

## Department of Labor

## 2901.602-3

(b) Requests for deviations under paragraph (a) of this section must be submitted by the HCA and include justification as to why the deviation is required.

(c) A copy of the approved deviation must be included in the contract file.

### **2901.404 Class deviations.**

(a) The Senior Procurement Executive is authorized to approve class deviations from FAR or DOLAR provisions which affect more than one contracting action, unless FAR 1.405(e) is applicable. The request for deviation is submitted through the Director, DAMS.

(b) Requests for deviations under paragraph (a) of this section must be submitted by the HCA and include justification as to why the deviation is required and the number of contracting actions which will be affected.

(c) For a FAR class deviation the Director, DAMS will consult with the Chair of the CAAC, as required in FAR 1.404(a)(1), before authorizing the deviation.

(d) A copy of the approved class deviation must be included in each contract file.

(e) Recommended revisions to the FAR and a copy of each approved class FAR deviation will be transmitted to the FAR Secretariat by the Director, DAMS as required in FAR 1.404.

### **2901.405 Deviations pertaining to treaties and executive agreements.**

(a) The Director, DAMS is responsible for transmitting to the FAR Secretariat the information required in FAR 1.405(d).

(b) For deviations not authorized by FAR 1.405(b) or (c), the Director, DAMS, will process the request for deviation through the FAR Secretariat.

## **Subpart 2901.6—Career Development, Contracting Authority, and Responsibilities**

### **2901.601 General.**

(a) This section deals with contracting authority and responsibilities of the head of the agency as described in 2902.1, FAR subpart 1.6 and this subpart.

(1) The authority and responsibility vested in the Secretary to contract for

authorized supplies and services is delegated to the Assistant Secretary for Administration and Management.

(2) The Assistant Secretary for Administration and Management may delegate contracting authority to a bureau or agency within the Department of Labor as he/she delineates in writing.

(b) The Assistant Secretary for Administration and Management, acting through the Senior Procurement Executive, may delegate additional procurement authority subject to the issuance of warrants by the Senior Procurement Executive, and reserves the right to rescind any acquisition authority, if it is determined that such action is in the best interest of the Government.

### **2901.602 Contracting officers.**

#### **2901.602-1 Authority.**

Contracting warrants, at all levels above the micro-purchase threshold, must be requested by the HCA in writing and signed by the Senior Procurement Executive. Warrants may be accompanied by letters of appointment that may provide requirements for maintaining the warrant (e.g., maintaining current documentation for the FAR, DOLAR, and other guidance, and recurrent training). Copies of the appointment shall be maintained in the Division of Acquisition Management Services. Contracting officers must display the original warrant (and its limitations) in their workspace. A listing of current contracting officers may be available for review on the Internet at <http://www.dol.gov/oasam/grants/prgms.htm>. To modify a contracting officer's authority, the present appointment must be revoked and a new certificate issued.

#### **2901.602-3 Ratification of unauthorized commitments.**

(a) If the HCA agrees that the commitment appears to be without valid authorization, the Division of Acquisition Management Services must be notified by the HCA in accordance with the procedures outlined in this section.

(b) *Ratifications—Thresholds.* The Department of Labor may only ratify acquisitions that were intended to fulfill a bona fide need and otherwise could

have been authorized when made. If the action to be ratified is not approved, then the employee who authorized the work may be liable for the entire cost of the action. Requests received by

contracting officers for ratification of commitments made by personnel lacking contracting authority must be processed as follows:

Dollar threshold	Must be approved by (Ratifying official)	Steps to be followed
Below the micro-purchase threshold .....	Head of the Contracting Office .....	1 through 5 & 7.
Between the micropurchase threshold and the Simplified Acquisition Threshold.	Head of Contracting Activity .....	1 through 5 & 7.
Above the Simplified Acquisition Threshold .....	Assistant Secretary for Administration and Management, after review by the Procurement Review Board.	1 through 7.

NOTE: DOL procurement policies require review by the Procurement Review Board of advisory and assistance services acquisitions above \$50,000 for competitive acquisitions and at any dollar amount for noncompetitive acquisitions, and waivers for contracts with employees and recently separated employees. Therefore, review by the PRB is required for unauthorized obligations at these lower thresholds.

*Step—Instruction*

(1) The individual is placed on notice by the contracting officer, in writing, that the purchase may be inappropriate because he did not have a purchasing request, funding, or authority to obligate the Government to make an expenditure of funds.

(i) The individual who made the unauthorized contractual commitment shall furnish the contracting officer all records and documents concerning the commitment and a complete written statement of the facts, including, but not limited to a statement as to why the acquisition office was not used, a description of work to be performed or products to be furnished, an estimated or agreed-upon contract price, citation of appropriation available, and a statement as to whether the contractor has commenced performance.

(ii) In the absence of such an individual, the head of the applicable office will be responsible for providing such information, including an explanation of why the individual who made the unauthorized commitment is unavailable to provide this information.

(2) The individual who made the unauthorized commitment or the head of the applicable office, as appropriate, shall provide a determination and finding (See FAR 1.704) to the contracting officer indicating that:

(i) Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;

(ii) A procurement request and/or accompanying documentation including a statement signed by the individual that explains why normal acquisition procedures were not followed, explains why the source was selected, lists other sources considered, describes the work, and estimates or states the agreed upon price. (If the DOL employee who made the unauthorized commitment is no longer available, appropriate program personnel must provide the information described in this paragraph); and

(iii) Funds are available and were available at the time of the unauthorized commitment.

(3) The contracting officer reviewing the unauthorized commitment shall determine whether the price is fair and reasonable and if payment is recommended to the ratifying official. (The contracting officer may rely upon written documentation submitted by managing staff above the individual who made the unauthorized commitment, in making his/her determination.)

(4) Legal review is required before ratification by the ratifying official.

(5) The ratifying official shall make an affirmative determination and finding that:

(i) The resulting purchase order or contract would otherwise have been proper if made by an appropriate contracting officer.

(ii) The contracting officer reviewing the unauthorized commitment has determined that the price is fair and reasonable and payment is recommended.

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(6) For cases over the simplified acquisition threshold, all documentation for steps (1) through (5) must be forwarded to the Director, Division of Acquisition Management Services, for submission to the Procurement Review Board. However, the ratifying official is responsible for directing the receipt and acceptance for all products and deliverables received by the Government as a result of an unauthorized commitment.

(7) The supervisor of the individual who made the unauthorized commitment shall prepare a corrective action plan to preclude further unauthorized commitments (e.g., ethics, purchase card, or administrative procedures training, or other appropriate action). The ratifying official may approve the corrective action plan. The individual shall report to the ratifying official in writing when the corrective action has been initiated and again after it has been fully implemented.

### **2901.603 Selection, appointment, and termination of appointment.**

#### **2901.603-1 General.**

(a) The Senior Procurement Executive will develop and manage an acquisition career management program for contracting personnel. Training requirements must conform to Office of Federal Procurement Policy Letters 92-3, 97-01, and the Federal Acquisition Institute's curriculum. These references are available at:

<http://www.arnet.gov/Library/OFPP/PolicyLetters/Letters/PL97-01.html>,

<http://www.arnet.gov/Library/OFPP/PolicyLetters/Letters/PL92-3.html>, and through the Federal Acquisition Institute (FAI) at:

<http://www.faionline.com/fai/campus/index4.htm>.

(b) The program must cover all contracting personnel in the following categories:

(1) *General Schedule (GS-1102) Contracting Series* (See also FAR 1.603);

(2) Contracting officers, regardless of General Schedule Series, with contracting authority above the simplified acquisition threshold;

(3) Purchasing Series (GS-1105), other individuals performing purchasing duties and individuals with contracting

authority between the micro-purchase and simplified acquisition thresholds.

(4) All Contracting Officer Technical Representatives as identified in 2901.603-71.

#### **2901.603-3 Appointment.**

*General.* In accordance with FAR 1.603-3, appointments will be made in writing on an SF 1402 for all warrants above the micro-purchase threshold. In addition, appointments may be made for specific functions unrelated to dollar threshold, such as indirect cost negotiation, debt management, and close-out functions.

(a) *Purchase Cards (micro-purchase threshold).* Purchase cardholders will be appointed in accordance with the DOL Guidelines for Purchase Card Use and the Agency/Office procedures approved by the HCA. Agency/Organization Purchase Card Coordinators requesting issuance of a purchase card must be responsible for ensuring that the purchase cardholder has taken an orientation course before issuance and/or use of the purchase card. A list of purchase cardholders is available at: <http://www.dol.gov/oasam/foia/hotfoia/citibank-list.htm>.

(b) *Simplified Acquisition Threshold (currently \$100,000).* The HCA may request a delegation of procurement authority not to exceed the simplified acquisition threshold based on education, training, and experience in the acquisition field. Effective July 26, 2004, all new appointments must comply with training requirements listed in "OFPP Policy Letter No. 92-3, Procurement Professionalism Program Policy-Training for Contracting Personnel", dated June 24, 1992.

(c) *\$500,000.* The HCA may request a delegation of procurement authority not to exceed \$500,000 based on the individual's education, training and experience in contracting. Although primarily reserved for those in the GS-1102 series, the HCA may consider business acumen, education, training, and experience. Effective May 27, 2004, all new appointments must comply with training requirements listed in "OFPP Policy Letter No. 92-3, Procurement Professionalism Program Policy-Training for Contracting Personnel", dated June 24, 1992.