

J), which was published in the **Federal Register** at 80 FR 4967, January 29, 2015.

**DATES:** *Effective:* March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-80; FAR Case 2013-001; Corrections.

**SUPPLEMENTARY INFORMATION:**

**Corrections**

In rule FR Doc. 2015-01524 published in the **Federal Register** at 80 FR 4967, January 29, 2015, make the following corrections:

1. On page 4990, in the first column, lines 7, 11, 13, 19, 21, 25, 30, 32, 54, 60, and 66, correct “(March 2, 2015)” to read “(Mar 2015)” (11 times).

2. On page 4990, in the second column, line 41, correct “(March 2, 2015)” to read “(Mar 2015)”.

3. On page 4992, in the first column, Alternate I, correct “(March 2, 2015)” to read “(Mar 2015)”.

4. On page 4992, in the first column, section 52.222-56, line 6, correct “(March 2, 2015)” to read “(Mar 2015)”.

5. On page 4992, in the second column, section 52.244-6, lines 4, 10, and 12, correct “(March 2, 2015)” to read “(Mar 2015)”.

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

Dated: February 3, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2015-02540 Filed 2-6-15; 8:45 am]

**BILLING CODE 6820-EP-P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 37 and 52**

[FAC 2005-80; FAR Case 2014-008; Correction; Docket 2014-0008; Sequence No. 1]

RIN 9000-AM84

**Federal Acquisition Regulation; Management and Oversight of the Acquisition of Services; Correction**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule; correction.

**SUMMARY:** DoD, GSA, and NASA are issuing a correction to FAR Case 2014-008; Management and Oversight of the Acquisition of Services (Item II), which was published in the **Federal Register** at 80 FR 4992, January 29, 2015.

**DATE:** *Effective:* March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-80; FAR Case 2014-008; Correction.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In rule FR Doc. 2015-01525 published in the **Federal Register** at 80 FR 4992, January 29, 2015, make the following correction:

On page 4993, in the third column, line 22, correct “Mar 2015” to read “(Mar 2015)”.

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

Dated: February 3, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2015-02541 Filed 2-6-15; 8:45 am]

**BILLING CODE 6820-EP-P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 46 and 52**

[FAC 2005-80; Technical Amendments; Corrections; Docket 2014-0053; Sequence No. 5]

**Federal Acquisition Regulation; Technical Amendments; Corrections**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule; corrections.

**SUMMARY:** DoD, GSA, and NASA are issuing corrections to the Technical Amendments; (Item III), which was published in the **Federal Register** at 80 FR 4994, January 29, 2015.

**DATES:** *Effective:* March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202-501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-80, Technical Amendments; Corrections.

**SUPPLEMENTARY INFORMATION:**

**Corrections**

In rule FR Doc. 2015-01526 published in the **Federal Register** at 80 FR 4994, January 29, 2015, make the following corrections:

1. On page 4994, in the second column, line 12, correct “(Jan 2014)” to read “(Mar 2015)”.

2. On page 4994, in the second column, line 43, correct “(Jan 2015)” to read “(Mar 2015)”.

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

Dated: February 3, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2015-02529 Filed 2-6-15; 8:45 am]

**BILLING CODE 6820-EP-P**

**DEPARTMENT OF STATE**

**48 CFR Parts 601, 603, 604, 605, 606, 607, 608, 609, 613, 615, 616, 617, 619, 622, 623, 624, 625, 627, 628, 631, 632, 633, 636, 637, 642, 644, 645, 647, 649, and 652**

[Public Notice 8971]

RIN 1400-AD63

**Department of State Acquisition Regulation**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State (DoS) is making technical amendments to the Department of State Acquisition Regulation (DOSAR) to provide needed editorial changes, updating procedures and terminology, and aligning the DOSAR with changes to the Federal Acquisition Regulation (FAR).

**DATES:** This rule is effective on February 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ella Ramirez, Policy Division, Office of the Procurement Executive, A/OPE, 2201 C Street NW., Suite 1060, State Annex Number 15, Washington, DC 20520. Telephone 703-516-1693.

**SUPPLEMENTARY INFORMATION:** This rulemaking is necessary to update

certain provisions of the DOSAR, located in 48 CFR parts 601, 603, 604, 605, 606, 607, 608, 609, 613, 615, 616, 617, 619, 622, 623, 624, 625, 627, 628, 631, 632, 633, 636, 637, 642, 644, 645, 647, 649 and 652.

The amendments being made in this rule are all either corrections of typographical errors, alignments of wording/titling/numbering with the FAR, re-numbering/relocating without substantive change, changes in delegated authority, incorporation of

agency procedural guidance into the CFR, or other minor editorial adjustments without substantive change.

The changes being made by this rule are:

| DOSAR citation   | Description of change  |
|--|--|
| <b>Correction of typographical errors</b>  |  |
| 605.2 .....  | Correct "Synopsis" to "Synopses."  |
| 605.403 .....  | Correct "members" to "Members."  |
| 606.202 .....  | Correct "alternate" to "alternative."  |
| 619.202-70(n)(2) .....   | Correct spelling—"recession" to "rescission."  |
| 627.3 .....  | Correct "Under" to "under."  |
| 633.214-70(d) .....  | Correct "simplified acquisition limitation" to "simplified acquisition threshold."   |
| 644.3 .....  | Correct misplaced apostrophe in the title.   |
| <b>Re-number/relocate without substantive change</b>   |  |
| 601.603-70 .....   | Redesignate as 601.601-70.   |
| 642.14 .....   | Redesignate as Subpart 647.3 and revise internal cites.  |
| 647.3 .....  | Add as new subpart (moved from subpart 642.14).  |
| 652.242-71 .....   | Clause redesignated as 652.247-70, remove 642.1406-2-70(a) and add 647.305-70 in its place.  |
| 652.242-72 .....   | Clause redesignated as 652.247-71, remove 642.1406-2-70(b) and add 647.305-71 in its place.  |
| 652.247-70 .....   | Editorial change. Clause moved from 652.242-71.  |
| 652.247-71 .....   | Editorial change. Clause moved from 652.242-72.  |
| <b>Wording/title/numbering alignment with FAR</b>  |  |
| 601.603 .....  | Add missing words, "for contracting officers" to the title.  |
| 604.13 .....   | Correct the title to read "Personal Identity Verification."  |
| 604.1300 .....   | Redesignate as 604.1301.   |
| 604.1301 .....   | Redesignate as section 604.1303.   |
| 604.1301-70 .....  | Redesignate as section 604.1303-70.  |
| 606.304(a)(2), 606.304-70, 606.370(b), 606.501(a), 606.501(b), 606.501-70, 606.570, 616.505(b)(5), 633.103(d)(4), 637.601, 652.206-70. | Change "competition advocate" and "Competition Advocate" to "advocate for competition" and "Advocate for Competition," respectively. |
| 606.370(a) & (b) .....   | Remove "41 U.S.C 253(c)(1)," and insert "41 U.S.C. 3304(a)(1)" in its place.   |
| 609.404 .....  | Change title to SAM from EPLS, correct reference and change (c)(3) to (c)(6).  |
| 609.404-70 .....   | Revise last sentence and correct link to SAM vice EPLS.  |
| 616.505(b)(5) .....  | Redesignate as 616.505(b)(8).  |
| 619.202-70(o) .....  | Change threshold from "\$500,000" to "\$650,000" and from "\$1,000,000" to "\$1,500,000."  |
| 619.6 .....  | Replace "Eligibility" with "Responsibility."   |
| 619.803-71 .....   | Update the SAT to \$150,000.   |
| 619.803-71(b) .....  | Change CCR to SAM.   |
| 619.804-3-70 .....   | Update the SAT to \$150,000.   |
| 619.805-2 .....  | Update the SAT to \$150,000.   |
| 619.811-1(d)(1) .....  | Remove "41 U.S.C 253(c)(5)," and insert "41 U.S.C. 3304(a)(5)" in its place.   |
| 619.811-1(d)(3) .....  | Update the SAT to \$150,000.   |
| 619.811-3(d) .....   | Update the SAT to \$150,000.   |
| 622.404 .....  | Correct title to align with FAR.   |
| 622.6 .....  | Correct title to align with FAR.   |
| 622.13 .....   | Correct title to align with FAR.   |
| 623.4 .....  | Correct title to align with FAR.   |
| 624.202 .....  | Redesignate as 624.203.  |
| 625.1 .....  | Correct title to align with FAR.   |
| 625.2 .....  | Correct title to align with FAR.   |
| 627.2 .....  | Correct title to align with FAR.   |
| 627.203 .....  | Redesignate as 627.201 and correct the title.  |
| 627.203-6 .....  | Redesignate as 627.201-2, revise the title to "Contract clauses", designate para as (e), and correct FAR citation.                   |
| 627.304-5 .....  | Redesignate as 627.304-4 and correct FAR citations.  |
| 628.1 .....  | Correct title to align with FAR.   |
| 628.2 .....  | Correct title to align with FAR.   |
| 631.205-6(g)(3) .....  | Redesignate (g)(3) to (g)(6).  |
| 632.705 .....  | Redesignate as section 632.706.  |
| 632.705-70 .....   | Redesignate as section 632.706-70.   |
| 633.203(b) .....   | Designate the text as (b).   |
| 633.214-70(a) .....  | Remove "Contract Disputes Act" and insert "Disputes statute (41 U.S.C. chapter 71)" in its place.                                    |
| 636.202 .....  | Delete section (due to revocation of E.O. 13202, per FAC 2005-35).   |

| DOSAR citation   | Description of change  |
|--|--|
| <b>Add existing policy/procedure to CFR</b>  |  |
| 601.601–70(c) .....  | Incorporate template for justifying use of “notwithstanding” authority.  |
| 601.602–3 .....  | Incorporate procedures for ratifications.  |
| 601.603–3(e) .....   | Incorporate advice regarding authority to sign real property leases.   |
| 604.2 .....  | Incorporate contract distribution procedures.  |
| 604.8 .....  | Incorporate contract file procedures.  |
| 604.16 .....   | Incorporate contract solicitation/contract numbering guidelines.   |
| 604.70 .....   | Incorporate contract review procedures.  |
| 604.71 .....   | Incorporate procurement QA program procedures.   |
| 604.72 .....   | Incorporate procedures for secure procurement for controlled access areas.   |
| 605.207 .....  | Incorporate procedures for preparation and transmittal of synopses.  |
| 606.303–2 .....  | Incorporate content requirements for justifications and approvals.   |
| 607.102 .....  | Incorporate policy statement regarding acquisition planning.   |
| 607.103(d) and (j) .....   | Incorporate requirement for written acquisition plans and approval level.  |
| 607.105 .....  | Incorporate requirements for content of acquisition plans.   |
| 607.5 .....  | Incorporate requirement for determination of not inherently governmental.  |
| 608.8 .....  | Incorporate statutory exemption for overseas printing and binding services.  |
| 608.70 .....   | Incorporate procedures for overseas acquisition of official vehicles.  |
| 613.302 .....  | Incorporate guidance on distribution and content of purchase orders.   |
| 613.303–1 .....  | Incorporate prohibition on use of BPAs for pest control services.  |
| 613.303–6 .....  | Incorporate procedures for internal reviews of BPAs.   |
| 613.307 .....  | Incorporate guidance on use of forms for purchase orders, delivery orders and BPAs.  |
| 615.4 .....  | Incorporate procedures for structured approach for profit/fee analysis.  |
| 616.1 .....  | Incorporate limitations on overseas contracting authority and guidance on use of model solicitations.  |
| 619.870 .....  | Incorporate administrative requirements related to 8(a) contracts.   |
| 628.305( c) .....  | Remove guidance on DoS contract with insurance broker/carrier.   |
| 628.309–70(b) .....  | Remove guidance on DoS contract with insurance broker/carrier.   |
| 628.309–70(c) .....  | Remove guidance on DoS contract with insurance broker/carrier.   |
| 632.006–3 .....  | Incorporate requirements for reporting fraud and payment process.  |
| 633.203(c) .....   | Incorporate change from GSBCA to CBCA.   |
| 633.214–70(c) & (c)(2) .....   | Incorporate change from GSBCA to CBCA.   |
| 636.602–4 .....  | Incorporate guidance on selection authority for AE contracts.  |
| 636.606 .....  | Incorporate guidance on waiver from statutory fee limitation.  |
| 637.102(c) .....   | Incorporate requirement for requiring activity justification for acquisition of services.  |
| 637.103( e) .....  | Incorporate guidance to contracting officers regarding review of services acquisition requests.  |
| 637.104–71 .....   | Incorporate guidance on personal services agreements.  |
| 642.1503–70 .....  | Revise to recognize shift to CPARS.  |
| 649.111 .....  | Incorporate guidance on review and approval of termination settlements.  |
| 652.228–72/73/74 .....   | Remove clause on DoS contract with insurance broker/carrier.   |
| 652.228–70(d) .....  | Remove paragraph on DoS contract with insurance broker/carrier.  |
| 652.228–71 .....   | Revise clause to reflect elimination of DoS contract with insurance broker/carrier.  |
| 652.236–71 .....   | Incorporate statutory changes.   |
| 652.236–72 .....   | Delete from para. (a) phrases “and Section 406(c)”, “, and excludes . . . Libya”, and “, and whether they . . . in this solicitation”; and delete para (d)(9). |
| <b>Changes in delegated authority</b>  |  |
| 601.601–70(b)(5) .....   | Reflects increased authority.  |
| 601.601–70(a)(6) .....   | Move to section 601.601–70(b)(8).  |
| 601.601–70(b)(8) .....   | Revise subparagraph to reflect that RPSOs are not “contracting activities.”  |
| 615.303(a) .....   | Incorporate HCA authority to appoint other than a contracting officer as selection authority.  |
| 623.2 .....  | Incorporate designation of HCA as agency head.   |
| <b>Other editorial adjustments without substantive change</b>  |  |
| 601.106 .....  | Delete burden hours estimates.   |
| 601.301 (a) .....  | Delete specific delegation letters.  |
| 601.302(b) .....   | Editorial changes.   |
| 601.603–1 .....  | Correct URL for ACMP Handbook.   |
| 603.104–4(a) .....   | Remove “who is the agency head’s designee,”  |
| 603.104–4(a)(6), 619.201(a), (b), (d)(18) and (f)(1), 619.202–70(e)(3), (j)(1), (j)(2), (k)(1), (k)(2), (m)(2), (m)(3), (m)(4), (n)(1), and (n)(2), 619.402–70, 619.506(b), 619.602–1, 619.705–4, 619.705–6–70(a) and (b), 619.803–70, 619.803–71(d) and 619.811–1(d)(4) ..... | Change OSDBU office code.  |
| 604.1303–70 .....  | Revise to show proper clause title for 652.204–60.   |
| 606.302–6(c)(1) .....  | Update E.O. to “13526” and replace the “Office of Security Infrastructure” with “Security Infrastructure Directorate.”   |
| 606.303 .....  | Insert the title line “606.303 Justifications.”  |
| 606.304(a)(2) .....  | Editorial change to eliminate the need for future changes to thresholds.   |
| 606.304(d) .....   | Delete text—merely repeats the FAR.  |

| DOSAR citation  | Description of change   |
|---|---|
| 609.402   | Add new section, with designation of Procurement Executive as the suspending official and debarring official.   |
| 609.403   | Remove the definitions of "Debarring official" and "Suspending official."   |
| 616.505(b)(5)   | Delete "contract."  |
| 617.201, 617.201-70   | Remove both sections entirely.  |
| 619.803-71(d)   | Delete unnecessary terms and change A/SDBU to OSDBU.  |
| 619.811-1(d)(2), 619.811-1(e), 619.812(d), 625.7002, 636.570(a)(3), 619.811-1(d)(3), 619.811-3(e) | Remove the word "DOSAR," per the citation convention at 601.303(c).   |
| 622.404-3   | Correct DOSAR citation.   |
| 622.406-8(a)  | Correct "chief of the contracting activity" to "head of the contracting activity."  |
| 623.302-70  | Change "with" to "that."  |
| 627.303   | Revise first sentence for clarity.  |
| 636.513(a)  | Replace "DOSAR" with "the clause at."   |
| 637.103(a)(2)   | Insert missing sub-paragraph identifier "(a)(2)."   |
| 637.104   | Designate the text as para (e).   |
| 637.104-70  | Correct title.  |
| 645.107-70(a)(1)  | Change "and" to "or."   |
| 645.107-70(a)(3)  | Change ". . . paragraphs (a)(1) or (2) of this . . ." to ". . . paragraph (a)(1) of this . . ."   |
| 649.106   | Delete "Termination" and replace "TCO" to "CO."   |
| 652.204-70  | Correct the title to "Department of State Personal Identification Card Policy and Procedures" and make editorial corrections to the body of the clause. |
| 652.206-70  | Editorial changes.  |
| 652.237-72  | Correct the first sentence of paragraph (b).  |
| 652.245-71(c)(1)  | Change "and" to "or."   |
| 652.245-71(c)(3)  | Delete "or (c)(2)."   |

**Regulatory Findings**

*Administrative Procedure Act*

The Department is publishing this rule as a final rule, in accordance with the "good cause" provision of 5 U.S.C. 553(b). The Department finds that, since the amendments in this rule are merely technical in nature or address the internal operating procedures of the agency, public comment is unnecessary. For the same reason, the effective date of this rulemaking is the date of publication, in accordance with 5 U.S.C. 553(d).

*Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This determination was based on the fact that the amendments in this rule are merely technical in nature, or consist of internal operating procedures of the agency, and they do not have any cost or administrative impact on offerors or contractors. Thus, it was concluded that the rule will not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly

or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 801 *et seq.*). This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and import markets. This determination was based on the fact that the amendments in this rule are merely technical in nature or address the internal operating procedures of the agency. The rule does not have any cost or administrative impact on offerors or contractors.

*Executive Orders 12866 and 13563*

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). E.O. 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules,

and of promoting flexibility. The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866.

In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders and finds that the benefits of updating this rule outweigh any costs, which the Department assesses to be minimal.

*Executive Order 13132*

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

*Executive Order 13175*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the

requirements of Executive Order 13175 do not apply to this rulemaking.

*Paperwork Reduction Act*

The rule imposes no new or revised information collections under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

**List of Subjects in 48 CFR Parts 601, 603, 604, 605, 606, 607, 608, 609, 613, 615, 616, 617, 619, 622, 623, 624, 625, 627, 628, 631, 632, 633, 636, 637, 642, 644, 645, 647, 649, and 652**

Administrative practice and procedure, Government procurement.

For the reasons stated in the preamble, the Department of State amends 48 CFR chapter 6 as follows:

- 1. The authority citation for 48 CFR parts 601, 603, 604, 605, 606, 607, 609, 613, 615, 616, 617, 619, 622, 623, 624, 625, 627, 628, 631, 632, 633, 636, 637, 642, 644, 645, 647, 649 and 652 is revised to read as follows:

**Authority:** 22 U.S.C. 2651a, 40 U.S.C. 121(c) and 48 CFR chapter 1.

**PART 601—DEPARTMENT OF STATE ACQUISITION REGULATION SYSTEM**

- 2. Section 601.106 is revised to read as follows:

**601.106 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 before collecting information from ten (10) or more members of the public. Individuals are not required to respond to information collection unless the OMB number and burden estimate information is provided. Accordingly, the information and recordkeeping requirements contained in this regulation have been approved by OMB under OMB Control Number 1405–0050. The information and recordkeeping requirements for Form DS–4053, *Department of State Mentor-Protégé Program Application*, have been approved by OMB under OMB Control Number 1405–0161.

- 3. In section 601.301, paragraph (a) is revised to read as follows:

**601.301 Policy.**

(a) The Assistant Secretary of State for Administration is the agency head for the purposes of FAR 1.301. The Assistant Secretary of State for Administration redelegate to the Procurement Executive the authority to prescribe, promulgate, and amend DOS

acquisition policies, rules, and regulations.

\* \* \* \* \*

- 4. In section 601.302, revise paragraph (b) to read as follows:

**601.302 Limitations.**

\* \* \* \* \*

(b) At posts where Joint Administrative Offices have been formed and DOS is the procurement agency, the FAR and DOSAR apply to all administrative and technical support acquisitions.

**601.603–70 [Redesignated as 601.601–70]**

- 5. Redesignate section 601.603–70 as section 601.601–70.

- 6. Revise newly redesignated section 601.601–70 as follows:

- a. Revise paragraph (b)(5);
- b. Redesignate paragraph (a)(6) as paragraph (b)(8);
- c. Revise newly redesignated (b)(8) and
- d. Add paragraph (c).

The revisions and addition read as follows:

**601.601–70 Delegations of authority.**

\* \* \* \* \*

(b) \* \* \*

(5) *Bureau of International Narcotics and Law Enforcement Affairs*. The authority to enter into and administer simplified acquisition transactions under FAR part 13, to enter into and administer contracts over the simplified acquisition threshold but not exceeding \$500,000 for non-commercial item acquisitions; up to \$6.5 million for the acquisition of commercial items using the simplified acquisition procedures under the Test Program of FAR subpart 13.5; orders against existing contracts up to the maximum ordering threshold or limitation and personal services contracts pursuant to the Foreign Assistance Act of 1961, as amended; and, 48 CFR Chapter 7, Agency for International Development Acquisition Regulation (AIDAR), including any amendments thereto. INL follows the AIDAR guidance for doing personal service contracts. All other contracting actions follow the DOSAR and DoS regulations. These authorities extend to any acquisition performed by any Department of State contracting activity on behalf of INL.

\* \* \* \* \*

(8) *Regional Procurement Support Offices*. The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, and services on behalf of overseas posts is delegated to each Director, Regional

Procurement Support Office (RPSO) at the following locations:

- (i) RPSO Frankfurt in conjunction with Consulate General Frankfurt; and
- (ii) RPSO Florida in conjunction with the Florida Regional Center.

(c) *Execution of delegated authority.*

(1) Whenever the contracting officer makes use of the various statutory authorities available to the Department to waive the application of the Federal Acquisition Regulation or laws governing acquisition, such as those provided in the Foreign Assistance Act (22 U.S.C. 2291) or the Foreign Service Buildings Act (22 U.S.C. 294), a written determination of the basis for using the authority must be prepared and included in the file.

(2) If the statute or current practice of the requiring office does not specify a particular format, use the following format.

**DETERMINATION FOR USE OF AUTHORITY TO WAIVE \_\_\_\_ [fill in what is being waived]**

SUBJECT: [State title of program or project]  
DESCRIPTION OF REQUIREMENT: [Briefly describe what is being acquired]

STATUTORY AUTHORITY: [Cite specific statute, such as 22 U.S.C. 2291(a)(4) for INL, and provide quotation from the law that conveys authority for the waiver at issue]

SCOPE OF WAIVER: [Describe what is being waived, such as (but not limited to) the Federal Acquisition Regulation (FAR) in its entirety, the Competition in Contracting Act as implemented in FAR Parts 5 and 6, or FAR Part 32 limitation on advance payments, etc.; also identify the individual acquisition or class of acquisitions for which the waiver is being sought.]

JUSTIFICATION: [Describe the need to use the authority and the anticipated impact of not doing so; discuss alternatives considered, if any]

CONCURRENCE:

\_\_\_\_\_  
Contracting Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Legal Advisor

\_\_\_\_\_  
Date

\_\_\_\_\_  
APPROVAL/SIGNATURE:

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Date

(3) The determination may be made for an individual acquisition or on a class basis, as appropriate. The Contracting Officer must ensure that the proper official makes the determination in question. There may already be a Department of State delegation of

authority to a specific individual to make the determination.

■ 7. Add sections 601.602–3 and 601.602–3–70 as follows:

**601.602–3 Ratification of unauthorized commitments.**

(b) *Policy.* (1) The Government generally is not bound by unauthorized commitments. Unauthorized commitments violate the Federal Property and Administrative Services Act, other Federal laws, the FAR, the DOSAR, and proper acquisition practice. Therefore, such unauthorized commitments are serious violations that could result in disciplinary action against the transgressor, e.g., withdrawal of a contracting officer's warrant or a Contracting Officer's Representative delegation or collection action.

(2)(i) Unauthorized commitments not exceeding \$1,000. The head of the contracting activity is delegated the authority to serve as the ratifying official for unauthorized commitments not exceeding \$1,000, including unauthorized commitments from other agencies where a DOS employee serves as the contracting officer for that action. The head of the contracting activity may refer any actions not exceeding \$1,000 to the DOS Procurement Executive for ratification if he or she so chooses.

(ii) Unauthorized commitments exceeding \$1,000. All DOS unauthorized commitments in excess of \$1,000 shall be submitted to the DOS Procurement Executive for ratification. Unauthorized commitments in excess of \$1,000 from other agencies may be referred to the other agency's representative at post for resolution in accordance with that agency's ratification process.

(3) *Claims.* Unauthorized contractual commitments that would involve claims subject to resolution under the Contracts Dispute Act of 1978 shall be processed in accordance with FAR subpart 33.2 and subpart 633.2.

(4) *Disciplinary action.* The Procurement Executive may refer egregious cases of unauthorized commitments to HR/ER for possible disciplinary action in accordance with 3 FAM 4370 or 3 FAM 4540. Examples might include repeated unauthorized commitments knowingly made by an employee; failure to take responsibility for a deliberate unauthorized commitment; or similar reasons. The Procurement Executive may revoke the appointment certificate of any contracting officer who makes an unauthorized commitment. The Procurement Executive may direct a contracting officer to revoke the appointment memorandum of a

Contracting Officer's Representative or Government Technical Monitor who makes an unauthorized commitment.

**601.602–3–70 Procedures.**

(a)(1) The person who made the unauthorized commitment shall submit all records and documents concerning the unauthorized commitment to the contracting officer assigned the ratification action. That person shall provide a complete written, signed statement of the facts, including why normal acquisition procedures were not followed; a statement justifying a sole source acquisition (Justification for Other Than Full and Open Competition) if the unauthorized commitment exceeds \$100,000; why and how the vendor was selected; a list of other sources considered; a description of work or products; a statement regarding the status of performance; an estimated or agreed price; certified funding citations; a statement as to why he/she should not be personally liable for the cost, e.g., a public purpose was served and no personal benefit was received; a statement as to whether the individual has ever been responsible for any other unauthorized commitments in the Department of State; and, a statement as to the number of unauthorized commitments processed by the responsible office within the last three calendar years and the circumstances surrounding each of these actions.

(2) When the person who made the unauthorized contractual commitment is no longer available to attest to the circumstances of the unauthorized commitment, an officer from the responsible office shall accomplish the requirements of this paragraph; the statement shall identify the individual responsible for the unauthorized commitment.

(3) In addition, a cognizant management official from the office that employed the individual who made the unauthorized commitment at the time the unauthorized commitment was made shall provide a statement detailing actions that he/she will take to ensure that such commitments will not occur again under the same or similar circumstances.

(4) This statement shall be cleared by the Executive Director of the Bureau that employs (or employed) the person who made the unauthorized commitment.

(b) The contracting officer assigned the ratification action shall prepare and execute a recommendation to the ratifying official. The contracting officer shall either recommend that the ratifying official approve and ratify the unauthorized commitment; or,

disapprove the ratification of the unauthorized commitment.

(1) The recommendation shall include the facts and circumstances of the unauthorized commitment; the information prescribed in FAR 1.602–3(c)(1) and (c)(3) through (6); and a recommendation to the ratifying official as to whether the unauthorized commitment should be ratified.

(2) Following the signature of the contracting officer, the recommendation shall include a statement that the ratifying official could have granted authority to enter into a contractual commitment at the time it was made and still has the authority to do so; that the ratifying official hereby ratifies (or disapproves) the unauthorized commitment in the amount specified; and a date and signature block for the ratifying official.

(c) The information required in paragraph (b)(1) of this section shall be supported by factual findings included or referenced in the recommendation.

(d) The contracting officer shall submit the complete file to the ratifying official. For actions exceeding \$1,000, the file shall be submitted through the head of the contracting activity to the Procurement Executive.

(e) Upon receipt and review of the complete file, if the ratifying official ratifies the unauthorized commitment, the file shall be returned, through the head of the contracting activity if the action exceeds \$1,000, to the contracting officer for issuance of the appropriate contractual document(s). If the request for ratification is not justified, the ratifying official shall return the request to the head of the contracting activity (if over \$1,000) or to the contracting officer (if under \$1,000) with a written explanation for the decision and a recommendation for disposition of the action.

■ 8. Revise the section 601.603 heading to read as follows:

**601.603 Selection, appointment, and termination of appointment for contracting officers.**

\* \* \* \* \*

**601.603–1 [Amended]**

■ 9. In section 601.603–1, remove “<http://foia.state.gov/REGS/search.asp>” and add “<http://www.state.gov/m/a/dir/regsfah/14fah03/index.htm>” in its place.

■ 10. In section 601.603–3, add paragraph (e) to read as follows:

**601.603–3 Appointment.**

\* \* \* \* \*

(e) *Real property leases.* The FAR and DOSAR do not apply to leases of real

property. A contracting officer certificate of appointment is not required. Authority to sign real property leases is as follows:

(1) *Domestic real property leases.* The General Services Administration has delegated domestic leasing authority to the Department of State's Office of Real Property Management (A/OPR/RPM). This delegation is accomplished on a case-by-case basis.

(2) *Real property leases abroad.* Authority to sign real property leases abroad is held by the Director/Chief Operating Officer (DIR/COO) of the Bureau of Overseas Buildings Operations (OBO), through the Secretary of State, under the Foreign Buildings Act of 1926, as amended (22 U.S.C. 292 *et seq.*). Leases at post may be executed by the General Services Officer or by other post administrative personnel as authorized by OBO.

#### **PART 603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

##### **603.104–4 [Amended]**

■ 11. Amend section 603.104–4 as follows:

- a. In paragraph (a), remove “who is the agency head’s designee”; and
- b. In paragraph (a)(6), remove “A/SDBU” and add in its place “OSDBU”.

#### **PART 604—ADMINISTRATIVE MATTERS**

■ 12. Add subpart 604.2, consisting of section 604.202, to read as follows:

##### **Subpart 604.2—Contract Distribution**

###### **604.202 Agency distribution requirements.**

As necessary, the contracting officer shall distribute copies of the signed contract or modification to those officers/offices involved in contract administrative support functions, *e.g.*, the Contracting Officer’s Representative; the requirements office; the Post Occupational Safety and Health Officer (POSHO); the Despatch Agent or other receiving activity, particularly if it is the initial point of contact for receipt of goods or services; the financial management office; and each post or office where the contract shall be performed. Where required by the laws of a foreign country, overseas posts shall retain the original copy of the contract or modification awarded by a domestic contracting activity for performance overseas. The contracting officer shall send copies of contracts and modifications awarded as small business or 8(a) set-asides to OSDBU.

■ 13. Add subpart 604.8 to read as follows:

##### **Subpart 604.8—Government Contract Files**

- 604.802 Contract files.
- 604.803 Contents of contract files.
- 604.803–70 Contract file table of contents.
- 604.804 Closeout of contract files.
- 604.804–70 Contract closeout procedures.
- 604.805 Storage, handling, and disposal of contract files.

##### **Subpart 604.8—Government Contract Files**

###### **604.802 Contract files.**

Heads of contracting activities shall maintain standard procedures to conform to FAR 4.802 for file location and maintenance.

(f) *Electronic files.* Offices may maintain files in electronic media provided all documentation is maintained as required by FAR subpart 4.8. Electronic files dispersed in multiple locations, or maintained with no naming convention, do not constitute adequate electronic records.

###### **604.803 Contents of contract files.**

###### **604.803–70 Contract file table of contents.**

(a) It is the Department’s policy that all contracts, regardless of dollar value, be properly documented so as to provide a complete record of: pre-solicitation activities; the solicitation, evaluation, and award process; and, the administration of the contract through closeout.

(b) All domestic contracting activities awarding contracts using other than simplified acquisition procedures shall use the format of Form DS–1930, *Domestic Contract File Table of Contents*, and all overseas contracting activities shall use the format of Form DS–1929, *Overseas Contract File Table of Contents*, unless an alternate format has been approved by A/OPE.

(c) Each table of contents is organized in chronological order, with six separate sections for each of the six parts of the file folder (from Section I, Pre-Solicitation, through Section VI, Contract and Modifications/Contract Closeout). Alternatively, for ease of contract administration, offices may choose to organize contract files with Section VI of the table of contents at the beginning of the folder, with Section I at the back of the folder.

(d) The format of Form DS–1928, *Contract Administration File Table of Contents*, may be used by those offices that prefer to have a separate file folder for contract modifications or delivery/task orders.

###### **604.804 Closeout of contract files.**

###### **604.804–70 Contract closeout procedures.**

(a) This section sets forth procedures for closing out contracts awarded using

other than simplified acquisition procedures by contracting activities and requirements offices. It is the Department’s policy to close out contracts in the time frames prescribed by FAR Part 4.

(b) Contracting activities are responsible for initiating each contract closeout. Contracting activities and requirements offices are jointly responsible for timely compliance with required contract closeout procedures.

(c) The contract closeout process shall begin as soon as possible after the contract is physically completed, which means that the contractor has delivered the required supplies and the Government has inspected and accepted them, or the contractor has performed and the Government has accepted all services required by the contract, and the base period and any option periods exercised have expired.

(d) *Specific procedures.* The normal steps for closing out a physically completed contract shall be as follows. These steps are summarized in the Contract Closeout Checklist, which shall be completed by the contracting officer and included in the contract file. The contracting officer shall indicate any items that are not applicable (*e.g.*, patent reports, royalty reports, etc.).

(1) The contracting officer shall verify that all work under the contract has been completed; obtain the COR’s assessment of the contractor’s performance; and conduct an initial funds status review, *i.e.*, determine if the contract has excess funds that should be deobligated by contract modification. Contracting officers shall send a cover memo to the COR, to which should be attached the COR Completion Certificate, the applicable performance evaluation form (depending on whether the contract is for construction (SF–1420), architect-engineering services (SF–1421), or other supplies or services (DS–1771, *Contractor Evaluation Statement*)); and, a final payment and closeout memorandum. Contracting officers may require CORs to input past performance data directly into the Contractor Performance Assessment Reporting System (CPARS) as opposed to completing a paper evaluation form (see 642.1503–70).

(2) After receipt of the COR’s response, and the contractor’s release, the contracting officer shall send a final payment memo to the office responsible for payment of invoices/vouchers.

(3) An audit is required for cost-reimbursement contracts over \$550,000, unless available data are considered adequate for a reasonableness determination, in which case the

contract file shall be documented with the appropriate rationale. Requests for audits shall be submitted through the Office of the Inspector General. Cost-reimbursement contracts may be closed after receipt of the audit report and resolution of any issues raised. Quick closeout procedures may be followed, as prescribed in FAR 42.708. The contracting officer may request an audit of any contract, if warranted; however, audits should not be requested if the cost of the audit is likely to exceed potential cost recovery, except where fraud or misrepresentation is suspected.

(4) The contracting officer shall send a letter to the contractor requesting release of claims, using the appropriate format. In addition, a Contractor Assignment Letter is required for certain contracts. To determine which format is applicable, contracting officers shall refer to the Payments clause in the contract.

(5) The contracting officer shall reconcile the contract obligations and contractor payments, and then deobligate any excess funds remaining in the contract by issuing a contract modification on a SF-30. Close coordination with the finance office is necessary in order to receive the required information to perform a funds status review.

(6) The contracting officer shall verify that all relevant documentation is included in the contract file (see 604.803-70).

(7) Upon completion of 8(a) contracts, the contracting officer shall complete the Small Business Administration's Contract Completion Form within ten (10) days of contract completion. One copy shall be forwarded to SBA, one copy shall be retained in the contract file, and one copy shall be sent to OSDDBU.

(8) For classified contracts, the contractor is required to return to the Department all classified material received or generated under the contract, or to destroy all classified material, unless retention is requested and authorized by the Department. The contracting officer shall notify DS/PRD/IN of contract completion, final delivery of goods or services or the termination of the classified contract. The contracting officer shall ensure that any classified material contained in the contract file is properly marked and accounted for.

(9) Closeout documents are available on the Intranet at the A/OPE Web site.

(e) Contract files that have been closed out shall be retained in accordance with the schedule in FAR 4.805.

(f) Contract files for contracts using simplified acquisition procedures are considered closed when the contracting officer receives evidence of property/services and final payment. Disposal of such files shall be as prescribed in FAR 4.805.

**604.805 Storage, handling, and disposal of contract files.**

Heads of contracting activities shall prescribe procedures for handling, storing, and disposing of contract files. Additional guidance on records management may be found in 5 FAM.

**Subpart 604.13 Personal Identity Verification**

■ 14. Revise the subpart 604.13 heading to read as set forth above.

**604.1300 and 604.1301 [Redesignated as 604.1301 and 604.1303]**

■ 15. Redesignate sections 604.1300 and 604.1301 as sections 604.1301 and 604.1303, respectively.

**604.1301-70 [Redesignated as 604.1303-70]**

■ 16. Redesignate section 604.1301-70 as 604.1303-70 and revise it to read as follows:

**604.1303-70 DOSAR contract clause.**

The contracting officer shall insert the clause at 652.204-70, Department of State Personal Identification Card Policy and Procedures, in solicitations and contracts that require contractor employees to perform on-site at a DOS location and/or that require contractor employees to have access to DOS information systems.

■ 17. Add subparts 604.16, 604.70, 604.71, and 604.72 to read as follows:

**Subpart 604.16—Unique Procurement Instrument Identifiers**

**604.1601 Policy.**

(c)(1) *Procurement Instrument Identifier (PIID)*. Uniform numbers shall be assigned to all DOS procurement instruments, domestic and overseas. The numbering system applies to all contracts, purchase orders, and other related instruments, including solicitation documents and delivery orders. This includes instruments executed by DOS contracting officers on behalf of other federal agencies. It does not include requisitions submitted to a contracting activity, or to instruments awarded under Federal assistance arrangements, e.g., grants, cooperative agreements, and loans. Numbers shall be placed in appropriate spaces on government forms and appear on all

documentation intended to support official contract files.

(2) *Responsibility*. Heads of contracting activities are responsible for enforcing compliance with the uniform numbering system. Heads of contracting activities shall develop and maintain a system for assigning and recording contract numbers that conforms to this section.

(3) *Instrument identification numbers*. A 13-character "alpha-numeric" designator shall be assigned to all DOS procurement instruments. Positions (beginning at the left) one through six shall identify the purchasing office; positions seven and eight, the fiscal year in which the number is assigned; position nine, a symbol designating a type of procurement instrument; and positions ten through thirteen, a four-position serial number.

(i) The first six positions shall commence with "S" to designate a DOS-issued contract. The remaining five characters shall identify the activity preparing the instrument. Domestic and overseas contracting activities shall assign the character codes using the five-digit designator from the listing at [http://www.aopeprocurementreports.com/ReportServer\\_OPEMS2008/Pages/ReportViewer.aspx?%2fDOSReport%2fPostCodeList&rs:Command=Render](http://www.aopeprocurementreports.com/ReportServer_OPEMS2008/Pages/ReportViewer.aspx?%2fDOSReport%2fPostCodeList&rs:Command=Render). DOS organizations not listed shall contact A/OPE for assignment of an office code.

(ii) The seventh and eighth positions shall be the last two digits of the fiscal year in which the number is assigned.

(iii) The ninth position shall be a capital letter assigned to indicate the type of instrument, as follows:

|   |   |
|---|---|
| (A) Blanket Purchase Agreement .....  | A |
| (B) Invitation for Bids .....   | B |
| (C) Contract (includes letter contracts, contracts incorporating basic agreements and basic ordering agreements) .....                | C |
| (D) Indefinite Delivery Contract .....  | D |
| (E) Reserved. Do not use .....  | E |
| (F) Delivery/Task Order (includes orders placed against all U.S. Government contracts, whether issued by DOS or another agency) ..... | F |
| (G) Basic Ordering Agreement .....  | G |
| (H) Basic Agreement .....   | H |
| (I) Request for Information/Comment ...   | I |
| (J) Reserved. Do not use .....  | J |
| (K) Reserved. Do not use .....  | K |
| (L) Orders under Blanket Purchase Agreements .....  | L |
| (M) Purchase Order .....  | M |
| (N) Reserved. Do not use .....  | N |
| (O) Do not use this letter .....  | O |
| (P) Personal services contract .....  | P |
| (Q) Request for Quotations .....  | Q |
| (R) Request for Proposals .....   | R |

(iv)(A) The tenth through thirteenth positions shall be the serial number for the instrument. A separate set of serial numbers may be used for any type of instrument listed in paragraph (c)(3)(iii) of this section. Each series of numbers for the same activity shall begin with the number 0001 at the start of each fiscal year.

(v)(A) The following illustrates a properly configured contract number for the first number assigned to a fiscal year 2015 contract awarded by the Department of State, Embassy Ottawa: SCA525-15-C-0001

(B) Use of the dashes to separate the individual elements of the series is optional; however, when reporting individual contract actions to the Federal Procurement Data System (see FAR subpart 6.4), dashes shall not be used.

(C) Contracting activities are authorized to use the first digit of the serial number (position 10) to establish discrete series of numbers. For example, the "1000" series may be reserved for Bureau of Consular Affairs requirements (domestic), or the "1000" series may be reserved for Economic section requirements (overseas). Use of discrete series is appropriate generally for activities handling large numbers of transactions and can provide useful management information.

(4) *Solicitation amendment and contract modification numbers.* Solicitation amendments are to be numbered sequentially, beginning with the alpha designator "A," e.g., A001. Contract modifications shall also be numbered sequentially, beginning with the alpha designator "M," e.g., M001.

#### **Subpart 604.70—Contract Review**

604.7001 Policy.

604.7002 Procedures.

#### **Subpart 604.70—Contract Review**

##### **604.7001 Policy.**

The contracting officer shall review each proposed contractual document and its supporting file for completeness and accuracy. Each contract file shall contain all pertinent information applicable to the proposed action. Each contract file should be in sufficient detail to permit reconstruction of all significant events by any subsequent reviewer without referral to the individual responsible for the contractual action.

##### **604.7002 Procedures.**

(a) *Overseas contracting activities.* (1) A/OPE reviews all procurements that exceed the warrant levels of post contracting officers. Post contracting officers may request A/OPE review and

assistance for transactions below this level.

(2) *Personal services agreements.* Prior A/OPE approval is not applicable to personal services agreements, as they are not subject to procurement statute and regulation.

(b) *Domestic contracting activities and Regional Procurement Support Offices.* A/OPE reviews domestic acquisitions as described in the A/LM/AQM Quality Assurance Plan.

(c) *Delegation or waiver.* The Procurement Executive may delegate or waive the review requirements. In such instances, the Procurement Executive shall provide to each head of the contracting activity, as appropriate, a written delegation or waiver of these requirements.

#### **Subpart 604.71—Procurement Quality Assurance Program**

604.7101 Purpose.

604.7102 Contracting activity reviews.

604.7102-1 Peer reviews.

604.7102-2 Form and scope of review

604.7102-3 Approval.

604.7103 Review by Assistant Legal Adviser for Buildings and Acquisitions (L/BA).

#### **Subpart 604.71—Procurement Quality Assurance Program**

##### **604.7101 Purpose.**

A procurement quality assurance program is essential to the effective operation of each domestic contracting activity. Each domestic contracting activity and RPSO shall develop a quality assurance plan for review and approval of contract actions to ensure that all requirements of law, regulation, Departmental policy, and sound procurement practices are met, the taxpayer's interests are adequately protected, and the Department's mission is well-served. Post quality assurance includes A/OPE review of actions exceeding warrant levels and Staff Assistance Visits (SAVs).

##### **604.7102 Contracting activity reviews.**

##### **604.7102-1 Peer reviews.**

All contract actions above the simplified acquisition threshold shall be independently reviewed by at least one other qualified contracting professional. This includes solicitations, contracts, contract modifications, and delivery/task orders. This requirement is waived for overseas posts and RPSOs that have only one qualified contracting professional.

##### **604.7102-2 Form and scope of review**

(a) The review shall focus on both compliance with statutory/regulatory requirements as well as good

contracting practices. Reviews shall be included in the official contract file along with documentation regarding the actions taken in response to the review.

(b) Reviews should be limited in time to prevent unnecessary procurement lead-time, but thorough in scope, considering all documents in the contract file and all relevant contracting issues. Checklists may be used to facilitate a thorough review, as appropriate.

##### **604.7102-3 Approval.**

The solicitation, contract, or contract modification being reviewed shall not be issued until all review comments requiring corrective action are satisfactorily resolved. Waivers shall not be granted except in unusual circumstances, and shall be approved in advance by the head of the contracting activity.

##### **604.7103 Review by Assistant Legal Adviser for Buildings and Acquisitions (L/BA).**

(a) L/BA shall review solicitations, contract awards, and delivery orders against GSA Federal Supply Schedule contracts exceeding \$1 million that are generated by domestic contracting activities, including RPSOs. L/BA shall also review domestic contract modifications exceeding \$1 million if the scope or ceiling of the contract may be in question. This review is not required for modifications exercising priced options, incremental funding modifications, and similar actions that do not involve questions regarding the scope or ceiling of the contract.

(b) L/BA shall also review and approve any nonpersonal services contract, purchase order or blanket purchase agreement to be awarded to an individual who is a U.S. citizen.

#### **Subpart 604.72—Secure Procurement for Controlled Access Areas**

##### **604.7201 Policy.**

A/LM issues procedures for the acquisition of secure items that are needed by overseas posts. Posts shall contact A/LM/AQM regarding secure procurement matters, and shall consult the periodic guidance issued by A/LM on this subject.

#### **PART 605—PUBLICIZING CONTRACT ACTIONS**

##### **Subpart 605.2—Synopsis of Proposed Contract Actions**

■ 18. Revise the subpart 605.2 heading to read as set forth above.

■ 19. Add section 605.207 to read as follows:

**605.207 Preparation and transmittal of synopses.**

(a)(1) Contracting officers at overseas posts shall submit notices of proposed contract actions to A/OPE for electronic transmittal to the GPE. Alternately, posts may obtain a user ID and password that allows direct registration and issuance of the notice in the GPE. Posts should contact A/OPE for assistance in obtaining the ID and password if they choose to directly input the notice information.

■ 20. Revise the heading of section 605.403 to read as follows:

**605.403 Requests from Members of Congress.**

\* \* \* \* \*

**PART 606—COMPETITION REQUIREMENTS**

■ 21. Revise the heading of section 606.202 to read as follows:

**606.202 Establishing or maintaining alternative sources.**

\* \* \* \* \*

**606.302–6 [Amended]**

■ 22. In section 606.302–6, in paragraph (c)(1) introductory text, remove “12958” and add in its place “13526” in two places and remove “Office of Security Infrastructure” and add in its place “Security Infrastructure Directorate”.

■ 23A. Add section 606.303 heading to read as follows:

**606.303 Justifications.**

\* \* \* \* \*

■ 23B. Add section 606.303–2 to read as follows:

**606.303–2 Content.**

(a) All justifications shall address the requirements of FAR 6.303–2. A sample Justification for Other than Full and Open Competition for acquisitions by both overseas posts and domestic contracting activities is available on the A/OPE Intranet Web site. Use of the format for overseas posts is mandatory; domestic contracting activities may develop their own format based on the sample. In addition, sample formats are provided for posts to justify motor vehicle and household appliance purchases made in accordance with the Department’s standardization program (see 606.370(b)). All applicable approvals are as indicated on the formats. The justification must be completed and signed by the appropriate individuals.

(b)(9) All justifications for acquisitions exceeding \$5 million shall include a copy of the acquisition plan, as required by 607.103(d).

**606.304 [Amended]**

■ 24. Amend section 606.304 as follows:

- a. In paragraph (a)(2), remove “over \$550,000 but not exceeding \$11.5 million” and add in its place “within the dollar range set forth in FAR 6.304(a)(2)” and remove “competition advocate” and “Competition Advocate” and add in their place “advocate for competition” and “Advocate for Competition”, respectively; and
- b. Remove paragraph (d).

**606.304–70 [Amended]**

■ 25. In section 606.304–70, remove “Competition Advocate” and add in its place “Advocate for Competition”.

**606.370 [Amended]**

■ 26. In section 606.370, in paragraphs (a) and (b), remove “41 U.S.C 253(c)(1),” and add in its place “41 U.S.C. 3304(a)(1)” and in two places in paragraph (b), remove “competition advocate” and add in its place “advocate for competition”.

**606.501 [Amended]**

■ 27A. In section 606.501, in paragraphs (a) and (b), remove “Competition Advocate” and add in its place “Advocate for Competition” and in three places in paragraph (b), remove “competition advocate” and add in its place “advocate for competition”.

**606.501–70 [Amended]**

■ 27B. In section 606.501–70, remove “competition advocate” and add in its place “advocate for competition”.

**606.570 [Amended]**

■ 28. In section 606.570, remove “Competition Advocate” and add in its place “Advocate for Competition”.

**PART 607—ACQUISITION PLANNING**

■ 29. Add section 607.102 to read as follows:

**607.102 Policy.**

It is the Department’s policy that every acquisition be conducted and the contract file documented in conformance with the requirements for acquisition planning pursuant to FAR part 7.

■ 30. In § 607.103, add paragraphs (d) and (j) to read as follows:

**607.103 Agency-head responsibilities.**

\* \* \* \* \*

(d) Domestic requirements offices must develop a formal, written acquisition plan for all acquisitions exceeding \$5 million. This includes base period plus all option years. The plan shall address the content requirements of FAR 7.105.

(j) Acquisition plans for service contracts with an anticipated annual expenditure exceeding \$25 million must be approved by the bureau Assistant Secretary.

■ 31. Add section 607.105 to read as follows:

**607.105 Contents of written acquisition plans.**

(b)(10) Acquisition Plans for support of contract administration and other tasks closely related to inherently governmental functions must include a determination that the services being requested are not inherently governmental and a risk mitigation strategy. Procurement Information Bulletin (PIB) 2011–11, Attachment 1, lists functions requiring additional oversight and potential mitigation strategies.

(b)(19) Acquisition Plans must include planning for contract administration. Planning shall be developed by the bureau technical program office and should consider an initial assessment of resources required for contractor oversight, support, travel and communications. Planning should take into account the need for multiple technical monitors based on geographic dispersion and multiple technical disciplines. Program offices must identify financial and other resources that are reserved for implementation of contract administration.

■ 32. Add subpart 607.5, consisting of section 607.503, to read as follows:

**Subpart 607.5—Inherently Governmental Functions****607.503 Policy.**

(e) Requirements offices shall provide to the contracting officer a written determination that none of the functions to be performed are inherently governmental. This determination shall be included with the procurement request package, which is transmitted to the contracting officer to initiate an action. The Form DS–4208 may be used to meet this requirement. The contracting officer shall obtain review from the Assistant Legal Adviser for Buildings and Acquisitions (L/BA) of any request package that the contracting officer determines raises substantial questions as to the performance of inherently governmental functions. Disagreements regarding the determination shall be resolved by the head of the contracting activity.

■ 33. Add part 608 to read as follows:

## PART 608—REQUIRED SOURCES OF SUPPLIES AND SERVICES

### Subpart 608.8—Acquisition of Printing and Related Services

608.802 Policy.

### Subpart 608.70—Acquisition of Official Vehicles by Overseas Contracting Activities

608.7001 Definitions.

608.7002 Acquisitions for the Department of State.

608.7003 Acquisitions on behalf of other Federal agencies.

**Authority:** 22 U.S.C. 2651a, 41 U.S.C. 1702 and 48 CFR chapter 1.

### Subpart 608.8—Acquisition of Printing and Related Services

#### 608.802 Policy.

(a)(4) In accordance with Section 2(a) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669), overseas printing and binding services may be acquired from sources other than the Government Printing Office.

(b) The DOS central printing authority is the Director, Global Publishing Solutions under the Deputy Assistant Secretary for Global Information Services.

### Subpart 608.70—Acquisition of Official Vehicles by Overseas Contracting Activities

#### 608.7001 Definitions.

*Official vehicle* means a U.S. Government-owned or leased motor vehicle that is fueled by petroleum or electric batteries, has a minimum of four wheels, and is designed primarily for use on highways, such as sedans, station wagons, buses, carryalls, and trucks.

#### 608.7002 Acquisitions for the Department of State.

(a) A/LM funds and controls the acquisition of official vehicles required by overseas posts. Accordingly, any acquisition of official vehicles by overseas contracting activities must be approved and authorized in advance by A/LM.

(b) GSA is the mandatory source for U.S. manufactured vehicles acquired in the United States. Purchase requests are submitted by A/LM to GSA on behalf of overseas posts. Overseas posts shall use U.S. manufactured vehicles unless justified as described in paragraph (c) of this section.

(c) Overseas posts may acquire non-U.S. manufactured vehicles only in special cases that are approved in advance. Requests to purchase non-U.S. manufactured vehicles may be justified under the conditions specified in 6 FAM 228.9–3(B)(c). The request shall be

submitted to A/LM for approval. If approval is granted to acquire non-U.S. manufactured vehicles from the local economy, overseas posts shall follow the normal procedures in the FAR.

(d) Standardization of motor vehicles shall follow the procedures in 606.370.

#### 608.7003 Acquisitions on behalf of other Federal agencies.

(a) *Acquisition of U.S. manufactured vehicles.* (1) GSA is the mandatory source for official vehicles purchased in the United States for all Federal agencies. Non-DOS agencies must have a waiver from GSA that allows them to acquire official vehicles from sources in the United States other than GSA, in accordance with the Federal Property Management Regulation, 41 CFR 101–38.104.

(2) DOS overseas contracting activities shall not obtain GSA waivers or acquire vehicles through GSA or directly from sources in the United States on behalf of other agencies. Requests to acquire vehicles in this manner shall be returned to the requesting agency without action, and the agency instructed to use its own contracting personnel or GSA for this purpose.

(b) *Acquisition from non-U.S. sources.* No GSA waiver is required for official vehicles purchased outside the United States from non-U.S. sources. Normal acquisition procedures shall be followed. However, contracting officers should be aware that statutory ceilings apply to the acquisition of passenger vehicles (*i.e.*, sedans and station wagons) (see P.L. 103–329), so other agencies shall not request that posts acquire vehicles without providing an analysis of how the price compares with this ceiling.

## PART 609—CONTRACTOR QUALIFICATIONS

■ 34. Add section 609.402 to subpart 609.4 to read as follows:

#### 609.402 Policy.

The Procurement Executive is the agency head's designee to be the debarring official and the suspending official.

#### 609.403 [Amended]

■ 35. In section 609.403, remove the definitions of "Debarring official" and "Suspending official."

■ 36. Revise sections 609.404 and 609.404–70 to read as follows:

#### 609.404 System for Award Management Exclusions.

A/OPE shall accomplish the agency responsibilities prescribed in FAR 9.404(c)(1) through (6). The authority to

establish procedures prescribed in FAR 9.404(c)(7) is delegated, without power of redelegation, to the head of the contracting activity.

#### 609.404–70 Specially Designated Nationals List.

Contracting officers shall not award to any of the entities listed on the Specially Designated Nationals (SDN) List, available on the Department of Treasury's Office of Foreign Assets Control Web site at <http://www.treas.gov/ofac/>. Contracting officers shall consult this list prior to award for any dollar amount. This list is included in searches conducted on the System for Award Management (SAM) Web site at <https://www.sam.gov>.

## PART 613—SIMPLIFIED ACQUISITION PROCEDURES

■ 37. Add sections 613.302, 613.302–1, 613.302–5, and 613.302–5–70 to read as follows:

#### 613.302 Purchase orders.

##### 613.302–1 General.

(d) The contracting officer shall distribute copies of each purchase order in conformance with subpart 604.2.

##### 613.302–5 Clauses.

The contracting officer shall ensure that the appropriate clauses prescribed in FAR part 13 are added or incorporated by reference on all purchase orders with both U.S. and foreign vendors.

##### 613.302–5–70 DOSAR clauses.

In addition to the appropriate FAR clauses, each purchase order shall incorporate all DOSAR clauses required for or applicable to the acquisition. The DOSAR clauses may be incorporated by reference.

■ 38. Add section 613.303–1 to read as follows:

##### 613.303–1 General.

BPA's shall not be used to acquire pest control services.

■ 39. Add section 613.303–6 to read as follows:

##### 613.303–6 Review procedures.

(a) Contracting officers shall conduct an annual internal review to ensure that authorized BPA procedures are being followed and report the results of the review, including needed corrective action, to the head of the contracting activity.

■ 40. Add sections 613.307 and 613.307–70 as follows:

**613.307 Forms.**

(b)(2) Other than commercial items. The OF-347 shall be mandatory for use by domestic contracting activities for issuing purchase orders, delivery orders, and BPAs, unless ordering against another Federal agency contract that stipulates a different form (e.g., DD-1155, Order for Supplies or Services;) or, unless the Procurement Executive has approved another form. The OF-347 may also be used as a voucher. In lieu of the OF-347, DOS overseas contracting activities may use the DS-2076, Purchase Order, Receiving Report, and Voucher; and DS-2077, Continuation Sheet. Contracting activities may use the Optional Form (OF) 127, Receiving and Inspection Report, for documenting receipt and inspection.

**613.307-70 File folders for purchase orders, delivery orders, blanket purchase agreements, and purchase card transactions.**

Contracting officers shall use Forms DS-1918, Purchase Order File; DS-1919, Delivery Order File; DS-1920, Blanket Purchase Agreement (BPA) File; and DS-3014, Purchase Card Transaction File (Actions Exceeding \$3,000 Through \$25,000), to record relevant data and document those acquisitions, respectively.

**PART 615—CONTRACTING BY NEGOTIATION**

- 41. In section 615.303, add a sentence to the end of paragraph (a) to read as follows:

**615.303 Responsibilities.**

(a) \* \* \* The HCA is delegated authority to appoint someone other than the contracting officer as source selection authority for a particular acquisition.

- 42. Add subpart 615.4 to read as follows:

**Subpart 615.4—Contract Pricing**

615.404 Proposal analysis.  
615.404-4 Profit.

**Subpart 615.4—Contract Pricing****615.404 Proposal analysis.****615.404-4 Profit.**

(b)(2) It is the Department's policy to use the structured approach for profit/fee analysis contained in the Department of Health and Human Services' (HHS) FAR Supplement (see 48 CFR chapter 3), for acquisitions awarded by domestic contracting activities and RPSOs. This document may be accessed from A/OPE's Acquisition Web site (see 601.105-3).

Contracting officers shall follow these procedures. HHS Form 674, *Structured Approach Profit/Fee Objective*, or an equivalent form, may be used to document the profit/fee analysis. If more than one pre-negotiation cost objective is developed (e.g., high and low), a separate form should be completed for each. The contracting officer shall ensure that a written explanation is attached to the form justifying the weights chosen for each cost category or factor. This approach considers the factors outlined in FAR 15.404-4(d).

(c)(4)(i)(B) In accordance with a delegation from OBO, overseas posts may request a waiver from A/OPE if post is unable to negotiate a price for architect-engineer services within the six percent price limitation. To obtain a waiver, the contracting officer must send the following information to A/OPE:

- (1) Description of project;
- (2) Estimated dollar amount, with cost breakdown; and,
- (3) Description of negotiation efforts.

**PART 616—TYPES OF CONTRACTS**

- 43. Add subpart 616.1 as follows:

**Subpart 616.1—Selecting Contract Types**

616.102 Policies.  
616.102-70 Overseas posts.  
616.103 Negotiating contract types.

**Subpart 616.1—Selecting Contract Types****616.102 Policies.****616.102-70 Overseas posts.**

Pursuant to 601.601-70(a)(1)(i), no authority is delegated to overseas posts to enter into cost-reimbursement, fixed-price incentive, or fixed-price redeterminable contracts, unless the Procurement Executive's approval is obtained. Such requests shall be submitted by the head of the contracting activity on a case-by-case basis.

**616.103 Negotiating contract types.**

(d) The Procurement Executive has issued class determinations for the following categories of contracts awarded by overseas contracting activities: painting, vehicle insurance, vehicle rental, alarm installation, cell phone rental, janitorial, hotel and cost per copy services; gardening and maintenance services; and packing/shipping services. Copies may be found in the Overseas Contracting and Simplified Acquisition Guidebook. Contracting officers need not develop their own determinations provided that they use A/OPE's model solicitations. Contracting officers shall place a copy of

the appropriate determination in the contract file.

**616.505 [Amended]**

- 44. In section 616.505, in paragraph (b)(5), remove the word "contract" and remove "Competition Advocate" and add in its place "Advocate for Competition".

**PART 617—SPECIAL CONTRACTING METHODS****617.201 and 617.201-70 [Removed]**

- 45. Remove sections 617.201 and 617.201-70.

**PART 619—SMALL BUSINESS PROGRAMS****619.201 [Amended]**

- 46. In section 619.201, in paragraphs (a), (b), (d)(18), and (f)(1), remove "A/SDBU" and add in its place "OSDBU";

**619.202-70 [Amended]**

- 47. Amend 619.202-70 as follows:
  - a. In paragraphs (e)(3), (j)(1), (j)(2), (k)(1), (k)(2), (m)(2), (m)(3), (m)(4), (n)(1) and (n)(2), remove "A/SDBU" and add in its place "OSDBU";
  - b. In paragraph (n)(2), revise the word "recission" to read "rescission"; and
  - c. In paragraph (o)(1), remove the phrase "exceeding \$500,000" and add in its place "exceeding \$650,000" and remove "\$1,000,000" and add in its place "\$1,500,000".

**619.402-70 [Amended]**

- 48. In section 619.402-70, remove "A/SDBU" and add in its place "OSDBU".

**619.506 [Amended]**

- 49. In section 619.506, in paragraph (b), remove "A/SDBU" and add in its place "OSDBU".

**Subpart 619.6—Certificates of Competency and Determinations of Responsibility**

- 50. Revise the subpart 619.6 heading as set forth above.

**619.602-1 [Amended]**

- 51. In section 619.602-1, remove "A/SDBU" and add in its place "OSDBU".

**619.705-4 [Amended]**

- 52. In section 619.705-4, remove "A/SDBU" and add in its place "OSDBU".

**619.705-6-70 [Amended]**

- 53. In section 619.705-6-70, in paragraphs (a) and (b), remove "A/SDBU" and add in its place "OSDBU".

**619.803–70 [Amended]**

■ 54. In section 619.803–70, remove “A/SDBU” and add in its place “OSDBU”.

**619.803–71 [Amended]**

■ 55. Amend 619.803–71 as follows:

■ a. In the introductory text, remove “\$100,000” and add in its place “\$150,000” in both places it occurs;

■ b. In paragraph (b), remove “Central Contractor Registration database (<http://www.ccr.gov>)” and add in its place “System for Award Management (<https://www.sam.gov>)”; and

■ c. In paragraph (d), in the second sentence, remove “clause” and “DOSAR Clause” and in the last sentence, remove “A/SDBU” and add in its place “OSDBU”.

■ 56. Revise section heading for 619.804–3–70 to read as follows:

**SBA Acceptance Under MOUs for Acquisitions Exceeding \$150,000.**

\* \* \* \* \*

**619.805–2 [Amended]**

■ 57. In 619.805–2, in paragraph (b), remove “\$100,000” and add in its place “\$150,000”.

**619.811–1 [Amended]**

■ 58. In 619.811–1:

■ a. In paragraph (d)(1), remove “41 U.S.C 253(c)(5),” and add in its place “41 U.S.C. 3304(a)(5)”;

■ b. In paragraph (d)(2), remove the word “DOSAR”;

■ c. In paragraph (d)(3), remove “\$100,000” and add in its place “\$150,000”; and

■ d. In paragraph (d)(4), remove “A/SDBU” and add in its place “OSDBU”.

**619.811–3 [Amended]**

■ 59. In section 619.811–3, in paragraph (d), remove “\$100,000” and add in its place “\$150,000” and in paragraph (e), remove “DOSAR”.

**619.812 [Amended]**

■ 60. In section 619.812, in paragraph (d), remove “DOSAR”.

■ 61. Add section 619.870 to read as follows:

**619.870 Acquisition of technical requirements.**

(a) *Offering letter.* When a decision has been made by OSDBU and the contracting officer to process an acquisition through the SBA under the 8(a) program, the contracting activity shall promptly send to the applicable SBA office a letter offering the acquisition to the SBA, with an information copy to the Small and Disadvantaged Business Utilization

Specialist. The offering letter should transmit the statement of work, purchase description, technical data package, or specifications and such other information deemed necessary by the contracting officer.

(b) The contracting officer has greater latitude in holding discussions with the business concerns being considered under an 8(a) program acquisition if under the \$4 million competitive threshold for 8(a) competition than under a non-8(a) program acquisition. Informal assessments of potential 8(a) sources shall be within the parameters of 13 CFR 124.308(g). The technical evaluation must be carefully reviewed to determine if any source declared to be unacceptable is capable of being made acceptable.

**PART 622—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

■ 62. Revise the section 622.404 heading to read as follows:

**622.404 Construction Wage Rate Requirements statute wage determinations.**

\* \* \* \* \*

**622.404–3 [Amended]**

■ 63. In section 622.404–3, remove “601.603–70” and add in its place “601.601–70”, and add “FAR” immediately before “22.404–3(b) and (d)”.

**622.406–8 [Amended]**

■ 64. In 622.406–8, paragraph (a), remove “chief of the contracting activity” and add in its place “head of the contracting activity”.

**Subpart 622.6—Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000**

■ 65. Revise the subpart 622.6 heading to read as set forth above.

**Subpart 622.13—Equal Opportunity for Veterans**

■ 66. Revise the subpart 622.13 heading to read as set forth above.

**PART 623—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

■ 67. Add subpart 623.2, consisting of section 623.204, to read as follows:

**Subpart 623.2—Energy and Water Efficiency and Renewable Energy**

**623.204 Procurement exemptions.**

The head of the contracting activity is the agency head’s designee for the purpose of executing the written determination to not purchase ENERGY STAR® or FEMP-designated products.”

**623.302–70 [Amended]**

■ 68. In section 623.302–70, in the first sentence, remove “which” and add in its place “that”.

**Subpart 623.4—Use of Recovered Materials and Biobased Products**

■ 69. Revise the subpart 623.4 heading to read as set forth above.

**PART 624—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**

**624.202 [Redesignated as 624.203]**

■ 70. Redesignate 624.202 as 624.203.

**PART 625—FOREIGN ACQUISITION**

**Subpart 625.1—Buy American—Supplies**

■ 71. Revise the subpart 625.1 heading to read as set forth above.

**Subpart 625.2—Buy American—Construction Materials**

■ 72. Revise the subpart 625.2 heading as set forth above.

**625.7002 [Amended]**

■ 73. In section 625.7002, remove “DOSAR”.

**PART 627—PATENTS, DATA, AND COPYRIGHTS**

**Subpart 627.2—Patents and Copyrights**

■ 74. Revise the subpart 627.2 heading as set forth above.

**627.203 and 627.203–6 [Redesignated as 627.201 and 627.201–2]**

■ 75. Redesignate sections 627.203 and 627.203–6 as 627.201 and 627.201–2.

■ 76A. Revise the newly redesignated section 627.201 heading to read as follows:

**627.201 Patent and copyright infringement liability.**

■ 76B. In newly redesignated section 627.201–2:

■ a. Revise the section heading.

■ b. Designate the text as paragraph (e).

■ c. Revise newly designated paragraph (e).

The revision reads as follows:

**627.201–2 Contract clauses.**

(e) The Procurement Executive is the agency head's designee for the purposes of FAR 27.201–2(e).

**Subpart 627.3—Patent Rights under Government Contracts**

■ 77. Revise the subpart 627.3 heading to read as set forth above.

**627.303 [Amended]**

■ 78. In the first sentence of section 627.303, remove “for the purposes of” and add in its place “to make the determinations addressed in” and, in the second sentence, add “proposed to be” between “Determinations” and “issued”.

**627.304–5 [Redesignated as 627.304–4]**

■ 79. Redesignate section 627.304–5 as 627.304–4.

**627.304–4 [Amended]**

■ 80. In newly redesignated section 627.304–4, remove “FAR 27.304–5” and add in its place “FAR 27.304–4” and remove “FAR 27.304–5(b)” and add in its place “FAR 27.304–4(b)”.

**PART 628—BONDS AND INSURANCE****Subpart 628.1—Bonds and Other Financial Protections**

■ 81. Revise the subpart 628.1 heading to read as set forth above.

**Subpart 628.2—Sureties and Other Security for Bonds**

■ 82. Revise subpart 628.2 heading to read as set forth above.

**628.305 [Amended]**

■ 83. In section 628.305, remove paragraph (c).

**628.309–70 [Amended]**

■ 84. In section 628.309–70, remove the last sentence in paragraph (b) and remove paragraph (c).

**PART 631—CONTRACT COST PRINCIPLES AND PROCEDURES****631.205–6 [Amended]**

■ 85. In section 631.205–6, redesignate paragraph (g)(3) as (g)(6).

**PART 632—CONTRACT FINANCING**

■ 86. Add section 632.006–3 to read as follows:

**632.006–3 Responsibilities.**

(b) DOS personnel shall report immediately and in writing any apparent or suspected instances where the contractor's request for advance,

partial, or progress payments is based on fraud. The report shall be made to the contracting officer and the Assistant Inspector General for Investigations. The report shall outline the events, acts, or conditions which indicate the apparent or suspected violation and include all pertinent documents. The Assistant Inspector General for Investigations will investigate, as appropriate. If appropriate, the Office of the Inspector General will provide a report to the Procurement Executive.

**632.705 [Redesignated as 632.706]**

■ 87. Redesignate section 632.705 as 632.706.

**632.705–70 [Redesignated as 632.706–70]**

■ 88. Redesignate section 632.705–70 as 632.706–70.

**PART 633—PROTESTS, DISPUTES, AND APPEALS****633.103 [Amended]**

■ 89. In section 633.103, in paragraph (d)(4), remove “Competition Advocate” and add in its place “Advocate for Competition”.

■ 90. In section 633.203, designate the current text as paragraph (b) and add paragraph (c) to read as follows:

**633.203 Applicability.**

\* \* \* \* \*

(c) The Agency Board of Contract Appeals for the Department of State is the United States Civilian Board of Contract Appeals (CBCA). See <http://www.cbca.gsa.gov>.

**633.214–70 [Amended]**

■ 91. In section 633.214–70—

■ a. In paragraph (a), remove “Contract Disputes Act” and add in its place “Disputes statute (41 U.S.C. chapter 71)”.

■ b. In paragraphs (c) introductory text and (c)(2), remove “GSBCA” and add in its place “CBCA”.

■ c. In paragraph (d), last sentence, remove from the parentheses “simplified acquisition limitation” and add in its place “simplified acquisition threshold”.

**633.270 [Removed]**

■ 92. Remove section 633.270.

**PART 636—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS****636.202 [Removed]**

■ 93. Remove section 636.202.

**636.513 [Amended]**

■ 94. In section 636.513, in paragraph (a), remove “DOSAR” and add in its place “the clause at”.

**636.570 [Amended]**

■ 95. In section 636.570, in paragraph (a)(3), remove “DOSAR”.

■ 96. Add section 636.602–4 to read as follows:

**636.602–4 Selection authority.**

(a) For acquisitions conducted by A/LM/AQM on behalf of the Bureau of Overseas Buildings Operations, the final selection decision shall be made by the Director/Chief Operating Officer of the Bureau of Overseas Buildings Operations, with the concurrence of the contracting officer and L/BA. For other domestic acquisitions, the selection decision shall be made by an individual designated by the Assistant Secretary of State for Administration. For acquisitions conducted by overseas posts, the selection decision shall be made by the contracting officer.”

■ 97. Add section 636.606 to read as follows:

**636.606 Negotiations.**

(a) Contracting officers at overseas posts may request a waiver from A/OPE if the contracting officer is unable to negotiate a fee within the six percent limitation. See 615.404–4(c)(4)(i)(B).”

**PART 637—SERVICE CONTRACTING**

■ 98. In section 637.102, add paragraph (c) to read as follows:

**637.102 Policy.**

(c) Any Acquisition Plan or procurement request package for services expected to exceed \$25,000 shall include a Form DS–4208 completed by the requiring activity. Instructions for completing the DS–4208 may be found at <http://aoepd.a.state.gov/Content/documents/DS-4208-Instructions.docx>.

■ 99. Amend section 637.103 by designating the current text as paragraph (a)(2) and adding paragraph (e) to read as follows:

**637.103 Contracting officer responsibility.**

\* \* \* \* \*

(e) The Contracting Officer shall review the Forms DS–4208 submitted by requiring activities, not contract for inherently governmental functions and assist in implementation of mitigation strategies for efforts that are closely associated with inherently governmental functions. A copy of the DS–4208 shall be retained in the contract file.

**637.104 [Amended]**

■ 100. Amend section 637.104 by designating the current text as paragraph (e).

■ 101. Revise the heading for section 637.104–70 to read as follows:

**637.104 DOS authorities for personal services contracts.**

\* \* \* \* \*

■ 102. Add section 637.104–71 to read as follows:

**637.104–71 Personal services agreements.**

(a) *Applicability.* This section applies only to personal services agreements (PSAs) awarded under the authority of 22 U.S.C. 2669(c).

(b) *Definition.* “Personal Services Agreement (PSA)” is a method of employment using the statutory authority under 22 U.S.C. 2669(c). The Procurement Executive has delegated program management responsibility for PSAs awarded under the Department of State basic authority at 22 U.S.C. 2669(c). When applied to U.S. citizens hired under this authority, the term “PSA Plus” is normally used.

(c) *Policy.* DOS contracting officers at overseas posts should not award any personal services contracts that are subject to acquisition statutes and regulations.

(d) *Authority.* (1) The Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, amended section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)) by revising the Department’s authority. This language states: “and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relative to the negotiation, making, and performance of contracts and performance of work in the United States.”

(2) This authority was further amended under the National Defense Authorization Act for Fiscal Year 2002 which added subsection (n) to 22 U.S.C. 2669. This language states “exercise the authority provided in section (c), upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal services contracts with individuals to perform services in support of the Department of Defense or such other department or agency, as the case may be.” This authority allowed the use of 22 U.S.C. 2669(c) by all other agencies, provided they meet certain criteria and agree to follow certain guidelines laid out in a Memorandum of Agreement (MOA). That MOA is not signed at the post level, but by a senior official at the Department of State and the other agency. Without the MOA in place, other agencies may not use this

basic authority. HR/OE has responsibility for implementation of the authority that came with this legislative change. The HR/OE Web site includes the latest listing of agencies that have signed the MOA and can use this authority.

(3) This statutory language has continuing effect and provides authority to the Department of State, and now other agencies, if they so agree, to obtain personal services without adherence to acquisition statutes. In furtherance of the authority provided by the statute, the Procurement Executive has waived the applicability of acquisition regulations when obtaining personal services under the authority of 22 U.S.C. 2669(c). As a result, it is not necessary for the individual executing a PSA under the authority of 22 U.S.C. 2669(c) to have a contracting officer’s certificate of appointment required under FAR 1.603 and 601.603 (see 601.603–3(d)).

(e) *Signatory authority.* Only direct hire U.S. citizens may sign PSAs.

Provided the individual meets that criterion, individuals who may sign PSAs are limited to the following:

(1) The Human Resources Officer;

(2) The Human Resources/Financial Management Officer; or,

(3) The Management Officer or American FSO designated to perform human resources functions (*e.g.*, GSO, RSO, etc.).

**637.601 [Amended]**

■ 103. In 637.601, remove “Competition Advocate” and add in its place “Advocate for Competition”.

**PART 642—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

**Subpart 642.14 [Removed]**

■ 104. Remove subpart 642.14.

■ 105. Revise section 642.1503–70 to read as follows:

**642.1503–70 Contractor Performance Assessment Reporting System (CPARS).**

(a) The Department of State subscribes to the Contractor Performance Assessment Reporting System (CPARS) maintained at <http://www.cpars.gov/>. CPARS is an Internet-based tool allowing government activities to input past performance information. This information is uploaded by CPARS into the Past Performance Information Retrieval System (PPIRS).

(b) All DOS contracting officers shall evaluate contractors’ past performance as required by FAR 42.1502 and 42.1503.

(c) All Terminations for Default and Terminations for Cause shall be entered

into CPARS regardless of contract purpose or dollar value.

(d) Heads of contracting activities shall send a list of the names, work addresses, and phone numbers of all acquisition personnel whom they wish to have access to the CPARS to [AQMCPARS@state.gov](mailto:AQMCPARS@state.gov).

**PART 644—SUBCONTRACTING POLICIES AND PROCEDURES**

**Subpart 644.3—Contractors’ Purchasing Systems Reviews**

■ 106. Revise the subpart 644.3 heading to read as set forth above.

**PART 645—GOVERNMENT PROPERTY**

**645.107–70 [Amended]**

■ 107. Amend section 645.107–70 as follows:

■ a. In paragraph (a)(1), remove “and” and add in its place “or.”; and

■ b. In paragraph (a)(3), remove “paragraphs” and add in its place “paragraph” and remove “or (2)”.

**PART 647—TRANSPORTATION**

■ 108. Add subpart 647.3 to read as follows:

**Subpart 647.3—Transportation in Supply Contracts**

647.305 Solicitation provisions, contract clauses, and transportation factors.  
647.305–70 Notice of shipment.  
647.305–71 Shipping instructions.

**Subpart 647.3—Transportation in Supply Contracts**

**647.305 Solicitation provisions, contract clauses, and transportation factors.**

**647.305–70 Notice of shipment.**

The contracting officer shall insert the clause at 652.247–70, Notice of Shipment, in solicitations and contracts entered into and performed outside the United States, when overseas shipment of supplies is required.

**647.305–71 Shipping instructions.**

The contracting officer shall insert the clause at 652.247–71, Shipping Instructions, in solicitations and contracts with a source in the United States if overseas shipment of supplies is required.

**PART 649—TERMINATION OF CONTRACTS**

**649.106 [Amended]**

■ 109. In section 649.106, remove “Termination” and remove “TCO” and add in its place “CO” both places it occurs.

■ 110. Add section 649.111 as follows:

649.111 Review of proposed settlements.

All proposed termination settlements shall be reviewed and approved by the Office of the Legal Adviser for legal sufficiency. In addition,

(a) All proposed termination settlements from domestic contracting activities shall be approved by the head of the contracting activity, with the exception of termination settlements on simplified acquisitions and no-cost termination settlements; and,

(b) All proposed termination settlements from overseas contracting activities shall be approved by the Procurement Executive.

PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

111. Revise section 652.204–70 to read as follows:

652.204–70 Department of State Personal Identification Card Policy and Procedures.

As prescribed in 604.1303–70, insert the following clause:

DEPARTMENT OF STATE PERSONAL IDENTIFICATION CARD POLICY AND PROCEDURES (DATE)]

(a) The Contractor shall comply with the Department of State (DOS) Personal Identification Card Policy and Procedures for all employees performing under this contract who require frequent and continuing access to DOS facilities, or information systems. The Contractor shall insert the substance of this clause in all subcontracts when the subcontractor's employees will require frequent and continuing access to DOS facilities, or information systems.

(b) The DOS Personal Identification Card Policy and Procedures may be accessed at http://www.state.gov/m/ds/rls/rpt/c21664.htm.

(End of clause)

112. Amend section 652.206–70 by revising the section heading and the clause date and revising paragraph (a) to read as follows:

652.206–70 Advocate for Competition/Ombudsman.

\* \* \* \* \*

Advocate for Competition/Ombudsman (DATE)

(a) The Department of State's Advocate for Competition is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition and use of commercial items. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and commercial practices,

potential offerors are encouraged first to contact the contracting officer for the solicitation. If concerns remain unresolved, contact:

(1) For solicitations issued by the Office of Acquisition Management (A/LM/AQM) or a Regional Procurement Support Office, the A/LM/AQM Advocate for Competition, at AQMCompetitionAdvocate@state.gov.

(2) For all others, the Department of State Advocate for Competition at cat@state.gov.

652.228–70 [Amended]

113. Amend section 652.228–70 by removing the clause date "(JUN 2006)" and adding in its place "(DATE)" and by removing paragraph (d).

114. Amend section 652.228–71 as follows:

- a. Remove the clause date "(JUN 2006)" and add in its place "(DATE)";
b. Revise paragraph (b);
c. Remove paragraphs (c), (d), (e), and (f);
d. Redesignate paragraph (g) as (c); and
e. Remove Alternate I.

The revision reads as follows:

652.228–71 Worker's Compensation Insurance (Defense Base Act)—Services.

\* \* \* \* \*

(b) The Contractor shall procure Defense Base Act (DBA) insurance directly from a Department of Labor (DOL) approved insurance provider. Approved providers can be found at the DOL Web site at http://www.dol.gov/owcp/dllhc/lscarrrier.htm."

\* \* \* \* \*

652.228–72 and 652.228–73 [Removed]

115. Remove reserved sections 652.228–72 and 652.228–73.

652.228–74 [Removed]

116. Remove section 652.228–74.
117. Section 652.236–71 is amended as follows:

- a. Remove the clause date "(APR 2004)" and add in its place "(DATE)";
b. in subparagraph (b)(1), add the phrase "or at a United States diplomatic or consular establishment abroad" immediately following "in the United States"; and
c. In paragraph (d)(1):
i. Add the phrase "or at a United States diplomatic or consular establishment abroad" immediately following "in the United States" both places it occurs;
ii. Add "/Country" after "City and State" each time it occurs under the "Location" fill-ins; and
iii. Revise the last sentence of paragraph (d)(1).

The revision reads as follows:

652.236–71 Foreign Service Buildings Act, as Amended.

\* \* \* \* \*

- (d) \* \* \*
(1) \* \* \*

If the bidder/offeror's participation was as a partner or co-venturer, indicate the percentage of the project performed by the bidder/offeror: \_\_\_\_\_ %

\* \* \* \* \*

652.236–72 [Amended]

118. Section 652.236–72 is amended as follows:

- a. Remove the clause date "(APR 2004)" and add in its place "(DATE)";
b. In paragraph (a):
i. In the first sentence, remove the phrase "and Section 406(c)";
ii. In the second sentence; remove ", and excludes organizations that have business arrangements with Libya"; and
iii. In the third sentence, remove the phrase ", and whether they have any business arrangements with Libya that may disqualify them from participating in this solicitation"; and
c. Remove paragraph (d)9.

119. In section 652.237–72, remove the clause date "(APR 2004)" and add in its place "(DATE)" and revise the first sentence of paragraph (b) to read as follows:

652.237–72 Observance of Legal Holidays and Administrative Leave.

\* \* \* \* \*

(b) When New Year's Day, Independence Day, Veterans Day or Christmas Day falls on a Sunday, the following Monday is observed; when it falls on Saturday, the preceding Friday is observed. \* \* \*

\* \* \* \* \*

652.242–71 [Redesignated as 652.247–70]

120. Redesignate section 652.242–71 as 652.247–70.

652.242–71 [Reserved]

121. Add reserved section 652.242–71.

652.242–72 [Redesignated as 652.247–71]

122. Redesignate section 652.242–72 as 652.247–71.

652.242–72 [Reserved]

123. Add reserved section 652.242–72.

652.245–71 [Amended]

124. Amend section 652.245–71 by removing the clause date "(DEC 2013)" and adding in its place "(DATE)", by removing "and" and adding in its place "or" in paragraph (c)(1), and by removing "or (c)(2)" in paragraph (c)(3).

**652.247-70 [Amended]**

■ 125. In newly redesignated section 652.247-70, in the introductory text, remove “642.1406-2-70(a)” and add “647.305-70” in its place and remove the clause date “(JUL 1988)” and add in its place “(DATE)”.

**652.247-71 [Amended]**

■ 126. In newly redesignated section 652.247-71, in the introductory text, remove “642.1406-2-70(b)” and add “647.305-71” in its place and remove the clause date “(DEC 1994)” and add in its place “(DATE)”.

Dated: December 23, 2014.

**Corey M. Rindner,**

*Procurement Executive, Department of State.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 222, 223, and 229**

[Docket No. 110812495-4999-03]

RIN 0648-BB37

**Taking of Marine Mammals Incidental to Commercial Fishing Operations; Bottlenose Dolphin Take Reduction Plan; Sea Turtle Conservation; Modification to Fishing Activities**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) issues this final rule amending the Bottlenose Dolphin Take Reduction Plan (BDTRP) and its implementing regulations under the Marine Mammal Protection Act (MMPA). The rule requires the year-round use of modified pound net leaders for offshore Virginia pound nets in specified waters of the lower mainstem Chesapeake Bay and coastal state waters. Virginia pound net-related definitions, gear prohibitions, and non-regulatory measures are also finalized. This final rule is based on consensus recommendations of the Bottlenose Dolphin Take Reduction Team (BDTRT). For consistency, NMFS also amends current regulations and definitions for Virginia pound nets under the Endangered Species Act (ESA) for sea turtle conservation.

**DATES:** This final rule is effective March 11, 2015.

**ADDRESSES:** The proposed rule, the BDTRP and its amendments, the BDTRT meeting summaries with consensus recommendations, and other background documents are available at [www.regulations.gov](http://www.regulations.gov), or the Take Reduction Team Web site: <http://www.nmfs.noaa.gov/pr/interactions/trt/bdtrp.htm>, or by submitting a request to Stacey Horstman (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Stacey Horstman, NMFS Southeast Region, [Stacey.Horstman@noaa.gov](mailto:Stacey.Horstman@noaa.gov), 727-824-5312; Kristy Long, NMFS Office of Protected Resources, [Kristy.Long@noaa.gov](mailto:Kristy.Long@noaa.gov), 206-526-4792; or Carrie Upite, NMFS Greater Atlantic Region, [Carrie.Upite@noaa.gov](mailto:Carrie.Upite@noaa.gov), 978-282-8475.

**SUPPLEMENTARY INFORMATION:****Background**

This final rule amends: (1) The BDTRP and its implementing regulations at 50 CFR 229.2, 229.3, and 229.35 in accordance with section 118(f) of the MMPA; and (2) current definitions and regulations issued under the ESA for sea turtle conservation at 50 CFR 222.102, 223.205, and 223.206 (d)(10). The BDTRP was originally published on April 26, 2006, and was amended on December 19, 2008, and July 31, 2012. NMFS is further amending the BDTRP to meet its MMPA-mandated goal of reducing incidental mortality and serious injury of strategic stocks of bottlenose dolphin from the Virginia pound net fishery. Regulations for this amendment are based on the BDTRT's consensus recommendations, which are generally consistent with existing regulations enacted under the ESA for sea turtle conservation, with some revisions and updates. Therefore, amendments to the ESA sea turtle conservation regulations for the Virginia pound net fishery are finalized within the same rulemaking for consistency in definitions and regulations.

Details regarding the development and justification of this final rule were provided in the preamble of the proposed rule (79 FR 21695; April 17, 2014) and are not repeated here.

**Virginia Pound Net Fishing Requirements**

This final rule requires the year-round use of modified pound net leaders for offshore Virginia pound nets within the Bottlenose Dolphin Pound Net Regulated Area. It removes the land-based inspection program for modified pound net leaders under the ESA. Instead, under both the MMPA and

ESA, it requires fishermen to attend a one-time compliance training before setting modified pound net leaders and to keep on board the vessel a valid modified pound net leader compliance training certificate issued by NMFS. The rule also requires that all three sections of pound net gear (leader, heart, and pound) be fished at the same time with the exception of a continuous 10-day period to deploy, remove, and/or repair gear. Virginia pound net-related definitions are added for effective implementation of the regulatory measures, including hard lay lines, modified pound net leader, nearshore pound net, offshore pound net, and pound net. Lastly, non-regulatory measures are finalized under the BDTRP including outreach and coordination to help with compliance and monitoring of regulatory measures for the Virginia pound net fishery.

**Comments on the Proposed Rule and Responses**

NMFS received five comment letters on the proposed rule via email or [www.regulations.gov](http://www.regulations.gov). One comment letter was received from multiple organizations, including The Humane Society of the United States, Whale and Dolphin Conservation, Oceana, and Center for Biological Diversity. Other comment letters were received from the Marine Mammal Commission, one Virginia pound net fisherman, and two citizens. The comments are summarized below under Regulatory or Non-Regulatory Changes. NMFS' response follows each comment.

*Comments on Regulatory Changes*

*Comment 1:* Four comment letters, including one from multiple environmental organizations, expressed general support for the proposed rule and recommended NMFS adopt the measures as proposed.

*Response:* We appreciate the commenters' support, and we are finalizing these measures as proposed.

*Comment 2:* One comment letter from multiple environmental organizations expressed concern over the delay from when the BDTRT's consensus recommendations were received in September 2009 to when NMFS published the proposed rule. The letter references requirements in section 118(f)(7)(B)(i) of the MMPA that publication of proposed take reduction plans and amendments must occur no later than 60 days after the take reduction team submits them to NMFS. The letter also expressed concern that this delay needlessly delayed conservation measures meant to protect bottlenose dolphins.