

## **Authority For The Federal Aviation Administration Acquisition Management System—April 1, 1996**

### **Introduction**

I am inherently and expressly authorized to acquire goods, services, and property needed to carry out my aviation safety duties and powers. All of the Federal Aviation Administration's (FAA) acquisitions are in furtherance of these responsibilities. On October 31, 1995, Congress passed an act, *Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Act)*. On November 15, 1995, the President signed this bill into law (Public Law 104-50). In Section 348 of this law, Congress directed me to develop and implement a new acquisition management system that addresses the unique needs of the agency. At a minimum, this system is to provide for more timely and cost-effective acquisitions. By signing this document, I am making effective FAA's new acquisition management system.

### **Statutory Exemptions**

Under Section 348, I was instructed by Congress to develop and implement a new acquisition management system for FAA "notwithstanding provisions of Federal acquisition law." Congress added that the following provisions of acquisition law "shall not apply" to this new acquisition management system:

1. Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252-266);
2. Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.);
3. Federal Acquisition Streamlining Act of 1994 (Public Law 103-355);



4. Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;
5. Competition in Contracting Act;
6. Subchapter V of Chapter 35 of Title 31, relating to the procurement protest system;
7. Brooks Automatic Data Processing Act (40 U.S.C. 759); and
8. Federal Acquisition Regulation and any laws not listed in (1) through (7) above, providing authority to promulgate regulations in the Federal Acquisition Regulation.

Although the combination of these provisions in Section 348 exempts the new acquisition management system from all acquisition laws, FAA has the discretion to adopt the substance of portions of acquisition law into its system as FAA deems appropriate. Unless stated specifically otherwise in this document or in legislation subsequently enacted, no acquisition statute or regulation shall apply to FAA acquisitions. The parties will, however, remain bound to the terms of any contract existing on this date unless the contract is modified by agreement of the parties or in accordance with existing contract terms.

### **Legal Effect Of This Document**

This document brings FAA's new acquisition system into effect and establishes the policies, guiding principles, and internal procedures for FAA's new acquisition system. Nothing in this document creates or conveys any substantive rights.



### **Modification of This System**

FAA reserves the right to modify, add to, or delete any portion of this acquisition management system, either in whole or in part, as deemed appropriate by the Administrator or his designee. In addition to continuous improvement feedback, three years after implementation there will be an independent assessment of the acquisition management system and changes will be made, as necessary.

### **Pending Cases**

Unless the parties agree otherwise, all acquisition litigation timely filed and pending before forums of competent jurisdiction on or before the effective date, April 1, 1996, of this new acquisition management system may remain under the jurisdiction of that tribunal in accordance with the applicable contract or solicitation provision.



**David R. Hinson**

April 1, 1996

