

Department of Transportation

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released prior to OMB approval provided that:

(1) A statement is included in the solicitation to the effect that the contract will not be awarded until OMB approval of the information collection requirements of the proposed contract has been obtained; and

(2) Enough time is permitted to allow receipt of OMB approval prior to contract award.

Subpart 1201.2—Administration

1201.201 Maintenance of the FAR.

1201.201-1 The two councils.

(b) The SPE is responsible for providing a DOT representative to the Civilian Agency Acquisition Council (CAAC).

Subpart 1201.3—Agency Acquisition Regulations

1201.301 Policy.

(a)(1) *Acquisition regulations*—(i) *Departmentwide acquisition regulations*. The Department of Transportation's (DOT's) Senior Procurement Executive (SPE) is the individual having authority to issue or authorize the issuance of agency regulations that implement or supplement the FAR and to include agency-unique policies, etc. that govern the contracting process. This authority was re-delegated from the Assistant Secretary for Administration.

(ii) *Operating Administration (OA) acquisition regulations*. OA acquisition regulations, and any changes thereto, shall be reviewed and approved by the Senior Procurement Executive (SPE) for insertion into the (TAR) 48 CFR chapter 12 as a TAR supplemental regulation before the SPE submits the proposed coverage for publication in the FEDERAL REGISTER in accordance with (FAR) 48 CFR 1.501. OA regulations may be more restrictive or require higher approval levels than those permitted by (TAR) 48 CFR chapter 12 unless otherwise specified.

(2) *Acquisition procedures*. The SPE is the individual who issues or authorizes the issuance of internal agency guidance at any organizational level. DOT internal operating procedures are contained in the Transportation Acquisi-

tion Manual (TAM). OA procedures necessary to implement or supplement the (FAR) 48 CFR chapter 1, (TAR) 48 CFR chapter 12, or TAM may be issued by the Head of the Contracting Agency (HCA), who may delegate this authority to any organizational level deemed appropriate. OA procedures may be more restrictive or require higher approval levels than those permitted by the TAM unless otherwise specified.

(b) The authority of the agency head under (FAR) 48 CFR 1.301(b) to establish procedures to ensure that agency acquisition regulations are published for comment in the FEDERAL REGISTER in conformance with the procedures in FAR Subpart 1.5 is delegated to the Office of the General Counsel, Assistant General Counsel for Regulation and Enforcement (C-50).

1201.301-70 Amendment of (TAR) 48 CFR chapter 12.

(a) Changes to the regulation may be the result of recommendations from internal DOT personnel, other Government agencies, or the public. Changes shall be submitted in the following format to the Office of the Senior Procurement Executive (OSPE), 400 7th Street, SW., Washington, DC 20590:

(1) *Problem*: Succinctly state the problems created by current (TAR) 48 CFR chapter 12 language and describe the factual or legal reasons necessitating regulatory change.

(2) *Recommendation*: Identify the recommended change by using the current language (if applicable), and crossing out the deleted words with a horizontal line. Insert proposed language in brackets. If the change is extensive, deleted language may be displayed by forming a box with diagonal lines connecting the corners.

(3) *Discussion*: Explain why the change is necessary and how it will solve the problem. Address any cost or administrative impact on Government activities, offerors, and contractors. Provide any other information and documents such as statutes, legal decisions, regulations, reports, etc., that may be helpful.

(4) *Point of contact*: Provide a point of contact who can answer questions regarding the recommendation.

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(b) The (TAR) 48 CFR chapter 12 is maintained by the SPE through the TAR/TAM change process. This process consists of input from various DOT elements including representatives from DOT OAs specifically designated to formulate Departmental acquisition policies and procedures.

(1) *Transportation Acquisition Circular (TAC)*. TACs (see (TAR) 48 CFR 1201.301-72) will be used to amend (TAR) 48 CFR chapter 12.

(2) *TAR Notice (TN)*. (i) TNs shall be issued when interim guidance is necessary and as often as may be necessary, under any of the following circumstances:

(A) To quickly promulgate selected material in a general or narrative manner, in advance of a TAC issuance;

(B) To disseminate other acquisition related information; or

(C) To issue guidance which may be effective for a period of 1 year or less.

(ii) Each TN will expire by a specific date.

1201.301-71 Effective date.

Unless otherwise stated, the following applies—

(a) Statements in TACs or TNs to the effect that the material therein is “effective upon receipt,” “upon a specified date,” or that changes set forth in the document are “to be used upon receipt,” mean that any new or revised provisions, clauses, procedures, or forms must be included in solicitations, contracts or modifications issued thereafter; and

(b) Unless expressly directed by statute or regulation, solicitations in process or completed negotiations when the TAC or TN is received, new information such as forms and clauses, need not be included if the chief of the contracting office determines that it would not be in the best interest of the Government to include the new information.

1201.301-72 TAC or TN numbering.

TACs and TNs will be numbered consecutively on a fiscal year basis beginning with number “01” prefixed by the last two digits of the fiscal year (e.g., TNs 04-01 and 04-02 indicate the first two TNs issued in fiscal year 2004).

48 CFR Ch. 12 (10-1-10 Edition)

1201.304 Agency control and compliance procedures.

(a) DOT shall control the proliferation of acquisition regulations and any revisions thereto (except as noted in paragraph (b) of this section) by using an internal (TAR) 48 CFR chapter 12 change process that involves input from many DOT elements including OA representatives on the Procurement Management Council. The OA member shall represent their OA’s viewpoint along with Departmentwide considerations in reaching a decision on (TAR) 48 CFR chapter 12 changes.

(b) OA-unique regulations will not be processed through the TAR/TAM change process, but shall be reviewed by OA legal counsel and submitted to the OSPE for review and approval. (See (TAR) 48 CFR 1252.101 for additional instructions pertaining to provisions and clauses.)

Subpart 1201.4-70—Deviations From the FAR and TAR

1201.403 Individual deviations.

The Head of the Contracting Activity, or designee with a rank that is no lower than that of Senior Executive Service (SES) official or that of a Flag Officer, may authorize individual deviations (unless (FAR) 48 CFR 1.405(e) applies). However, see TAM 1201.403.

1201.404 Class deviations.

The SPE may grant in writing class deviations from the (FAR) 48 CFR chapter 1 and (TAR) 48 CFR chapter 12, unless (FAR) 48 CFR 1.405(e) applies.

Subpart 1201.6—Career Development, Contracting Authority and Responsibilities

1201.602-3 Ratification of unauthorized commitments.

(b) *Policy*. DOT policy requires that all procurement decisions shall be made only by Government officials having authority to carry out such acquisitions. Procurement decisions made by other than authorized personnel are contrary to Departmental policy and may be considered matters of serious misconduct on the part of the employee making an unauthorized