any other costs directly associated with your VE program. Overhead may be estimated at 50 percent of salaries.

^[2] **Savings:** Savings are defined as a reduction in or the avoidance of expenditures that would have been incurred except for the VE program. Savings should be reported in the year incurred, i.e., in the year that the reduction or cost avoidance actually occurs. Recurring savings resulting from a specific VE effort should be reported for up to three years--the initial year and the two subsequent years. Procurement savings resulting from value engineering efforts should be calculated in accordance with [FAR 52.248 - 1\(g\)](#).

^[3] **Return on Investment (ROI):** ROI is determined by dividing the government's cost of performing the VE function into the savings generated by the function.



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.6 Deviations from the Federal Acquisition Regulations (FAR) and Justice Acquisition Regulations (JAR)

- A. Proponent:** Office of Procurement, Financial Services Division.
Telephone: 202-353-8350, Fax: 703-603-2038.
- B. Purpose:** This policy directive establishes the policy and procedures for requesting deviations from the FAR and the JAR.
- C. Authority:** The authority to request deviations from the FAR and JAR derives from 48 C.F.R. (FAR) § 1.401, 48 C.F.R. § 2801.403, and 48 C.F.R. § 2801.404.
- D. Policy:** Requests for deviations from the provisions of the FAR and JAR are to be approved in accordance with the requirements of FAR § 1.403 and § 1.404, and JAR § 2801.403 and § 2801.404, prior to the issuance of solicitations or award of contracts.
- E. Responsibilities:** None.
- F. Procedures:**
1. Individual Deviations: Requests for individual deviations from the FAR and JAR must be prepared by the Contracting Officer and have the concurrence of the Deputy Assistant Director for Acquisition and Procurement prior to submission to the Office of the General Counsel (OGC). OGC will review prior to submission to the Director. The Director is authorized to approve individual deviations that affect only one contract. A copy of the deviation will be submitted to the Procurement Executive.
 2. Class Deviations: Requests for class deviations from the FAR and JAR must be prepared by a contracting officer and have the concurrence of the Deputy Assistant Director for Acquisition and Procurement prior to submission to OGC. OGC will review prior to submission to the Director. The Director will submit to the Procurement Executive.
 3. The general definition of a deviation is specified in FAR § 1.401. The following are examples of deviations and require there be an approval prior to their use in solicitations or contracts; however, this list is not all inclusive:
 - a. The use of a policy, procedure, solicitation provision, contract clause, method, and/or practice of conducting acquisition actions of any kind, at any stage of the acquisition process that is inconsistent with the FAR or JAR.
 - b. The omission of any solicitation provision or contract clause when its prescription requires its use.
 - c. The use of any solicitation provision or contract clause with modified or alternate language that is not authorized by the FAR or JAR.



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.7 District Security Officer (DSO) Personal Services Contracts

- A. PURPOSE:** To establish procurement policy and procedures for acquiring District Security Officers (DSOs) under personal services contracts.
- B. AUTHORITY:** The USMS derives its statutory authority to enter into DSO personal services contracts under [28 U.S.C § 561\(g\)](#).
- C. DEFINITION:** Pursuant to [FAR](#) Subpart 37.101, a personal services contract is a contract characterized by the employee-employer relationship it creates between the Government and the contractor's personnel. An employer-employee relationship under a personal services contract exists when, as a result of the inherent nature of the service or the manner in which it is provided, contractor personnel are directly or indirectly supervised by Government employees in order to: (1) adequately protect the Government's interest; or (2) retain control of the function involved.
- D. POLICY:**
1. Each contract must be judged in light of its own facts and circumstances. The following criteria should be used to determine if a proposed acquisition is personal in nature:
 - a. Performance on site;
 - b. Principal tools and equipment furnished by the Government;
 - c. Services are applied directly to the integral effort of agencies in furtherance of the assigned function or mission;
 - d. Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel; and
 - e. The need for the type of service provided can reasonably be expected to last beyond one year.
 2. All personal services contracts shall be processed under normal procurement procedures as outlined in [FAR](#) Subpart 37.104 and [FAR](#) Parts 12, 13, 14, 15 and 16, as applicable.
 3. In accordance with [FAR](#) Subpart 22.1003-3(f), the Service Contract Act does not apply to any personal services contract that provides for "direct services to a federal agency by an individual or individuals," and is therefore not applicable to DSO personal services contracts.
- E. PROCEDURES**
1. **Preparing the Purchase Request, Form USM-157:** [Form USM-157](#), *Requisition for Procurement of Supplies, Service, and Equipment*, is available on the USMS Intranet Forms website. The website contains specific instructions for completing the [USM-157](#) for a DSO personal services contract.

2. **Identifying Sources of Supply:** District Contracting Officers should establish a list of responsible contractors who have successfully performed security guard services in the past. In accordance with [FAR](#) subpart 9.104-1, a responsible contractor must: (1) have adequate financial resources to perform the contract; (2) be able to comply with the proposed delivery schedule; (3) have a satisfactory performance record; (4) have a record of integrity and ethics; (5) have an adequate accounting system; (6) have the necessary technical equipment or facilities, and (7) be otherwise qualified and eligible for the award.
3. **Developing the Independent Cost Estimate:** Using market research, District Contracting Officers should estimate the hourly rate to be paid for a security guard with the skills and qualifications specified in the statement of work. Sources of cost estimates may include, but not be limited to: (1) individuals performing comparable duties at local sheriff departments, police agencies, or state correctional institutions; (2) off-duty police officers; (3) private guard service companies; and (4) individuals who performed satisfactorily under prior DSO personal services contracts.
4. **Soliciting Quotations, Standard Form (SF) 18:** As with any simplified acquisition, every effort should be made to encourage competition among potential contractors by: (1) soliciting quotations from at least three prospective contractors; (2) distributing purchases equally among qualified contractors; and (3) soliciting quotations from other than the previous contractor when placing a repeat order. All solicitations for DSO personal services should be made in writing using a [SF-18, Request for Quotations \(RFQ\)](#), and must include the statement of work and any other terms and conditions governing performance. The [SF-18](#) is available on the USMS Intranet Forms website along with specific [instructions](#) for completing the form.

In addition to the statement of work, solicitations for DSO personal services must contain the clauses listed in [FAR](#) 16.601(e). All acquisitions expected to exceed \$25,000 must be publicized in the FedBizOpps at <http://www.fedbizopps.gov>, unless an exception applies and is documented in the file.

5. **Evaluating Quotations:** When soliciting quotations, all potential contractors must be notified of the basis on which the award will be made (i.e., price alone or price and other factors). [FAR](#) Subpart 13.1 requires that agencies select the source or sources whose proposal represents the “best value.” “Best value,” as defined in [FAR](#) subpart 2.1, is the outcome estimated to provide the greatest overall benefit to the Government.
6. **Multiple Awards:** The best value may be multiple awards to several contractors under the same RFQ. If the District Contracting Officer intends to make multiple awards from one solicitation, all potential contractors must be notified in advance using the following clause:

Multiple Awards

The Government intends to award multiple contracts for the same services to two or more sources under this solicitation.

7. **Sole Source Acquisitions Below Micro-Purchase Threshold:** Personal services contracts that do not exceed the micro-purchase threshold may be awarded on a sole source basis without securing competitive quotations, provided the Contracting Officer determines the price is fair and reasonable and documents the file using the back cover of the [USM-248, Purchase/Delivery Order Record](#).

8. **Sole Source Acquisitions Above Micro-Purchase Threshold:** For acquisitions that exceed the micro-purchase threshold, districts may solicit quotations from only one responsible source if it is determined that only one source can reasonably perform the work. The requisition must include a sole source justification that addresses the following elements:
- a. **Specific Problem or Need:** Describe the requirement and explain how the District determined the services are critical to agency operations;
 - b. **Other Agencies:** Explain why sufficient staffing or expertise is not available within USMS or from other agencies to perform the service;
 - c. **Competition Not Appropriate:** Explain how the District concluded that a competitive procurement was not appropriate in this instance;
 - d. **Sole Source Criteria:** Describe the circumstances permitting a sole source acquisition. A sole source justification for DSO personal services contracts has:
 - 1) **Only One Responsible Source:** The proposed contractor demonstrates the unique qualifications, abilities or expertise to meet the District's needs through past performance, cost-effectiveness, or the follow-on nature of the requirement; or the proposed contractor is the only source available in the geographical area required.
 - 2) **Unusual and Compelling Urgency:** Timelines for accomplishing the work preclude competition. Explain how the Government would be negatively impacted by a delay in contract award.
 - e. **Price Reasonableness Determination:** Since competition was not used as a basis for the acquisition, explain how the District concluded that the rates offered by the recommended contractor are fair and reasonable. The statement of price reasonableness may be based on one or more of the following factors: (1) market research; (2) prices proposed under previous purchase orders; (3) current price lists, catalogs or advertisements for the same or similar services; or (4) the Government's independent cost estimate. The Procurement Office website contains a [sample](#) of the price reasonableness determination for a DSO personal services contract. The finding of price reasonableness must also be documented using the back cover of the [USM-248](#), Purchase/Delivery Order Record; and
 - f. **Labor Hour Determination and Findings:** Pursuant to [FAR](#) subpart 16.601, DSO personal services contracts are time-and-materials/labor-hour contracts that may be used only if: (1) the Contracting Officer prepares a determination and findings (D&F) that no other contract type is suitable; and (2) the contract includes a ceiling price that the Contractor exceeds at its own risk. The Contracting Officer must document the file to justify the reasons for any subsequent change in the ceiling price. The Procurement website contains a [sample](#) of a D&F justifying a labor-hour contract type.
9. Issuing the Purchase Order, Optional Form 347: [Form OF-347](#), *Order for Supplies and Services*, is the primary instrument used to acquire DSO personal services. The Procurement website contains [instructions](#) for completing an [OF-347](#) for a DSO personal services contract. In addition to the statement of work, the order must incorporate the clauses listed in [FAR](#) 52.213-4. Only when the prospective contractor accepts the purchase order does it become a binding contract. It is recommended that work begin only after the DSO returns a signed copy of the [OF-347](#) to the Contracting Officer.

F. DOCUMENTATION: At a minimum, all DSO personal services USM-248 files must contain the following documents:

1. [USM-157](#), *Requisition for Procurement of Supplies, Service, and Equipment*
2. Statement of Work
3. [CCR Deviation/Waiver Memorandum dated 11/16/04](#)
4. COTR Certification and Delegation Memoranda
5. [SF-18](#), *Request for Quotations and Responses*, -or-
6. [Sole Source Justification](#), as appropriate
7. Price Reasonableness Determination
8. [OF-347](#), *Order for Supplies and Services*

G. CANCELLATION: Not required. This is a new USMS Procurement Policy Directive.

By Order of:

Effective Date:

 /S/
John F. Clark
Director
U.S. Marshals Service

 3/17/09

ATTACHMENT

MEMORANDUM TO: _____

FROM: _____
Contracting Officer

SUBJECT: Designation of Contracting Officer's Technical Representative, Contract Number DJMS-09-____ awarded to _____.

You are hereby designated as the Contracting Officer's Technical Representative (COTR) for subject contract. This delegation authorizes and obligates you to perform the tasks listed below, to the extent required by the terms of the contract. The authority conferred herein shall not be re-delegated.

A. COTR Responsibilities:

1. Establish and maintain a separate contract work file for documents and correspondence pertaining to the contract;
2. Maintain this letter of appointment and understand the limits of its authority;
3. Maintain a copy of the contract, including all modifications, and be familiar with its terms and conditions;
4. Monitor the contractor's performance to ensure strict compliance with the contract's terms and conditions;
5. Notify the Contracting Officer immediately of any non-compliance with the terms and conditions of the contract, or of any failure to make due progress;
6. Report all problems or potential problems to the Contracting Officer in a timely manner so that corrective action can be taken immediately;
7. Provide technical clarification and direction to the Contractor which is within the scope of the contract and within your delegation as COTR;
8. Refer all questions of contract interpretation to the Contracting Officer;
9. Document all significant actions, conversations, etc., as they occur;
10. Assure that all significant communication with the Contractor, on any matter, be in writing, and that the Contracting Officer be provided with a copy of all incoming and outgoing correspondence pertaining to the contract;
11. Verify that the Contractor has satisfactorily completed delivery of all items required under the contract;
12. Review and approve the Contractor's reports and other deliverable items as required by the contract, unless such approval is specifically reserved for the Contracting Officer;
13. Upon receipt of the Contractor's invoice/voucher, certify that the supplies/services shown on the invoice are accepted and promptly forward the certified invoice/voucher to the paying office;
14. Monitor funds closely on a regularly scheduled basis;

15. Ensure that all Government property is used properly and that satisfactory measures are taken to protect and safeguard it;
16. Use good judgment, skill and reasonable care in the exercise of your authority while keeping the protection of the Government's best interest a priority;
17. Avoid any act which may tend to compromise the position of the Government, any individual member, or which will impair confidence in the integrity of the U.S. Marshals Service;
18. Protect privileged and sensitive procurement information; and
19. Notify the Contracting Officer of a pending COTR reassignment.

B. COTR Prohibitions. Since a COTR is not an authorized Contracting Officer, he/she does not have the authority to perform the functions listed below under any circumstances:

1. Make commitments or promises to any Contractor relating to the award of a contract;
2. Discuss procurement plans or any other information that might provide preferential treatment to one firm or another;
3. Solicit proposals for enhancements to the contract;
4. Commit or obligate the Government, verbally or in writing, to any action that would cause a modification to the terms and conditions of the contract;
5. Give guidance to a contractor, either verbally or in writing, which might be interpreted as a change in the scope or terms of the contract;
6. Sign any contract or modification to the contract;
7. Issue instructions to a contractor to start or stop work;
8. Approve items or costs not specifically authorized by the contract;
9. Direct changes such as time or delivery;
10. Render a decision on any dispute or any question of fact under the Disputes Clause of the contract;
11. Take action with respect to termination, except to notify the Contracting Officer of circumstances which would appear to warrant such action;
12. Re-designate any of the contractual authority listed in Paragraph A above, COTR Responsibilities, except for clerical tasks associated with that authority;
13. Award, agree to award, or execute any contract, contract modification, notice of intent, or other form of binding agreement;
14. Obligate, in any matter, the payment of money by the Government;
15. Make a final decision on any contract matter which is subject to the clause at FAR 52.233-1, Disputes (Dec. 1998); and

- 16. Terminate, suspend, or otherwise interfere with the contractor's right to proceed, or direct any changes in the contractor's performance that are inconsistent with or materially change the contract specifications.

- C. Violation of any of the above prohibitions may give the appearance that the U.S. Marshals Service is not acting in good faith. Therefore, commitments made to a Contractor by other than a duly appointed Contracting Officer may result in disciplinary action against the individual(s) involved.

- D. Additionally, you are required to return, via fax, acknowledgement on page 5 of this memo. My fax number is (202) 307-_____.

- E. If you have any questions concerning your delegated responsibilities as COTR under subject contract, please let me know. My telephone number is (202) 307-_____.

I hereby acknowledge that I have read and understand the authorities delegated to me, and that I have also read and understand the limitations of my authority as specified in the COTR appointment letter and JAR Clause 2852.201-70 (Jan 1985), incorporated into subject contract.

Signature

Date



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.8 GSA SMARTPAY2 COMMERCIAL CREDIT CARD PROGRAM

A. Proponent: Office of Procurement, Procurement Policy and Compliance, Financial Services Division (FSD). Telephone: 202-353-1434, Fax: 202-809-9695.

B. Purpose: This section establishes policies for management, administration, and use of the General Services Administration (GSA) SmartPay2 Commercial Credit Card Program.

1. The Government Purchase Card (GPC) Program provides charge cards to government agencies and departments. The program is intended to streamline the acquisition and payment process, improve acquisition lead times, expedite contractor payments, and generally simplify the administrative effort associated with procuring goods and services less than or equal to the micro-purchase threshold.
2. The GPC was established using master contracts negotiated with major national banks. Over 350 government entities currently participate in the program, spending \$30 billion annually using over 3 million charge cards. The GPC is the preferred method for purchasing and paying for goods and services below the micro-purchase threshold. In certain limited circumstances, the purchase card may be authorized for purchases at higher limits.
3. The purchase card may be used to place orders against established contracts and agreements (e.g., Federal Supply Schedules, blanket purchase agreements, and indefinite delivery type contracts) if the terms authorize use of the card and the purchase is in accordance with the cardholder's written delegation of procurement authority (DPA). In addition, the card may be used to make payments if the vendor agrees to accept payment by purchase card and if payment by purchase card is specifically authorized in the cardholder's DPA.
4. The purchase card is designed for use by government employees.

C. Authority:

1. The Standards of Ethical Conduct for Employees of the Executive Branch are defined in [5 C.F.R. § 2635](#);
2. Public Law 103-355, Federal Acquisition Streamlining Act of 1994 (FASA);
3. Federal Acquisition Regulation ([FAR](#)) Subpart 13.301;
4. Office of Management and Budget (OMB) [Circular A-123, Appendix B Revised](#); and

5. Treasury Financial Manual, Vol. I, Part 4, [Ch. 4500](#).
6. The contents of this policy directive supplement and implement policies and regulations set forth in the [FAR](#), Justice Acquisition Regulations ([JAR](#)), and the GSA SmartPay2 contract. In the event of any inconsistencies between USMS policy and the aforementioned documents, the [FAR](#), [JAR](#), and GSA contract will prevail. Specific procedures for operating the GPC are found in the [GSA SmartPay2 Web site](#).

D. Policy:

1. All USMS cardholders and Approving Officials (AOs) must be government employees.
2. The purchase card may be used only for official government business.
3. All purchases must be proper, legal, reasonable, and satisfy a bona fide need of the government.
4. Personal use of the purchase card is never authorized.
5. **Prohibited Use:** The purchase card may not be used to acquire the following:
 - a. Gasoline or oil for government vehicles;
 - b. Personal purchases;
 - c. Rental, lease, or purchase of office space or other real property (e.g., buildings or land), including parking spaces;
 - d. Telecommunications services (e.g., moving telephone lines from one location to another);
 - e. Official temporary duty travel;
 - f. Official government transportation including airline, boat, bus, or train tickets; and
 - g. Travel expenses including vehicle rental, hotel lodging, or other travel subsistence costs.
6. **Purchase Card Misuse:** Use of the purchase card for improper/erroneous purchases, whether intentional or unintentional, will result in the immediate cancellation of the card. Intentional misuse of the purchase card (i.e., fraud and employee misconduct) will result in disciplinary procedures up to and including suspension and/or removal. Purchase cards shall not be used as fleet cards or travel cards. Examples of purchase card misuse include the following:
 - a. Failure to secure or safeguard the purchase card or account number;
 - b. Failure to record, enter, or reconcile purchase card transactions in the financial system within the designated time frame;

- c. Using a lost or stolen purchase card or account number;
 - d. Using another individual's purchase card or account number;
 - e. Using the purchase card to acquire goods or services that exceed the government's minimum needs;
 - f. Using the purchase card to acquire goods or services that are prohibited or restricted;
 - g. Using the purchase card for personal or other than approved official government business;
 - h. Knowingly falsifying any GPC document;
 - i. Using the purchase card to buy goods or services that exceed the cardholder's delegated procurement authority; and
 - j. Using the purchase card improperly, such as splitting purchases.
7. **Consequences of Purchase Card Misuse:** Use of the purchase card for other than official government purposes constitutes misuse of government property and may result in administrative, civil, or criminal sanctions. A purchase card will be immediately canceled if an employee is found to have used the card for other than official purposes. Likewise, failure to use the purchase card in accordance with the policies contained herein or reconcile purchase card charges will result in cancellation of the card. Using the purchase card beyond the scope of the cardholder's delegated procurement authority will result in personal liability on the part of the cardholder.
8. **Reporting Misuse:** Any misuse or suspected misuse of the purchase card must be reported immediately in writing to the Agency Program Coordinator (APC), who will in turn inform the Deputy Assistant Director for Acquisition and Procurement and the Office of Inspection, Internal Affairs. If, during routine audits or spot checks, the APC discovers improper purchases or suspected misuse of the card, the APC will immediately notify the cardholder's AO in writing with copies provided to the Deputy Assistant Director for Acquisition and Procurement and the Assistant Chief of Procurement Policy. Within 3 business days of receipt of the notice, the AO must provide the APC an explanation of the purchase and proposed action plan. If the APC receives no reply from the AO within 3 business days, the suspected violation will be reported to the Office of Inspection for further review.
9. **Limits:** Most cardholders' single purchase limits will be at or below the micro-purchase threshold. Single purchase limits that exceed the micro-purchase threshold may only be authorized for warranted contracting officers who possess a Standard Form (SF)-1402 Certificate of Appointment (warrant) signed by the Deputy Assistant Director for Acquisition and Procurement.
- a. Changes to a cardholder's single purchase limit, once established, may only be authorized by the Deputy Assistant Director for Acquisition and Procurement upon a thorough review of the cardholder's purchase activity.

- b. The AO will propose single and monthly monetary purchase limits for cardholders within his/her purview that maximize utility of the card and minimize government risk.
 - c. If a cardholder finds it necessary to exceed his/her single or monthly purchase limit for a single transaction, he/she shall notify his/her AO, who will in turn notify the APC. The APC will then work with the card-issuing bank to temporarily override the cardholder's limit.
- 10. **Cardholder:** The purchase card bears an individual's name and signature and can be used only by the individual named on the card. No other person is authorized to use an individual's card or account number to make a purchase or payment.
 - a. Only one account shall be assigned to each cardholder at any point in time.
 - b. Upon the reassignment of a cardholder within the USMS, the cardholder must surrender his/her card for destruction. The APC will ensure that the existing purchase card is canceled and a new card is issued at the new duty station.
 - c. Purchase cards may not be transferred from office to office within the USMS.
- 11. There shall be a ratio of not more than seven cardholders to each AO. No AO shall review more than 300 transactions during any one billing cycle.
- 12. An AO shall immediately notify the APC when he/she will no longer serve as AO so that a new AO may be designated.
- 13. Purchase card transactions are not subject to state or local sales tax. Cardholders must inform the merchant prior to placing an order that the purchase is tax exempt. For billing purposes, the USMS tax identification number is 54-1880804.
- 14. In accordance with [FAR](#) Part 19.502-2, transactions with an anticipated dollar value exceeding the micro-purchase threshold are automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. For orders placed against multiple award contracts that exceed the micro-purchase threshold, cardholders should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement (see [FAR](#) 8.405-5).
- 15. If a cardholder determines that he/she must make a purchase from a blocked merchant, the cardholder's AO must submit a request for one-time override to the APC.
- 16. **Payment Only Transactions:** The purchase card may be used as a payment mechanism when the vendor agrees to accept payment by purchase card and the cardholder's DPA specifically authorizes it. For purchase or delivery/task orders that

authorize payment by purchase card, the contracting officer must ensure that [FAR](#) clause 52.232-36, Payment by Third Party, is included in the order.

17. **Documentation:** Cardholders must maintain a suspense file of all original documents related to each purchase or payment transaction. Documents may include requisitions, approvals, price quotes, order confirmations, receipts, shipping documents, invoices, dispute forms, etc.

E. Responsibilities:

1. **APC:** Implements, administers, and monitors the GPC program; conducts training; develops the USMS surveillance plan; serves as a liaison with the card-issuing bank; conducts audits and spot checks; and provides direct program support to district and headquarters focal points. Specific responsibilities of the APC are as follows:
 - a. Account management including processing new GPC applications; approving nominations of purchase card AOs; maintaining a current listing of all cardholders and AOs under the APC's jurisdiction; closing accounts upon abuse or misuse of card privileges, compromise of account information, card loss, or cardholder departure; and annually determining each cardholder's continuing need to maintain an account.
 - b. Issue DPA memoranda to cardholders and maintains copies for tracking purposes.
 - c. Manage GPC account profiles to properly reflect single and monthly purchase limits and Merchant Category Code (MCC) inclusions and exclusions.
 - d. Develop and implement local procedures to identify, and make cardholders aware of, prohibited purchases.
 - e. Ensure all cardholders attend mandatory and refresher training, and maintain training records.
 - f. Monitor the required span of control between AOs and cardholders.
 - g. Monitor bank transaction reports during the billing cycle to disclose potential prohibited or improper use, and take immediate action to address suspected illegal or policy violations.
 - h. Monitor bank transaction declination reports to identify potential fraud activity.
 - i. Work with AOs to conduct bi-annual audits and routine spot checks of purchase card records and procedures. This oversight responsibility may not be delegated.
 - j. Update and maintain the USMS [Purchase Card Manual](#).

- k. Communicate significant program events and respond to data calls from key management officials within the Department.
2. **Designated Billing Office (DBO):** The Office of Finance, FSD, serves as the DBO. Upon receipt of the official monthly invoice from the card-issuing bank, the DBO pays the card-issuing bank for all cardholder purchases within Prompt Payment Act timeframes. The DBO records each purchase in UFMS with the default accounting data associated with each purchase card. The DBO also serves as the focal point for disputing any transactions under centrally billed invoices and works with the bank to resolve such disputes. Specific responsibilities of the DBO include the following:
- a. Analyze whether fast payment of invoices, in order to take advantage of productivity rebates, is in the best interest of the government and take appropriate action.
 - b. Ensure that proper interest is calculated and paid if payment exceeds Prompt Payment Act timeframes.
 - c. Take necessary steps to mitigate suspension or cancellation actions.
 - d. Process rebates with an emphasis on the volume of transactions.
 - e. Analyze and monitor bank reports.
 - f. Provide quarterly feedback to the APC on the card-issuing bank's performance.
3. **Budget Official:** The Budget Official will certify in writing that funds are available prior to any purchase, and verify that monthly statements are reconciled by the cardholder and AO.
4. **Approving Official:** The Approving Official will pre-approve and administer transactions made using the purchase card. He/she will also review the monthly usage and reconciliation reports for each cardholder under his/her purview to ensure that purchases or payments are made in the best interest of the government and in accordance with applicable regulations, policies, and procedures. The AO is usually the cardholder's supervisor or a person independent of the cardholder, and at a grade higher than the cardholder. An AO may be a cardholder. However, no AO may be the subordinate of a cardholder and no cardholder shall act as his/her own AO. The AO is responsible for the following:
- a. Serve as liaison between the APC and the cardholder.
 - b. Nominate cardholders within his/her jurisdiction.
 - c. Recommend cardholder single and monthly purchase card limits to the APC.
 - d. Review, certify, and sign monthly cardholder statements no later than the 25th of each month.
 - e. Reconcile the cardholder's transactions when the cardholder is unavailable.

- f. Ensure that cardholders maintain complete and accurate records for each transaction.
5. **Cardholder:** As the sole individual authorized to use the assigned purchase card account, responsibilities of the cardholder include making authorized transactions in accordance with USMS policies and procedures and his/her DPA; collecting and maintaining the required documentation; obtaining approval in advance for all acquisitions in support of USMS missions; and recording/reconciling transactions. Specific responsibilities include:
- a. Ensure that adequate funds are available prior to purchase.
 - b. Ensure that the total amount of any transaction does not exceed the limits of his/her DPA.
 - c. Ensure that purchase of the requested items does not violate USMS policy or regulations.
 - d. Purchase “green” products and services to the maximum practical extent.
 - e. Maintain physical custody of the purchase card, protecting the card from improper use. Guard and secure card account number and other sensitive information from access or use by unauthorized parties within or outside the USMS.
 - f. Certify, review, and sign the cardholder statements no later than the 20th of the month and forward to the approving official for review, certification, and signature.
 - g. Verify receipt and acceptance by the requiring activity.
 - h. Resolve any unauthorized, erroneous, or questionable transactions with merchants and the Finance Office.
 - i. Assist merchants in tracking any items billed but not received.
 - j. Forward any statements with disputed items to the card-issuing bank, and assist the bank in investigating any disputed charges.
 - k. Immediately report any lost, stolen, or compromised purchase card to the card-issuing bank, AO, and APC.
 - l. Maintain certificates of completed training and make them available for review during periodic audits of purchase card activities.

F. Procedures:

- 1. **Training:** All prospective purchase cardholders and AOs, regardless of series or position, must complete the following Web-based training prior to appointment. There

are no costs associated with this training and no exceptions to the training are authorized. Substitutions are authorized only where indicated below. On an annual basis, all cardholders and AOs must certify in writing they have received the training, understand the regulations and procedures, and know the consequences of inappropriate actions. All training and other certificates will be maintained by the APC in accordance with the United States National Archives and Records Administration (NARA) requirements, [General Records Schedule 1, Item 10a](#).

Course Name	Location Where Available	Frequency	Substitutions
GSA SmartPay2	GSA SmartPay2 Purchase Card Training for Cardholders	Prior to appointment as cardholder or AO, then annually thereafter	No current substitutions
DAU CLC046 Green Procurement	Federal Acquisition Institute Training Application System	Prior to appointment as cardholder or AO	DOJ-ACQU-CS-0001, Green Purchasing Program (available at http://www.learn DOJ.gov)
USMS Ethics Training	USMS Ethics Training Modules	Prior to appointment as cardholder or AO, then annually thereafter	No current substitutions
UFMS Purchase Card Module	Unified Financial Management System Online Reference Guide	Prior to appointment as cardholder or AO	No current substitutions

2. **Separation of Duties:** OMB standards for internal controls require that key duties and responsibilities be divided or segregated among individuals to ensure they do not exceed or abuse their assigned authority. Separation of duties is intended to provide a system of checks and balances to minimize errors, prevent fraud, and protect the integrity of the acquisition process. This is done by ensuring that no single individual has control over multiple phases of the purchase card transaction. Key duties, such as making purchases, authorizing payments, certifying funding, and reviewing and auditing transactions must be assigned to different individuals in order to minimize government risk. For example, AOs who also serve as cardholders cannot approve funds for transactions they will make. Budget Officials who also serve as cardholder or AO cannot approve funds for transactions they will make or for transactions they will later review/approve on the monthly statement. If resource constraints prevent the assignment of duties described above, waivers may be requested and approved by the Deputy Assistant Director for Acquisition and Procurement.
3. All purchase cardholders will receive a DPA memorandum from the Deputy Assistant Director for Acquisition and Procurement which outlines their duties, responsibilities,

single and monthly purchase limits, and any other restrictions governing their particular delegation. The DPA will also identify the cardholder's APC and AO.

- a. Copies of DPA memoranda will be maintained by the APC for tracking purposes.
 - b. Warranted contracting officers who receive purchase cards will not receive a DPA memorandum. The SF-1402 Certificate of Appointment (warrant) grants the necessary authority to use the purchase card.
4. **Card Security:** Cardholders are responsible for properly using and safeguarding their purchase cards. Cardholders must take appropriate precautions to avoid compromise, similar to those taken to secure personal checks, credit cards, or cash. Cards should only be released to a merchant processing a transaction. Cards to be canceled should be surrendered only to the APC.
5. **Purchase Card Cancellation/Closeout:** The APC will perform biannual reviews of purchase cardholder listings against USMS rosters to identify any accounts that require closeout. Purchase cards on which there is no transaction activity for 1 year will be closed automatically.
6. **Program Oversight:** Oversight and management of the GPC is the responsibility of the APC. Internal reviews shall be conducted on an as-needed basis to prevent, identify, and correct non-compliance, misuse, abuse, and fraud within the purchase card program. At a minimum, internal reviews shall focus on the following elements:
- a. Payments made for goods or services not received;
 - b. Repetitive buys from a particular merchant;
 - c. Lack of purchase documentation;
 - d. Split purchases;
 - e. Purchases exceeding minimum mission need;
 - f. Purchases for prohibited items;
 - g. Purchases for personal use; and
 - h. Purchases exceeding authorized limits.

G. Definitions:

1. **Account Set-Up Information:** Information for each cardholder required by the card-issuing bank in order to establish a purchase card account.
2. **APC:** An employee of the Office of Procurement who is responsible for the USMS-wide administration and oversight of the purchase card program. The APC maintains liaison with the card-issuing bank, acting as the administrative point of contact for any matters that arise related to purchase cards.

3. **AO:** An individual responsible for overseeing one or more cardholder's purchase card activities. The AO reviews the cardholder's transactions to ensure that all purchases are mission-necessary goods and services made in accordance with the applicable regulations, policies, and procedures. The AO also ensures that cardholders' transactions are reconciled in a timely manner. The AO must be the cardholder's immediate supervisor or higher-level direct line supervisor.
4. **Authorization:** The process of verifying that a purchase is within established cardholder limits. Transactions may be authorized or declined by the card-issuing bank.
5. **Billing Office:** The Office of Finance, FSD, serves as the designated Billing Office. The Office of Finance pays the card-issuing bank for all cardholder purchases upon receipt of an approved monthly invoice.
6. **Budget Official:** Certifies the availability of funds in writing prior to purchase and ensures that monthly statements are reconciled by the cardholder and AO.
7. **Cardholder:** An individual delegated authority to use a purchase card. The cardholder will have his/her name embossed on the card. The cardholder is the sole custodian and user of the card.
8. **Cardholder Statement of Account:** The statement of charges provided to a cardholder detailing all the transactions posted to the cardholder's account during a 30-day billing cycle.
9. **Card-Issuing Bank:** The bank responsible for providing bankcard services. Principal responsibilities include providing purchase cards to its client organizations; processing purchase card transactions; providing centralized electronic billing, vendor payments, and reporting; and assisting with audits and investigations.
10. **Certificate of Appointment (SF-1402):** A formal written contracting officer's warrant issued by the Deputy Assistant Director for Acquisition and Procurement, which states limitations on the scope of authority to be exercised. The SF-1402 shall be used as evidence the contracting officer's delegation of authority to conduct purchase card transactions that exceed the micro-purchase threshold.
11. **Delegation of Procurement Authority (DPA):** Written authorization granting specific procurement authority to an individual. The cardholder delegation specifies single and monthly purchase limits, names the designated AO and APC, and dictates any other conditions applicable to purchases made by that individual.
12. **DBO:** Responsible for making payments to the card-issuing bank for the centrally-billed monthly invoice.
13. **Dispute:** A disagreement between a cardholder and a merchant regarding items appearing on the cardholder's Statement of Account. Disputes may arise from goods or services billed but never received, missing credits for returned merchandise, or other unauthorized charges. Disputes are presented to the card-issuing bank for resolution.
14. **Green Purchasing:** Buying recycled content products, environmentally preferable products including bio-based products, and energy efficient products as prescribed by Executive Order 13101, the Resource Conservation and Recovery Act ([42 U.S.C. § 6962](#)) and [FAR](#) subpart 23.

15. **Improper Purchase:** Any purchase is inconsistent with this policy directive.
16. **Merchant Category Codes (MCC):** Used within the commercial banking community to categorize merchants by the goods and services they provide. MCCs may be used to authorize or decline purchase transactions based on controls established for each account.
17. **Micro-purchase:** An acquisition of goods or services using simplified acquisition procedures; the aggregate amount of which does not exceed the micro-purchase threshold (see [FAR](#) subparts 2.101 and 13.2). The micro-purchase threshold is currently \$3,000 for all goods and services except construction/alternation and renovations (limited to \$2,000) and services subject to the Service Contract Act (limited to \$2,500).
18. **Monthly Purchase Limit:** Establishes the total maximum dollar amount that will be authorized in a 30-day period. The monthly purchase limit is set in increments of \$100 and linked to the cardholder's account number. Purchases that exceed a cardholder's monthly purchase limit will not be authorized.
19. **Purchase Card:** GSA SmartPay2 charge card (GPC) used to pay for goods and services in support of official government business.
20. **Separation of Duties:** A mandatory management control to prevent key functions from being done by the same person. Important duties, such as making purchases, authorizing payments, certifying funds, and reviewing/auditing will be assigned to different individuals to minimize the risk of loss to the government to the greatest extent possible.
21. **Single Purchase Limit:** Establishes the maximum dollar amount for goods and services purchased at any one time. The single purchase limit is set in increments of \$100 up to the current micro-purchase threshold defined in [FAR](#) 2.101. The single purchase limit is linked to the cardholder's account number. Purchases that exceed a cardholder's single purchase limit will not be authorized. This limit applies to the total transaction amount, not per line item.
22. **Split Purchase:** Separating a requirement that exceeds a cardholder's single purchase limit into two or more buys. This action is prohibited.
23. **Tax Exemption:** The elimination of state and local taxes from federal purchases in accordance with state and federal law. The phrase, "U.S. Government Tax Exempt" is pre-printed on the front of each purchase card.
24. **Unified Financial Management System (UFMS):** A financial management system within the Department of Justice (DOJ) designed to replace five core financial management systems and multiple acquisitions systems operating across DOJ with an integrated Commercial-Off-The-Shelf (COTS) solution. UFMS allows DOJ to streamline and standardize business processes and procedures across all components.
25. **Warranted Contracting Officer:** A government employee with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. Warranted refers to the extent of the authority delegated to them, normally described by the dollar amount of the authority.

H. References:

