

CHANGE REQUEST COVER SHEET

Change Request Number: 09-51

Date Received: 3/25/2009

Title: Personal Protective Equipment (PPE)

Name: Jeffrey Baker

Phone: 202-493-5723

Policy OR Guidance: Guidance

Section/Text Location Affected: AMS Procurement Guidance T3.2.2.5

Summary of Change: Addition of standards for the procurement of Personal Protective Equipment (PPE)

Reason for Change: As FAA procures PPE on a regular basis and lacks reference to the Federal standards surrounding its controls and maintenance, T3.2.2.5 is being revised to reference standards published by the Occupational Safety and Health Administration (OSHA).

Development, Review, and/or Concurrence: ARC, AJW, AJA-43, AJA-431, AGC-500

Target Audience: FAA Acquisition Workforce

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1)

Links for New/Modified Forms (or) Documents (LINK 2)

Links for New/Modified Forms (or) Documents (LINK 3)

SECTIONS EDITED:

Procurement Guidance:

T3.2.2.5 - Simplified Purchase Method (Revision 22, March 2009)

Simplified Purchasing

Section 4 : Prohibited and Restricted Purchases [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

SECTIONS EDITED:

Section 4 : Prohibited and Restricted Purchases

Old Content: Procurement Guidance:

T3.2.2.5 - Simplified Purchase Method (Revision 22, March 2009)

Simplified Purchasing

Section 4 : Prohibited and Restricted Purchases

a. This guidance is intended to assist FAA personnel determine whether a particular item or service would be a permissible purchase using appropriated funds. There is no ironclad rule or readily available list that describes in every case whether a particular purchase using appropriated funding is permissible. FAA personnel should use common sense and sound judgment, based on appropriations law and related decisions of the Comptroller General.

b. The Government Accountability Office (GAO) established a "*necessary expense*" doctrine. This doctrine is described fully in Volume I, Third Edition, of "Principles of Federal Appropriations Law," (GAO Red Book) issued by GAO, Office of the General Counsel. This publication states, in part, that for an expenditure to be justified under the necessary expense theory, it must meet certain tests, including: "The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available" (GAO Red Book, Volume I, Chapter 4, Section B.1.)). By projection, the necessary expense doctrine does not allow use of appropriated funds to purchase items or services that can be reasonably interpreted to meet personal convenience and are not for a necessary Governmental function. The CO or cardholder in consultation with budget officials and legal counsel should make determinations in this area about questioned or questionable items or services. Almost any listing of prohibited items of purchase is subject to exceptions. To quote the GAO Red Book "The Comptroller General has never established a precise formula for determining the application of the necessary expense rule. In view of the vast differences among agencies, any formula would almost certainly be unworkable. Rather, the determination must be made essentially on a case-by-case basis."

c. For FAA, the following are prohibited or restricted items of purchase (this is not a complete list):

(1) *Drinking water*, except when:

(a) A duly constituted public health authority pronounces ordinary drinking water to be unsafe for human consumption at the site;

(b) A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;

(c) FAA personnel reasonably foresee a disaster or emergency, such as imminent landfall of a hurricane, and all of the following conditions are present:

(i) FAA personnel reasonably anticipate that drinking water at the site will be unsafe for human consumption;

(ii) The drinking water is for FAA personnel responding to or at the emergency or disaster site;

(iii) The amount of drinking water is commensurate with the anticipated response time at the site or the estimated time for the local drinking water to be considered safe for human consumption, whichever is shorter;

(iv) The drinking water is purchased in a reasonable time-frame in advance of an imminent emergency or disaster, and the time-frame does not exceed the time required to purchase, stage, and properly distribute the drinking water; or

(d) The drinking water is provided in a controlled environment as may be necessary to enable collections for drug use analysis for safety sensitive positions.

(2) *Food and beverage items* for meetings and conventions, except as detailed in AMS Procurement Guidance T3.2.2.5 A.5., FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) *Gifts, including gift cards/certificates or office retirements* (note that authorized office retirement plaques are not gifts and fall under the non-cash award section below).

(4) *Membership fees* for individual employees (FAA may purchase membership in a society or association in its own name).

(5) *Subscriptions to publications or magazines* not relating to official duties.

(6) *Clothing (or personal apparel of any description)*. Special type clothing required by FAA requires written justification from the requestor's supervisor and should be coordinated with legal counsel.

(7) *Rental of aircraft* by persons not in aircraft related positions.

(8) *Fans, air conditioning and cooling equipment, space heaters and heating equipment*, except as properly installed for general use in connection with the maintenance and operations requirements for the site.

(9) *Water coolers, or vacuum cleaners and other household appliances (i.e. refrigerators, microwaves, etc)*, except as requisitioned for general use by the authorities charged with building maintenance and equipment.

(10) *Cellular or communication devices and services* covered by the National Wireless Program Office (NWPO). Devices provided through this program include:

- (a) Cellular Phones;
- (b) One and two-way pager devices;
- (c) Multi-functional server-based devices (e.g. Blackberries); and
- (d) Satellite phones.

d. *Non-Cash Awards.*

(1) When procuring non-cash awards (gifts remain a prohibited item), the requirements in the HRPM, Recognizing Employees, PM-9.2, must be followed. Each office is responsible for maintaining records on all recognition and awards purchased and given. These records must contain the following:

- (a) The justification for granting the award;
- (b) The item(s) purchased;
- (c) The cost of the item(s); and
- (d) The award recipient.

(2) Plaques, trophies, or other types of awards given to employees for high quality work or special projects must not exceed \$75.00. IRS considers merchandise with a value exceeding \$75.00 given to FAA employees taxable.

(3) Reasonable purchases (i.e., decorations and related supplied) used to enhance an awards ceremony and foster public recognition of employees' accomplishments are allowable. This does not apply to food and beverage, which is addressed in AMS Procurement Guidance T3.2.2.5.A.5.

e. *Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services.*

(1) Before purchasing or renting storage units or procuring storage services, a determination must be made that existing storage space is not available from other sources within FAA or elsewhere in Government. Contracting Officers (CO) or cardholders must coordinate storage requirements with a warranted Real Estate Contracting Officer (RECO). This coordination is intended to ensure:

- (a) That no in-house storage capabilities are available; and
 - (b) No real estate or facility factors exist that may affect the procurement, such as applicable real estate regulations or unique site requirements.
- (2) Storage units or services for purposes of this guidance are limited to portable storage units or containers designed for temporary (less than six months) on-site use or temporary storage in a secured centralized storage center owned by the vendor. The storage units or containers must be classified as personal property and not affixed or attached in a permanent means to the land (real property) upon which they may be situated for temporary use. If the portable storage unit or container is to be placed on land owned or leased by FAA, the CO or cardholder must ensure FAA has legally established rights to use the land before staging or storing a third party item of property (storage unit or container) procured under service agreement.
- (3) When possible, storage requirements for a construction project should be incorporated into the Statement of Work (SOW) or specification under the associated construction contract.
- (4) Purchase cards cannot be used:
- (a) For the purchase, rental, or lease of land or buildings;
 - (b) To purchase real property, which is defined as land, buildings, structures or rights over or under the land, or things that are permanently affixed or attached to the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself; and
 - (c) For long-term storage unit rental or services (long-term is defined as six months or more), unless the purchase card is being used as a payment vehicle against a contract or lease signed by a CO/RECO and:
 - (i) The total cost of the rental or purchase of storage services does not exceed the cardholder's delegated authority;
 - (ii) The portable units are not classified as real property (as defined above); and
 - (iii) The terms and conditions of the rental or storage services (i.e. termination authority) are set forth in writing and signed by both parties.

New Content: Procurement Guidance:

T3.2.2.5 - Simplified Purchase Method (Revision 22, March 2009)

Simplified Purchasing

Section 4 : Prohibited and Restricted Purchases

FAST Version 04/2009

CR 09-51

p. 5

a. This guidance is intended to assist FAA personnel determine whether a particular item or service would be a permissible purchase using appropriated funds. There is no ironclad rule or readily available list that describes in every case whether a particular purchase using appropriated funding is permissible. FAA personnel should use common sense and sound judgment, based on appropriations law and related decisions of the Comptroller General.

b. The Government Accountability Office (GAO) established a "*necessary expense*" doctrine. This doctrine is described fully in Volume I, Third Edition, of "Principles of Federal Appropriations Law," (GAO Red Book) issued by GAO, Office of the General Counsel. This publication states, in part, that for an expenditure to be justified under the necessary expense theory, it must meet certain tests, including: "The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available" (GAO Red Book, Volume I, Chapter 4, Section B.1.)). By projection, the necessary expense doctrine does not allow use of appropriated funds to purchase items or services that can be reasonably interpreted to meet personal convenience and are not for a necessary Governmental function. The CO or cardholder in consultation with budget officials and legal counsel should make determinations in this area about questioned or questionable items or services. Almost any listing of prohibited items of purchase is subject to exceptions. To quote the GAO Red Book "The Comptroller General has never established a precise formula for determining the application of the necessary expense rule. In view of the vast differences among agencies, any formula would almost certainly be unworkable. Rather, the determination must be made essentially on a case-by-case basis."

c. For FAA, the following are prohibited or restricted items of purchase (this is not a complete list):

(1) *Drinking water*, except when:

(a) A duly constituted public health authority pronounces ordinary drinking water to be unsafe for human consumption at the site;

(b) A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;

(c) FAA personnel reasonably foresee a disaster or emergency, such as imminent landfall of a hurricane, and all of the following conditions are present:

(i) FAA personnel reasonably anticipate that drinking water at the site will be unsafe for human consumption;

(ii) The drinking water is for FAA personnel responding to or at the emergency or disaster site;

(iii) The amount of drinking water is commensurate with the anticipated response time at the site or the estimated time for the local drinking water to be considered safe for human consumption, whichever is shorter;

(iv) The drinking water is purchased in a reasonable time-frame in advance of an imminent emergency or disaster, and the time-frame does not exceed the time required to purchase, stage, and properly distribute the drinking water; or

(d) The drinking water is provided in a controlled environment as may be necessary to enable collections for drug use analysis for safety sensitive positions.

(2) *Food and beverage items* for meetings and conventions, except as detailed in AMS Procurement Guidance T3.2.2.5 A.5., FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) *Gifts, including gift cards/certificates for office retirements* (note that authorized office retirement plaques are not gifts and fall under the non-cash award section below).

(4) *Membership fees* for individual employees (FAA may purchase membership in a society or association in its own name).

(5) *Subscriptions to publications or magazines* not relating to official duties.

(6) *Clothing (or personal apparel of any description).*

(a) Special type clothing required by FAA requires written justification from the requestor's supervisor and should be coordinated with legal counsel.

(b) Clothing and equipment classified as personal protective equipment (PPE) requires justification from the requestor's supervisor, but does not need coordination with legal counsel when the value of the procurement is below \$100,000. All PPE must:

(i) Have proper controls established to ensure that PPE is appropriate; and

(ii) Be maintained and used in accordance with standards established by the Occupational Safety and Health Administration (OSHA). (More information can be found

at
<http://www.osha.gov/SLTC/personalprotectiveequipment/index.html>)

(7) *Rental of aircraft* by persons not in aircraft related positions.

(8) *Fans, air conditioning and cooling equipment, space heaters and heating equipment*, except as properly installed for general use in connection with the maintenance and operations requirements for the site.

(9) *Water coolers, or vacuum cleaners and other household appliances (i.e. refrigerators, microwaves, etc)*, except as requisitioned for general use by the authorities charged with building maintenance and equipment.

(10) *Cellular or communication devices and services* covered by the National Wireless Program Office (NWPO). Devices provided through this program include:

- (a) Cellular Phones;
- (b) One and two-way pager devices;
- (c) Multi-functional server-based devices (e.g. Blackberries); and
- (d) Satellite phones.

d. *Non-Cash Awards.*

(1) When procuring non-cash awards (gifts remain a prohibited item), the requirements in the HRP, Recognizing Employees, PM-9.2, must be followed. Each office is responsible for maintaining records on all recognition and awards purchased and given. These records must contain the following:

- (a) The justification for granting the award;
- (b) The item(s) purchased;
- (c) The cost of the item(s); and
- (d) The award recipient.

(2) Plaques, trophies, or other types of awards given to employees for high quality work or special projects must not exceed \$75.00. IRS considers merchandise with a value exceeding \$75.00 given to FAA employees taxable.

(3) Reasonable purchases (i.e., decorations and related supplies) used to enhance an awards ceremony and foster public recognition of employees' accomplishments are allowable. This does not apply to food and beverage, which is addressed in AMS Procurement Guidance T3.2.2.5.A.5.

e. Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services.

(1) Before purchasing or renting storage units or procuring storage services, a determination must be made that existing storage space is not available from other sources within FAA or elsewhere in Government. Contracting Officers (CO) or cardholders must coordinate storage requirements with a warranted Real Estate Contracting Officer (RECO). This coordination is intended to ensure:

(a) That no in-house storage capabilities are available; and

(b) No real estate or facility factors exist that may affect the procurement, such as applicable real estate regulations or unique site requirements.

(2) Storage units or services for purposes of this guidance are limited to portable storage units or containers designed for temporary (less than six months) on-site use or temporary storage in a secured centralized storage center owned by the vendor. The storage units or containers must be classified as personal property and not affixed or attached in a permanent means to the land (real property) upon which they may be situated for temporary use. If the portable storage unit or container is to be placed on land owned or leased by FAA, the CO or cardholder must ensure FAA has legally established rights to use the land before staging or storing a third party item of property (storage unit or container) procured under service agreement.

(3) When possible, storage requirements for a construction project should be incorporated into the Statement of Work (SOW) or specification under the associated construction contract.

(4) Purchase cards cannot be used:

(a) For the purchase, rental, or lease of land or buildings;

(b) To purchase real property, which is defined as land, buildings, structures or rights over or under the land, or things that are permanently affixed or attached to the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself; and

(c) For long-term storage unit rental or services (long-term is defined as six months or more), unless the purchase card is being

used as a payment vehicle against a contract or lease signed by a CO/RECO and:

- (i) The total cost of the rental or purchase of storage services does not exceed the cardholder's delegated authority;
- (ii) The portable units are not classified as real property (as defined above); and
- (iii) The terms and conditions of the rental or storage services (i.e. termination authority) are set forth in writing and signed by both parties.

Red Line Content: Procurement Guidance:

T3.2.2.5 - Simplified Purchase Method (Revision 22, March 2009)

Simplified Purchasing

Section 4 : Prohibited and Restricted Purchases

a. This guidance is intended to assist FAA personnel determine whether a particular item or service would be a permissible purchase using appropriated funds. There is no ironclad rule or readily available list that describes in every case whether a particular purchase using appropriated funding is permissible. FAA personnel should use common sense and sound judgment, based on appropriations law and related decisions of the Comptroller General.

b. The Government Accountability Office (GAO) established a "*necessary expense*" doctrine. This doctrine is described fully in Volume I, Third Edition, of "Principles of Federal Appropriations Law," (GAO Red Book) issued by GAO, Office of the General Counsel. This publication states, in part, that for an expenditure to be justified under the necessary expense theory, it must meet certain tests, including: "The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available" (GAO Red Book, Volume I, Chapter 4, Section B.1.)). By projection, the necessary expense doctrine does not allow use of appropriated funds to purchase items or services that can be reasonably interpreted to meet personal convenience and are not for a necessary Governmental function. The CO or cardholder in consultation with budget officials and legal counsel should make determinations in this area about questioned or questionable items or services. Almost any listing of prohibited items of purchase is subject to exceptions. To quote the GAO Red Book "The Comptroller General has never established a precise formula for determining the application of the necessary expense rule. In view of the vast differences among agencies, any formula would almost certainly be unworkable. Rather, the determination must be made essentially on a case-by-case basis."

c. For FAA, the following are prohibited or restricted items of purchase (this is not a complete list):

(1) *Drinking water*, except when:

- (a) A duly constituted public health authority pronounces ordinary drinking water to be unsafe for human consumption at the site;
- (b) A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;
- (c) FAA personnel reasonably foresee a disaster or emergency, such as imminent landfall of a hurricane, and all of the following conditions are present:
 - (i) FAA personnel reasonably anticipate that drinking water at the site will be unsafe for human consumption;
 - (ii) The drinking water is for FAA personnel responding to or at the emergency or disaster site;
 - (iii) The amount of drinking water is commensurate with the anticipated response time at the site or the estimated time for the local drinking water to be considered safe for human consumption, whichever is shorter;
 - (iv) The drinking water is purchased in a reasonable time-frame in advance of an imminent emergency or disaster, and the time-frame does not exceed the time required to purchase, stage, and properly distribute the drinking water; or
- (d) The drinking water is provided in a controlled environment as may be necessary to enable collections for drug use analysis for safety sensitive positions.

(2) *Food and beverage items* for meetings and conventions, except as detailed in AMS Procurement Guidance T3.2.2.5 A.5., FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) *Gifts, including gift cards/certificates or office retirements* (note that authorized office retirement plaques are not gifts and fall under the non-cash award section below).

(4) *Membership fees* for individual employees (FAA may purchase membership in a society or association in its own name).

(5) *Subscriptions to publications or magazines* not relating to official duties.

(6) *Clothing (or personal apparel of any description).*

(a) Special type clothing required by FAA requires written justification from the requestor's supervisor and should be coordinated with legal counsel.

(b) Clothing and equipment classified as personal protective equipment (PPE) requires justification from the requestor's supervisor, but does not need coordination with legal counsel when the value of the procurement is below \$100,000. All PPE must:

(i) Have proper controls established to ensure that PPE is appropriate; and

(ii) Be maintained and used in accordance with standards established by the Occupational Safety and Health Administration (OSHA). (More information can be found at <http://www.osha.gov/SLTC/personalprotectiveequipment/index.html>)

(7) *Rental of aircraft* by persons not in aircraft related positions.

(8) *Fans, air conditioning and cooling equipment, space heaters and heating equipment*, except as properly installed for general use in connection with the maintenance and operations requirements for the site.

(9) *Water coolers, or vacuum cleaners and other household appliances (i.e. refrigerators, microwaves, etc)*, except as requisitioned for general use by the authorities charged with building maintenance and equipment.

(10) *Cellular or communication devices and services* covered by the National Wireless Program Office (NWPO). Devices provided through this program include:

(a) Cellular Phones;

(b) One and two-way pager devices;

(c) Multi-functional server-based devices (e.g. Blackberries); and

(d) Satellite phones.

d. *Non-Cash Awards.*

(1) When procuring non-cash awards (gifts remain a prohibited item), the requirements in the HRP, Recognizing Employees, PM-9.2, must be followed. Each office is responsible for maintaining records on all recognition and awards purchased and given. These records must contain the following:

- (a) The justification for granting the award;
- (b) The item(s) purchased;
- (c) The cost of the item(s); and
- (d) The award recipient.

(2) Plaques, trophies, or other types of awards given to employees for high quality work or special projects must not exceed \$75.00. IRS considers merchandise with a value exceeding \$75.00 given to FAA employees taxable.

(3) Reasonable purchases (i.e., decorations and related supplied) used to enhance an awards ceremony and foster public recognition of employees' accomplishments are allowable. This does not apply to food and beverage, which is addressed in AMS Procurement Guidance T3.2.2.5.A.5.

e. *Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services.*

(1) Before purchasing or renting storage units or procuring storage services, a determination must be made that existing storage space is not available from other sources within FAA or elsewhere in Government. Contracting Officers (CO) or cardholders must coordinate storage requirements with a warranted Real Estate Contracting Officer (RECO). This coordination is intended to ensure:

- (a) That no in-house storage capabilities are available; and
- (b) No real estate or facility factors exist that may affect the procurement, such as applicable real estate regulations or unique site requirements.

(2) Storage units or services for purposes of this guidance are limited to portable storage units or containers designed for temporary (less than six months) on-site use or temporary storage in a secured centralized storage center owned by the vendor. The storage units or containers must be classified as personal property and not affixed or attached in a permanent means to the land (real property) upon which they may be situated for temporary use. If the portable storage unit or container is to be placed on land owned or leased by FAA, the CO or cardholder must ensure FAA has legally established rights to use the land before staging or

storing a third party item of property (storage unit or container) procured under service agreement.

(3) When possible, storage requirements for a construction project should be incorporated into the Statement of Work (SOW) or specification under the associated construction contract.

(4) Purchase cards cannot be used:

(a) For the purchase, rental, or lease of land or buildings;

(b) To purchase real property, which is defined as land, buildings, structures or rights over or under the land, or things that are permanently affixed or attached to the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself; and

(c) For long-term storage unit rental or services (long-term is defined as six months or more), unless the purchase card is being used as a payment vehicle against a contract or lease signed by a CO/RECO and:

(i) The total cost of the rental or purchase of storage services does not exceed the cardholder's delegated authority;

(ii) The portable units are not classified as real property (as defined above); and

(iii) The terms and conditions of the rental or storage services (i.e. termination authority) are set forth in writing and signed by both parties.
