

## Acquisition Management Policy - (7/2021)

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## **3.1 Overview**

### **3.1.1 Introduction Revised 9/2020**

The goal of the Federal Aviation Administration procurement system is to obtain high quality products, services, construction, and real property in a timely, cost-effective manner, at prices that are fair and reasonable. The procurement system enables the FAA to be innovative and creative so that the right vendor is selected to implement a solution. The FAA procurement system is an integrated part of the lifecycle management process. The FAA procurement system focuses primarily on identifying sources, awarding, and administering contracts.

The FAA procurement system emphasizes competition, selects the vendor with the best value and provides a protest forum through the FAA's Dispute Resolution system. Open communications with industry from initial planning to contract award are the cornerstones of the process.

Procurement documents are tailored to individual requirements and screening improves source selection by focusing efforts on those offerors most likely to receive an award. The procurement system emphasizes "common sense" decision-making, flexibility, business judgment, and a team concept for managing procurements. Service organizations have the proper level of authority to make decisions and are responsible and accountable for their actions.

The FAA's procurement system provides policy and guidance for executing contracts and agreements to acquire products, services, construction, and real property. In support of the FAA's mission, the Administrator, or designee, has broad discretion to select contractors who provide products, services, construction, and real property. Procurement officials should follow the policy and guidance contained herein but, based on prudent discretion and sound judgment, may employ any procedures that do not violate applicable statutes or regulations. The National Acquisition Evaluation Program strategically monitors the implementation of procurement requirements by periodically evaluating acquisition processes in support of FAA efforts to improve the quality of procurement practices.

### **3.1.2 Applicability**

The FAA procurement system applies to all procurements conducted by the FAA, as set forth herein with the exception of assistance relationships, such as grants and cooperative agreements.

### **3.1.3 Fundamental Principles Revised 9/2020**

The FAA procurement system will:

- (a) Enable the selection of the contractor with the best value to satisfy the FAA's mission;
- (b) Focus on key discriminators between offerors to ensure timely, cost efficient, and quality performance;
- (c) Promote discretion, sound business judgment, and flexibility at the lowest levels while maintaining fairness and integrity;
- (d) Encourage the procurement of commercial and non-developmental items;

- (e) Provide streamlined methods and initiate innovative processes to conduct timely and cost-effective procurements;
- (f) Promote open communication and access to information throughout the procurement process and encourage use of electronic methods for information exchange;
- (g) Encourage competition as the preferred method of contracting;
- (h) Permit single-source contracting when necessary to fulfill the FAA's mission;
- (i) Allow the use of a range of contract types and transactions best suited to a particular procurement;
- (j) Authorize the use of purchase cards consistent with prudent business practice;
- (k) Provide attainable and reasonable opportunities for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals in consultation with the Department of Justice to ensure compliance with the constitutional standards established by the Supreme Court in *Adarand Constructors v. Peña*, 515 U.S. 200 (1995), as well as the President's July 19, 1995, directive to the heads of executive departments and agencies on the "Evaluation of Affirmative Action Programs;"
- (l) Provide an internal process for resolving protests and disputes in a timely, cost-effective and flexible manner;
- (m) Promote high standards of conduct and professional ethics;
- (n) Require appropriate file documentation to support business decisions;
- (o) Assure adequate checks and balances;
- (p) Ensure public trust; and
- (q) Promote and increase sustainable real property acquisitions and management and disposal practices throughout the asset lifecycle, to the extent feasible, reasonable, and practicable.

### **3.1.4 Contracting Authority Revised 9/2020**

Pursuant to the Federal Aviation Administration Reauthorization Act of 1996, Public Law 104-264 (49 U.S.C. § 106), the Administrator is the final authority for carrying out all functions, powers, and duties of the Administration relating to the acquisition and maintenance of property and equipment of the Administration. The Administrator has broad authority "to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration . . . with any Federal agency, or any instrumentality of the United States, any territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate."

The FAA Administrator may establish contracting activities and delegate to the Acquisition Executive broad authority to manage FAA's contracting functions. The Acquisition Executive is authorized to appoint Chief(s) of the Contracting Office (COCO) and redelegate the contracting authority to the COCO and other officials such as the manager of the purchase card program. The COCO may request that the Acquisition Executive further redelegate contracting authority to individuals within the COCO's management or service area such as procurement and real property contracting officers.

All individuals who are delegated contracting authority must have met the training requirements of the AMS and have demonstrated the appropriate knowledge and experience needed to execute this authority on behalf of the Government. Except for the purchase card program manager, these individuals may not redelegate their contracting authority. Contracting authority must be delegated to Contracting Officers or other qualified persons with a written warrant or other certificate of appointment. Contracts, agreements, grants and other transactions may be entered into and signed on behalf of the FAA by Contracting Officers only, or other qualified persons with a written certificate of appointment. The certificate of appointment must expressly state the types of transactions and limitations authorized by the delegation. Absent specific authority in the delegation, that authority does not exist. Information on the limits of the contracting officer's authority must be readily available to the public and FAA personnel.

The Contracting Officer must have warrant authority commensurate with the total estimated potential value (see Appendix C) of a transaction. Modifications after the original award are considered standalone actions when calculating the total estimated potential value; a Contracting Officer's warrant must have a dollar limitation sufficient to award the total value of a modification, but not the entire value of the contract, order, or agreement.

For real property procurements, Contracting Officers are prohibited from entering into any type of contract or agreement, including a letter contract, that acknowledges, authorizes, or in any way states or implies that a real estate broker or a real estate agent represents the FAA or Government in a real property transaction. This prohibition does not restrict the Contracting Officer from contacting Listing or Cooperative Brokers or real estate agents to gather information concerning properties available for sale or lease within a particular geographic area and/or from requesting or receiving market information and rental rates/sale prices with respect to that area. Neither does this section prohibit the Contracting Officer from acknowledging, if asked, that a Cooperative Broker brought a particular property to the Contracting Officer's attention.

Key contracting duties and responsibilities are to be separated among individual people. For a particular requirement, the same person must not requisition, certify funds availability, approve, and obligate funds.

### **3.1.5 Conflict of Interest Revised 10/2008**

Any member of a service organization or Office of Dispute Resolution for Acquisition (ODRA) who is a Federal employee that has a real or apparent conflict of interest must withdraw from participation in the procurement process when required by law (18 U.S.C. § 208) or regulation (5 CFR Part 2635). To sustain the integrity of the procurement process, non-Federal members of a service organization or ODRA are held to the same standards.

### **3.1.6 Disclosure of Information Revised 10/2008**

Source selection information and proceedings must not be discussed outside the service organization. The Source Selection Official (SSO) must determine the extent to which source selection information is disclosed and must execute a certificate of nondisclosure as appropriate.

### **3.1.7 Organizational Conflicts of Interest**

The policy of the FAA is to avoid awarding contracts to contractors who have unacceptable organizational conflicts of interest. The FAA will resolve organizational conflict of interest issues on a case-by-case basis; and when necessary to further the interests of the agency, will waive or mitigate the conflict at its discretion.

### **3.1.8 Procurement Integrity Act Revised 1/2019**

FAA is subject, with modifications as described in the AMS Guidance with FAA-specific language, to the Procurement Integrity Act (41 U.S.C. §§ 2101-2107).

### **3.1.9 Electronic Commerce in Contracting Revised 9/2020**

The FAA may use electronic commerce, including electronic signatures, to conduct and administer procurement actions. The Electronic Signatures in Global and National Commerce Act (E-SIGN) provides equivalency between legally-required written records and the same information in electronic form.

Unless waived by the Chief of the Contracting Office, the FAA's official contract file for contract actions on or after October 1, 2013 must be created in electronic format, and stored and maintained in the "Electronic Document Storage (eDocS) system," the single repository for paperless contract files. Purchase card transactions, awards and documents for real property procurements, and awards made by Real Estate Contracting Officers, awards made by personnel with Delegations of Procurement Authority, and documents requiring a raised seal signifying authenticity, are excluded from the eDocS requirement.

Based on the National Institute of Standards and Technology (NIST) Policy Statement on Hash Functions dated August 5, 2015, the FAA must stop using Secure Hash Algorithm 1 (SHA-1) for generating digital signatures, generating time stamps and for other applications that require collision resistance. Further guidance on the use of SHA-1 is in NIST Special Publication (SP) 800-131A, Revision 1, dated November 6, 2015.

FAA must use SHA-256 or higher for the generation of digital signatures, generating time stamps, and other applications that require collision resistance. NIST provides further guidance on the use of SHA-256 in NIST SP 800-57 Part 1, section 5.6.2 as amended and SP 800-131A, Revision 1. Additional guidance on the use of SHA-3 is in NIST SP 800-185 as amended.

FAA may still use SHA-1 for the following applications: Verifying old digital signatures and time stamps, generating and verifying Hash-Based Message Authentication Codes (HMACs), Key

Derivation Functions (KDFs), and random bit/number generation.