

AMS CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 15-71
Date Received: Oct 2, 2015
Title: AAQ-700 ASRB Requirements

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Guidance and Policy must be submitted with separate CR coversheets.

Policy

Or

- Procurement Guidance
 Real Estate Guidance
 Other Guidance

Summary of Change: Change making AAQ-700 comply to Acquisition Strategy Review Board (ASRB) requirements.

Reason for Change: Agreement between AAQ-1 and AAQ-700

Development, Review, and Concurrence: AAQ-1, AAQ-700, and Acquisition Policy Division (AAP-100)

Target Audience: Contracting and applicable Program Office personnel

Briefing Planned: No.

ASAG Responsibilities: None.

Section / Text Location: T3.2.1A.4, T3.8.2A.4 and Acquisition Procurement-related Thresholds and Review Requirements

The redline version must be a comparison with the current published FAST version.

I confirm I used the latest published version to create this change / redline

or

This is new content

Links:

<http://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.1.pdf>
<http://fast.faa.gov/docs/procurementGuidance/guidanceT3.8.2.pdf>

On <http://fast.faa.gov/ProcurementToolbox.cfm>
File linked at the text 'AMS Procurement-Related Thresholds and Review Requirements'

Attachments: Redline and final versions.

Other Files: N/A

Redline(s):

Sections Revised: 3.2.1.A.4 – Acquisition Review by Aeronautical Center Acquisition Services

3.8.2.A.4 – Support Services Contracting

Procurement Guidance - (10/2015)

T3.2.1 - Procurement Planning Revised 4/2009

A Procurement Request (PR) Revised 7/2007

1 Purpose of a Procurement Request Package Revised 7/2007

2 Content of PR Package Revised 4/2013

3 Review by Chief Information Officer Revised 10/2013

4 Acquisition Review by Aeronautical Center Acquisition Services Revised 7/2014

5 PRISM-Generated Requisition Revised 7/2007

6 Funds Certification Revised 10/2012

7 Requisition Approval Levels Revised 10/2014

8 Describing Requirements Revised 7/2007

9 Independent Government Cost Estimate Revised 1/2010

10 PR Package Clearances, Justifications and Other Documentation Revised 10/2014

11 Simplified Purchases Revised 7/2007

12 Lease or Rental Space Revised 7/2007

13 Logistics Center Supply Support Revised 7/2007

14 Real Property Revised 4/2009

15 Public Utilities Revised 7/2007

16 Liquidated Damages Added 10/2014

17 Returning a Deficient PR Package Revised 10/2014

B Clauses

C Forms Revised 7/2007

T3.2.1 - Procurement Planning Revised 4/2009

A Procurement Request (PR) Revised 7/2007

1 Purpose of a Procurement Request Package Revised 7/2007

A procurement request (PR) package initiates acquisition of supplies, equipment, real property, utilities, material, systems, services, or construction. It is the basis for a Contracting Officer (CO) to plan, solicit, and award a contract, purchase order, delivery/task order, agreement, lease, modification, or other procurement action. The PR package is used to define the requestor's requirements so the CO can acquire supplies, real property, utilities, and services from or through other Government agencies, private and public organizations and institutions, and commercial vendors.

2 Content of PR Package Revised 4/2013

- a. The program official with the requirement to be satisfied through a procurement action prepares the PR package. The nature, value, and complexity of the requirement determine the exact content of the package. For example, information needed for a single source contract modification differs from that required for a systems development requirement to be competitively procured.
- b. As soon as a requirement becomes known, the program official should consult with the cognizant contracting organization, or CO if known, to determine the specific types of information needed for an acceptable PR package, and when the information must be provided. Much of the information in a PR package is the foundation for a contractual instrument, so it should be complete in all essential aspects. The Estimated Acquisition Lead-Time chart (see AMS Procurement Forms) may serve as a planning tool for both the contracting organization and program official to estimate lead-times for the various milestones applicable to a procurement.
- c. The following list represents information and documentation that may be required for a PR package. This list is not all-inclusive nor will each item below apply to every procurement action:

- (1) Requisition committing funds
- (2) Statement of work, specification, purchase description, drawings, or other appropriate technical description of the requirement
- (3) Technical data items (such software design documents or test plans) to be delivered, Data Item Descriptions (defining data content, format, preparation instructions, and intended use), and Contract Data Requirements List
- (4) Independent Government Cost Estimate
- (5) List of potential vendors and addresses (including incumbent contractor, if applicable)

- (6) Delivery destination or place of performance and delivery date or period of performance (and optional quantities or periods)
- (7) Method and place of inspection and acceptance
- (8) List of Government furnished property or information
- (9) First article testing requirements
- (10) Federal standards that must be met, e.g., energy, environment, health, and safety
- (11) Physical, personnel, and information system security requirements
- (12) Contractor Personnel Position Risk and Sensitivity Level Determination - FAA Form 1600.77 or OPM Position Designation Automated Tool (PDT)
- (13) Classified information or sensitive unclassified information handling requirements
- (14) Requirement for vendor's descriptive literature or product samples
- (15) Brand name or equal or brand name mandatory justification
- (16) Warranty requirements which are over and above generally accepted warranty included with the purchase of an item/service
- (17) Liquidated damages justification
- (18) Requirement for value engineering provisions
- (19) Privacy Act compliance determination
- (20) Section 508 Rehabilitation Act determination of non-availability or undue burden
- (21) Reprocurement data requirements, spare/repair parts lists, or other special rights
- (22) Information about use of existing patents or copyrights
- (23) Performance or payment bond requirements
- (24) Requirement for insurance coverage or special indemnification
- (25) Support services labor categories and description of minimum qualifications
- (26) Requirement for key personnel clause
- (27) Requirement for Government consent to subcontracting clause

(28) Personal services justification

(29) Single source justification

(30) (CFO) approval- Over \$10 million (Note: The contracting office may accept a PR that lacks the CFO approval for applicable procurements over \$10 million; however, the CFO approval must be received by the CO prior to the issuance of the Request for Offer (RFO))

(31) Chief Information Officer's approval for information technology over \$250,000

(32) Draft technical evaluation factors

(33) Draft technical proposal instructions

(34) Requirements for earned value management system, reports, and integrated baseline reviews

d. The program official submits the PR package to the appropriate contracting office, or assigned CO if known. Unless otherwise required by local procedures implemented by mutual agreement between the PR-initiating organization and contracting office, documents in the PR package are in electronic format and annotated with a PR number and project title. Materials accompanying a PR package that cannot be provided in electronic format, such as drawings, are delivered to the appropriate contracting office or assigned CO, and labeled with PR number, project title, and location.

3 Review by Chief Information Officer Revised 10/2013

a. The Chief Information Officer (CIO) must review and approve proposed procurement actions for information technology and service resources that are estimated to exceed \$250,000 and would result in a new or modified:

(1) Contract;

(2) Order, such as those issued through a Federal Supply Schedule (FSS); or

(3) Agreement, to include interagency and intra-agency agreements.

b. *Information Resources.*

(1) Equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the FAA.

(2) Information resources include:

(a) Services (including support services):

(b) Computers;

(c) Ancillary equipment;

(d) Software; and

(e) Firmware and similar procedures.

(3) Information resources do not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

c. Review Process.

(1) For those proposed procurement actions for information technology and service resources that are estimated to exceed \$250,000, the program official must submit the following information to the Office of Information and Technology (AIT-3) for review:

(a) Statement of Work (SOW) or requirements documentation;

(b) Cost or price information, to include an independent Government cost estimate (IGCE) when required; and

(c) Documentation of market research conducted.

(2) The CIO review package may be sent to AIT-3 electronically through e-mail or in hardcopy form.

(3) Once approved by the CIO, the program official may then prepare the requisition.

(4) Prior to submission of the requisition to the contracting office, the program office must note the date of the CIO's approval in the body of the requisition.

d. Goals of CIO Review.

(1) Ensure that goals of the FAA Flight Plan are addressed in procurements involving information resources.

(2) Prevent redundant procurements.

(3) Ensure that the resource is compatible with the FAA's current or planned Enterprise Architecture.

- (4) Ensure that information technology resources support FAA Business Processes.
- (5) Promote and ensure information systems security.
- (6) Identify potential savings or efficiencies.

4 Acquisition Review by Aeronautical Center Acquisition Services Revised 7/2014

a. All procurements expected to have a total estimated value greater than \$5 million to be awarded by Aeronautical Center Acquisition Services, AAQ-700 must use the review process specified in AAQ-700 Acquisition Review Standard Operating Procedures (SOP). The SOP is located at the Acquisition & Contracting (AAQ) KSN site (*FAA only*). The review process should start at the beginning of the procurement planning process.

b. The Acquisition Review process does not replace any other approvals set forth in AMS.

c. The Acquisition Review process only applies to procurements conducted by AAQ-700 and is not applicable to other FAA divisions. All other FAA divisions must follow the applicable acquisition review processes specified elsewhere in AMS.

d. The Acquisition Review is required on all original actions of \$5 million or more that would result in one of the following:

(1) New contract, including definitization of letter contracts;

(2) New agreement (interagency, intra-agency, other transaction, or cooperative agreement);

(3) Basic ordering agreement (BOA)/blanket purchase agreement (BPA) where the potential value equals or exceeds \$5 million as well as any individual orders on a BOA that equal or exceed \$5 million; and

e. Other procurement actions or any other binding commitment, such as a lease. The following contract actions are excluded from the acquisition review process established herein:

(1) Actions that create an undefinitized contract action, including undefinitized change orders and undefinitized long lead contract;

(2) Orders issued against existing contracts in accordance with the terms and conditions of the basic contract; except task orders for services issued against multiple award indefinite delivery/indefinite quantity contracts to include General Services Administration (GSA) schedules;

(3) Modifications increasing fund obligations under incrementally funded contracts when modifications do not exceed dollar amounts stated in the original acquisition approval and/or other approval (i.e., CFO); and

(4) Modifications solely for changes as a result of the Service Contract Act wage rates/fringe benefits or Fair Labor Standard Acts minimum wages.

f. Review Process - The Acquisition Review Authority (ARA) is responsible for reviewing the Acquisition Strategy, Business Case, and Contract Award on acquisitions conducted by AAQ-700 valued at \$5 million and greater, any project identified in a Business Plan, FAA Flight Plan, or any other project identified by the Director, Acquisition and Contracting (AAQ-1) and/or a requirements Program Director.

(1) Acquisition Strategy Planning/Meeting and Review (ASR) is initiated at the identification of a validated need (program initiation) prior to commencing the business case for Joint Resource Council/Chief Financial Officer approval, if required, and should be conducted no later than 14 months prior to program need date.

(2) Business Case Review (BCR) is required prior to submission to the CFO for requirements requiring a CFO package (\$10,000,000 or more) or issuance of the Screening Information Request (SIR) for requirements estimated between \$5,000,000 and \$10,000,000 and should be conducted within 60 days of completion of the ASR but no later than 12 months prior to program need date

(3) Contract Award Review (CAR) is required after completion of source selection on competitive acquisitions and after negotiations in noncompetitive acquisitions, just prior to award.

5 PRISM-Generated Requisition Revised 7/2007

a. A requisition provides basic information, such as appropriation data, item description, place of performance, and quantity/dollars needed to begin a procurement action. It is also the means of reserving funds for the procurement. Program officials must prepare requisitions in PRISM, the FAA's automated requisitioning and purchasing system. Contracting offices cannot accept manually prepared Form DOT F-4200.1, "Procurement Request," equivalent hard copy PR forms, or manually signed PRISM-generated forms.

b. *Electronic Routing.* Requisition review, funds certification, and approval are through electronic routing in PRISM and have the same force and effect as manual signatures.

c. *Requisition Control and Numbering.* The functionality of PRISM governs requisition numbering in accordance with AMS Procurement Guidance T3.13.1. Refer to PRISM business process solution "Award Types and PRISM Document Numbering Masks" for further information.

d. *Requisition Amendment/Modification.* If additional funds are needed, the program official should either issue an amendment to the requisition prior to an award being released or should create a requisition for modification after the award is released. Fund certification, review and approval are required for both an amendment or requisition for modification. When the amount obligated for the contractual action is less than the amount funded on the requisition, the program official must decommit excess funds. Because the original purpose of the requisition is considered complete, the

requisition cannot later be amended to use the remaining funds either for the original purpose or for another purpose.

e. *Canceling a Requisition.* Program officials may cancel a requisition prior to award by creating an amendment to decommit funding.

f. *Funds Estimate.* The requisition must indicate the total estimated cost of the requirement. For basic requisitions for new contracts, this includes the estimated amount of the basic contract and all planned options and any other requirements that would not be included in or funded as part of the basic contract. For contract modifications, this amount will be the total estimated cost of the action involved. For requisition amendments and requisition for modifications, whether for new contracts or modifications, the estimated amount will be the net amount of any change to the estimate stated in the basic requisition, and in addition to the net amount, identify in the body of the requisition the cumulative total estimated cost.

g. *Required Quantity.* This is the FAA's need, present and projected, for which funding is or will be available. Quantity discounts and transportation costs must be considered when determining required quantity of supplies. Quantities should not include those for which there are no funded requirements, or for options for which FAA has little expectation of exercising. For indefinite delivery/indefinite quantity (ID/IQ) contracts, identify realistic minimum and maximum quantities. For indefinite delivery/requirements contracts, the total estimated dollar amount for the requisition should be based on the total estimated quantity. The dollar amount on the requisition should cover the minimum quantity.

h. For detailed instructions on preparing a requisition, program officials should refer to the PRISM Requisitioner Guide and Business Processes and Policy, available on the PRISM website (FAA Only).

6 Funds Certification Revised 10/2012

a. The requisition must include funds certification if it commits funds to be obligated later on a contractual instrument. Funds certification verifies funds are reserved and certified as available, or funds are to be deobligated on an award or decommitted on a requisition. Funds need not be certified on individual requisitions when "bulk funding" is used for Blanket Purchase Agreements (BPA).

b. The person certifying funds must be designated in writing in accordance with written procedures of the organization issuing the requisition, and must be instructed by that organization on his or her responsibilities, duties and authority limits.

c. An authorized requisitioner may also certify funds when local conditions, such as remoteness or a small facility, make it necessary, *provided:* written local procedures authorize this practice and establish reasonable maximum dollar levels for combined funds certification and approval or requisitioning authority, and include monitoring and oversight procedures to ensure propriety of all such actions.

d. Additional guidance and related business processes for funds certification can be found at the [PRISM website](#) (FAA only).

7 Requisition Approval Levels Revised 10/2014

a. Only designated FAA employees can approve a requisition. Approval levels are tied to the total estimated amount of the requisition to be approved, as follows:

(1) *Washington Headquarters*

(a) Over \$500,000--Office Head, Director, Product or Service Team Lead, or equivalent or higher position.

(b) Over \$250,000 to \$500,000--Division Manager or equivalent position. (c)

Up to \$250,000--Branch Manager or equivalent position.

For Washington Headquarters, an Office Head, Director, Product or Service Team Lead, or equivalent position, as applicable, may delegate via memorandum approval levels differing from the above.

(2) *Service Areas, Regions, and Centers.* Organizations approving requisitions within service areas, regions, and centers may establish written local requisition approval levels. Program officials should contact their local finance office for information about approval levels.

b. Key duties and responsibilities for requisitioners, fund certifiers, approving officials, and those obligating funds (i.e. COs or others with delegated procurement authority) must be separated among individuals. Due to local conditions, some duties may need to be provided by the same individual; however the following conditions will always apply in the processing of a requisition:

(1) An individual must never perform all duties;

(2) A requisitioner may be the fund certifier for the same requisition;

(3) The approving official and the fund certifier for any requisition must be separate individuals;

(4) A requisitioner must not be the approving official and/or CO for the same requisition; and

(5) A CO must never be the approving official or requisitioner for the same requisition. c. Requisition approvers should refer to PRISM guidance and business processes found at the [PRISM website](#) (FAA only).

8 Describing Requirements Revised 7/2007

a. *Technical Description.* An accurate technical description of the requirement is a critical element of a PR package and key to ensuring FAA's needs are satisfied. The program official prepares, to the extent possible, a comprehensive statement of work, specification, drawings or other description of the product or service to avoid any misinterpretation by prospective vendors about FAA's requirements. The technical description defines valid and minimum needs of the FAA, and is not written in a way that unduly restricts competition. See AMS Procurement Guidance T3.2.2.8, "Describing Needs" for additional information.

(1) *Supplies or Equipment.* For supplies or equipment, the description should cover as wide a range of commercially available and proven products as possible. It should avoid requirements for special manufacture, or requirements that may unnecessarily restrict competition. In this way, a broad competitive base will be possible, prices will be held to a minimum, and good relations with offerors will be promoted.

(2) *Services.* For services to be performed in accordance with a statement of work (SOW), the SOW addresses:

(a) What is the contractor to do?

(b) When is the contractor to perform the tasks?

(c) Who (qualifications and experience) should perform the tasks?

(d) Where are the tasks to be performed?

9 Independent Government Cost Estimate Revised 1/2010

a. An independent Government cost estimate (IGCE) describes how much FAA could reasonably expect to pay for needed supplies or services. The IGCE is an internal Government estimate, supported by factual or reasoned data and documentation, and serves as: (1) the basis for reserving funds for the procurement action; (2) a method for comparing cost or price proposed by offerors; and (3) an objective basis for determining price reasonableness when only one offer is received in response to a solicitation. The program official prepares the IGCE.

b. An IGCE includes a breakdown of major elements of cost, by category such as labor, material, equipment, subcontracts, travel, overhead, and profit.

c. An IGCE is required for any anticipated procurement action (to include modifications) whose total estimated value is \$100,000 or more, except for:

(1) Modifications exercising priced options or providing incremental funding;

- (2) Delivery orders for priced services or supplies under an indefinite-delivery contract; or
- (3) Acquisition of real property (i.e., land or space).

d. The CO may require an IGCE for those procurement actions (to include modifications) anticipated to be less than \$100,000.

e. The estimate and supporting documentation is for internal use only. It should be made available only on a need to know basis and must not be provided to any potential offeror. An IGCE must not be based on information furnished by any potential vendor that may be competing for the requirement or considered for award. See AMS Procurement Guidance T.3.2.3 "Cost and Price Methodology" and "FAA Pricing Handbook" for detailed information about preparing an IGCE.

10 PR Package Clearances, Justifications and Other Documentation Revised 10/2014

The program official furnishes evidence of certain required clearances, approvals, and justifications with the PR package. This information varies, depending on the nature of requirement, procurement strategy, and dollar value. The program official should consult with the CO to determine applicability of each of the below clearances, documentation, and approvals to the particular requirement. Documentation or other evidence for the below forms part of the PR package (the below is not all inclusive nor will it apply to each procurement action):

a. *Chief Financial Officer Approval.* For a single or cumulative expenditure over \$10M, the CO must receive evidence of the Chief Financial Officer's (CFO) approval of the procurement prior to issuing a Request for Offer (RFO). (See AMS Procurement Guidance T3.2.4 "Chief Financial Officer Requirements" for additional information.)

b. *Accountable Personal Property.* FAA's financial standards and annual audit require accurate recording of personal property acquisitions. Before creating a requisition in PRISM, the program official must establish appropriate projects and tasks in the DELPHI Project Accounting (PA) module. Each line item on a requisition must have at least one (but can have more than one) project and task associated with it. The CO will use the line item structure contained in the requisition when setting up the Contract Line Item Number (CLIN) structure.

c. *Government Furnished Property, Information, or Material.* The PR package identifies Government property, information, or material. FAA property is managed, transferred, and added to FAA records through the Automated Inventory Tracking System (AITS). Any special restrictions or conditions, such as property provided "as is" security issues, or special handling should also be specified in the PR package.

d. *Personal Property from Commercial Sources.* Before initiating a requisition to obtain personal property, program officials must determine if the property is available for reuse from an FAA or other Government source, as required by FAA Order 4800.2C (May 31, 1996) and "[FAA Reutilization and Disposition Process & Procedure Guide](#)" (FAA only), dated October 2006.

e. *Project Materiel*. Materiel for projects is requisitioned through the Logistics and Inventory System (LIS) Project Materiel Management System (PMMS). For further information on acquiring materiel, refer to the "[Project/Materiel Management Desk Guide](#)" (FAA only).

f. *Section 508 of the Rehabilitation Act*. Acquisition of electronic and information technology (EIT) must comply with Section 508 requirements for accessibility. The program official must document EIT non-availability, including market research performed and standards that cannot be met. For further information, see AMS Procurement Guidance T3.2.2 "Source Selection," or the FAA [Section 508 website](#) (FAA only).

g. *Personnel Security*. For individuals that may need access to FAA facilities, sensitive unclassified information, or resources, the contract security clause contains sufficient language to meet that objective. For specific guidance and regulations, see the applicable personnel security orders (FAA Order 1600.1E Personnel Security Program and FAA Order 1600.72A Contractor and Industrial Security Program). FAA Form 1600-77, "Contractor Position Risk/Sensitivity Level Designation Record" is used by the Operating Office to make initial position risk/sensitivity level designations based on the initial list of positions and the statement of work.

h. *Sensitive Unclassified Information*. The program official must coordinate with the local FAA Servicing Security Element (SSE) for the minimum standards to mark, store, control, transmit, and destroy Sensitive Unclassified Information, For Official Use Only, Sensitive Security Information, or unclassified information that may be withheld from public release. (See FAA Order 1600.75 or AMS Procurement Guidance T3.14.1 "Security" for additional information.)

i. *Classified Information*. The PR package should identify any requirements for handling of classified materials or for access of contractor personnel to classified information. (See FAA Order 1600.2E Safeguarding Classified National Security Information for additional information.)

j. *Information Systems Security*. The FAA must ensure that all information systems are protected from threats to integrity, availability, and confidentiality. (See FAA Order 1370.82A for additional information.)

k. *Paperwork Reduction Act*. The FAA must obtain approval to collect information through questionnaires, focus groups, telephone surveys, applications, performance reports, customer satisfaction surveys, studies and evaluations, interviews, forms, and other means of requesting information from 10 or more respondents. The program official must first coordinate requirements through the FAA Information Clearance Officer (AIT-20), and then obtain clearance from Office of Management and Budget (OMB).

l. *Privacy Act*. When a requirement involves the design, development, or operation of a system of records on individuals for an FAA function, the statement of work must identify FAA rules and regulations implementing the Privacy Act. (See FAA Order 1280.1A ;Protecting Privacy of Information About Individuals.)

m. *Printing or Duplicating or Purchase or Lease of Copying Equipment.* For printing or duplicating services to be performed either by Government Printing Office (GPO) or outside printing businesses, program officials must coordinate with the cognizant FAA printing management office. Purchase or lease of duplicators or electronic copiers over \$100,000 must be approved: for Headquarters acquisitions, coordinate with the Corporate Information Division (ABA-10); Region, Center and Service Area acquisitions, coordinate with the servicing printing management organization.

n. *NAS Specifications.* Specifications for acquisitions under the Capital Improvement Program (CIP) are baselined and under configuration control. A requisition for NAS program specification change must include evidence of approval by the NAS Configuration Control Board.

o. *Options.* If optional quantities or services are to be included, the PR package should state the basis for evaluating offeror proposals. The PR package should indicate whether it is expected that offers will be evaluated for award purposes only on the basis of the price for the basic requirement exclusive of options, or price inclusive of options.

p. *Warranty.* Warranties should be cost beneficial. For other than standard commercial warranty generally accepted as included with basic purchase price, the PR package should include an analysis of the costs of a warranty and its administration, versus the benefits of liability deferral.

q. *Liquidated Damages.* Before liquidated damages provisions may be included in a contract, the program official must adequately justify and document the basis for amounts to be assessed.

r. *Brand Name Products.* When a brand name or equal description is used, the PR package must state the brand name product and salient physical, functional, performance, and interoperability or interface characteristics of the brand name product so that vendors may offer alternative but equal products. Brand name-mandatory descriptions identify a specific make, model, or catalog number, and manufacturer of a product. This type of description differs from brand name or equal because vendors may not provide an equal item. For brand name-mandatory, a single source justification is required with the PR package. (See AMS Procurement Guidance T3.2.2.8 "Describing Needs" for more information.)

s. *Recovered Materials.* Program officials are responsible for defining product specifications, utilizing FAA's minimum content standards or preference standards, when procuring EPA- designated items. The program official should provide a written determination certifying that the statement of work/specifications for materials/services specified complies with the FAA's preference standards for recovered materials. (See AMS Procurement Guidance T3.6.3 "Environment, Conservation and Energy" for additional information.)

t. *Recycled Content.* Purchases of EPA-designated recycled content products must meet or exceed EPA guideline standards, unless price, performance, or availability justifies not doing so. The program official should document this determination. (See AMS Procurement Guidance T3.6.3 "Environment, Conservation and Energy" for additional information.)

u. *Capital Versus Non-Capital Lease Determination.* The FAA is required to capitalize certain improvements in both owned and leased space. In addition, the FAA (to include the Operating Office, RECO, and accounting) is required to make a determination as to whether leases (including real property leases) are capital or operating leases and insure they are recorded and filed accordingly. (See AMS Real Estate Guidance 3.1.5 "Capitalization" for additional information and applicable forms.)

v. *Personal Services.* Personal services contracts are permissible if appropriately justified and approved by senior management. The PR package must include evidence of this approval. (See AMS Procurement Guidance T3.8.2 "Service Contracting" for more information.)

w. *Single Source Justification.* When in FAA's best interests, a single source procurement may be appropriate. The program official should prepare a justification documenting the rational basis for using a single vendor. (See AMS Procurement Guidance T3.2.2.4 "Single Source" for additional information.)

x. *Technical Evaluation Factors/Plan.* Technical evaluation factors must be approved before issuing a solicitation. The program official must provide the factors and plan for evaluating technical proposals.

y. *Earned Value Management System (EVMS).* An earned value management system (EVMS) is required for projects involving development, modernization, or enhancement estimated at \$10M or more. Program officials should consult with the FAA's EVM Focal Point (AAP-200) to determine appropriate EVMS certification, review, and reporting requirements. (See AMS "Earned Value Management Guide" for additional information.)

11 Simplified Purchases Revised 7/2007

a. *Purchase Cards.* When a requisition is used as the funding document for purchase card purchases, it must contain certification of availability of funds. (See AMS Procurement Guidance T3.2.2.5 "Commercial and Simplified Purchase Method" for additional information.)

b. *Blanket Purchase Agreement (BPA).* A requisition may be issued for a basic BPA, but is not necessary for individual orders (termed "calls") against the BPA. One or more BPAs may be established in response to a requisition. The requisition identifies types of supplies or services to be purchased under the BPA, suggested sources of supply, estimated grand total and individual call dollar limitations, and person(s) to be authorized by the CO to make purchases. BPA calls serve as the obligating documents and a requisition will be required to issue the first call. If the BPA call is funded for a period of less than one year, a requisition for modification will be required to increase the funding.

12 Lease or Rental Space Revised 7/2007

a. *Headquarters*. Requirements for short-term lease, or rental, of conference space, or the long-term lease of other space (e.g., office, storage or special purpose), in commercial establishments in the Washington, D. C. metropolitan area, and requests for any GSA acquired space must be coordinated through the Headquarters Facilities Management Staff (ALO-100). The results of this coordination must be indicated on the requisition or an attachment.

b. *Regions and Centers*. Requirements for short-term lease of conference space not acquired through a purchase card should be coordinated with the real property organization of the applicable Region or Center office. The results of that coordination must be indicated in the requisition or an attachment.

13 Logistics Center Supply Support Revised 7/2007

Supply Support Program requirements are processed using the Logistics Inventory System (LIS) at the FAA Logistics Center. Requisitioning through LIS, coordination, review, certification, and approval signature are completed electronically.

14 Real Property Revised 4/2009

a. *Real Property Responsibilities*. For the regions and centers, the Real Estate and Utilities Branch, or for Washington Headquarters, the Facilities Management Staff (ALO-100), are the primary contracting offices for the acquisition, management, and disposal of real estate, including utilities. In requests for acquisition (i.e. lease land or space), management, or disposal of real estate, or for acquisition of utilities services, the requiring office should initially contact and provide the requirements to the Real Estate Branch. For further information on submitting program office requirements to Real Estate, see AMS Policy 4.2. The requesting office will complete the requisition itself later, after cost information becomes available for its completion. Initially, cost information would not be available, and remain to be developed in consultation with the Real Estate Branch. A representative of the Real Estate Branch should be included at every stage in the real property acquisition, management, and disposal process, whether this is to make initial inquiry, to make contact with the property owner or his/her representative, to approve required audit reports, or for other steps in the process.

b. *General*. The requisition should include the name, address and telephone number of the property owner (or his/her representative), if known, and a record of any and all contacts with the owner/representative. Remember however, that contacts with owner/representative should be made only by the Real Estate Branch. As a minimum, requisitions for real property should contain the information described below, by type of requirement.

c. *Land Acquisition (Purchase or Lease)*. For such acquisitions, the PR package should include information for the RECO to begin the acquisition process. Items for any new or renewal lease action include:

- (1) The projected life of facility (total term requirement for real property).

(2) Intended use of property (e.g., VASI, REIL, VORTAC, ARSR, ASR), and amount and type of all required restrictive easements (e.g., 750, 1000, 1200 or 1500 foot radius; trees removed to XX feet).

(3) The legal description of the site and easements, expressed either in metes and bounds or as required by local land registries. If a legal description is not available, a legal description can be requested by a separate requisition transmitted to the Real Estate Branch.

(4) Drawings, to scale, of the property(ies) to be acquired, if available.

(5) *Clearances*. Environmental clearances, as follows:

(a) A statement that due diligence has been applied according to the requirements of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and FAA Order 1050.19B, Environmental Due Diligence Audits (EDDA) in the Conduct of FAA Real Property Transactions. Paragraph 1-10 of FAA Order 1050.19B describes the EDDA report review and approval process. The Real Estate Contracting Officer (RECO) receives the final, signed EDDA and places a copy of the report in the real property transaction file. A copy of the EDDA report should be included in the PR package, as well as a letter of acceptance of the report signed by the requiring office Program Manager/Division Manager. When an EDDA is not required, a memorandum must be included explaining the rationale for not conducting an EDDA. If the EDDA was not conducted as a result of an EDDA waiver request, also include a copy of the EDDA waiver request form.

(b) If it has been decided to acquire a site determined to have hazardous material contamination, the PR package should include a statement of justification signed by the requiring office Program Manager/Division Manager, together with a cost/benefit analysis.

(c) A statement certifying that an analysis of environmental impacts has been accomplished according to FAA Order 1050.1E and the National Environmental Policy Act. Environmental analysis may include a Categorical Exclusion (CATEX) or Environmental Assessment (EA) - which would culminate in a Finding of No Significant Impact (FONSI) or Environmental Impact Statement (EIS). These statements must clearly identify any environmental impact mitigation required, and the need for additional lease clauses to cover such mitigation. The environmental analysis must also identify all environmental compliance permits for the project. Examples of permit activities are: wetlands permits from the Army Corps of Engineers, land use permits, special area, water use, and other local, federal and state permits as necessary.

d. *Space Acquisition*. For space acquisitions, the PR package should include the following information for the RECO to begin the space acquisition process:

- (1) The intended use of the space (e.g., AFS, FSDO).
- (2) A five-year projected staffing chart including the number of authorized positions, by job title, which will use the space. Any projected staffing increases must be validated.
- (3) Special Requirements. These include, but are not limited to:
 - (a) Authorized private offices;
 - (b) Wiring for data lines;
 - (c) 24-hour access/HVAC requirements;
 - (d) Temperature and humidity level limits;
 - (e) Local Area Network (LAN) rooms;
 - (f) Computer Based Instruction (CBI) rooms;
 - (g) Written examination room;
 - (h) Floor loads and types;
 - (i) Antennas attached to roof; and
 - (j) Special finishes.
- (4) Number of parking spaces required.
- (5) Recommended total lease term (base lease term plus renewal option(s)).
- (6) Delineated area and map depicting the area.

e. *Space Alterations/Improvements/Repairs (AIR)*. For this, the PR package should include:

- (1) A full narrative description of work to be accomplished, supported by a clear sketch or drawing of proposed AIR; and
- (2) Other related items, as stated in the paragraph just preceding.

f. *Construction*. For construction, the PR package should include:

- (1) *For Real Property Interests - Land*. When the lease or purchase of land is involved, include a statement that such lease or purchase has been consummated. In rare circumstances, if there is written assurance the property owner will give that real property rights, and a written right of

entry to begin construction has been provided, the PR may be processed if approved by the servicing Real Estate Branch.

(2) *For Real Property Interests - Space.* When a servicing contracting activity, that is, the contracting office, is requested to obtain construction, modification, alteration, and/or repair to leased space or buildings, care should be taken to ensure that the Real Estate Branch is involved in such leased space actions. The PR package must:

(a) Contain a statement from the servicing real estate organization that approval from the property owner has been secured and the lease amended to cover FAA's requirements; and

(b) Comply with all applicable requirements set forth in c.(2) and (3) above.

(3) *Environmental Considerations.* These include a statement certifying that all current requirements for Environmental Assessment and Due Diligence Audits have been met. (See the above paragraph c.(5) on environmental clearances.)

(4) *Utility Requirements.* When new or changed utilities, location or service is involved, state the status of obtaining utility service and the estimated date of its availability to the project.

(5) *Vehicle or Pedestrian Safety.* When the contract work will or may affect the traffic or safety of vehicles or pedestrians on the right-of-way of a public highway, road, or street owned by a governmental body other than the Federal Government, a statement that this is the case, and an identification of the governmental body which owns the highway, road, or street. For further information, see AMS Real Estate Guidance.

15 Public Utilities Revised 7/2007

a. *Minimum Content.* The PR package should contain information sufficient to enable the CO to determine the required type(s) of service, quantity, delivery point(s), time of initial service, service duration, and the principal characteristics of services. As a minimum, the PR package should contain the following:

(1) Technical description or specification of the type, quantity, and quality of service required;

(2) Date by which the service is required;

(3) Estimated maximum demand, monthly consumption, and annual cost for the first full 12 months of service;

(4) Schematic diagram or line drawing showing meter locations and Government connection point to utility supplier's system;

(5) Estimated cost, including: required utility services, any connection charges; and contractor installed facilities for replacement utility services; and

(6) Principal characteristics of service specifications. As a minimum, descriptions of the premises, or location to be served, in sufficient detail to clearly establish its identity by agency, function and address, as well as the service delivery point, and an attached map or drawing showing its exact location.

b. *Electrical Service Specifications.* The PR package should contain:

(1) Monthly kilowatt hour (kWh) demand for a typical year;

(2) Monthly kilowatt-hour (kWh) consumption for a typical year;

(3) Type of current (AC or DC);

(4) Number of phases;

(5) Anticipated load factor;

(6) Substation primary and secondary voltages, and allowable variations or tolerances; and

(7) Type of metering: (1) demand and/or watt hours, (2) kilovolt-amperes (kva) or kilowatts (kW).

c. *Water Service Specifications.* The PR package should contain:

(1) The required pressure and type(s) of water required (e.g., potable water, industrial water, classified as to extent of required filtration or chemical treatment; or raw water [river, lake, well, etc.]); and

(2) Exact location of connection with utility firm's distribution system.

d. *Gas Service Specifications.* These specifications should state the supplier's tariff. They should describe the desired British Thermal Unit (BTU) content, the purity, and the initial and terminal pressure limitations. They should also include:

(1) The estimated maximum demand per hour or per day;

(2) The estimated monthly usage of gas, by months, for a typical year; and

(3) The exact location of connection with utility firm's distribution system.

e. *Sewer Service Specifications*. These should specify the types of service required (e.g. sanitary with primary or secondary treatment, or raw waste disposal; industrial waste disposal; or storm water drainage). They should also include:

(1) The size(s) and location(s) of connections between Government and contractor systems; and

(2) The exact location of connection with the utility firm's distribution system.

16 Liquidated Damages Added 10/2014

- a. Liquidated damages clauses should be used only when (1) the time of completion, performance, or delivery is such an important factor in the award of the contract that the FAA may reasonably expect to suffer damage if the completion, performance, or delivery is delinquent; and (2) the extent or amount of actual damage sustained by the FAA would be difficult or impossible to calculate or prove. In deciding whether to include a liquidated damages clause in the SIR/contract, the procurement team should consider the probable effect of that clause on other issues such as contract price, competition, and the cost or difficulties of contract administration. The rates of liquidated damages must be reasonable and based on probable actual damages to the FAA. Liquidated damages assessed without consideration of actual costs are penalties, and are thus unenforceable.
- b. When administering contracts that include a liquidated damages clause, the CO must take all reasonable steps to notify contractors of the pending assessment when the concern about late completion, performance, or delivery first develops. If a basis for termination for default exists, the CO must advise the contractor that it may be liable for liquidated damages assessed until the date of termination, in addition to procurement costs. If completion, performance, or delivery is desired after termination for default, efforts must be made to obtain completion, performance, or delivery elsewhere within a reasonable time.
- c. *Construction*. Liquidated damages for construction contracts are assessed on a per project basis. The liquidated damages rate must be determined by the procurement team and documented by the program official, and must, at a minimum, cover the estimated cost of contract administration, including inspection, for each day of delay in completion. In addition, other specific losses anticipated to be incurred as a direct result of the failure of the contractor to complete the work on time must be included. Examples of specific losses are:
- (1) Additional inspection costs;
 - (2) The costs of substitute facilities;
 - (3) The rental of buildings; and
 - (4) The costs of FAA crews, or hourly paid contract employees, forced on standby.

When different completion dates are specified in the contract for separate parts or stages of the work (i.e., milestones), the CO may revise the liquidated damages clause to state the amount of liquidated

damages for the late completion of each milestone. Separate calculation and documentation of the estimated damages must be developed for each amount specified with a differing basis.

- d. The program official must document the basis for the assessment rate for liquidated damages. This documentation must describe the assumptions, data, and formula used to derive the rate of assessment.

17 Returning a Deficient PR Package Revised 10/2014

a. The CO may return a deficient PR package without action, or stop work on a pending PR package until the program official submits any needed supplemental information. Examples of reasons for returning or stopping work on a deficient PR package include:

- (1) Incomplete or conflicting information between the requisition, specifications, drawings, or other solicitation data;
- (2) Unstable requirements due to repeated technical changes to functional capability, reliability, maintainability, quality control, or testing requirements;
- (3) Failure to include the appropriate stock number or item code, facility type code, and other required data applicable to each accountable item listed; or
- (4) Missing or improper funding citation.

b. In Washington Headquarters, the CO should return a deficient PR package by memorandum, signed by a Contracts Division branch manager, to the approver of the requisition. The memorandum should include a brief explanation of deficiencies.

c. In Service Areas, Regions and Centers, COs should return PR packages in accordance with local procedures.

B Clauses

[view contract clauses](#)

C Forms Revised 7/2007

[view procurement forms](#)

Procurement Guidance - (~~7/10/2015~~)Redline 10/1/15 (A.4)

T3.8.2 Service Contracting Revised 10/2008

A Service Contracting

- 1 General Requirements Revised 4/2006
- 2 Contractor Versus Government Performance Revised 4/2006
- 3 Inherently Governmental and Critical Functions Revised 4/2013
- 4 Support Services Contracting Revised 7/2015
- 5 Personal Services Revised 9/2006
- 6 Advisory and Assistance Services Revised 4/2006
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- 14 Other Requirements for Service Contracting Added 4/2006
- 15 Uncompensated Overtime Added 4/2006
- 16 Performance-Based Acquisition Added 4/2006
- 17 Services Crossing Fiscal Years Added 4/2006
- 18 Architect-Engineer Services Revised 7/2013

B Clauses

C Forms Revised 4/2006

T3.8.2 Service Contracting Revised 10/2008

A Service Contracting

1 General Requirements Revised 4/2006

a. A service contract directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. Services may be either nonpersonal or personal, and may be performed by professional or nonprofessional personnel on an individual or organizational basis.

b. When planning, acquiring, and managing services, the service team should:

- (1) Clearly define needs, outputs, objectives, or problems to be solved;
- (2) Ensure Federal employees retain inherently Governmental functions;
- (3) Avoid personal services relationships, unless approved in advance; (4)
Follow ethics requirements and protect against conflicts of interest; (5)
Adequately monitor contractor performance; and
- (6) Appropriately document the basis for decisions.

2 Contractor Versus Government Performance Revised 4/2006

a. Government-wide policy is to rely on the private sector for commercial services, if certain criteria are met, consistent with Office of Management and Budget (OMB) Circular No. A-76, (Revised), "Performance of Commercial Activities," and the Supplement to Circular No. A-76. This Circular requires agencies to:

- (1) Identify activities performed by Federal employees as either commercial or inherently Governmental;
- (2) Perform inherently Governmental activities with Federal employees; and
- (3) Use a cost competition between the private sector and Federal employees to determine if Federal employees should perform a commercial activity.

b. When a Federal Activities Inventory Reform (FAIR) Act inventory identifies an in-house function as commercial in nature and suitable for public-private competition, the Contracting Officer should refer to OMB Circular A-76 and the Supplement for guidance. (See AMS Procurement Guidance T3.2.1.3 "Implementing OMB Circular No. A-76" for AMS-specific guidance on conducting A-76 competitions).

3 Inherently Governmental and Critical Functions Revised 4/2013

a. *Inherently Governmental Functions.*

(1) The FAA cannot contract for inherently Governmental functions. Inherently Governmental functions are those activities so closely related to the public interest that only Federal employees can perform the functions. These functions include activities that require either use of discretion in applying Government authority, or use of value judgments in making decisions for the Government. Governmental functions normally fall into two categories:

(a) The act of governing, which requires discretionary use of Government authority; or

(b) Decisions affecting monetary transactions and entitlements.

(2) The following functions are considered inherently Governmental (this list is not all inclusive):

(a) Determining FAA program priorities and budget requests;

(b) Conducting monetary transactions or entitlements;

(c) Interpreting and executing laws that will bind FAA to take or not take some action by contract, policy, regulation, authorization, or order;

(d) Determining FAA policy;

(e) Exercising ultimate control over acquisition, use, or disposal of FAA's property, including collecting, controlling, or disbursing funds, and on what terms;

(f) Determining budget policy, guidance and strategy;

(g) Directing and controlling Federal employees;

(h) Selecting or non-selecting individuals for Federal employment (including interviewing for employment)

(i) Approving position descriptions and performance standards for Federal employees;

(j) Determining and defining supplies or services to be acquired by FAA (the contractor may not identify its own work requirements, or write its own statement of work or task assignments);

(k) Approving contractual documents, such as those documents defining requirements, incentive plans, and evaluation criteria;

(l) Awarding, administering, and terminating contracts (including functions delegated to a Contracting Officer's Representative);

(m) Determining whether contract costs are reasonable, allocable, and allowable; (n)

Drafting Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, General Accountability Office, or other Federal audit entity;

(o) Approving FAA responses to Freedom of Information Act (FOIA) requests (other than routine responses that do not require the exercise of judgment whether documents are released or withheld), and approving FAA responses to the administrative appeals of denials of FOIA requests;

(p) Approving FAA licensing actions and inspections; and

(q) Performing adjudicatory functions (other than those relating to arbitration or other methods of alternative dispute resolution).

(3) Effort under contracts requiring advice, recommendations, reports, analyses, or other similar work is considered effort closely associated with performing inherently Governmental functions. Such closely associated effort could influence the authority, accountability, and responsibilities of FAA officials. These contracts require active monitoring and administration to ensure contractors do not perform inherently Governmental functions and Federal employees properly exercise their authority.

(4) Prior to issuing a screening information request (SIR) or contract for services, the CO must determine whether the services are inherently Governmental functions. b. *Critical Functions*.

(1) "Critical functions" are functions necessary for an agency to effectively perform and maintain control of its mission and operations. These functions are typically recurring and long-term.

(2) Examples of critical FAA functions include (this list is not all-inclusive):

- Aviation safety;
- Air traffic operations;
- FAA information systems; and

- Security and hazardous material safety

(3) Before issuing a SIR or contract for services, the CO and program official should determine if the procurement is in support of a critical FAA function. Where a critical FAA function is not inherently Governmental, both FAA and contractor employees may support the function.

(4) The CO and program official should use informed judgment when determining whether the services support a critical FAA function. In making this determination, the overall importance of the function to FAA's mission and operations should be considered. The more important the function, the more important it is that FAA have the internal capability to maintain control of its mission and operations. Sufficient internal capability generally requires that FAA have an adequate number of Federal employees having the necessary expertise to oversee any contractors supporting the critical function, and perform the needed work without adverse impact in the event of contractor default. The CO and program official must monitor the contractor performance supporting a critical FAA function during contract performance.

c. *Reporting.* COs will indicate in PRISM at the beginning of the "Inherently Governmental Functions" field whether the services are closely associated with inherently governmental functions, supporting critical functions, or a combination of closely associated with inherently governmental functions and supporting critical functions. If none of these, the services will be indicated as "other functions." If not a services contract, NA (Not Applicable) will be indicated.

4 Support Services Contracting Revised 7/2015

a. *Description.* Support services contracts require contractor personnel with specific expertise, knowledge, skill, or experience to help implement or improve the FAA's systems, programs, functions, or goals. Although not a comprehensive description, support services include:

Technical, engineering, and scientific expertise, advice, analysis, studies, or reports in areas such as: information technology design, programming, networking, installation, operation, data management, and customer support; definition and design of systems, equipment, software and facilities; system engineering; requirements management and specification development; modeling and simulation; risk analysis and management; cost estimating; human factors engineering; information security; testing and operational evaluation; logistics support analysis; technical writing; and expertise and analysis on the effectiveness, efficiency, or economy of technical operations of equipment, systems, services, or procedures.

Professional, management, and administrative expertise, advice, analysis, studies, or reports in areas such as: program management, execution, and control; procurement management; employee training and development; payroll and finance administration; budget formulation and execution; cost and benefit analysis; economic and

regulatory analysis; environmental analysis; management and organizational evaluation; staffing, workload and workflow analysis; conferences, seminars, and meetings; public events and writing; and expertise and analysis on the effectiveness, efficiency, or economy of management and general administrative operations and procedures.

Note: Consistent with the definition of a service contract under “General Requirements” above, support services do not include contracts for leasing facilities or equipment, subscription services, commercial licensing agreements, or anything else furnishing an end item of supply rather than performing an identifiable task. Additionally, services subject to the Service Contract Act (e.g., janitorial, grounds maintenance, guard services, mail delivery, etc.) are not support services. Also excluded are services for direct support of FAA operations (e.g., telecommunications, flight services, satellite services, utilities, etc.).

b. *Analysis and Rationale.* The entire service team (Contracting Officer (CO), Contracting Officer’s Representative (COR), attorney, and program official) should ensure:

- (1) There is a good business case, considering need, benefit, cost, and alternatives, for acquiring support services;
- (2) Support services do not overlap or duplicate services being acquired elsewhere in FAA;
- (3) There is a solid, well-documented rationale for selecting the contractor; and
- (4) The FAA has the expertise to monitor the contractor’s performance.

c. *Acquisition Strategy Review Board (ASRB).* Support services expected to have a total estimated value greater than \$5 million require the review and approval process specified in the Acquisition Strategy Review Board (ASRB) Standard Operating Procedure. The ASRB Standard Operating Procedure is located at the Acquisition & Contracting (AAQ) KSN site (FAA only). ~~The ASRB process does not apply to support services to be awarded by AAQ-700.~~

d. *T&M/LH.* When support services are obtained on a time and materials or labor hour basis, the CO and program official/COR should ensure:

- (1) The statement of work clearly defines expected outputs or objectives;
- (2) The contract or task includes only those labor categories necessary to achieve required outputs, and the basis for selecting the labor categories is documented in the contract file;
- (3) The contract identifies specific education, experience, and other appropriate requirements for each labor category;

(4) The solicitation requires the offeror to propose specific personnel for the labor categories, and to provide a resume for each proposed person. The solicitation may include a provision for submitting resumes within a reasonable time after contract award, subject to CO's approval of each proposed person. The provision should specify any costs incurred before approval of resumes may be disallowed if the CO determines a person's qualifications do not meet the terms and conditions of the contract;

(5) The source evaluation team reviews the offeror's proposed personnel to ensure that each person meets the position requirements for the labor category. For offerors allowed to submit resumes after award, the CO and program official/COR review resumes to ensure proposed personnel meet position requirements;

(6) Review of contractor's invoices includes a comparison of labor categories, rates and hours charged to the contract with the work actually performed;

(7) The contractor submits employee resumes and obtains CO's approval of any personnel changes after contract award, and the contract file is documented with CO's approval of the personnel changes; and

(8) Periodic spot checks of contractor employee's qualifications against contractually-specified qualifications.

e. *Additional Procedures.* Support services obtained through a multiple award schedule or program, e.g., eFAST, must follow all additional required procedures, such as competing task orders or comparing rates and capabilities among multiple sources.

f. *Invoices.* The CO must review and approve all invoices submitted under a service contract. This excludes invoices provided under the purchase card program.

g. *Ceiling.* A contract ceiling established at the time of initial award must have a documented relationship to the amount of work expected to be performed. This applies to contract types in which ceilings are required, i.e., time and materials.

h. *Determining Final Content.* Government personnel, and not contractors who will perform the work, must always determine the final results of market surveys and prepare the final content of statements of work and independent Government cost estimates.

i. *Conflict of Interest.* An apparent or actual conflict of interest must be avoided. Support services solicitations and new contracts with a total value of \$10,000 or more, and modifications of \$1,000,000 or more to existing support services contracts, must include AMS clause 3.1.7-6 "Disclosure of Certain Employee Relationships." The CO must notify legal counsel when the contractor discloses a former FAA employee or relative of a current FAA employee working under the contract, and when the CO has reason to believe the contractor has made an incomplete or improper disclosure. The CO collects facts surrounding each contractor disclosure and, with legal

counsel, assesses the information to determine whether an apparent or actual conflict of interest exists. Depending on the assessment, the CO may require the contractor to provide and implement a plan to avoid, neutralize, or mitigate a conflict of interest involving its employee(s). The CO documents this assessment and any actions taken.

j. *Contractor Identification.* Contractors providing support services for FAA, as defined in this Section, must identify themselves as supporting an FAA office or program when there is any reasonable question regarding their status. This identification must be in all forms of support-related communication including meetings and teleconferences, individual phone calls, and email. For example, in meetings where everyone is introducing themselves or when making or receiving calls through the FAA telephone system, such contractors must identify themselves as contract support. At meetings where there is a “sign-in” sheet or similar roster, contractors must identify themselves as contract support. Similarly, the signature block of support contractor personnel using the FAA email system (in addition to the “ctr” in the email address) must identify the individual as a support contractor. Such identification will reduce the potential for appearances of an employer-employee relationship between FAA and its contract support personnel. FAA program managers, CORs, and contracting personnel are responsible for ensuring compliance with this requirement as part of the administration of individual support contracts.

5 Personal Services Revised 9/2006

a. *Employee/Employer Relationship.* A personal service contract is a contract that, by its express terms, or *as administered*, establishes what is tantamount to an employer-employee relationship between the FAA and the contractor’s personnel. Such a relationship is created when an FAA employee exercises relatively continuous supervision and control over one or more contractor employees.

b. *Supervision.* Supervision includes directing or assigning work to specific contractor employees; directing that a contractor employee be hired, fired, promoted, rewarded, transferred or granted leave, or exercising control over how specific contractor employees perform their job. Any one of these elements might create an employer-employee relationship and therefore a personal services contract. In addition, if the nature of the work or ability of the contractor employee(s) is such that they do not require or receive much supervision, but a FAA employee provides what supervision the contractor employee receives, then the contract is for personal services.

c. *Warning Signs.* Possible warning signs of when supervision might be present include: performance of the work in FAA furnished offices or property; principal tools and equipment are furnished by the FAA; the services are applied directly to the integral efforts of the FAA, or an organizational subpart in furtherance of that organization’s assigned function or the FAA mission; comparable services are performed in FAA or other agencies using Government employees; and the need for the service provided can reasonably be expected to last beyond one year. The presence (or absence) of one or even all of these factors in a particular contract does not necessarily determine whether a contract is for, or being administered as, a personal services contract. Instead the presence of these factors indicates that the contract as written or administered, must be particularly carefully

scrutinized to assure that FAA employees are not supervising contractor employees, and thus creating a personal services contract.

d. *Monitoring/Technical Direction.* Simple monitoring of a contractor's performance, providing technical direction, issuing task orders, or providing comments on the contractors' work, in accordance with the contract's terms, do not in themselves create a personal services contract. Performing any of these functions in a manner not provided for by the contract, however, could create a personal services contract as well as expose the FAA to additional liability.

e. *Determination.* The FAA may award personal services contracts when the vice president of the relevant service organization (for ATO contracts) or head of the line of business (for non- ATO contracts) determines that a personal service contract is in the best interest of the agency after thorough evaluation which includes, but is not limited to the following factors:

- (1) Federal and state income tax requirements;
- (2) Workmen's compensation, social security and related implications;
- (3) The FAA's potential liability for services performed;
- (4) The availability of temporary hires to perform the desired services;
- (5) Demonstration of tangible benefits to the agency;
- (6) A detailed cost comparison demonstrating a financial advantage to the FAA from such contract;
- (7) Potential post employment restrictions applicable to former employees; and
- (8) A legal determination that the work to be performed is not inherently governmental. The required determination is non-delegable and must be reviewed for legal sufficiency by the Office of the Chief Counsel. Additionally, the vice president (for ATO) or head of the line of business (for non-ATO) must provide a copy of each approved determination to the Acquisition Executive.

f. *Benefits to the FAA.* Although personal services contracts are permitted, they should be used only when there is a clear demonstrated financial and program benefit to the FAA. Therefore, this authority should be conservatively applied.

g. *Personnel Involvement.* Prior to entering into a personal service contract, the Contracting Officer should make arrangements with the appropriate personnel office concerning federal, state, and other tax withholding requirements.

6 Advisory and Assistance Services Revised 4/2006

- a. Advisory and assistance are services provided under contract by nongovernmental sources to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of managerial or hardware systems. Advisory and assistance contracts provide outside points of view from individuals with special skills or knowledge from industry, universities or research foundations. The use of these services helps to prevent too-limited judgments on critical issues, facilitating alternative solutions to complex issues. Examples of advisory and assistance functions include studies, analyses and evaluations; and management and professional support (including consultants, experts and advisors).
- b. Before awarding an advisory and assistance contract, the Contracting Officer should consult with legal counsel about any funding restrictions that may apply to the procurement.

7 Temporary Services Revised 4/2006

The FAA may obtain temporary services from private agencies, or may contract directly with individuals, for up to 240 work days during any 24 month period subject to the following:

- a. The guidelines concerning personal service contracts must be met (see "Personal Services Contracts," above). For example, when obtaining secretarial services on a temporary basis, FAA personnel may not recruit, test, select, reassign, reward, grant leave to, approve time cards, discipline, or separate a temporary help service employee. The contractor is responsible for taking such actions, because it is the employer.
- b. Temporary service contracts are appropriate to fulfill a critical need, where use of a temporary appointment (up to one year) or a term appointment (one to four years) is not appropriate or feasible. However, temporary service contracts should not be used to circumvent controls on employment levels. For example, the FAA may not use temporary help services merely because hiring is frozen or ceiling levels are insufficient.
- c. Temporary service contracts may not be used in lieu of appointing a surplus or displaced Federal employee as required by the President's memorandum of September 12, 1995, titled "Career Transition Assistance for Federal Employees."

8 Concession Contracts Added 4/2006

- a. A concession contract is a specialized contractual agreement between FAA and a contractor (the concessionaire). These contracts are normally used when the FAA requires a service to be performed, the concessionaire performs the service and collects funds from third parties, and the FAA provides significant support, such as facilities. Concession contracts may require the concessionaire to pay the FAA. Examples of concession contracts include food service and day care centers.
- b. *General Requirements.* Each concession contract is unique and tailored to the specific situation. Concession contracts need not include the clauses normally required by the FAA.

However, the contract must clearly define the rights and responsibilities of the parties. Among the issues that the Contracting Officer must consider:

- (1) What facilities or services will FAA provide to the concessionaire?
- (2) Will the facility be provided at no cost, or will the concessionaire be required to pay a use fee?
- (3) Are other payments to FAA required, and if so, how will they be calculated?
- (4) How will the quality of service be evaluated, and what types of corrective actions may be initiated by FAA for inadequate performance?
- (5) What liabilities will be assumed by each party?
- (6) What labor and/or compensation standards are to be established for concessionaire employees?
- (7) What are the parties' responsibilities for property maintenance, repair and replacement?
- (8) What insurance requirements are advisable?
- (9) Are there public safety and health considerations which must be addressed?
- (10) What termination rights should be included?
- (11) What provisions for changes should be included?
- (12) Is the work to be performed in spaces which subject the concessionaire to FAA policies?
- (13) What services will the FAA require the concessionaire to provide (e.g., hours of operation, full service cafeteria, etc.).
- (14) Will there be any restrictions on who is allowed to use the services? For example, federal laws require 50 percent of children in child care facilities located on federal facilities to be dependents of federal employees. In the case of fitness centers, will membership be limited to federal employees only?
- (15) Will any FAA-furnished property be provided, and if so, how will it be accounted for?
- (16) Are there any licensing requirements which must be met?

(17) Are there any limitations on the types of service or products that may be sold under the concession contract? For example, cafeterias are prohibited from competing with snack bars being operated under the Randolph-Sheppard Act for items such as pre-packaged goods (candy bars, canned soda, individual packages of potato chips, etc.). Vending services are prohibited from selling or distributing tobacco products on federal property.

9 Cafeteria/Vending Services Added 4/2006

Blind vendors licensed by State licensing agencies designated by the Secretary of Education under the provisions of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) must be given priority in the location and operation of cafeterias and vending facilities, including vending machines on property owned, leased, or otherwise acquired or controlled by the FAA, provided the location or operation of such facility would not adversely affect the interests of the United States. Additional guidance on implementation of this law is at 34 C.F.R. Part 395 and AMS Procurement Guidance T3.8.4 "Required Sources of Products/Services."

10 Child Care Services Added 4/2006

Child care services include child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. These contracts must include requirements for criminal history background checks on employees who will perform child care services (42 U.S.C. 13041), any special state requirements (such as cleanliness requirements), and security/screening requirements for anyone (including janitors and repairmen) that comes in contact with children.

11 Nonpersonal Health Care Services Added 4/2006

For nonpersonal health care contracts with physicians, dentists and other health care providers, the Contracting Officer should require the contractor to obtain and maintain appropriate levels of malpractice insurance and include similar provisions in its subcontracts with other providers. See AMS clause 3.8.2-15, "Indemnification and Medical Liability Insurance."

12 Guard Services Revised 4/2011

The FAA may contract for guard services. Typical requirements for guard services include, but are not limited to: U.S. citizenship, minimum age of 21, high school diploma or equivalent, firearm training, testing and certification, and other additional technical training specified in the contract scope of work. Each guard must complete the following so that a NACI background investigation can be completed by the Office of Personnel Management:

- a. OMB I-9, Eligibility Verification;

- b. DOT 1681, ID Card/Credential Application;
- c. SF-85, Questionnaire for Low Risk Positions;
- d. OF-306, Declaration for Federal Employment; and
- e. Fingerprint Cards.

13 Contractor-Assisted Maintenance of the NAS Revised 10/2008

Contractor assistance may be used to augment FAA's workforce for maintenance and maintenance and restoration of National Airspace System (NAS) equipment, sub-systems, and systems to accomplish the mission of the NAS. Contractor maintenance support includes all maintenance performed by non-Federal personnel. Maintenance includes, but is not limited to, evaluating equipment and system operation, and evaluating documentation such as facilities logs, data files, technical performance records, and administrative and logistics support. Considerations for contracts for non-Federal personnel for maintenance and restoration of the NAS systems are:

- a. All maintenance performed by contractors on NAS equipment must conform to FAA order 6000.15 "General Maintenance Handbook for National Airspace System (NAS) Facilities," system/sub-systems/equipment technical manuals, and all appropriate FAA directives.
- b. Contractor personnel who perform maintenance activities on NAS equipment must have at a minimum the same level of knowledge, skills, and abilities required of FAA personnel maintaining the same or similar equipment, sub-systems, or systems. The contractor must provide and maintain the necessary documentation to support its level of knowledge, skill and ability.
- c. Certified pre-employment drug testing is mandatory for all contractor personnel before performing work for FAA. Contractor personnel maintaining any part of the NAS must be subject to random drug and alcohol testing according to DOT 3910.1 "Drug and Alcohol-Free Departmental Workplace."
- d. Contractor personnel must meet FAA security requirements. Contractor personnel are subject to background investigations and technical inspections at the same level as performed for FAA personnel who are providing maintenance support of the NAS systems.
- e. Contracts for maintenance support of the NAS systems are subject to union coordination according to current union contracts, applicable orders, rules, regulations, and any established national and local Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA).

f. Contract limitations on NAS equipment/systems must not exceed the following guidance:

- (1) For a period not to exceed two years during which FAA workforce training and/or support requirements are being satisfied.
- (2) For a period not to exceed two years during which sufficient FAA employees are recruited and trained to assume full maintenance.
- (3) For an extended period not to exceed five years when it is determined to be in the best interest of the Government.

g. Contract for maintenance support are excluded from this guidance if they fall within the follow area:

- (1) Local or regional contracts not providing periodic or on-call maintenance for equipment that is an integral part of the NAS reportable facility or service. Examples of exclusions include janitorial, tower maintenance, and buildings and grounds.
- (2) Contracts for systems that are in the precommissioned status, even though the testing may consist of periods of operational use
- (3) Contracts that have a duration of less than one year and do not relate to restoration/maintenance of critical NAS equipment, e.g., radar and air traffic control frequencies.
- (4) Contracts issued for telephone or other services, e.g., computer repair.
- (5) Contracts maintained by the FAA Logistics Center such as exchange and repair.

14 Other Requirements for Service Contracting Added 4/2006

a. *Conflict of Interest and Ethics Requirements.* As applicable, solicitations and contracts must include conflict of interest and ethics-related provisions consistent with AMS policy 3.1.5 - 3.1.7.

b. *Key Personnel.* Solicitations and contracts should include AMS clause 3.8.2-17 “Key Personnel and Facilities,” or a similar clause, to list named individuals who are considered key for successful performance of a contract. The Contracting Officer must approve substitution of any key personnel.

c. *Labor Standards.* The Contracting Officer should include applicable labor standards, such as the Service Contract Act or Davis-Bacon Act, in solicitations and contracts when appropriate. (See AMS Procurement Guidance T.3.6.2 “Labor Laws” for additional guidance for determining when such provisions are appropriate).

d. *Security Requirements* The service team must take appropriate actions to protect the Government's interest when contractor employees, subcontractors, or consultants may have access to FAA facilities, classified information, sensitive information, or resources. (See AMS Procurement Guidance T3.14.1 "Security" for additional guidance on security requirements for contractor personnel).

e. *Insurance Requirements* The contract should require the contractor to obtain appropriate levels of insurance coverage. Some situations may require special types of coverage to address higher risks, such as those for research or health care that involve personal risk where higher than normal insurance premiums are inherent in the requirement.

f. *State and Local Requirements.* Contracts may include state or local requirements, provided that the FAA does not waive its sovereign immunity. The Contracting Officer should consult with legal counsel about the potential effect of any state or local requirements.

15 Uncompensated Overtime Added 4/2006

a. Contractor's use of uncompensated overtime is not encouraged.

b. When professional or technical services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed, the solicitation must require offerors to identify in their proposals and subcontractor proposals:

(1) Uncompensated overtime hours; and

(2) Uncompensated overtime rate for direct charge, Fair Labor Standards Act--exempt personnel (such as executive, professional, and administrative employees). This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

c. The Contracting Officer must ensure that use of uncompensated overtime on the basis of the number of hours provided will not degrade the level of technical expertise required to fulfill the Government's requirements. The Contracting Officer must conduct a risk assessment and evaluate, for award on that basis, any proposals that reflect factors such as: unrealistically low labor rates or other costs that may result in quality or service shortfalls, and unbalanced distribution of uncompensated overtime among skill levels and its use in key technical positions.

16 Performance-Based Acquisition Added 4/2006

a. *Performance-Based Acquisition (PBA).* Performance-based acquisition is a method of structuring all aspects of an acquisition around the purpose of the work to be performed. The contract requirements are described in clear, specific, and objective terms with measurable outcomes, as opposed to describing either the manner by which the work is to be performed or broad and

imprecise statements of work. It is the preferred method for describing work in service contracts and should be used when appropriate. PBA typically includes:

- (1) Performance requirements that define work in measurable, mission-related terms where the accomplishment of the effort is measurable;
- (2) Performance standards (i.e., quality, quantity, and timeliness) tied to the performance requirements;
- (3) A Government quality assurance (QA) plan that describes how the contractor's performance will be measured against the performance standards;
- (4) If the acquisition is either critical to agency mission accomplishment or requires relatively large expenditures of funds, positive and negative incentives tied to the government QA plan measurements.

b. *Statements of Work.* When preparing statements of work, the service team should, to the maximum extent practicable:

- (1) Describe the work in terms of "what" is to be the required output rather than either "how" the work is to be accomplished or the number of hours to be provided;
- (2) Establish minimum position requirements but avoid explicit qualification descriptions of personnel (i.e. years' experience, degree(s), certification(s), etc.), with the exception of "key" personnel. If "key" personnel and qualification descriptions are included in a contract, administration of the contract must be in accordance with Headquarters Contracting Divisions' Standard Operating Procedure (SOP) – "Ensuring Compliance with Contractor Personnel Qualifications Requirements" (FAA only), or, if applicable, Region/Center procedures.
- (3) Enable assessment of work performance against measurable performance standards;
- (4) Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work; and
- (5) Avoid combining requirements into a single acquisition that is too broad for the FAA or a prospective contractor to manage effectively.

c. *PBA Resource Information* The Office of Federal Procurement Policy's "Seven Steps to PBA" guide is available online and provides detailed information, examples, and other links for PBA.

d. *Service Team Responsibility.* Service teams should consider PBA as the preferred method to obtain services, if appropriate, and should consider the feasibility of converting existing contracts and tasks to performance-based acquisitions, if appropriate.

17 Services Crossing Fiscal Years **Added 4/2006**

a. *Services Funded with Annual Appropriations.* When the period of a contract, option, or order does not exceed one year, severable services funded by annual appropriations may begin in one fiscal year and end in the next fiscal year.

b. *Training Services Crossing Fiscal Years.*

(1) *Determining Nonseverability.* In certain instances, training courses may be treated as nonseverable services that permit current fiscal year funds to be used for training occurring in the next fiscal year. When the training obligation is incurred and performance begins in one fiscal year, the entire cost may be charged to that year even though performance extends into the following year. However, if performance does not begin in the fiscal year in which the obligation was made (i.e., execution of the contract), the Contracting Officer should use the following criteria to determine nonseverability and document the determination in writing:

(a) A valid need for training exists in the current fiscal year;

(b) The need cannot be met during the current fiscal year due to circumstances beyond the agency's control; and

(c) The time period between procurement of the services and performance of the services is not excessive.

(2) *Justifying the Time Lapse.* The Contracting Officer should evaluate whether the time period is not excessive under (1)(a) above on a case by case basis using the specific factors that support the determination. The Comptroller General has determined that a two week lapse of time between the procurement of the services and the date performance began was not excessive where the need for the training arose six months earlier, but the vendor controlled the scheduling of the training class which was not available until the following fiscal year.

18 Architect-Engineer Services **Revised 7/2013**

a. *Description.* Architect-Engineer (A-E) services include:

(1) Professional services of an architectural or engineering nature, as defined by applicable State law, which are required to be performed or approved by a person licensed, registered, or certified to provide such services.

(2) Professional services of an architectural or engineering nature performed by contract that are associated with:

- (a) Research;
- (b) Planning;
- (c) Development;
- (d) Design
- (e) Construction;
- (f) Alteration;
- (g) Repair or improvement of real property.

(3) Other professional services of an architectural or engineering nature, and incidental services commonly performed by members of the architectural and engineering professions (and individuals in their employ), including:

- (a) Studies;
- (b) Investigations;
- (c) Surveying and mapping;
- (d) Tests;
- (e) Evaluations;
- (f) Consultations;
- (g) Comprehensive planning;
- (h) Program management;
- (i) Conceptual designs;
- (j) Plans and specifications;
- (k) Value engineering;
- (l) Construction phase services;
- (m) Soils engineering;

- (n) Drawing reviews;
- (o) Preparation of operating and maintenance manuals; and
- (p) Other related services.

b. General.

(1) The statement of work (SOW) for a design contract must require the architect- engineer, when preparing the construction design specifications or other deliverables, to specify compliance with applicable environmental or conservation standards pursuant to AMS Procurement Guidance T3.6.3. These standards include:

- (a) Pollution control, clean air and water;
- (b) Energy and water conservation and efficiency;
- (c) Hazardous material identification and material safety data;
- (d) Use of recovered recycled materials;
- (e) Radioactive material;
- (f) Environmentally Preferable and Energy-Efficient Products and Services;
- (g) Ozone depleting substances;
- (h) Toxic chemical release; and
- (i) Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings

(2) No construction contract may be awarded to the firm that designed the project, unless the project is being solicited and awarded as a design-build.

(3) The SIR should detail the format of the designs and deliverables to be submitted to the FAA; however the SIR should not preclude the firm from proposing use of modern design methods.

(4) Any information deemed Sensitive Unclassified Information (SUI) must be handled, released, or distributed per guidelines established in AMS Procurement Guidance T3.14.1 and FAA Order 1600.75.

c. Evaluation Criteria.

(1) The FAA should evaluate offers for A-E services using appropriate criteria. Examples of evaluation criteria that could typically apply to A-E services include:

- (a) Professional qualifications of the A-E firm;
- (b) Specialized experience and technical competence in the type of work required;
- (c) Ability to perform the services in a timely manner;
- (d) Past performance on contracts of a similar scope and complexity, including cost control, quality of work, and compliance with schedules;
- (e) Geographical location and knowledge of the project location, if warranted by the nature and size of the project; and
- (f) Other criteria as needed.

(2) The FAA may conduct design competitions where firms are evaluated based on their conceptual design for a project. Design competitions may be appropriate when:

- (a) Unique situations, such as memorials or structures of unusual national significance, are present;
- (b) Sufficient time is available to submit and evaluate conceptual drawings; and
- (c) Design competition will substantially benefit the project and FAA.

d. Evaluation Boards.

(1) If appropriate, FAA may use ad hoc or standing A-E evaluation boards to assess A-E proposals. Duties of these boards may include:

- (a) Review of design packages or proposals;
- (b) Evaluation of offerors according to factors established in the SIR;
- (c) Holding discussions as necessary; and
- (d) Preparing a source selection report.

(2) Evaluation boards should include members specializing in architecture, engineering, construction, and acquisition. Non-Government advisors may serve on these boards.

(3) An offeror cannot be eligible for award while any of its principals or associates are members of the evaluation board.

e. Liability.

(1) A-E contractors must be responsible for the professional quality, technical accuracy, and coordination of all services required under their respective contracts.

(2) A-E firms may be liable to the Government for costs resulting from errors or deficiencies in designs furnished under contract. In coordination with technical personnel and legal counsel, the CO must consider the extent to which the A-E contractor may be reasonably liable when modifying a construction contract due to errors or deficiencies in design provided under contract.

(3) After considering the FAA's best interest and all reasonable costs involved in recovery efforts, the CO must include in the contract file a written statement of the basis for the decision to recover or not to recover any costs from an A-E contractor that resulted from errors or deficiencies.

B Clauses

[view contract clauses](#)

C Forms Revised 4/2006

[view procurement forms](#)