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T3.2.2.5 – Commercial and/or Simplified Purchase Method Revised 1/2016

A Simplified Purchasing

1 Simplified Purchasing Revised 4/2017

a. *Scope of Simplified Purchasing*. Simplified purchasing covers methods used to obtain noncomplex products or services through a contract, purchase order, blanket purchase agreement, and Federal Supply Schedule order. Simplified purchase methods apply to noncomplex products or services that have been sold at established catalog or market prices or where prices can be determined fair and reasonable (see AMS Policy 3.2.2.5)..

b. *Simplified Purchasing vs. Complex Source Selection*. The complexity of FAA's requirement shapes the complexity of the process to solicit, evaluate, and select a vendor. Contracting methods described in AMS Policy 3.2.2.3, Complex Source Selection, are generally not a time and cost efficient means for acquiring noncomplex products or services. There are exceptions to this consideration, such as when the procurement involves cost-reimbursement pricing or indefinite-delivery arrangements, both noncomplex and complex work is required, in- depth evaluation is needed to select the best qualified vendor, or extensive contract terms and conditions are necessary.

c. Authorized users of the FAA purchase card must use methods described in T3.2.6 when procuring items; however, Contracting Officers (CO) or others delegated procurement authority outside of the purchase card program may determine which purchasing method is appropriate, either Simplified Purchase Method or Complex Source Selection, based on the factors surrounding each procurement.

d. *Micro-Purchase Threshold.*

(1) Simplified purchases with a total estimated potential value (TEPV) under the applicable micro-purchase threshold must be performed using the purchase card.

(2) The micro-purchase thresholds are:

(a) $10,000 for commercial supplies;

(b) $10,000 for construction (Note: Above $10,000 may not be done as a simplified purchase); and

(c) $10,000 for services.

(3) Procurement requests under the micro-purchase threshold must not be submitted for award under a contract unless approved by the cognizant procurement office.

e. *Funding*. All applicable funding requirements detailed in AMS Procurement Guidance T3.3.1 apply to procurement conducted using simplified methods. This includes:

(1) Compliance with the Anti-Deficiency Act;

(2) Ensuring sufficient funds are available;

(3) Ensuring awards made subject to the availability of funds include the appropriate AMS Clauses (i.e., AMS Clause 3.3.1-10, Availability of Funds, or AMS Clause 3.3.1-11, Availability of Funds for the Next Fiscal Year); and

(4) Ensuring that severable services crossing fiscal years are awarded using appropriate funds, and that the contract period does not exceed one year.

f. *Mandatory Sources and Other Requirements*. When using simplified purchase methods, COs or others with procurement authority (to include purchase card holders) must consider the following requirements:

(1) *Strategic Sourcing Initiatives*. This includes the following:

(a) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES). The SAVES program is a mandatory source for some equipment and office supplies (see AMS Procurement Guidance T3.8.6).

(b) Enterprise software licensing agreements such as Oracle.

(2) *Federal Prison Industries, Inc. (FPI) (also known as UNICOR).* For those products available through FPI, the procedures detailed in AMS Procurement Guidance T3.8.4, Government Sources of Products/Services, must be strictly followed.

(3) *Randolph-Sheppard Act.* FAA must first consider the blind in the operation of vending facilities. (See AMS Procurement Guidance T3.8.4)

(4) *Javits-Wagner-O'Day Act (JWOD).* FAA must first consider items and services available through the AbilityOne Program (formerly JWOD) before going to other sources. (See AMS Procurement Guidance T3.8.4)

(5) *General Services Administration (GSA) Federal Supply Schedules (FSS)*. When procuring items through a GSA FSS, FAA must follow the procedures detailed under AMS Procurement Guidance T3.8.3, Federal Supply Schedules. Note that GSA is not a mandatory source for FAA.

(6) *Section 508 Requirements.* FAA must procure products and services that comply with federal requirements for Section 508 of the Rehabilitation Act. (See AMS Procurement Guidance T3.2.2)

(7) *Environmental Requirements.* FAA should acquire environmentally preferable, energy and water efficient, and recycled content products and services when possible. (See AMS Procurement Guidance T3.6.3 for additional information)

(8) *Labor Laws*. Depending on the nature of the requirement, FAA must comply with applicable labor laws when conducting procurements (i.e. the Service Contract Act for applicable services over $10,000, and the Walsh-Healey Public Contracts Act for materials, supplies, articles, or equipment exceeding $15,000). (See AMS Procurement Guidance T3.6.2 for additional information)

g. *Set-asides.* Purchases with an anticipated value between $10,000 and $150,000, except those conducted using a purchase card, are automatically reserved for competition among SEDB (8(a)) vendors, unless the purchaser, with review of the cognizant Small and Small Disadvantaged Utilization Specialist, determines there is not a reasonable expectation of obtaining quotes or offers from responsible SEDB 8(a) concerns that are competitive in terms of market prices, quality, and delivery. More information on set-asides, to include SEDB 8(a) and others, is available in AMS Procurement Guidance T3.6.1.

h. *Competition.*

(1) *Over $10,000*. Purchases over $10,000 must be competed among two or more qualified vendors, unless the proposed action is supported by a single source justification or is set-aside under a small business preference program authorizing noncompetitive awards.

(2) *$10,000 and under*. Competition is encouraged, but not mandatory for purchases $10,000 and under. Purchasers should consider the administrative cost of the purchase versus potential savings that could result from competition. Purchases $10,000 and under on a single source basis do not require file documentation justifying the single source decision. However, purchasers should use sound business judgment and have a documented reasonable basis for any decisions involving purchases.

(3) Purchasers may obtain competition by reviewing commercial catalog/price lists, or by soliciting quotes informally by telephone, email, or fax, or formally through written or electronic methods of request for quotation or offer.

i. *Solicitation.*

(1) *Request for Quotation*. A request for quotations (RFQ) may be used to obtain information on prices and availability of products and services. An RFQ is generally used when the purchaser expects to place an order, but does not wish to bind the vendor at the time the quotation is received. All of the terms and conditions to be included in any purchase that may result from the RFQ are to be included in the RFQ. An RFQ may be either written or oral.

(2) *Request for Offer.* A request for offer (RFO) is appropriate when the purchaser needs some amount of discussion to clearly communicate needs and to understand products and services being offered. The purchaser should discuss all aspects of the RFO, including quality, warranty, payment and other significant aspects included in a written RFO. An RFO may be used when non-price-related information and evaluation is necessary.

j. *Discounts*. Quantity discounts are usually offered for purchasing a specific quantity or dollar value of items at one time, or a specified dollar total over an agreed-upon time period. A trade discount from the catalog/commercial list price is one that is offered to all customers by a vendor. This may include promotion of seasonal, new or slow-selling items or special discounts offered by a manufacturer or dealer. A prompt payment discount is one that is offered by a vendor for payment by the Government before the date payment is due. Such discounts are not considered in the evaluation of quotes or offers, but any discount offered is included in the award. The purchaser should seek discounts when appropriate.

k. *Competition- Evaluation and Basis for Award.*

(1) Purchasers must consider all timely and responsive quotations or offers received. Individual RFQs/RFOs must define the requirements for timeliness and responsiveness.

(2) Requirements solicited on an all-or-none basis specify that prospective vendors must furnish all of the requested items to be considered for award. If vendors are informed in the request for quotation or offer, the purchaser may consider the lowest cost alternative between a single award and multiple awards based on the prices for each item and the administrative costs of making multiple awards.

(3) An award is made to the responsive and responsible vendor offering the best value to FAA. Purchasers may evaluate vendors on the basis of lowest priced, technically acceptable offer or quote, which will result in the best value to FAA.

(4) Non-price related evaluation factors, such as past performance, quality, qualifications, delivery terms or warranties, may also be evaluated but must be communicated to vendors.

l. *Price Reasonableness.*

(1) *Purchases of $10,000 or less*. Purchasers do not need to document price analysis for purchases when they find no justifiable reason to question that the price is fair and reasonable. The administrative cost of verifying price reasonableness of purchases may more than offset potential savings from detecting instances of overpricing. When there are doubts about the reasonableness of the price, the purchaser should obtain additional quotes or take other action to verify price reasonableness, such as reviewing current published price lists, reviewing historical prices for purchases of the same or similar item or service, or requesting data from the vendor on sales prices to other customers.

(2) *Purchases Over $10,000*. Procurements over $10,000 must be supported by a written determination by the purchaser that the price is fair and reasonable. When possible, this determination is based on competition. When awards are made without competition or when only a single responsive quote or offer is received, the purchaser must use other price analysis techniques to determine if the price is reasonable. Price analysis techniques that the purchaser may consider, along with the independent Government cost estimate, include:

(a) Comparison of prior pricing for the same or similar items or services in comparable quantities;

(b) Application of rough yardsticks (e.g. dollars per pound or horsepower) to highlight significant inconsistencies that warrant additional pricing inquiry;

(c) Comparison with current published catalog or market prices, similar indexes, or discount or rebate arrangements;

(d) Ascertaining that law or regulation establishes pricing; and

(e) Other information gained through a market survey.

m. *Documenting the Award Decision.* Purchasers should have a rational basis for purchasing decisions. The extent of documentation substantiating purchase decisions depends on the value and circumstances of the purchase. If the purchase involves an item that is a viable exemption to an applicable prohibition or restriction (See AMS Procurement Guidance T3.2.2.5.A.4, Prohibited and Restricted Purchases), then the award decision must, despite the dollar value of the purchase, document the basis and background for the purchase.

(1) *Purchases of $10,000 or less*. Documentation is not required except for awards that, without documentation, would appear questionable to a "reasonable person" with market knowledge of the products or services being purchased.

(2) *Purchases over $10,000*. The purchaser must record prices received, names of vendors contacted, and discounts, and other terms quoted by each vendor. If competitive quotes or offers were solicited and award was made to other than the lowest priced, technically acceptable vendor, the purchaser must document evaluation criteria and results, and basis for the award decision.

n. *Rotating Awards for Requirements of $10,000 or less*. When possible and economically feasible, purchasers should distribute simplified purchase awards of widely available products and services among vendors.

o. *Requisitioner Role*.

(1) The requisitioner defines the requirement by supplying applicable information or documentation to the purchaser that includes, but is not limited to, the following:

(a) Part numbers;

(b) Item descriptions;

(c) Statements of work and specifications;

(d) Packaging and shipment requirements;

(e) Inspection and acceptance requirements;

(f) Funding and any required approvals; and

(g) Suggested vendors.

(2) As necessary, the requisitioner may assist the purchaser with evaluation of offered products and services.

(3) As part of market research, requisitioners may contact potential vendors about product or services offered, pricing, quality, warranty, delivery terms, and other information. Requisitioners should clearly communicate to prospective vendors that the contact is for market research purposes only and is not a commitment to purchase.

p. *Inspection and Acceptance.*

(1) Acceptance by a FAA representative constitutes acknowledgement that the supplies or services received conform to applicable contract or purchase requirements. Acceptance is documented using an inspection and acceptance form such as FAA Form 256, by a commercial shipping document or packing list, or through other means to include annotation on the purchase order form.

(2) Acceptance of the supplies or services is the responsibility of the CO or cardholder. This responsibility may be assigned to a program office or center representative.

(3) Each award must specify the place of acceptance as well as other necessary acceptance provisions.

2 Purchase Orders Revised 7/2017

a. *Purchase order*. A purchase order is a simplified form for ordering supplies or services, generally issued on a fixed-price basis, at stated prices based upon specified terms and conditions. Purchase orders must specify the quantity of supplies or scope of services being ordered and contain a date by which the goods or services must be delivered to FAA.

b. *Unpriced purchase orders*. An unpriced purchase order is an order for supplies or services that does not have a price established at the time of its issuance.

(1) An unpriced purchase order may be appropriate when:

(a) It is impractical to obtain pricing in advance of issuance of the purchase order;

or

(b) The purchase is for repairs to equipment requiring disassembly to determine the nature and extent of repairs; the material is available from only one source and for which cost cannot be readily established; or the order is for supplies or services for which prices are known to be competitive but exact prices are not known (e.g. miscellaneous repair parts, maintenance agreements).

(2) Unpriced purchase orders may be issued by using written purchase orders or through various electronic means. A realistic monetary limitation, either for each line item or for the total order, should be placed on each unpriced purchase order. The monetary limitation becomes an obligation subject to adjustment when the firm price is established. The contracting office should follow-up each order to ensure timely pricing. The Contracting Officer (CO) or designated representative should review the invoice price and, if reasonable, process the invoice for payment.

c. *Content*. Purchase orders should contain the following information:

(1) Trade and prompt payment discounts that are offered;

(2) The quantity of supplies or services ordered;

(3) Inspection provisions; origin or destination;

(4) A determinable date by which delivery of supplies or performance of services is required; and

(5) Information should be requested by the preparer of the purchase order as follows:

(a) Vendor's SSN or taxpayer identification number (TIN);

(b) Vendor's business status as one of the following classifications:

(i) Individual/sole proprietorship;

(ii) Corporation;

(iii) Partnership; or

(iv) Other (specify);

(6) The CO's signature. Electronic signatures may be used in the production of purchase orders by automated methods (see AMS Policy 3.1.9).

d. *Clauses*. The CO may print on the purchase order form, or include as an attachment, the clauses they consider to be generally suitable for their purchases. The following forms may be used for purchase orders:

(1) Optional form 347, Order for Supplies or Services;

(2) Optional form 348, Order for Supplies or Services Schedule-Continuation; or

(3) Other agency generated or contractor provided forms.

e. *Procedure*. Procurement under a purchase order valued over $10,000 must be competed among 2 or more qualified vendors, unless the action is supported by a single source justification (AMS Procurement Guidance T3.2.2.4) or conducted under a small business preference program authorizing noncompetitive awards (AMS Procurement Guidance T3.6.1).

(1) *Competitive Awards*.

(a) Before issuing a request for quotations (RFQ), the CO should develop a listing of potential sources based on the requirement. This list can be derived from sources to include, but not limited to:

(i) Previous vendors utilized in FAA or source lists kept in the contracting offices;

(ii) Qualified vendor lists;

(iii) The requiring or program office;

(iii) System for Award Management (SAM); and

(iv) The Office of Small Business Development.

(b) All procurements over $150,000 must be publicly announced on the FAA Contract Opportunities website or through other means. This requirement does not apply to emergency actions, purchases from an established QVL, exercise of options, or modifications within the scope of a purchase order.

(c) Once a list of potential sources is available, the CO should solicit as many sources as practicable, but must solicit quotations from at least two or more sources. A listing of the vendors to whom the RFQ was distributed, as well as any responses or quotes, must be included in the official file.

(d) Prior to award of the purchase order, the CO must confirm that the vendor is not listed in the "Exclusions" portion of the "Performance Information" capability of SAM and has successfully registered in SAM. The CO should document this process in the file, which may include simply printing the results from each search or including a statement of the checks being completed in a memo to file.

(e) *Vendor Selection*. Once a qualified and responsible vendor is selected, the CO must support the decision with a written determination that the price is fair and reasonable and that the award is in the best interest of FAA. This determination must be included in the official file.

(f) *Price Analysis/Reasonableness*. See AMS Procurement Guidance T3.2.5:1.

(2) *Single source awards*.

(a) The rational basis for a single source decision must be documented by the program official, reviewed by legal counsel, and approved by the CO and included in the official file.

(b) There are no predetermined or prescribed conditions for using a single source, and each single source decision stands alone and must be based on the circumstances surrounding each specific need.

(c) Single source procurements over $10,000 (excluding emergencies) require market analysis to verify that FAA's technical and business interests are best met through a single source.

(d) A single source justification is not required for noncompetitive set-asides to 8(a)-certified Socially and Economically Disadvantaged Business (SEDB) or Service Disabled Veteran Owned Small Business. (See AMS Procurement Guidance T3.6.1).

(e) When the total estimated value is over $150,000, the CO must issue a pre-award public announcement (excluding emergencies) summarizing the basis for the single source decision.

(f) Additional information regarding single source awards can be found in AMS Procurement Guidance T3.2.2.4.

f. *Acceptance*.

(1) A quotation resulting from a RFQ is not an offer, and cannot be accepted by FAA to form a binding contract. A contract is formed when the supplier accepts the offer, which can be done by:

(a) The supplier accepting the purchase order in writing to FAA. The Contracting Officer should require written acceptance of a purchase order when it is desired to consummate a binding contract before the contractor undertakes performance; or

(b) The supplier furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

g. *Modification*. Each purchase order modification should identify the order it modifies, contain an appropriate modification number, and identify what authority is being used to modify the order. The Contracting Officer determines when it is necessary to obtain a contractor's written acceptance of a purchase order modification. Purchase orders may be modified by using:

(1) Standard Form 30, Amendment of Solicitation/Modification of Contract;

(2) An agency-designed form or an automated format; or

(3) A purchase order form.

h. *Termination*. A purchase order may be terminated, and the process to terminate an order depends on whether the order has been accepted.

(1) If the purchase order has been accepted in writing by the contractor, the termination should be processed in accordance with AMS termination clauses.

(2) If the purchase order has not been accepted in writing by the contractor, the CO should notify the contractor in writing that the purchase order has been canceled and request the contractor's acceptance of the cancellation. If the contractor:

(i) Accepts the cancellation and does not claim that costs were incurred, no further action is required.

(ii) Does not accept the cancellation or claims that costs were incurred, the CO should process the termination in accordance with the termination clauses. i. *Purchase order checklist and Simplified Purchase Summary*.

(1) Any purchase order with an anticipated value of $10,000 or more must include a Purchase Order/GSA/FSS Order File Checklist (see Procurement Forms) in the official file.

(2) The CO may choose to use the Simplified Purchase Summary (see Procurement Forms) to document actions associated with the award of a purchase order.

3 Blanket Purchase Agreement (BPA) Revised 7/2017

a. A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for products or services by establishing "charge accounts" with qualified vendors. BPAs may be appropriate when other procurement vehicles such as using a purchase card, purchase order, or contract are not appropriate or available, and:

(1) A wide variety of items in a class of supplies or services are required, but the exact items, quantity, and delivery requirements are not known in advance and vary;

(2) FAA offices in given areas do not have or need purchasing authority, but need a commercial source for supplies or services;

(3) Establishing a BPA would avoid writing numerous purchase orders;

(4) There is no existing source for the same supply or service that FAA must use; these sources include:

(a) Federal Prison Industries, Inc. (UNICOR);

(b) Randolph-Sheppard Act or Javits-Wagner-O'Day Act (JWOD) programs;

(c) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES) program;

(d) National Wireless program; and

(e) Active contracts containing the "Requirements" clause.

b. A BPA is not a contract. Instead, it is an understanding between FAA and a vendor that allows FAA to place future orders more quickly by identifying terms and conditions applying to those orders, a description of the supplies or services to be provided, and methods for issuing and pricing each order. The FAA is not obligated to place, nor must a vendor accept, any orders. Either party may cancel a BPA at any time. An enforceable contract exists only when FAA places an order against the BPA and it is accepted by the vendor. c. *Establishing a BPA.*

(1) After determining a BPA would be advantageous, the Contracting Officer (CO) may concurrently establish BPAs for the same type of items or services with more than one vendor to provide maximum competition for orders.

(2) There is no maximum dollar limitation for a BPA; however, each BPA must have a total ceiling amount. If the anticipated total value of all orders against a BPA will exceed $150,000, then it is subject to public announcement and applicable review requirements, including review by legal counsel for orders exceeding $100,000 (as well as review by the Chief Financial Officer (CFO) (see AMS Procurement Guidance T3.2.1.4 for applicable standards) and Chief Information Officer (CIO) (if information technology resources over $250,000 are involved)).

(3) Only a CO can place an individual order exceeding $100,000.

(4) Using a BPA does not relieve the CO or authorized users from keeping obligations and expenditures within available funds.

(5) Price reasonableness and competition requirements apply to obtaining needs through BPAs. A BPA with one vendor does not justify purchasing from only one source; the initial BPA and future orders awarded under the BPA are subject to competition requirements. (Refer to AMS Procurement Guidance T3.2.2.4, Single Source).

(6) BPAs may include Federal Supply Schedule (FSS) contractors utilizing the BPA provision in their FSS contract.

(7) BPAs can be prepared without a Procurement Request (PR), but only after contacting vendors to arrange for maximum discounts, documentation requirements for individual purchases, periodic billings, and other necessary details.

(8) Open market purchases are not affected by an existing BPA. The same class of supplies or services offered through a BPA may be purchased on the open market, and both BPA and non-BPA vendors may be solicited.

d. *Mandatory Terms and Conditions*. A BPA must include:

(1) *Description of Agreement*. A statement that the vendor must furnish products or services, described in general terms, if and when requested by the CO, or the authorized representative, during a specified period and within a stipulated aggregate amount.

(2) *Extent of Obligation*. A statement that the FAA is obligated only to the extent of authorized orders actually placed under the BPA.

(3) *Purchase Limitation*. A statement specifying the dollar limitation for individual orders under the BPA.

(4) *Notice of Individuals Authorized to Purchase under the BPA*. The CO will furnish to the vendor a list of individuals authorized to purchase under the BPA, identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each position title or individual.

(5) *Clauses*. The BPA must include any prescribed clauses applicable to the dollar thresholds of particular orders against the BPA, e.g., Service Contract Act for orders for services over $10,000.

(6) *Delivery Tickets*. A requirement that all shipments under the BPA, except subscriptions and other charges for newspapers, magazines, or other periodicals, will be accompanied by delivery tickets or sales slips with the following information as a minimum: name of individual who placed the order, name of contractor, BPA number, date of purchase, purchase number, itemized list of products or services furnished, quantity, unit price and extension of each item, and date of delivery or shipment.

(7) *Invoices*. Invoices are to be submitted at least monthly or upon expiration of the BPA for all deliveries made during the billing period. Each invoice must:

(a) Identify the delivery tickets covered in the invoice;

(b) State the total dollar value of each delivery ticket; and

(c) Be supported by receipt copies of each delivery ticket.

e. *Procurement Request (PR).* A PR is not required for each order. Instead, the BPA can be bulk funded to the ceiling on the first order, and then each subsequent order applied to the BPA until funds are no longer available. Rather than obtaining a PR for each order, bulk funding is a process where the CO receives authorization through a PR to obligate funds against a specified lump sum of funds reserved for a specific purpose for a specified period of time. The amount of bulk funding should represent the anticipated need through the BPA, and

not serve as means to avoid fiscal restrictions or appropriation law. The CO, or authorized BPA user, may make purchases based on an oral request or a memorandum from an authorized requisitioner in the program/requisitioning office. The program/requisitioning office should confirm oral requests in writing as a matter of record.

f. *Authorized Users.* Each person authorized to place orders against a BPA should receive written guidance from the CO on the limitations of authority and responsibilities associated with using the BPA. Authorized users must follow ordering procedures to ensure proper delivery, billing, and payment. Purchases that would normally be made as single order should not be split to avoid any user ordering limitations. Program/requisitioning offices should notify the CO whenever an authorized user changes or the need for purchasing against the BPA no longer exists; the CO should modify the BPA to reflect any changes in authorized users.

g. *Placing an Order*.

(1) When placing an order, the authorized user contacts the vendor and provides:

(a) Authorized user's name, phone number, and office.

(b) BPA number and order number assigned by the authorized user.

(c) Description of required supply or service (part number, description, quantity, etc.).

(d) Delivery address and telephone number.

(e) Delivery date.

(f) Reminder that the order is tax exempt.

(2) The authorized user should request any offered discounts, and inform the vendor that the BPA number and order number is to appear on the packing slip and invoice/billing statement.

(3) The authorized user should document the order in a log or by other means to record details of the transaction (item description, price, quantity, date, etc.).

h. *Segregation of Duties*. In accordance with Office of Management and Budget (OMB) Circular A-123, the same person may not make the purchase, receive supplies or services, and authorize payment. The same person may perform two of the functions, but not all three.

i. *Review*. The CO should review a sufficient random sample of BPA files at least annually to ensure that authorized users are following procedures.

j. *Unauthorized Commitments*. Only COs or people authorized by the CO may place orders against a BPA. Any purchase made by an unauthorized person, or any purchase placed against a BPA which exceeds the authorized limitation is an unauthorized commitment.

k. *Market Analysis*. The CO must maintain awareness in market conditions, sources of supply, and other factors that may warrant making new arrangements with different vendors or modifying existing arrangements.

l. *Expiration*. A BPA is considered complete when purchases under it equal its total dollar limitation or when the stated time period expires.

4 Prohibited and Restricted Purchases Revised 7/2017

a. This guidance is intended to assist FAA personnel in determining 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 purchase cardholder, consulting 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. *Prohibited and Restricted Items*. 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; and

(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 or beverage**, except as described in AMS Procurement Guidance T3.2.2.5A.5, FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) **Gifts, gift certificates, and prepaid gift cards**.

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

(5) **Subscriptions** to print or online publications or magazines not related to official duties.

(6) **Clothing** or personal apparel of any description, except:

(a) Special type clothing required by FAA. The requestor's supervisor must prepare a written justification for special type clothing and coordinate the justification with legal counsel.

(i) Clothing (such as a shirt with FAA logo) for recruitment activities such as job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources) may be authorized if it supports FAA business objectives and there is a bona fide need.

(ii) Clothing for air shows may be authorized if there is a bona fide need for FAA employees to be clearly identifiable.

(b) Clothing and equipment classified as personal protective equipment (PPE).

The requestor's supervisor must prepare a written justification for PPE, 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 accounted for; and

(ii) Be maintained and used according to standards established by the Occupational Safety and Health Administration (OSHA). See the OSHA website for more information.

(c) All clothing or PPE purchased by FAA remains the property of the Government and not the employee.

(7) **Rental of aircraft** by anyone not in an aircraft-related position.

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

(10) **Cellular or communication devices and services** covered by the National Wireless Program Office (NWPO). Devices provided through the NWPO include cellular phones, one and two-way pager devices, multi-functional server-based devices (e.g. Blackberries), and satellite phones.

(11) **Personalized stationery**, including paper pads, with the name, position, title, logo, or office of FAA personnel, except when:

(a) There is a clear business need approved by the head of the line of business or staff office; and

(b) The requestor notifies Office of Financial Analysis (AFA-1) of the planned purchase in advance.

(12) **Tote bags**.

(13) **Coffee mugs**.

(14) **Water bottles**.

(15) **Leather and other natural hide portfolios, binders, or planners**.

(16) **Give-away items**, including portfolio covers, flash drives, pens, and pencils, for

internal or external marketing of products, services, or programs by FAA, with the following exception and conditions:

(a) Purchase of promotional items for recruitment activities, such as for job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources), may be authorized when these items support FAA business objectives and there is a bona fide need. Where there is a bona fide need, the selection of items must meet all of the following criteria:

(1) Has a practical use appropriate for the audience, and are business related items, such as pens, rulers, calculators, post-it notes, business card holders, lanyards or note pads;

(2) The items cannot be a personal use item, such as coffee cups, water bottles, umbrellas, candy or food items, or fans;

(3) Is economically priced and reasonably portable;

And

(4) Avoids the perception that taxpayer dollars have been frivolously spent.

(b) Recruitment items must comply with FAA branding order 1700.6C and display the FAA jobs website (http://www.faa.gov/jobs).

(17) **iPAD** and similar equipment and related services, with the following exceptions and conditions:

(a) All purchases of iPAD or similar equipment and related services must be coordinated with the Chief Information Officer's (CIO) Enterprise Program Management Service (EPMS).

(b) iPAD and similar equipment and related services for approved purchases may be procured using the FAA purchase card if the costs do not exceed established single and monthly purchase limits.

(c) LOB/SO CIOs are responsible for determining the level of acceptable security risk. As such, each LOB/SO must review the default device settings and modify accordingly to ensure the appropriate level of information assurance.

(d) Each LOB/SO must maintain an inventory of all iPAD or similar equipment.

(18) **Purchases for Non-Monetary Awards**, except:

(a) The FAA may purchase plaques, trophies, pins, retirement plaques and

certificates, or similar *symbolic* items for non-monetary awards to officially recognize employees. Items purchased for a non-monetary award must not exceed $120 per award' including but not limited to engraving, shipping and handling. FAA Corporate Awards and Recognition program are not subject to the $120 per award limit, but should be reasonably priced and symbolic items. All official awards must comply with HRPM, Performance Management PM-9.2, Recognizing Employees. Requisitioning offices must maintain appropriate documentation for purchases related to non-monetary awards.

(b) To enhance an official awards ceremony, reasonable and nominally priced purchases, such as for decorations and related supplies, are permissible. An official awards ceremony is defined as publicized event that is anticipated to have an audience and the presentation of an award(s) recognizing FAA Federal employee(s). Awards presented at official awards ceremonies comply with HRPM, Performance Management PM-9.2.

(19) **Business Cards**, except:

(a) The FAA may use appropriated funds to purchase business cards for employees if necessary to conduct business and approved in advance. Associate/Assistant Administrators, ATO Vice Presidents, and Regional Administrators/Center
Directors determine who in their organization are authorized business cards paid for with appropriated funds to conduct FAA business. Authority for this determination may be delegated to a lower level.

(b) Business cards purchased with appropriated funds are Government property. Employees should exercise good judgment and caution when using their cards in situations not directly related to conducting FAA business.

(c) All FAA business cards must comply with branding logo and template requirements in FAA Order 1700.6C. See the FAA website for more information (FAA only)

(d) Purchasers must use one of two printing sources when using appropriated funds to purchase business cards:

(1) FAA Aeronautical Center's Media Solutions Group; or

(2) Lighthouse for the Blind, Inc., Seattle, WA (pursuant to the mandatory source requirements of the Javits-Wagner-O'Day Act). See the Lighthouse for the Blind's website for ordering information.

(20) **Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services**, with the following exceptions and conditions:

(a) Before purchasing or renting storage units or procuring storage services, a determination must be made by the Real Estate Contracting Officer (RECO) that existing storage space is not available from other sources within FAA or elsewhere in Government. COs or purchase cardholders must coordinate

storage requirements with a RECO. This coordination is intended to ensure that no in-house storage capabilities are available, and no real estate or facility factors exist that may affect the procurement, such as applicable real estate regulations or unique site requirements.

(b) 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 a service agreement.

(c) When possible, storage requirements for a construction project should be incorporated into the statement of work or specification under the associated construction contract.

(d) Purchase cards cannot be used:

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

(2) 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

(3) 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 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.

5 FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops **Revised 1/2017**

a. FAA-sponsored conferences, seminars, ceremonies, and workshops are a routine element of FAA operations. FAA personnel must consider certain special requirements when planning and conducting such events. All such conferences must comply with the standard

operating procedures (SOPs) specified by the Office of Financial Analysis. For current forms and guidance, please see the Financial Standard Operating Procedure "Planning Meetings, Conferences, Workshops, Training Events and Award Ceremonies in the FAA" at the Financial Services website https://employees.faa.gov/org/staffoffices/afn/finance/sop/?selected=Planning Meetings, Conferences, Workshops, Training Events, and Award Ceremonies in the FAA

b. *Securing Conference Space.* See AMS Real Property Guidance 2.4.6, Appendix F, for real property considerations regarding short-term conference and meeting space. Warranted Real Estate Contracting Officers (RECOs) under the real property organization (ALO-200) have the authority to secure conference space. Generally, such space can be contracted for utilizing a standard purchase order or on a purchase card. If the conference space provider produces their own conference form, it must be reviewed for unacceptable terms/language and when acceptable, signed by a warranted Real Estate Contracting Officer.

c. *Legal Review*. Legal counsel must first review any agreement in excess of $100,000 (total Government expenditures including room charges for the attendees) between FAA and a hotel. Except as provided below, agreements below $100,000 do not require review, but review may be sought at the discretion of the RECO or the RECO's delegate.

(1) Changes to the following AMS clauses require legal review regardless of the dollar value:

(a) 3.9.1-1 Contract Disputes; and

(b) 3.10.6-1 Termination for Convenience of the Government (Fixed Price).

(2) Incorporation of the following clauses requires legal review regardless of the dollar value:

(a) Clauses making any law (including state law) other than Federal law controlling;

(b) Clauses that establish liability beyond what is funded or contingent liability beyond the limits imposed allowed the Federal Tort Claims Act; and

(c) Clauses requiring binding arbitration.

d. *Travel-related Costs*. Employee's travel, hotel, local transportation, and per diem must be paid with the FAA travel card. An employee's travel-related costs cannot be paid for under a contract, purchase order, or FAA purchase card.

e. *Items for Distribution to Conference Attendees*. Generally, personal use items, such as mugs, clothing, or bags, cannot be purchased and given to conference attendees. Conference planners must consult with legal counsel before purchasing any items to be distributed to conference or event attendees.

f. *Food and Beverage*.

(1) The FAA may purchase food and beverage for conference participants under the following narrowly defined circumstances:

(a) *Formal Conferences*.

(i) The term "formal conference" usually denotes topical matters of interest to and participation of multiple agencies and/or non-Governmental participants. Other indicators are registration, published substantive agenda, scheduled speakers and discussion panels.

(ii) The meals, beverages, and refreshments must be incidental to the conference.

(iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.

(iv) The meals, beverages, and refreshments must be part of a formal conference that includes both substantial functions at the time the meals, beverages and refreshments are served and substantial functions separate from when food, beverages, or refreshments are served.

(v) At formal conferences where the above criteria are met, FAA may also pay for the food, beverages, and
refreshments of private citizens or Federal employees from other agencies when an administrative determination is made that their attendance is necessary to achieve the program or conference objectives.

(b) *Internal FAA Training Conferences*. The meals, beverages, and refreshments must be:

(i) Incidental to the conference;

(ii) Attendance at the meals must be necessary for full participation in the conference; and

(iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.

(c) *Award Ceremonies*. The FAA may purchase light refreshments for award ceremonies. If not awarded through a contract or purchase order, the FAA purchase card must be used to purchase light refreshments.

(d) *Cultural Awareness Ceremonies*. The FAA may purchase food or beverage if part of a formal program intended to both advance Equal Employment Opportunity objectives and provide cultural or ethnic awareness. Food and beverage must be part of a culture's food and beverage and offered as part of a larger program that serves an educational function.

(e) *Official Receptions*. For official receptions hosted by the Administrator (or

designated senior executive) for foreign or non- Federal dignitaries, FAA may purchase light refreshments, meals, snacks, and beverage. The Administrator's official reception and representation funds must be used for these events (see FAA Order 1200.3). The FAA purchase card may be used to purchase food or beverage for these events.

(2) Except for FAA award ceremonies and the Administrator's official receptions, FAA purchase card cannot be used as a procurement vehicle for food and beverage; a purchase order or contract must be used instead. However, the purchase card may be used to make payment against a duly executed contract signed by a warranted CO.

(3) Food and beverage costs must be reasonable, must not include alcoholic drinks, and cannot be purchased for amusement or social events, such as networking sessions, team-building exercises, or hospitality suites (except hospitality functions at the Administrator's official receptions).

(4) The FAA cannot purchase food and beverage for routine meetings to discuss day-to-day issues. Examples of routine meetings include those to discuss day-to- day operations, to develop business plans to accompany FAA goals, or to develop performance targets.

(5) The FAA may pay a facility rental fee that includes the cost of food or beverages provided to FAA employees where the fee is all-inclusive, not negotiable and competitively priced to those that do not include food.

(6) Foods that constitute "light refreshments" are snacks, such as cookies, and beverages. Light refreshments for morning, afternoon or evening breaks are defined to include: coffee, tea, milk, juice, soft drinks, water, donuts, bagels, fruit, pretzels, cookies, chips, or muffins or related items of similar value. This is distinguished from a meal such as breakfast, lunch or dinner, or multiple heavy hors d'oeuvres. Meals are not "light refreshments."

g. *Justification for Food and Beverage.* The FAA's policy is to not use, nor create the appearance of use of, Government funds to entertain Federal employees. Before contracting for a conference or event with food and beverage, the Director (or equivalent management level) of the organization sponsoring the event and legal counsel must approve a written justification explaining why food and beverage is necessary. The justification must describe:

(1) Nature and purpose of the event;

(2) Applicability of the event to FAA's programs or activities;

(3) Any statutory, regulatory, or other authority for the event;

(4) Participants;

(5) Dates;

(6) Facility and location;

(7) Estimated cost; and

(8) Reason why food and beverage is necessary.

(9) Meal(s) that will need to be offset in attendees' travel vouchers; and

(10) Keynote functions which include meals. The description of the function is to include any keynote speakers, the type of presentation(s) being given and how they are integral to the conference.

h. *Travel Vouchers and Per Diem*. Conference attendees must offset in their travel vouchers the cost of meals paid for and provided by the Government. Light refreshments do not need to be offset in travel vouchers. See FAA Travel Policy for rules when meals are furnished by the Government.

i. *Registration Fees.* Registration fees are payments collected by FAA, or a support contractor on behalf of FAA, from private and other public participants attending an FAA-sponsored conference. If FAA wishes to charge a registration fee, it must have statutory authority to do so. Under 31 U.S.C. 3302(b), FAA must deposit registration fees in the U.S. Treasury, unless there is specific statutory authority for FAA to keep and use fees collected. The FAA currently has statutory authority to credit back to its operations account authorized collections; therefore conference planners should check with legal counsel before depositing authorized registration fees into the general treasury. FAA may not authorize a conference support contractor to charge a fee to offset costs. However, in cases when FAA co-sponsors a conference and the co-sponsor incurs the cost of the conference without FAA reimbursement, the co-sponsor is permitted to collect registration fees to cover its costs.

B Clauses

view contract clauses

C Forms

view procurement forms