

2401.106

(b) *Numbering.* Generally, the numbering system and part, subpart, and section titles used in the HUDAR conform with those used in the FAR or as follows:

(1) When the HUDAR implements or deviates from a parallel part, subpart, section, subsection, or paragraph of the FAR, that implementation or deviation will be numbered and captioned where possible to correspond to the FAR part, subpart, section, subsection, or paragraph. For example, FAR subpart 1.4, Deviations, is implemented in HUD's acquisition regulations at subpart 2401.4, Deviations. (The "24" in the number indicates what chapter of title 48 contains the HUDAR.)

(2) When HUD supplements material contained in the FAR, it is given a unique number containing the numerals "70" or higher. The rest of the number will parallel the FAR part, subpart, section, subsection, or paragraph it is supplementing. For example, FAR 14.407, Award, does not contain a provision for the steps to be taken when only one bid is received. The HUDAR provides this information. Since the subject matter supplements what is contained in FAR 14.407, the HUDAR section supplementing the FAR is numbered 2414.407-70.

(3) Where material in the FAR requires no implementation or deviation, there is no corresponding numbering in the HUDAR. Therefore, there may be gaps in the HUDAR sequence of numbers where the FAR, as written, is applicable to the HUDAR and requires no further implementation.

(c) *Citation.* The HUDAR will be cited in accordance with FEDERAL REGISTER standards approved for the FAR. Thus, this section when referred to in the HUDAR is cited as 2401.105-2(c). When this section is referred to formally in official documents, such as legal briefs, it should be cited as "48 CFR 2401.105-2(c)." Any section of the HUDAR may be formally identified by the section number, e.g., "HUDAR 2401.105-2." In the HUDAR, any reference to the FAR will be indicated by "FAR" followed by

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the section number, for example FAR 37.108.

[49 FR 7697, Mar. 1, 1984, as amended at 58 FR 49437, Sept. 23, 1993. Redesignated at 61 FR 19470, May 1, 1996, as amended at 64 FR 46094, Aug. 23, 1999]

2401.106 OMB approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more persons. HUD has received approval from OMB to collect information under the provisions of its Acquisition Regulation. The OMB Approval Number is 2535-0091.

[50 FR 46575, Nov. 8, 1985. Redesignated at 61 FR 19470, May 1, 1996]

Subpart 2401.3—Agency Acquisition Regulations

2401.301 Policy.

(a)(1) *Implementation.* The HUDAR implements and supplements the FAR. Implementation material is that which expands upon related FAR material. Supplementing material is that for which there is no counterpart in the FAR.

2401.302 Limitations.

(c) *Exclusions.* Certain HUD policies and procedures which come within the scope of this chapter are not included in the HUDAR. Not included is a policy or procedure of an internal nature or which is expected to be effective for a period of less than six months.

Subpart 2401.4—Deviations

2401.403 Individual deviations.

In individual cases, proposed deviations from the FAR or HUDAR shall be submitted to the Senior Procurement Executive (see 2401.601-70) for approval or other necessary or appropriate action. A supporting statement shall be submitted with the proposed deviation indicating briefly the nature of the deviation and the reasons for granting the deviation, consistent with FAR 1.402. The contract file shall include a copy of the request submitted

and the approval. In emergency situations involving individual cases, deviation approvals may be processed by telephone and later confirmed in writing.

[49 FR 7697, Mar. 1, 1984, as amended at 51 FR 7948, Mar. 7, 1986; 53 FR 46533, Nov. 17, 1988]

2401.404 Class deviations.

For deviations which affect more than one contracting action, proposed deviations from the FAR or HUDAR shall be submitted to the Senior Procurement Executive for approval or other necessary or appropriate action. Requests for deviations shall be supported by statements which fully disclose the nature of the deviation and the need there of. The Senior Procurement Executive will consider the proposal on an expedited basis and in the case of a proposed FAR deviation will comply with FAR 1.404.

[49 FR 7697, Mar. 1, 1984, as amended at 51 FR 7948, Mar. 7, 1986]

Subpart 2401.6—Career Development, Contracting Authority, and Responsibilities

2401.601 General.

2401.601-70 Senior Procurement Executive.

Unless otherwise designated by the Secretary through a delegation of authority, the Chief Procurement Officer is the Department's Senior Procurement Executive and is responsible for all departmental procurement policy, regulations, and procedures, and oversight of all HUD procurement operations. The Senior Procurement Executive is also responsible for the development of HUD's procurement system standards, evaluation of the system in accordance with approved criteria, enhancement of career management of the procurement workforce, and certification to the Secretary that the Department's procurement system meets approved criteria.

[71 FR 2434, Jan. 13, 2006]

2401.602 Contracting Officers.

2401.602-3 Ratification of unauthorized commitments.

(b)(1) Requests for ratification of unauthorized commitments arising in HUD Headquarters shall be submitted in writing to the Contracting Officer through the Chief Procurement Officer. The Assistant Secretary or equivalent official for the office that created the unauthorized commitment shall sign requests. Requests for ratification of unauthorized commitments arising in the field shall be submitted in writing to the Director of the cognizant FCO. The Director of the field-based office that created the unauthorized commitment shall sign the request.

(3) In accordance with FAR 1.602-3(b)(3), the Deputy Chief Procurement Officer is delegated authority to ratify unauthorized commitments arising in HUD Headquarters.

(c)(5) Concurrence by legal counsel in the Contracting Officer's recommendation for payment of an unauthorized commitment (see FAR 1.602-3(c)(5)) shall not be required when the value of the payment is equal to, or less than, the simplified acquisition threshold.

(7) Requests shall include:

(i) An explanation of the need for the services or supplies;

(ii) The reasons why normal procurement procedures were not followed;

(iii) The circumstances and events associated with the unauthorized commitment;

(iv) The price competition that was obtained or the price otherwise justified;

(v) The amount of any funding needed to meet the obligation created by the unauthorized commitment and evidence of funds availability;

(vi) The name and position of the individual who made the unauthorized commitment; and

(vii) A description of the corrective management measures to prevent future unauthorized commitments. If the individual who made the unauthorized commitment is no longer available, appropriate program personnel shall provide the information described in this paragraph.

[71 FR 2434, Jan. 13, 2006]