Department of Homeland Security Acquisition Manual

December 2003

FOREWORD

The Department of Homeland Security Acquisition Manual (HSAM) implements and supplements the Federal Acquisition Regulation (FAR) and the Homeland Security Acquisition Regulation (HSAR). It is non-regulatory in nature and provides uniform procedures for the internal operation of acquiring supplies and services within the Department of Homeland Security. The HSAM format conforms to the arrangement and numbering system of the FAR and HSAR and is divided by chapters and subchapters. The HSAM is not a stand alone document and must be read in conformance with the FAR and HSAR.

The HSAM first edition, effective December 19, 2003, includes relevant Internet links wherever external references are made. The DHS Office of Acquisition Policy and Oversight intends to focus its information dissemination efforts to the Internet, and will not publish any hard copies of the manual. Please provide any suggestions or comments to the Office of Acquisition Policy and Oversight at acquisition@dhs.gov

//Signed//
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DHS ACQUISITION MANUAL (HSAM)
TABLE OF CONTENTS

CHAPTER 3001 FEDERAL ACQUISITION REGULATIONS SYSTEM

CHAPTER 3002 DEFINITIONS OF WORDS AND TERMS

CHAPTER 3003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

CHAPTER 3004 ADMINISTRATIVE MATTERS

CHAPTER 3005 PUBLICIZING CONTRACT ACTIONS

CHAPTER 3006 COMPETITION REQUIREMENTS

CHAPTER 3007 ACQUISITION PLANNING

CHAPTER 3008 REQUIRED SOURCES OF SUPPLIES AND SERVICES

CHAPTER 3009 CONTRACTOR QUALIFICATIONS

CHAPTER 3010 MARKET RESEARCH – (RESERVED)

CHAPTER 3011 DESCRIBING AGENCY NEEDS

CHAPTER 3012 ACQUISITION OF COMMERCIAL ITEMS

CHAPTER 3013 SIMPLIFIED ACQUISITION PROCEDURES

CHAPTER 3014 SEALED BIDDING

CHAPTER 3015 CONTRACTING BY NEGOTIATION

CHAPTER 3016 TYPES OF CONTRACTS

CHAPTER 3017 SPECIAL CONTRACTING METHODS

CHAPTER 3018 (RESERVED)

CHAPTER 3019 SMALL BUSINESS PROGRAMS

CHAPTER 3020 (RESERVED)

CHAPTER 3021 (RESERVED)

CHAPTER 3022 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

CHAPTER 3023 ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

CHAPTER 3024 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION - (RESERVED)

CHAPTER 3025 FOREIGN ACQUISITION

CHAPTER 3026 OTHER SOCIOECONOMIC PROGRAMS – (RESERVED)

CHAPTER 3027 PATENTS, DATA, AND COPYRIGHTS

CHAPTER 3028 BONDS AND INSURANCE

CHAPTER 3029 TAXES

CHAPTER 3030 COST ACCOUNTING STANDARDS ADMINISTRATION

CHAPTER 3031 CONTRACT COST PRINCIPLES AND PROCEDURES

CHAPTER 3032 CONTRACT FINANCING

CHAPTER 3033 PROTESTS, DISPUTES, AND APPEALS

CHAPTER 3034 MAJOR SYSTEM ACQUISITION

CHAPTER 3035 RESEARCH AND DEVELOPMENT CONTRACTING

CHAPTER 3036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

CHAPTER 3037 SERVICE CONTRACTING

CHAPTER 3038 FEDERAL SUPPLY SCHEDULE CONTRACTING -(RESERVED)

CHAPTER 3039 ACQUISITION OF INFORMATION TECHNOLOGY

CHAPTER 3040 (RESERVED)

CHAPTER 3041 ACQUISITION OF UTILITY SERVICES

CHAPTER 3042 CONTRACT ADMINISTRATION AND AUDIT SERVICES

CHAPTER 3043 CONTRACT MODIFICATIONS

CHAPTER 3044 SUBCONTRACTING POLICIES AND PROCEDURES

CHAPTER 3045 GOVERNMENT PROPERTY

CHAPTER 3046 QUALITY ASSURANCE

CHAPTER 3047 TRANSPORTATION

CHAPTER 3048 VALUE ENGINEERING

CHAPTER 3049 TERMINATION OF CONTRACTS

CHAPTER 3050 EXTRAORDINARY CONTRACTUAL ACTIONS

CHAPTER 3051 USE OF GOVERNMENT SOURCES BY CONTRACTORS – (RESERVED)

CHAPTER 3052 SOLICITATION PROVISIONS AND CONTRACT CLAUSES (RESERVED)

CHAPTER 3053 FORMS

HSAM - RECORD OF NOTICES		
HSAM NOTICE NUMBER	**DATE OF CHANGE**	**PAGE NUMBERS CHANGED**
HSAM 04-01	04-06-2004	Pages: 36-2, 37-2, 53-2, DHS Forms 700-15 and 700-16
HSAM 04-02	05-18-2004	Pages: 4-13 to 4-15 and 7-1 to 7-11
HSAM 04-03	06-24-2004	Pages: 7-3 to 7-5, 19-3, 53-2, and 53-4
HSAM 05-01	10-01-2004	Pages: 4-3, 4-4, 4-7, 4-8, and 4-10
HSAM 05-02	10-26-2004	Pages: 4-12 to 4-14, and 7-1 to 7-5, and 7-10 to 7-38 (Appendix A)
HSAM 05-03	12-23-2004	Pages: 4-12, 4-13, and 32-1 to 32-9
HSAM 05-04	01-13-2005	Pages: 9-1 to 9-6, 53-1 to 53-4
HSAM 05-05	07-13-2005	Pages: 1-1 to 1-14; 2-1; 4-1 to 4-19; Chapter 3004-Appendix B (new); 5-1 to 5-3; 6-3 to 6-6; 7-2 to 7-9; Chapter 3007-Appendix A; 8-1; 9-3, 11-1; 12-1; 13-1 to 13-2; 15-1 to 15-4;16-1 to 16-2; 17-1 to 17-3; 19-2 to 19-6; 23-1; 31-1 to 31-2; 32-1 to 32-11; 33-1 to 33-2; 36-4 to 36-5; 37-1 to 37-9; 39-1; 42-5; 45-1 to 45-7; 53-2 to 53-4; and DHS Form 700-22
HSAM 05-06	08-04-2005	Pages: 1-14, and 37-1 to 37-11

CHAPTER 3001 FEDERAL ACQUISITION REGULATIONS SYSTEM

Subchapter	**3001.1**	**Purpose, Authority, Issuance**
	3001.101	Purpose.
	3001.103	Authority.
	3001.104	Applicability.
	3001.105	Issuance.
	3001.105-170	Publication of HSAM.
	3001.105-270	Arrangement of HSAM.
	3001.105-3	Copies.
	3001.106	OMB approval under the Paperwork Reduction Act.
Subchapter	**3001.2**	**Administration**
	3001.202-70	Departmental compliance with the FAR, HSAR and HSAM.
Subchapter	**3001.3**	**Agency Acquisition Regulations**
	3001.301	Policy.
	3001.301-70	Amendment of HSAM.
	3001.301-71	Effective date.
	3001.301-72	HSAM Note numbering.
	3001.304	Agency control and compliance procedures.
Subchapter	**3001.4**	**Deviations from the FAR, HSAR, HSAM**
	3001.403	Individual deviations.
	3001.404	Class deviations.
Subchapter	**3001.6**	**Career Development, Contracting Authority, and Responsibilities**
	3001.601	General.
	3001.601-70	Designation of the Head of Contracting Activities and Chiefs of Contracting Offices.
	3001.602	Contracting officers.
	3001.602-2	Responsibilities.
	3001.602-3	Ratification of unauthorized commitments.
	3001.603	Selection, appointment, and termination of appointment.
	3001.603-1	General.
	3001.603-2	Selection.
	3001.670	Responsibility of other Government personnel.
	3001.671	Selection, appointment and termination of non-warranted ordering officials.
	3001.671-1	General.
	3001.671-2	Procedures.
	3001.671-3	Specialized training.
	3001.671-4	Temporary appointment.
	3001.671-5	Surveillance of ordering officials.

Subchapter 3001.1 Purpose, Authority, Issuance

3001.101 Purpose.

The Department of Homeland Security Acquisition Manual (HSAM) is issued by the Chief, Procurement Officer (CPO). It establishes for the Department of Homeland Security uniform department-wide acquisition procedures, which implement or supplement the Federal Acquisition Regulation (FAR) and the Homeland Security Acquisition Regulation (HSAR), and other agency regulations and statutory requirements.

3001.103 Authority

The HSAM is issued pursuant to the DHS Delegation Number 0700, Delegation to the CPO for Acquisition and Financial Assistance Management and Management Directive (MD) 0003, Acquisition Line of Business Integration and Management.

3001.104 Applicability.

All acquisitions within the Department shall follow this manual unless otherwise excluded by the FAR, HSAR, or this manual. The Transportation Security Administration (TSA) is exempt from use of this manual, except as indicated in chapters 3004, 3005, 3007 and 3033.

3001.105 Issuance.

3001.105-170 Publication and of HSAM.

(a) This manual is issued electronically on the internet at http://www.dhs.gov/dhspublic/.

3001.105-270 Arrangement of HSAM.

(b) *Numbering.* (1) This manual conforms to the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105. HSAM addresses the specific paragraphs for which supplementation or implementation applies. For example, this paragraph supplements (FAR) CFR 1.105-2(b)(1); therefore, the only paragraphs cited in HSAM 3001.105-270 would be paragraphs (b) and (1).

(2) HSAM coverage is identified by the prefix “30” and followed by the complete HSAM cite which may be down to the subparagraph level (e.g., HSAM 3001.105-3).

(3) Coverage in the HSAM that supplements the FAR will use chapter, subchapter, section and subsection numbers ending in "70" through "89" (e.g., HSAM 3001.202-70).

(4) Coverage in the HSAM, other than that identified with a "70" or higher number, that implements the FAR or HSAR will use the identical number sequence and caption of the FAR or HSAR segment being implemented which may be down to the subparagraph level (e.g., HSAM 3001.105-3(a)).

(c) *References and citations.* This manual may be referred to as the Homeland Security

Acquisition Manual or the HSAM. Cross references to the FAR, HSAR, or HSAM in this manual will be cited by "FAR", "HSAR", or "HSAM" followed by its numbered cite. As an electronic document, the HSAM contains many links (identified by blue print) to the word or term referenced in the text.

3001.105-3 Copies.

(a) The HSAM is issued electronically and a loose-leaf version may be downloaded at http://www.dhs.gov/dhspublic/. No hardcopy distribution will be made.

3001.106 OMB approval under the Paperwork Reduction Act.

Prior to obligating funds and entering into a contractual agreement for information collection activities, the contracting officer shall obtain a clearance and approval from the Office of management and Budget (OMB). The SF-83, Request for OMB Review, shall be used to request OMB's review and approval. Organizational Elements (OEs) Paperwork Clearance Officers are available to assist in preparing the information collection justification for the SF-83.

(a) *Data collection under proposed contracts.* SF-83s shall be forwarded to the Office of the Chief Information Officer (CIO), for processing to OMB. Early coordination with Paperwork Clearance Officers prior to release of the solicitation should prevent delays caused by the requirement to obtain OMB approval.

(b) *Data collection under HSAR Supplements.* An SF-83, along with the calculations used to derive the numbers shown on the SF-83, shall be forwarded to the CPO along with the proposed HSAR Supplement coverage (see HSAM 3001.304) for coordination.

Subchapter 3001.2 Administration

3001.202-70 Departmental compliance with the FAR, HSAR, and HSAM.

The listing of cognizant CPO Office Personnel for FAR, HSAR, and HSAM identifies the appropriate individual by Part/Chapter and project assignments to contact within the Office of Chief Procurement Officer (OCPO).

Subchapter 3001.3 Agency Acquisition Regulations

3001.301 Policy.

(a)(1) *Delegations of FAR and HSAR procurement authority.* The following is applicable with respect to delegations of FAR and HSAR procurement authority included in this manual:

(i) *Agency head delegations*. Certain FAR and HSAR functions are non-delegable and reserved by the Secretary. All reserved and delegated functions (either to the Office of the Secretary (OSDHS)) or the OEs are indicated in the applicable chapters of this manual. Lower organizational levels for FAR and HSAR agency head functions shall be authorized by the CPO

(who will coordinate with other DHS officials as deemed appropriate).

(ii) *Head of the contracting activity (HCA) functions.* Certain FAR and HSAR functions which are non-delegable and reserved for the HCA or equivalent organizational level are indicated in the applicable chapter of this manual. For delegable functions, compliance with the level indicated in the applicable chapter of this manual or the HSAR is required unless otherwise authorized by the HCA. The HCA may retain both delegable and non-delegable functions assigned to the HCA. Approved HCA functional delegations which are different from those specified in this manual shall be in writing and stored in a centralized location within the OE. A copy of the delegation shall be submitted to the CPO within 30 days of issuance.

(iii) Any other authorities of this manual besides those mentioned in (i) or (ii) above may be assigned to a higher level within the OE than that stipulated in this manual unless specified otherwise. Any authorities assigned or redelegated (e.g., approval of streamlined acquisition plans per HSAM 3007.170) pursuant to this subparagraph shall be in writing and stored in a centralized location within the OE. A copy of the assignment/redelegation shall be submitted to the CPO within 30 days of issuance.

3001.301-70 Amendment of HSAM.

(a) HSAM changes may be the result of suggestions by internal DHS personnel, other Government agencies, or the public. Proposed changes to this manual, along with rationale for the change, shall be submitted to DHS ATTN: Office of the Chief Procurement Officer, Director Policy and Oversight.

(b) Updates to the HSAM will be summarized in a HSAM NOTE published on the internet http://www.dhs.gov/dhspublic under “Business”. An announcement of the HSAM NOTE issuance will be made to the HCAs. This announcement is used as the mechanism to alert users that the HSAM has changed. When the HSAM NOTE is issued, the electronic HSAM is simultaneously updated to incorporate the changes.

(c) The HSAM is maintained by CPO in electronic form. Maintenance of the HSAM will be made through the HSAR/HSAM change process.

(1) *HSAM Chapters.* This manual will contain internal DHS acquisition procedures within chapters which supplement or implement FAR and HSAR material. Chapters are normally coordinated through the HSAR/HSAM change process prior to issuance.

(2) *HSAM Notices.*

(i) HSAM Chapters will be amended by issuance of a HSAM Notice (also referred to as a HSAM NOTE); and

(ii) HSAM Notices are: (A) used to disseminate information that is relevant to the HSAM; and (B) normally integrated into the HSAM. HSAM Notices may occasionally contain new material that shall be issued quickly without going through the HSAR/HSAM change process before their release. However, subsequent to their issuance, these HSAM NOTES will be reviewed using the

HSAR/HSAM change process and change pages to the HSAM Chapters will be issued as appropriate.

(3) *HSAM Appendices, Attachments, and Exhibits.* At the end of HSAM Chapters, Notices, and Bulletins, appendices may be used to provide supplementary material not suitable for insertion in the HSAM issuance itself (e.g., tables, other agency issuances). Appendices may contain attachments with or without exhibits. Attachment(s) supplement the appendix, and exhibit(s) supplement the attachment. Both are made part of the appendix.

3001.301-71 Effective date.

Unless otherwise stated, the following applies--

(a) Statements in HSAM NOTEs that the content is "effective upon receipt," "upon a specified date," or that changes set forth in the document are "to be used upon receipt," mean that any new or revised procedures or forms shall be used when issuing solicitations, contracts, or modifications thereafter; and

(b) If solicitations are already in process or negotiations complete when the HSAM NOTE is received, the new procedures or forms need not be used if it is determined by the Chief of the Contracting Office (COCO) that it would not be in the best interest of the Government.

3001.301-72 HSAM NOTE numbering.

HSAM NOTEs will be numbered consecutively on a fiscal year basis beginning with number "01" prefixed by the last two digits of the fiscal year.

3001.304 Agency control and compliance procedures.

(a) DHS's goal is to ensure the HSAR and HSAM are consistent with FAR unless the FAR prescribes otherwise. Due to the leadtime necessary to implement FAR changes, conflict or inconsistency may exist. In those cases, the FAR takes precedent over the HSAR and HSAM.

(b) *OE acquisition regulations* shall:

(1) Be incorporated into the HSAR as a supplemental regulation;

(2) Be coordinated in accordance with OE internal procedures (including review by legal counsel) to ensure compliance with (FAR) 48 CFR 1.301 before submission to the CPO;

(3) Be submitted to the CPO for review and approval by a transmittal letter signed by no lower than HCA at the initial stages of the regulatory process (i.e., before proceeding to the public comment process); include a Paperwork Reduction Act (see HSAM 3001.404(a)(2)) and Regulatory Flexibility Act analysis, as appropriate; and be supported by a justification of need for the regulation;

(4) Be integrated within the HSAR with access on the internet at http://www.dhs.gov/dhspublic/;

and

(5) Pertain only to that OE.

(c) *OE acquisition procedures* shall:

(1) Contain no material which duplicates unless necessary for clarity (this is expected to be minimally required), paraphrases, or is inconsistent with the contents of the FAR, HSAR, and this manual;

(2) Be consistent with the policies and procedures of the FAR, HSAR, this manual, and other Departmental guidance and follow the format, arrangement, and numbering system specified in HSAM 3001.105-270 and HSAM 3001.301-70 to the extent practicable; and

(3) Be reviewed, as deemed appropriate, in accordance with internal operating procedures and the following:

(i) OEs shall provide an electronic version of promulgated OE-wide acquisition guidance implementing or supplementing this manual.

(ii) The HCA is responsible for ensuring that contracting offices limit their promulgation of acquisition procedures and, if procedures are necessary, to ensure they comply with subparagraphs (1) and (2) above.

Subchapter 3001.4 Deviations from the FAR, HSAR, and HSAM

3001.403 Individual deviations.

(a) The HCA, without delegation, is authorized to grant individual deviations, except when this authority has been otherwise assigned by regulation or this manual.

(b) A copy of approved individual deviations shall be provided to CPO within 5 working days of approval.

3001.404 Class deviations.

(a) The CPO is authorized to approve class deviations unless (FAR) 48 CFR 1.405(e) is applicable. Requests for class deviations to the FAR, HSAR, and this manual shall be endorsed by the HCA before submitting the request to the CPO for approval**.** Submit all requests using the procedures and format at HSAR 3001.7.

(2) Suggested changes to the FAR, HSAR, and this manual should be transmitted to the CPO after review and approval of the manager of the office requesting the change (e.g, the COCO). FAR recommended changes determined appropriate by the CPO will be forwarded by CPO to the Civilian Agency Acquisition Council.

Subchapter 3001.6 Career Development, Contracting Authority, and Responsibilities

Subchapter 3001.601 General.

The CPO, without delegation, is authorized to establish a new contracting activity at DHS Headquarter and delegate authority to manage functions within the activity. The Secretary, Under Secretary of Management, CPO, and HCAs are considered contracting officers within DHS by virtue of their positions; no Certificate of Appointment (see HSAM 3001.603-3) is required.

3001.601-70 Designation of the Head of Contracting Activities and Chiefs of Contracting Offices.

(a) The CPO is delegated the authority to appoint HCAs. The OE shall nominate the individual in writing to the CPO by providing a copy of the individual's resume or other selection document which outlines the candidate's experience, education and training. The DHS HCA listing is available at Appendix A to this chapter.

(b) HCAs, without redelegation, shall designate individuals as COCOs.

3001.602 Contracting officers.

3001.602-2 Responsibilities.

Contracting officers may delegate limited responsibilities to an authorized representative(s) (e.g., Bankcard recipient, Contracting Officer Technical Representative (COTR), etc.). Any delegation of responsibility shall be in writing to specified individuals (by name, not position) and clearly enumerate the delegated responsibilities and any limitations attached thereto. COTR selection, training, certification, and appointment is discussed in HSAM 3042.70 and in OE policy.

3001.602-3 Ratification of unauthorized commitments.

(a) *Definitions.*

(1) "Ratifying official" means the individual having the authority to authorize the issuance of a contract award, purchase order, or other procurement instrument providing for the ratification of an unauthorized commitment.

(2) "Unauthorized commitment", as defined in (FAR) 48 CFR 1.602-3, includes, but is not limited to, any action by a person other than the contracting officer that results in: (i) continued performance by a contractor beyond the expiration date or the price established by the procurement instrument; or (ii) the commencement of performance of work in advance of issuance of a formal procurement instrument properly executed by a duly authorized contracting officer.

(b) *Policy.*

(2) The HCA may delegate the authority to ratify unauthorized commitments to no lower than the COCO.

(c) *Limitations.*

(7) The following procedures shall be used for ratification of an unauthorized commitment:
(i) It is the responsibility of the individual who made the unauthorized commitment to provide the following information to the ratifying official:

(A) A discussion describing the circumstances causing the unauthorized commitment;

(B) Reasons why normal procurement procedures were not followed;

(C) What bona fide Government requirement necessitated the commitment;

(D) Whether any benefit was received;

(E) The dollar value of the commitment and an evaluation of the contractor's effort in terms of appropriateness of the hours expended, type of labor used, and other costs expended;

(F) Rationale for the contractor selected and identification of other sources considered;

(G) Status of performance;

(H) Any other pertinent facts including invoices, receiving report, or other documentary evidence of the transaction;

(I) The signature, following the above information, of the employee who created the unauthorized commitment certifying to the accuracy of the information provided;

(J) Recommendations, signed by the employee's second level supervisor, for corrective action to preclude the situation from recurring; and

(K) A complete procurement request (i.e., DHS Form 700-20, Procurement Request), including a certification that the funds included in the purchase request for the ratifying action were available at the time the unauthorized commitment occurred.

(ii) If the individual who made the unauthorized commitment is not available, the office responsible for the commitment shall provide the information described in subparagraph (i) above with the name (vice signature) of the individual who made the unauthorized commitment.

(iii) A written contract, as defined under (FAR) 48 CFR 2.101, is not required to confirm the ratification of an unauthorized commitment. The contracting officer, on a case-by-case basis, shall decide if a contract or other written means would be appropriate for a particular situation. Such factors as the furnishing of Government property, promise of product delivery, dispute over invoiced prices, etc., are to be considered when determining if a contract will or will not be used.

(A) The complete file containing all the ratification documentation requirements of subparagraph (c)(7)(i) (also see (B) below), shall be provided to the ratifying official for a determination to ratify or not to ratify the action.

(B) Before ratification of an action, a letter requesting payment or an invoice from the contractor who provided the supply or service shall be received. If not already received, the contracting officer shall obtain an invoice after ratification for submission to the finance office.

(C) A memorandum signed by the contracting officer who approves the invoice shall be sent to the finance office along with the invoice. The original certified DHS Form 700-20, Procurement Request, (covering the total amount of the invoice), a copy of the ratifying official's ratification, and the document confirming the ratification (see subparagraph (iii) above), shall be attached to the memorandum.

(D) A copy of the memorandum, DHS Form 700-14, invoice, and original ratification documentation shall be retained in the contract office file.

(E) A letter explaining the disposition of the unauthorized commitment shall be sent to the contractor by the contracting officer if payment will not be made.

(iv) Each contracting office shall establish a file system to ensure those actions for which a ratification was requested can be identified with the documentation below in paragraphs (A) through (G). Each ratification request included in the office file shall be retained for 6 years and 3 months after final payment or after the ratifying official determines that the action will not be ratified. The office file pertaining to a ratification action shall contain the following:

(A) The name of the office and person that made the unauthorized commitment;

(B) A brief description of the commitment, the amount of the action, and a written determination, with supporting documentation, that either the request should not be ratified or that the ratified price is fair and reasonable;

(C) The name of the firm or person to whom the commitment was made (if not in the ratification document);

(D) The date the commitment was either ratified (if not in the ratification document) or not ratified;

(E) A copy of the ratification document as applicable;

(F) Evidence of legal counsel concurrence with any ratification that is 10 percent or more of the simplified acquisition threshold; and

(G) Any disciplinary action taken or an explanation as to why none was considered necessary.

(d) *Nonratifiable commitments.* If an unauthorized commitment is disapproved for ratification (nonratifiable), the contracting officer shall promptly notify the individual who made the

unauthorized commitment, in writing, stating the reasons for disapproval and recommending the individual obtain legal advice. The contracting officer shall also advise the individual that the nonratifiable commitment will not be paid in accordance with prescribed contracting methods of payment. If the unauthorized commitment involves the Bank of America credit card or payment has already been made via the SMART PAY program, the responsible individual may be billed or other reimbursement action taken.

3001.603 Selection, appointment, and termination of appointment.

3001.603-1 General.

The HCA, with authority to redelegate to no lower than the COCO, is delegated authority to select, appoint, and terminate the appointment of contracting officers.

3001.603-2 Selection.

The Clinger-Cohen Act, Public Law 104-106 (Division D) and the Office of Federal Procurement Policy, Policy Letter 97-01, direct the implementation of mandatory training, education, and experience requirements for entry and accession in the acquisition career field. The DHS MD Number 0740.2, Contracting Officer Warrant Program, establishes procedures for the implementation of these requirements and other career development efforts. This document is issued under the authority of HSAM 3001.103 as a supplement to HSAM Chapter 3001. This policy also includes DHS MD Number 0780.1, Contracting Officer Technical Representative (COTR) Certification, Appointment and Responsibilities, as a supplement to HSAM Subchapter 3001.

3001.670 Responsibility of other Government personnel.

(a) Responsibility for the decision of what to buy and when to buy rests mainly with program and certain staff offices. Responsibility for determining how to buy, the conduct of the buying process, and execution of the contract rests with the contracting officer.

(b) Program personnel, using the contracting process to accomplish their programs, shall support the contracting officer in ensuring that:

(1) Requirements are clearly defined and specified;

(2) Competitive sources are solicited, evaluated, and selected;

(3) Quality standards are prescribed and met;

(4) Performance or delivery is timely;

(5) Prices, estimated costs, and fees are reasonable; and

(6) Files are documented to substantiate the judgments, decisions, and actions taken.

3001.671 Selection, Appointment and Termination of Non-Warranted Ordering Officials.

3001.671-1 General.

(a) This policy applies only to non-warranted, non GS-1102 Ordering Officials placing orders in excess of the micro-purchase threshold. Contracts must have established fixed terms and prices, as Ordering Officials are not authorized to negotiate, determine price reasonableness or determine best value.

(b) HCA (or written designee) must ensure that nominated Ordering Officials possess the necessary skills and abilities to successfully perform the assigned duties.

3001.671-2 Procedures.

(a) Authority of Ordering Officials. If the HCA (or written designee) determines that the appointment of Ordering Officials is essential for the operation of the contracting mission, the following situations are authorized:

(1) For contract actions deemed appropriate, a DHS non-warranted federal employee may be appointed as an Ordering Official to place delivery orders for supplies under DHS Electronic Mall (EMALL).

(2) For contract actions deemed appropriate, a DHS non-warranted federal employee may be appointed as an Ordering Official to place delivery orders for supplies against indefinite delivery contracts and blanket purchase agreements (BPAs), that were awarded by DHS Contracting Officers, provided the contract terms permit placement of the orders and orders placed are within monetary limitations specified in the contract.

(b) Appointment of Ordering Officials.

(1) Documentation. The HCA (or written designee) shall maintain a file of appointments, waivers for temporary appointment and terminations for all Ordering Officials.

(2) Qualifications. Appointees shall have sufficient knowledge and experience to perform Ordering Official duties. Appointees shall hold a DHS certification for Ordering Officials and must acknowledge the requirement to attend skills currency training during the appointment duration to maintain certification. MD 0783, Ordering Official Certification, details the certification requirements. Appointees shall be familiar with and comply with appropriate DHS regulations and be responsible for identifying any potential conflict of interests relating to their appointment.

(3) Appointment. Each Ordering Official shall be issued a unique appointment letter that delegates authority to the Ordering Official and that delineates his or her duties, responsibilities, and limitations of authority. The delegated authority may not be redelegated by the Ordering Official. The duties of the Ordering Official should be considered when determining the appropriate dollar level for the ordering authority. The written appointment must be signed and

shall not contain authority to sign contractual documents, order contract changes, modify contract terms, or create any commitment or liability on the part of the Government different from that set forth in the contract.

(4) Upon receipt of the appointment, the Ordering Official shall advise the appointing authority in writing that he or she accepts the responsibilities. After acceptance of the appointment, the contractor (if appropriate), disbursing officers and other interested personnel are provided written notification of the name of the Ordering Official appointed to place orders, unless the Ordering Official is named in the contract.

(c) Termination of Ordering Official Appointment.

(1) The Ordering Official appointment shall remain in effect until the individual is reassigned or employment is terminated, unless sooner revoked by the HCA (or a designee identified in writing). Terminations of appointments shall be made in writing, except for terminations that result when contracts expire. Ordering Officials shall acknowledge the appointment termination in writing. The HCA (or designee) is responsible for ensuring appointments are terminated when they are no longer valid or required. No revocation shall be applied retroactively.

(2) After termination of the appointment, the contractor (if appropriate), disbursing officers and other interested personnel shall be provided written notification of the name of the Ordering Official who's authority to place orders has been terminated.

3001.671-3 Specialized Training.

The HCA (or a designee identified in writing) has the authority to require an eligible Ordering Official to complete additional specialized training, which is considered relevant to a particular type of contract to which the eligible Ordering Official is, or may be, assigned. This specialized training is in addition to the certification requirements and may be required for the Ordering Official to meet the needs of the appointment.

3001.671-4 Temporary Appointment.

(a) Individuals may be temporarily appointed as Ordering Officials prior to receiving acquisition certification and training under the following conditions:

(1) Certification Lacking. Individuals who previously completed initial training, procurement ethics training and specialized training (if required), but who lack certification, may be temporarily appointed as an Ordering Official without a waiver. The individual must apply for Ordering Official certification within 60 days of temporary appointment. If the Ordering Official does not submit his or her acquisition certification application to the HCA (or a designee identified in writing) within 60 days of temporary appointment, or the application is denied, the temporary appointment shall be terminated.

(2) Training Lacking. Individuals unable to complete initial training, procurement ethics training and specialized training (if required) prior to Ordering Official appointment may obtain temporary appointments through a waiver.

(b) Waivers for temporary appointment. The HCA (or a designee identified in writing) is authorized to issue one-time waivers for temporary appointments of Ordering Officials prior to completion of procurement ethics training and specialized training (if required) in unusual and compelling circumstances.

(1) A one-time waiver may be issued if circumstances require temporary appointment of an Ordering Official prior to completion of all training. One-time waivers may not be extended or reissued beyond the initial 60-day period without CPO approval.

(2) The Ordering Official shall complete the Federal Acquisition Institute (FAI) on-line course "Contracting Orientation" (or equivalent) prior to temporary appointment. The procurement ethics training and specialized training (if required) must be completed within 60 days or the Ordering Official's temporary appointment shall be terminated.

(3) The Ordering Official must apply for certification within 60 days of temporary appointment. If the Ordering Official does not submit his or her acquisition certification application to the HCA (or a designee identified in writing) within 60 days of temporary appointment or his or her application is denied, the temporary appointment shall be terminated.

3001.671-5 Surveillance of Ordering Officials.

(a) The HCA (or a designee identified in writing) shall provide technical supervision of Ordering Officials and shall:

(1) Annually review activities of Ordering Officials by physical inspection of purchase documents and records to ensure compliance with policies and demonstration of sound judgment.

(2) Perform an inspection and document specific comments as to whether the Ordering Official is operating within the scope and limitations of authority delegated and FAR Subpart 3.1.

(3) Maintain copies of inspection and review findings for three years in the files of Ordering Officials and of reviewers.

(4) If it is discovered that an Ordering Official is not properly performing assigned duties or is failing to take prompt action to correct deficiencies noted in inspections or reviews, the Ordering Officer's appointment shall be promptly terminated.

CHAPTER 3001 - APPENDIX A

HEADS OF THE CONTRACTING ACTIVITY

CBP	Executive Director Procurement
ICE	Director, Procurement Division
DHS OPO	Chief, Office of Procurement Operations
FEMA	Senior Procurement Executive
FLETC	Director, Procurement Division
TSA	Deputy Assistant Administrator for Acquisition
USCG	Deputy Assistant Commandant for Resources, Planning, and Procurement
USSS	Chief, Procurement Division

CHAPTER 3002 DEFINITION OF WORDS AND TERMS

Subchapter 3002.1 Definitions
3002.101 Definitions.

3002.1 Definitions.

3002.101 Defintions.

"Acquisition" means for DHS, the conceptualization, initiation, design, development, test, contracting, production, deployment, support, modification, and disposal of systems, supplies, or services (including construction) to satisfy OE needs. Acquisition includes all functions managed by the DHS Chief Procurement Officer (CPO) and OE Heads of the Contracting Activities.

"Acquisition Executive (AE)" means the DHS official responsible for acquisitions; the decision maker at Key Decision Points (KDPs) or milestones in an acquisition program's development as designated in DHS MD Number 1400, Investment Review Process.

"DHS Chief Acquisition Officers (CAO) Council" is an advisory body comprised of the Chief Procurement Officer (CPO), Deputy CPO, Director, Acquisition Policy and Oversight, and the Heads of the Contracting Activity (or designee) from each Organizational Element. The DHS CAO Council Charter establishes the role of the Council and the HCA members, who are listed at HSAM 3001, Appendix A.

"Competitive Sourcing Official" is an inherently governmental agency official responsible for the implementation of the OMB Circular A-76 within DHS in accordance with HSAM Chapter 3007.

CHAPTER 3003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subchapter	**3003.1**	**Safeguards**
	3003.104	Procurement Integrity.
	3003.104-1	Defintitions.
	3003.104-3	Statutory and related prohibitions, restrictions, and requirements.
	3003.104-4	Disclosure, protection, and marking of contractor bid or proposal information and source selection information.
	3003.104-5	Disqualification.
	3003.104-7	Violations or possible violations.
	3003.104-570	Information security.
Subchapter	**3003.6**	**Contracts with Government Employees or Organizations Owned or Controlled by Them**
	3003.602	Exceptions.
Subchapter	**3003.7**	**Voiding and Rescinding Contracts**
	3003.704	Policy.
	3003.705	Procedures.
Subchapter	**3003.8**	**Limitation on the Payment of Funds to Influence Federal Transactions**
	3003.804	Policy.
	3003.806	Processing suspected violations.
Subchapter	**3003.9**	**Whistleblower Protections for Contractor Employees**
	3003.905	Procedures for investigating complaints.
	3003.906	Remedies.

Subchapter 3003.1 Safeguards

3003.104 Procurement integrity.

3003.104-1 Defintions.

The designated agency ethics official for DHS is in the Office of General Counsel. The deputy ethics officials are the Organizational Element's Chief Counsels or designees.

3003.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) The contracting officer is delegated this authority.

(b) Individuals having access to documents which contain proprietary or source selection information shall:

(i) Ensure that the information is marked as required by (FAR) 48 CFR 2.101 (under the definition for "Source selection information") and (FAR) 48 CFR 3.104-4;

(ii) Use DHS Form 700-14, Cover Page Proprietary Information, to notify the recipient that the information or portions thereof is proprietary information related to the conduct of a Federal agency procurement;

(iii) Use DHS Form 700-13, Cover Page Source Selection Information, and comply also with the requirements of (FAR) 48 CFR 3.104-4(c) with respect to the marking of pages, to notify the recipient that the document contains source selection information;

(iv) Ensure that the information is secured and protected both during and after working hours;

(v) Ensure interoffice security mailing of the information; and

(vi) Ensure strict control over where discussions regarding the information or related acquisition are held.

3003.104-5 Disqualification.

(c)(2) *Resumption of participation in a procurement.* The Chief of the Contracting Office (COCO), without redelegation, is delegated this authority.

3003.104-7 Violations or possible violations.

(a)(1) The COCO is the reviewing official for processing violations.

(b)(5) The Head of the Contracting Activity (HCA) shall make the recommendation to the Chief Procurement Officer (CPO).

(c) The HCA should consult the appropriate criminal investigative agency (e.g., the Department of Justice) and obtain guidance from legal counsel and the OIG prior to taking any action.

(d)(2)(ii)(B) The CPO shall make this determination.

(f) The contracting officer shall prepare a memorandum of the facts and circumstances for the HCA's signature, and place the signed document in the contract file. The HCA shall notify the CPO before authorizing the contracting officer to make award or execute a modification.

3003.104-570 Information security.

Each contracting office and individual having access to contractor bid or proposal information, source selection information, or other sensitive procurement information must take the steps

necessary to ensure that the integrity of the procurement process is not compromised by the unauthorized disclosure of this information. Particular attention should be paid to visitors, contract file security, data security, and transmission of sensitive procurement information.

Subchapter 3003.6 Contracts with Government Employees or Organizations Owned or Controlled by Them

3003.602 Exceptions.

The HCA, without redelegation, is delegated this authority.

Subchapter 3003.7 Voiding and Rescinding Contracts

3003.700 Scope of subpart.

(a)(2) The CPO shall make the required determination.

3003.703 Authority.

(a) The HCA is the individual to declare void and rescind contracts and other transactions described in Public Law 87-849 (18 U.S.C. 218).

3003.704 Policy.

(a) The HCA shall provide written notification to the CPO, prior to voiding or rescinding a contract or other transaction as enumerated in 18 U.S.C. 218.

3003.705 Procedures.

The HCA is delegated the responsibilities at (FAR) 48 CFR 3.705. The HCA shall submit copies of all written decisions and notifications to the OCPO.

Subchapter 3003.8 Limitation on the Payment of Funds to Influence Federal Transactions

3003.804 Policy.

(b) Contracting officers shall forward a copy of all contractor disclosures through the HCA to the Office of Chief Procurement Officer (OCPO).

3003.806 Processing suspected violations.

Contracting officers shall report suspected violations of the requirements of 31 U.S.C. 1352 to the DHS Office of the Inspector General, Washington, DC 20528.

Subchapter 3003.9 Whistleblower Protections for Contractor Employees

3003.905 Procedures for investigating complaints.

The HCA is delegated the responsibilities at (FAR) 48 CFR 3.905.

3003.906 Remedies.

The HCA is delegated the authorities at (FAR) 48 CFR 3.906**.**

CHAPTER 3004 ADMINISTRATIVE MATTERS

Subchapter	**3004.2**	**Contract Distribution**
	3004.202	Agency distribution requirements.
	3004.203	Taxpayer identification number information. (TIN).
Subchapter	**3004.4**	**Safeguarding Classified Information Within Industry**
	3004.403	Responsibilities of contracting officers.
	3004.470	Security requirements for contractor access to unclassified facilities, IT resources, and sensitive information.
	3004.470-1	Responsibilities.
	3004.470-2	Conditional access to sensitive but unclassified information.
Subchapter	**3004.5**	**Electronic Commerce in Contracting**
	3004.502	Policy.
Subchapter	**3004.6**	**Contract Reporting**
	3004.601	Record requirements.
	3004.602	Federal Procurement Data System.
	3004.602-70	Report on UNICOR acquisitions.
	3004.602-71	Unique Procurement Instrument Identifiers (PIID) System.
	3004.670	Acquisition related reporting requirements.
Subchapter	**3004.8**	**Government Contract Files**
	3004.801	General.
	3004.804-1	Closeout by the office administering the contract.
	3004.804-170	Monitoring contract closeouts.
	3004.804-5	Detailed procedures for closing out contract files.
	3004.805-70	Storage, handling and disposal of purchase card records.
Subchapter	**3004.9**	**Taxpayer Identification Number Information**
	3004.903	Reporting contract information to the IRS.
	3004.903-70	Additional reporting contract information to the Department of Treasury, Internal Revenue Service (IRS).
	3004.904-70	Reporting payment information to the IRS.
	3004.905-70	Solicitation provision.
Subchapter	**3004.70**	**Review and Approval of Proposed Contract Actions.**
	3004.7000	Scope.
	3004.7001	Definitions.
	3004.7002	OE internal review and approval procedures.
	3004.7003	Legal review.
	3004.7004	Office of Chief Procurement Officer (OCPO) review and approval
	3004.7005	Periodic compliance reviews.

Subchapter 3004.2 Contract Distribution

3004.202 Agency distribution requirements.

(a) In addition to the distribution requirements of (FAR) 48 CFR 4.201, the contracting officer, as appropriate, shall distribute one executed copy of all types of awarded procurement instruments to the following:

(1) The Operating Administration's (OE) property management office or property administrator when Government property is furnished to the contractor or when acquiring personal property as that term is defined in (FAR) 48 CFR 45.101;

(2) The requiring office; and

(3) The recipient of the supplies or services (including construction).

(b) The distribution copy is necessary to enable the recording and control of Government property, as required by DHS Management Directive (MD) Number 11030.1, Physical Protection of Facilities and Real Property. If an OE uses an integrated system for maintaining government property records which are automatically updated upon award, the hard copy distribution is not required to be furnished to the property system personnel.

3004.203 Taxpayer identification number information (TIN).

(a) and (b) The contracting officer may use any means to provide the contractor's Taxpayers Identification Number (TIN) to the payment office as long as the TIN is protected from public disclosure. Disclosure within the OE is limited to Government personnel who have a need to know the TIN.

Subchapter 3004.4 Safeguarding Classified Information Within Industry

3004.403 Responsibilities of contracting officers.

(a) *Presolicitation phase.* DHS is covered by the National Industrial Security Program (NISP) when a classified acquisition as defined under (FAR) 48 CFR 2.101 is proposed. When classified information is required by the contractor during contract performance, contracting officers shall adhere to the following rules and regulations:

(1) Executive Order 12829, National Industrial Security Program (NISP);

(2) Department of Defense (DOD) 5220.22-M, Industrial Security Manual for Safeguarding Classified Information; and

(3) (FAR) 48 CFR Subpart 4.4.

(b) *Solicitation phase.* Contracting officers shall ensure that classified acquisitions are conducted

as required by the NISP. When handling classified information, contracting officers shall also comply with DHS MD Number 11045, Protection of Classified National Security Information: Accountability, Control, and Storage, and any OE implementing procedures. Contracting officers should contact the DHS, Office of Security for assistance in the preparation of the contract security specifications.

(c) *Award phase*. Contracting officers shall ensure that DD Form 254, including solicitation or contract number and required classified guidance, is forwarded to the DHS Office of Security prior to release of classified information.

Subchapter 3004.470 Security requirements for contractor access to unclassified facilities, IT resources, and sensitive information.

(a) The following DHS MDs apply to acquisitions that require recurring contractor employee access to DHS facilities or contractor employees access to sensitive but unclassified information or IT resources:

(1) MD Number 4300.1, Information Technology (IT) Systems Security, the DHS Sensitive Systems Policy Directive 4300A, and the accompanying handbook, DHS Sensitive Systems Handbook;

(2) MD 11050.2, Personnel Security and Suitability Program; and

(3) MD 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information.

3004.470-1 Responsibilities.

(a) The requiring office is responsible for determining if contractor employee access to unclassified Government facilities, IT resources, or sensitive but unclassified information will be required during contract performance. The DHS and OE Security Offices shall assist requiring and contracting offices with identifying the risk level, suitability requirements and other access matters relating to sensitive but unclassified information and recurring access of contractor employees to Government facilities, information systems, security items or products. All DHS Headquarters procurements that require contractor employees to have access to DHS facilities, sensitive information and/or resources shall be coordinated with the DHS Office of Security prior to release of the solicitation. Contracting officers and requiring officials shall coordinate the requirements for access investigations with the cognizant OE Security Office.

(b) In addition to incorporating the clauses as required by (HSAR) 48 CFR 3037.110-70, and the November 12, 2004 HSAR deviations, contracting officers are responsible for ensuring that solicitations, contracts, and orders identify the documentation contractor employees must complete for determining contractor suitability.

3004.470-2 Conditional access to sensitive but unclassified information.

(a) In accordance with HSAR 3037.103-71, contractor personnel who will require access to

sensitive but unclassified information as part of contract performance shall complete the DHS Non-disclosure Agreement, DHS Form 11000.6, before starting work under the contract.

(b) Contracting officers shall retain contractor signed Non-disclosure Agreements in accordance with OE procedures.

Subchapter 3004.5 Electronic Commerce in Contracting

3004.502 Policy.

(b) The Chief Procurement Officer (CPO) is delegated, after consulting with the Administrator of Office of Federal Procurement Policy (OFPP), to ensure that systems, technologies, procedures, and processes used by the Department of Homeland security to conduct electronic commerce --

(1) Are implemented uniformly throughout the agency, to the maximum extent practicable;

(2) Facilitate access to Government acquisition opportunities by small business concerns, small disadvantaged business concerns, and women-owned small business concerns;

(3) Include a means of providing widespread public notice of acquisition opportunities through the single, Government-wide point of entry and a means of responding to notices or solicitations electronically; and

(4) Comply with nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information, such as standards established by the National Institute of Standards and Technology.

(c) The CPO must ensure that the agency systems are capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information, before using electronic commerce.

Subchapter 3004.6 Contract Reporting

3004.601 Record requirements.

(a) All DHS OEs are required to report contract/procurement actions, with the exception of purchase card transactions, via HSCIS until such time as DHS makes a determination for the agency and any of its OEs to report to Federal Procurement Data System-Next Generation (FPDS-NG) directly. The HSCIS, which is operated, updated and maintained by the Department of Health and Human Services, meets the requirements of (FAR) 48 CFR 4.601 and also has the capability to generate query reports. The HSCIS collects and reports data on all reportable procurement actions. See HSAM 3004.602(c) for reporting actions of $25,000 or less. The HSCIS is used by all DHS as the primary source of procurement data. Each contracting officer is responsible for timely and accurate reporting of data to HSCIS.

(d) All contract actions shall be entered in the HSCIS within 30 calendar days of the date of

obligation for the action. The HSCIS Users Manual should be consulted for entering data into the system.

(1) Contracting officers are responsible to ensure the contact reporting is completed in the HSCIS.

(2) A completed printed version of the information entered into HSCIS for each action shall be included in the contract file.

3004.602 Federal Procurement Data System.

(c)(1) DHS contracting offices shall report required data through the HSCIS feeder system to the FPDS-NG. See HSCIS Users Manual for instructions on how to prepare and submit required data. Small dollar actions (above the micro-purchase threshold, but less than $25,000), previously reported using the Summary Contract Action Report, SF-281, will be reported as individual actions in HSCIS, beginning October 1, 2004. When the Purchase card is used as a form of payment and is supported by an instrument with a PIID/SPIID (see HSAM 3004.602-71), the transaction shall be reported in HSCIS. In situations where the Purchase card is not used under $2,500 and a PIID/SPIID is generated, the transaction shall be reported in HSCIS.

(d) Except as provided in paragraph (e), contracting officers in and outside the United States shall obtain a Data Universal Numbering System (DUNS)(also know as Contractor Identification Number (CIN), as described in the following subparagraphs. Requests to any office other than the Dun and Bradstreet office indicated below will not be honored.

(1) To obtain up to ten DUNS by telephone, call (610) 882-7741. Dun & Bradstreet will reject all telephone requests for more than ten DUNS.

(2) To obtain more than ten DUNS, the request must be facsimiled by dialing (610) 882-7140 or mailed to the following address:

FPDC Department
Dun & Bradstreet Information Services
899 Eaton Avenue
Bethlehem, PA 18025-0013

(3) The requestor must provide the following information with each telephone, written, or facsimile request to Dun and Bradstreet:

(i) Reporting agency name: U.S. Department of Homeland Security;

(ii) Requestor's agency code: (This is the FIPS 95 Code for the Organizational Element. See table below for the appropriate 4-digit code:

FIPS 95 Code	DEPARTMENT OF HOMELAND SECURITY
7001	Office of the Secretary, Department of Homeland Security
7002	Immediate Office of the Secretary
7003	Bureau of Citizenship and Immigration Services

7004	Office of the Inspector General
7008	U.S. Coast Guard
7009	U.S. Secret Service
7010	Border and Transportation Security
7011	Office of the Under Secretary For Border and Transportation security
7012	U.S. Immigration and Customs Enforcement
7013	Transportation Security Administration
7014	U.S. Customs and Border Protection
7015	Federal Law Enforcement Training Center (FLETC)
7020	Emergency Preparedness and Response
7021	Office of the Under Secretary for Emergency Preparedness and Response
7022	Federal Emergency Management Agency
7030	Information Analysis and Infrastructure Protection
7031	Office of the Under Secretary for Information Analysis and Infrastructure Protection
7032	Office of Information Analysis
7033	Office of Infrastructure Protection
7040	Science and Technology
7041	Office of the Under Secretary for Science and Technology
7050	Management
7051	Office of the Under Secretary for Management

(iii) Contracting office code: (Use the 5-digit code used to report the Contracting office for HSCIS and FPDS-NG, found in the 'Contracting Office Codes' section of the HSCIS User Manual;

(iv) Name and telephone number of the person requesting the DUNS;

(v) Contractor's establishment name, street address, city, state, zip code, and telephone number (if available); and

(vi) If this is a foreign contractor (i.e., established outside of the U.S. and its outlying areas), provide the contractor's establishment name, street address, province (if any), city, country, postal code, and telephone number (if available).

(e) (FAR) 48 CFR 4.1102 allows for certain exceptions to the requirement that prospective contractors be registered in the Central Contractor Registration (CCR) (which also requires a DUNS number), prior to award of contracts. Among these exceptions are contracts awarded by "Contracting officers in the conduct of military, humanitarian, or peacekeeping operations, particularly overseas and in foreign ports," or "contracting officers in the conduct of emergency operations, particularly under the Robert T. Stafford Disaster Relief and Emergency Assistance Act." Notwithstanding the requirements of HSAM Subchapter 3004.9, if it is impractical to obtain a DUNS number from a prospective contractor under one of the allowable exceptions in

(FAR) 48 CFR 4.1102, contracting officers may use the following list of "Generic DUNS numbers," which are registered and listed in the CCR system for these purposes when reporting procurement actions to HSCIS.

DUNS	Name
123456787	Miscellaneous Foreign Contractors
136666505	Spouses of Service Personnel
136721201	Government Purchase Card Small Business
136721250	Government Purchase Card Large Business
136721292	Government Purchase Card Foreign Business
153906193	Foreign Utilities
167445928	Student Workers in Laboratories
167445977	Government Purchase Card Small Disadvantaged Business (SDB)
167445993	Government Purchase Card Javits-Wagner-O'Day (JWOD)
167446025	Government Purchase Card Service Disabled Vet Owned SB (SDVOSB)
167446058	Government Purchase Card HUBZone SB
167446116	Government Purchase Card Women-Owned SB
167446249	Navy Vessel Purchases in Foreign Ports
790238638	Domestic Contractor (Undisclosed)
790238851	Foreign Contractor (Undisclosed)

3004.602-70 Report on UNICOR acquisitions.

Section 2901 of the Crime Control Act of 1990 (Public Law 101-647) requires each Federal department and agency to report to the General Services Administration (GSA), through the FPDS, all acquisitions of products and services from the Federal Prison Industries (UNICOR). OEs shall report all UNICOR acquisitions in accordance with the procedures under HSAM 3004.602(c).

3004.602-71 Unique Procurement Instrument Identifiers (PIID) System.

3004.602-7100 Scope.

(a) This subchapter, which applies to all of DHS including the Transportation Security Administration (TSA), prescribes policies and procedures for assigning numbers to all solicitations, contracts, and related instruments, and is in accordance with (FAR) 48 CFR 4.601.

(b) Alphanumeric characters, other than those prescribed in this subchapter, shall not be used as a part of the PIID or Supplemental PIID (SPIID). If additional identification is needed by the OE for internal reasons, it shall be placed on the procurement instrument in such a location as to separate it from the PIID/SPIID. The contracting officer shall assign a PIID/SPIID to each type of instrument as described below. The number shall be retained for the life of the instrument to which it is assigned.

3004.602-7101 Procurement Instrument Identifiers (PIIDs).

(a) Elements of the PIID. The PIID shall consist primarily of 13 to 15 alphanumeric characters. (Dashes may be used at the discretion of the OE by inserting the dashes between: positions six and seven; positions eight and nine; and positions nine and ten.) The alphanumeric characters shall be

positioned as follows:

(1) Positions one and two. A two-digit alphabetic code that identifies the procuring agency. This code shall always be "HS", which means the Department of Homeland Security.

(2) Positions three and four. A two-digit alphabetic code that identifies the OE within DHS:

Positions 3 and 4	**DHS Organization Elements**
BP	Customs and Border Protection
CE	U.S. Immigration and Customs Enforcement
CG	U.S. Coast Guard
FE	Federal Emergency Management Agency
FL	Federal Law Enforcement Training Center
HQ	DHS Office of Procurement Operations
SS	U.S. Secret Service
TS	Transportation Security Administration

(3) Positions five and six. A two-digit alphanumeric or alpha code that identifies the sub organization/contracting office of the OE that issued the procurement instrument. For example, the Animal and Plant Health Inspection Service (APHIS) contracting office will use the designator "HSBPAP". In this model, HS identifies Homeland Security, BP identifies the Bureau of Customs and Border Protection and "AP" designates the APHIS office. Each OE will assign and maintain the two digit unique suborganization/contracting office codes.

(4) Positions seven and eight. A two-digit numeric code that is the last two digits of the fiscal year in which the PIID is assigned to the procurement instrument.

(5) Position nine. A one-digit alphabetic code, in the table below, identifies the type of procurement instrument (i.e., agreement, sealed bidding, contracts, etc.):

Letter	**Purpose**
A	Agreement: Use for a basic agreement, basic ordering agreement (BOA), or blanket purchase agreement (BPA) as defined under (FAR) 48 CFR 13.3, 16.7, and Federal Supply Schedules. Do NOT use for Cooperative Agreements.
B	Sealed Bidding: Use for solicitations as defined under (FAR) 48 CFR 14.2. (***Character"B" use is at the OE's discretion.***)
C	Contracts: Use for all contracts (i.e., letter, 8(a), etc.). Also, includes contracts for appraisals, surveys, title, closing, and other work related to leasing or acquiring real estate rights. Do NOT use this code for Task or Delivery order contracts.
D	Task or Delivery Order Contracts: Use for Indefinite Quantity, Definite Quantity, and Requirements contracts as defined under (FAR) 48 CFR 16.5.
F	Task or Delivery Orders: Use when placing orders against (1) a contract administered by another Government agency or department e.g., General Services Administration (Federal Supply Schedule), the Department of Veterans Affairs, or the Office of Personnel Management, (2) contracts administered by agencies other than DHS including the National Industries for the Blind, National Industries for the

	Severely Handicapped, and the Federal Prison Industries (UNICOR). (Also see HSAM 3004.602-7102(a)(1).)
G	Reserved.
H	Reserved.
I	Request for Information: Use when placing an announcement in FedBizOpps for informational purposes.
J	Task or Delivery Orders: Use when placing orders against DHS contracts. This does not include OE BPA orders placed under GSA Schedules. (Also see HSAM 3004.602-7102(a)(2).)
K	Land Purchases and Condemnations: Use for acquisition of permanent real estate interests (fee simple or easement) by purchase or condemnation. Does not include leasehold interests (land or space) in real property.
L	Lease Agreement: Use for leasing real property and supplies or equipment. Also, includes instruments for both land and space where the Government obtains real estate rights and aerial easements for a limited period of time, and may or may not be monetary in consideration. Do NOT use this code for Interagency Agreements.
N	Construction or Service Purchase Orders: – Use only when contracting officer approval is necessary before contractor payment.
P	Purchase Orders: Use for purchase orders described under (FAR) 48 CFR Part 13 (assign V, then W when numbering capacity of P becomes exhausted during a fiscal year). Also, includes orders for appraisals, surveys, title, closing, and other work related to leasing or acquiring real estate rights.
Q	Request for Quotation: Use when the procedures under (FAR) 48 CFR Part 13 are followed.
R	Request for Proposal: Use when the procedures under (FAR) 48 CFR Part 15 are followed. (***Character "R" use is at the OE's discretion.***)
S	Sales Contract: Use for sales and other disposal of real and personal property.
U	Utilities: Use for contracts for electric, telephone, water, natural gas, and other utilities.
X	Interagency Agreements: Use when placing an order with any other government agency or OE for supplies or services that the servicing agency may be in a position or equipped to supply, render, or obtain by contract. (FAR) 48 CFR 17.502 applies.
	The letters E, M, T, Y and Z are available for the internal use by the OE after coordination and approval by the OCPO.

(6) Positions ten through fifteen. OEs may use four to six characters in this field.

(b) Illustration of the PIID. An example of a PIID is illustrated in the below chart. The PIID HSCG23-03-B-00001 identifies a sealed bid issued by the Department of Homeland Security, United States Coast Guard, Headquarters Contracts Office, Washington, D.C., issued in Fiscal Year 2003.

Position	Identification	Code
1-2	Agency	HS
3-4	Organizational Element	CG
5-6	Sub organization/contracting office of the OE	23
7-8	Fiscal Year in which the PIID is assigned to the procurement instrument.	03
9	Type of procurement instrument	B
10-15	Unique identifiers of the procurement instrument	0001, 00001, 000001, A001, AB001, ABC001

3004.602-7102 Supplementary Procurement Instrument Identifiers (SPIIDs).

(a) A Supplementary number shall be used in conjunction with the PIID, to identify the following:

(1) Orders issued under other federal agencies indefinite delivery contracts, BOAs, and BPAs. The ordering office shall use the 13 to 15 character number specified with instrument code "F" for task or delivery orders under HSAM 3004.602-7101(5), as the SPIID. For example, this includes orders issued where the basic award was a GSA schedule and a BPA was created from the schedule.

(2) Ordered issued under DHS OE indefinite-delivery contracts, BOAs, and BPAs. The ordering office shall use the 13-15 character number specified with instrument code "J" for task or delivery orders under HSAM 3004.602-7101(5), as the SPIID, except for call orders placed under OE awarded BPAs where the individual call amount is not directly reported into the FPDS-NG. OEs shall establish an internal numbering process for the call orders with retrieval purchase descriptions, date of purchase, amounts and vendor source.

3004.602-7103 Other Identifiers relating to PIIDs and SPIIDs.

(1) Amendments to Solicitations. Amendments shall be assigned a four position numeric serial number always sequentially beginning with 0001.

(2) Modifications to Contracts, Agreements, and orders. Modifications to contracts agreements, and orders shall be numbered sequentially with a six-position alphanumeric serial number beginning with either A00001 or P00001. If the principal procuring office retains contract administration, the numeric serial number shall be prefaced with a "P". If administration is delegated to a contract administration office, such as a Project Resident Office (PRO) or the Defense Contract Management Agency, the modifications issued by the administration office shall be prefaced with an "A".

3004.670 Acquisition related reporting requirements.

Appendix A of this chapter is a list of various acquisition related reporting requirements. Unless otherwise advised by the CPO or Head of Contracting Office (HCA), the Chief of Contracting Office (COCO) shall ensure that each report is submitted to the required location by the due date.

Subchapter 3004.8 Government Contract Files.

3004.801 General.

The COCO is designated as the head of each office performing contracting and contract administration functions. The Chief of the Finance Office of the OE is designated as the head of the office performing paying functions.

3004.804 Closeout of contract files.

3004.804-1 Closeout by the office administering the contract.

(a) (FAR) 48 CFR 4.804 outlines detailed procedures for closing out contract files. The file is normally closed out by the contracting office administering the contract; however, as permitted by (FAR) 48 CFR 42.2, there may be instances where the file is administered by a Government agency or other OE than that which awarded the contract. A contract cannot be closed out until all terms and conditions of the contract have been satisfied by the contractor and the Government.

3004.804-170 Monitoring contract closeouts.

(a) *Policy.* Contracting officers responsible for contract administration shall ensure that their contracts are closed out within the time standards set forth under (FAR) 48 CFR 4.804-1. Compliance with these standards may be beyond the contracting officer's control in situations where necessary administrative actions are required by others (e.g., cognizant audit agency, contractor, etc.). However, the contracting officer shall maintain close liaison with these entities to ensure that the necessary actions are not unduly delayed and are accomplished.

(b) *Closeout action for cost reimbursement contracts or orders.* The contracting officer shall ensure that closeout action (e.g., request for final audit, closing documents, etc.) commences within 90 calendar days after receipt and acceptance of all contract deliverables (i.e., the contract completion date).

(c) *Tracking system.* The COCO must utilize an automated or manual contract closeout tracking information system to identify those contracts which are physically completed and ready for closeout, but have not been administratively closed out and disposed of in accordance with (FAR) 48 CFR 4.8, HSAR 3004.8, and this subchapter.

(d) *Monitoring of tracking system.* The COCO is responsible for reviewing quarterly the latest status of the contract closeouts and disposal to ensure that contracting officers are closing contracts in a timely manner.

3004.804-5 Procedures for closing out contract files.

(b) Contracting officers may use a Contract Completion Statement, to satisfy the requirements of (FAR) 48 CFR 4.804-5(b).

3004.805 Storage, handling, and disposal of contract files.

(a) Contract and order files shall be disposed of in accordance with DHS MD Number 0550.1, Records Management. Contracting officers shall seek the guidance of their OE's Records Manager or their Records Coordinator for additional information concerning the requirements. In no case may the files be destroyed before the timeframes specified in (FAR) 48 CFR 4.805. The list of Federal Records Centers (FRC) is provided at 44 U.S.C. §2907.

(b) Files sent to a FRC shall have a disposal date annotated on the front of the file. This is the date the file can and will be destroyed by the FRC. Contracting officers shall determine this date based on the retention period specified in (FAR) 48 CFR 4.805. Since the documents listed under (FAR) 48 CFR 4.805 are normally retained in one file in the contracting office, contract documents exceeding $25,000 shall not be disposed of earlier than 6 years and 3 months (3 years for those valued at $25,000 or less), after final payment.

(c) Prior to disposal of a file, it may become necessary to retrieve a file from the FRC; therefore, contracting officers should ensure that the Records Manager or Records Coordinator maintains a record of the files sent to the FRC.

3004.805-70 Storage, handling and disposal of purchase card records.

Purchase Cards records at or below the simplified acquisition threshold for other than construction orders shall be retained for three years after final payment. Purchase Card records for construction order shall be retained for six years and three months.

Subchapter 3004.9 Taxpayer Identification Number Information

3004.903 Reporting contract information to the IRS.

(a) The CPO is delegated authority to report certain information to the IRS.

3004.903-70 Additional reporting contract information to the Department of Treasury, Internal Revenue Service (IRS).

(b)(1) Contracting officers have satisfied the requirements of 26 U.S.C. 6050M for reporting awards cited under (FAR) 48 CFR 4.903(b)(1) when the award information is reported to the DHS HSCIS. The CPO sends the HSCIS information to the FPDS each quarter. The Director of the Federal Procurement Data Center extracts the requisite information from the FPDS and files the required information with the IRS. To report awards valued at less than $25,000, the contracting officer shall provide the finance office with a copy of the award document with the contractor's tax

identification number annotated on the document.

3004.904-70 Reporting payment information to the IRS.

In addition to the requirements cited under (FAR) 48 CFR 4.904, 26 U.S.C. §6041 and §6041A, require Federal agencies to report to the IRS all individuals, partnerships, proprietorships, etc. that will be paid $600 or more in a calendar. This means that any contractor paid $600 or more a year must be reported to the IRS.

3004.905-70 Solicitation provision.

The provision at (FAR) 48 CFR 52.204-3 requires the offeror to furnish its tax identification number (TIN). It is highly unlikely that it will be used with acquisitions that are subject to (FAR) 48 CFR 13 procedures, therefore contracting officers shall obtain the TIN from the contractor by oral or written request.

(c) Contracting officers shall provide the TIN to the finance office who must furnish the TIN to the Department of Treasury with each invoice certified for payment. (See (FAR) 48 CFR 52.212-3 for commercial items.)

Subchapter 3004.70 Review and Approval of Proposed Contract Actions.

3004.7000 Scope.

(a) This subchapter establishes the review and approval requirements for the following contract actions when the value of the acquisition (inclusive of options) exceeds the simplified acquisition threshold as follows:

(1) Proposed solicitations, contracts, and contract modifications issued and awarded pursuant to Federal Acquisition Regulation (FAR) Parts 12, 13.5, 14 or 15;

(2) Proposed solicitations, orders, Blanket Purchase Agreements (BPAs), and modifications to such orders and BPAs issued and awarded pursuant to FAR Part 8.4, when using Statements of Work, Statements of Objectives or requiring licenses;

(3) Proposed solicitations, orders, and modifications to such orders issued and awarded against a multiple award indefinite delivery contract;

(4) Letter contracts in accordance with HSAM Subchapter 3016.603;

(5) Proposed intra/inter-agency agreements; and

(6) Pre-negotiation objectives and the documentation of negotiation (see (FAR) 48 CFR 15.406-3) for actions using FAR Part 15.

(b) Specific exceptions to the review and approval requirements are provided for in HSAM Subchapters 3004.7002 and 3004.7003.

(c) The approval requirements under this subchapter are in addition to other approval requirements prescribed by the FAR, HSAR, and HSAM (e.g., HSAM 3005.303, Announcement of contract awards, 3007.1, Acquisition Plans, etc.)

3004.7001 Definitions.

The following definitions are only applicable to HSAM 3004.70:

(a) "Legally sufficient" means that the document has been reviewed by an attorney in the DHS Headquarters (HQ) or Organizational Element (OE) legal office, and determined to be in compliance with applicable statutes, regulations, and procedures.

(b) “Level above Approval” means approval after a review of the action by a procurement professional at least one supervisory level above the contracting officer responsible for the action.

(c) "Review" means to scrutinize the document to ensure that the contracting officer has complied with acquisition statutes, regulations, policies and procedures; has followed sound business practices; and has ensured that the contents of the contract file are in accordance with (FAR) 48 CFR 4.803.

3004.7002 OE Internal review and approval procedures.

(a) OE review procedures: HCAs shall establish procedures for conducting the internal reviews (e.g., level above approval, coordination with a contract review board, quality assurance personnel, operational users, etc.) to ensure the requirements of this subchapter are met. An action over $500,000, but not greater than $1 million need not be reviewed at a level above the contracting officer at a remote contracting office when the contracting officer is the sole contracting official. The HCA is required to address review and level above approval requirements in their internal procedures for actions over $1 million at remote contracting offices with limited contracting personnel.

(b) Review and Approval Requirements: Chapter 3004, Appendix B, Review and Approval Matrix lists the review and approval requirements for the actions listed in subchapter 3004.7000. All OE reviews, comments, approvals, and resolution of comments shall be documented in writing and maintained in the contract file. If the award approving official conditionally approves the award, the contracting officer must include in the contract file a written determination (signed and dated) indicating that all of the conditions (e.g., corrections, deletions, additions, changes, etc.) were satisfied prior to award.

(1) Review comments. Official review comments shall be designated as either “Mandatory Change/Actions” or “Recommendations.” The disposition of comments for the review and approval official and legal counsel are as follows:

(A) Mandatory Changes/Actions. These comments must be incorporated into the acquisition documentation in order for the action to be completed. Without these changes, the document or action would be considered either unacceptable or legally insufficient.

(B) Recommendations. These comments are suggestions that the reviewer believes will improve the document. These comments can be accepted or rejected by the acquisition originator.

(c) Cognizant technical/program officer review: The contracting officer shall ensure that all proposed solicitations, awards, and modifications are coordinated as necessary with the cognizant technical/program office prior to issuance or award.

(d) Exceptions: Exceptions to the approval requirements specified above in subparagraph 3004.7002(b) include unilateral modifications that do not require a proposal from or negotiations with the contractor (or from the servicing agency for inter/intra-agency agreements.) For example, approval is not required for modifications to provide incremental funding, the exercise of options, and those actions listed in HSAM Subchapter 3004.7003(b).

Subchapter 3004.7003 Legal review.

(a) Basic Rule for Legal Review: Legal counsel shall review the contract actions listed in subchapter 3004.7000(a)(1) through (5) expected to exceed $500,000 (inclusive of optional amounts and periods) for legal sufficiency. The contract action submitted for review shall be accompanied by the contract file, which must contain all documentation necessary to support the proposed action, including documentation of all contracting office reviews, approvals, and resolution of all issues and comments (unless parallel reviews are authorized in accordance with the HSAM and HCA procedures.) The HCA, in coordination with the OE's legal counsel, may increase the $500,000 threshold. For the DHS HQ Office of Procurement Operations (OPO), the HCA coordinates with the DHS Headquarters Office of the General Counsel.

(b) Exception to Basic Rule for Legal Review: When legal counsel has previously reviewed a contract, BPA, order, or inter/intra-agency agreement, legal review of modifications to that contractual instrument is not required, provided that the modifications are within the scope of the contract document and legal counsel reviewed the awarded contract and its accompanying file. Such modifications include, but are not necessarily limited to: administrative modifications; modifications to add incremental funding; modifications to exercise options for additional items or periods where such funding or options are within the contemplation of the contract as originally awarded. No legal review is required for orders within the scope of an indefinite delivery contract awarded to a single vendor or orders within scope of an existing single vendor blanket purchase agreement under a General Services Administration (GSA) Federal Supply Schedule (FSS).

(c) Additional Requirements for Legal Review:

(1) Any contract action involving private sector financing, see HSAM 3032.702-71, regarding legal review and approval.

(2) Any contract action, including orders under indefinite quantity contracts or GSA FSS contracts, specifying cancellation or termination fees shall be reviewed by legal before execution. (Note: Provisions for cancellation or termination fees are commonly found in lease and licensing agreements.)

(3) Any contract action, including orders under indefinite delivery contracts and GSA FSS contracts, in which the Government agrees to indemnify the contractor. (Note: Provisions for indemnity are commonly found in contract provisions offered by contractors proposing terms consistent with "commercial practices.")

(d) Availability of Legal Counsel Review at any Dollar Value: Some issues may warrant legal review regardless of the dollar value. Contracting officers may request legal review due to the complexity or sensitivity of issues of the acquisition, notwithstanding that the dollar threshold has not been reached. For example, contracting officers should feel free to request legal assistance and guidance at critical junctures in the acquisition life cycle, such as for: difficult down-select or competitive range determinations, the clearance of acquisition plans for important acquisitions, questions as to the scope of an existing contract, and the issuance of cure or show cause notices or letters.

(e) Documentation: The documentation of legal comments received or a statement from legal counsel that the procurement document has been reviewed and found to be legally sufficient must be placed in the contract file. The contracting officer is responsible for assuring that all legal comments are responded to and documented in the contract file. Any disagreements between the contracting officer and the reviewing attorney shall be forwarded to the Chief of the Contracting Office (COCO) for resolution. The COCO may delegate this function in accordance with OE procedures.

Subchapter 3004.7004 Office of Chief Procurement Officer (OCPO) Review and approval.

(a) The OCPO may require review of any DHS contract action, including modifications to awarded actions, during the acquisition process to ensure that sound business practices are being used; actions are in compliance with applicable laws, executive orders, and acquisition regulations; and actions serve the Government's best interest.

(1) Specific actions requiring approval.

(i) The OCPO will identify specific solicitations and contracts actions for review and approval during its review of Acquisition Plans submitted as specified in HSAM Subchapter 3007.1.

(ii) In accordance with MD 0710, entitled, Reimbursable Agreements, (which will be superceded and updated with a new version entitled, Inter/Intra-agency Agreements) and (FAR) 48 CFR 17.503(c), CPO approval is required prior to issuance (as the requesting agency) of any inter/intra-agency agreement to an agency not covered by the FAR.

(b) Information required for OCPO review and approval.

(1) General.

(i) Reviews required by HSAM Subchapters 3004.7002 and 3004.7003 shall be obtained prior to transmittal to OCPO, including evidence of review and resolution of OE comments. The HCA memorandum transmitting the request for review and approval shall identify the action submitted, the documents provided, and any peculiar or extraordinary circumstances relating to the action which needs to be taken into consideration.

(ii) Documents submitted must be sufficient to allow for a comprehensive review. Documents submitted for review which include proprietary information or source selection information shall be marked and protected in accordance with (FAR) 48 CFR 3.104-5 and HSAM Subchapter 3003.104-5.

3004.7005 Periodic compliance reviews.

Periodic oversight reviews (e.g., an established procurement management review program, review of selected procurement actions by Headquarters, etc.) of solicitations, pre-negotiation objectives, documentation of negotiations, contract awards, and contract modification awards must be conducted by OEs. All reviews must be documented in writing.

CHAPTER 3004 - APPENDIX A - REPORTING REQUIREMENTS

The following is not an all inclusive listing of reporting requirements.
Other procurement related reports may be required by statute, the FAR, or DHS.

TITLE OF REPORT	REFERENCE	DATE DUE	WHERE
Report of Proposed Federal Construction*	HSAM 3036.213-70; 29 CFR 1.4	Annually; July 31	OCPO
Contractor Report of Government Property*	FAR Part 45.505; HSAR/HSAM 3045	Annually; October 31	OCPO
Semi-annual Labor Enforcement Report	FAR Part 22; HSAM 3022.406-13; 29 CFR 5.7(b)	OE submission Semi-annually; April 25 and October 25	Department of Labor
Resource Conservation and Recovery Act Report	HSAM 3023.4000	To Be Determined	To Be Determined
SF 294, Subcontracting Report for Individual Contracts	FAR 19.7; SF 294	Semi-annually; April 30; October 30	OSDBU
SF 295, Summary Subcontract Report	FAR 19.7; 52.219-70	See reverse of SF 295	OSDBU
Undefinitized Contract Action (UCA) Report*	HSAM 3043.7002	Upon request from the OCPO	OCPO
Intra/Inter Agency Agreements Report	HSAM 3017.5	Upon request from the OCPO	OCPO
Value Engineering Report*	OMB Circular A-131	Annually; December 7	OCPO
Report on Federal Support to Universities, Colleges, and Nonprofit Institutions	Section 3(a)(7) of the National Science Foundation (NSF) Act	Annually; O/A May 15	Upon request from NSF
Procurement Forecast Initial and Update	Public Law 100-656; HSAM 3019.202-70	Sept 15 (Init.) and Apr 15 (Update)	OSDBU
Competition Advocate Report	HSAR 3006.502(a); HSAM 3006.502(b)(2)	November 1 for the preceding year	OCPO

For those reports with an (*), if there was no activity for the period being reported, a negative response for the period shall be submitted to the requiring office.

CHAPTER 3004 - APPENDIX B - REVIEW AND APPROVAL MATRIX

REVIEW TYPE AND THRESHOLDS			REVIEW AND APPROVAL LEVELS *OCPO may require review of any DHS contract actions in accordance with HSAM Subchapter 3004.7004.*				
			Contracting Officer	Level above Approval	Legal Review	Program Office	Other
1	Sealed Bids - Solicitation and Award -	<$500,000	R/A		D	D	
		>$500,000	R	R/A	R	D	
2	Negotiated Procurements Solicitation, Pre-Negotiation, Negotiation & Award	<$500,000	R/A			D	
		>$500,000	R	R/A	D	D	
	Solicitation & Award	>$500,000			R		
	Pre-Negotiation or Negotiation Memoranda	Any amount			D		
3	Solicitations, Orders, BPAs – Issued and awarded IAW FAR Part 8.4 using SOW and SOOs or requiring licenses	<$500,000	R/A		D	D	
		>$500,000	R	R/A	R*	D	
4	Solicitations & Orders – Issued and awarded IAW FAR Part 16 for multiple award Indefinite Delivery contracts	<$500,000	R/A		D	D	
		>$500,000	R	R/A	R*	D	
5	Inter/Intra-Agency Agreements	<$500,000	R/A		D	D	
		>$500,000	R	R/A	R	D	
		All IAs going to or coming from Non-FAR covered agencies	R	R	R	D	CPO - R/A
6	Letter contracts - IAW HSAM 3016.603-3	All	R	R	R	D	COCO – R/A
7	Modifications to the above actions - Items 1-6	<$500,000	R/A		D	D	
		>$500,000	R	R/A*	R*	D	
ADDITIONAL REQUIREMENTS FOR LEGAL REVIEW							
8	Private Sector Financing	All					
9	Agreement with Termination or Cancellation Fees	All					
10	Agreement with Indemnification for Contractor	All					

Legend: **R** = Review **R/A =** Review/Approval **R*** = Review required, but see exceptions at HSAM 3004.7003(b) **R/A* =** Review and Approval required, but see exceptions at 3004.7002(d**)** **D =** Review as necessary based on requirement **CPO =** Chief Procurement Officer
OCPO = Office of the Chief Procurement Officer **COCO** = Chief of the Contracting Office

CHAPTER 3005 PUBLICIZING CONTRACT ACTIONS

Subchapter	**3005.1**	**Dissemination of Information**
	3005.102	Availability of Information.
Subchapter	**3005.2**	**Synopses of Proposed Contract Actions**
	3005.202	**Exceptions.**
	3005.203	Publicizing and response time.
	3005.203-70	Use of FedTeDS for Sensitive but Unclassified Acquisition. Information on the Internet.
	3005.207	Preparation and transmittal of synopses.
Subchapter	**3005.3**	**Synopses of Contract Awards**
	3005.301	General.
	3005.301-70	Synopsis of contracts containing Public Law 95-507 subcontracting plans and goals.
	3005.303	Announcement of contract awards.
Subchapter	**3005.4**	**Release of Information**
	3005.401	General.
	3005.403	Requests from Members of Congress.
	3005.404	Release of long-range acquisition estimates.
	3005.404-1	Release procedures.
Subchapter	**3005.5**	**Paid Advertisements**
	3005.502	Authority.

Subchapter 3005.1 Dissemination of Information

3005.102 Availability of Information.

All DHS solicitations shall be available via the Internet at http://www.fedbizopps.gov. No other mechanisms to post solicitations are permitted.

Subchapter 3005.2 Synopses of Proposed Contract Actions

3005.202 Exceptions.

(b) The Chief Procurement Officer (CPO) will make the written determination after consultation with the Officer of Federal Procurement Policy (OFPP) and the Small Business Administration (SBA).

3005.203 Publicizing and response time.

3005.203-70 Use of FedTeDS for Sensitive but Unclassified Acquisition Information on the Internet.

Effective 1 October 2003, all Sensitive But Unclassified (SBU) acquisition information used during the solicitation and/or proposal phase of the procurement cycle will be protected by

FedTeDs. The determination of sensitivity will remain the responsibility of the requiring activity until further guidance is released. SBU acquisition materials may include information related to operations, systems, structures, individuals and services essential to the security and management of a facility, including telecommunications, electrical power, building facility structural layout, gas and oil storage and/or transportation, water supply, emergency services, and the continuity of operations. FedTeDS is an online dissemination solution designed to safeguard sensitive acquisition related information for use by all Federal Agencies and their approved business partners.

3005.207 Preparation and transmittal of synopses.

(c)(4) *Standard format.* When preparing synopses, the following is applicable:

FORMAT ITEM AND EXPLANATION DESCRIPTION OF ENTRY
6. CLASSIFICATION CODE. The FedBizOpps staff is not authorized to determine the classification code for any FedBizOpps notice. Because a misclassified contract action fails to notify the firms most likely to respond and therefore may violate the Competition in Contracting Act, the contracting officer is held responsible for correctly classifying a FedBizOpps notice. A misclassified contract action must be corrected and re-synopsized in the FedBizOpps. Detailed classification codes are available on the FedBizOpps website at: http://www.FedBizOpps.gov/.

Subchapter 3005.3 Synopses of Contract Awards

3005.301 General.

The contracting officer must document the contract file with the reason(s) why a contract award was not synopsized.

3005.301-70 Synopsis of contracts containing Public Law 95-507 subcontracting plans and goals.

The synopsis of contract award, where applicable, shall include a statement identifying the contract as one containing Public Law 95-507 (FAR) 48 CFR 19.702) subcontracting plans and goals.

3005.303 Announcement of contract awards.

(a) Public announcement. Contracts valued at the threshold stated in (FAR) 48 CFR 5.303(a) or more shall not be distributed nor any information released to any source outside of DHS (except as described in (FAR) 48 CFR 15.503), where the contract has been approved until the DHS Office of Legislative Affairs has advised the contracting officer (or other official designated in accordance with Organizational Element (OE) procedures) that the contract may be released. The contracting officer may sign the contract, but no information may be released outside of DHS until the procedures contained in the subparagraphs below have been accomplished.

(1) The contract notification procedures contained in DHS Management Directive (MD) Number 2140, Congressional Notification of Contract Awards, this subchapter, and supplemented as necessary by OE procedures, shall be used to transmit the required contract award information in excess of $3 million. As necessary, the DHS Office of Legislative Affairs will coordinate with the

DHS Office of Public Affairs and the organizational Office of Legislative Affairs/Office of Public Affairs to develop a communications plan for an organization or DHS press release. If there is no DHS press release, the information contained on the DHS Form 2140-01 will be used by the DHS Office of Legislative Affairs to contact interested Members of Congress concurrent with public release of the information. DHS Office of Legislative Affairs may also elect to have the organizational element's Office of Legislative Affairs provide required information to Congress.

(2) DHS Form 2140-01 shall be prepared and submitted (after internal OE coordination), as an attachment via electronic mail to Contracts@dhs.gov by the contracting officer or other official designated by the OE.

(3) For those procurements subject to the requirements of Subchapter 3015.3, Source Selection, after the Source Selection Authority has selected the contractor(s) for award, the contracting officer shall be notified immediately so that the DHS Form 2140-01 can be prepared, signed, and transmitted. All personnel are reminded that contract information contained on DHS Form 2140-01 may be competition sensitive.

(4) Unless directed otherwise, contracting officers may proceed with public release of contract awards after the elapse of three business days from the transmission of the Congressional notification form, DHS Form 2140-01 to the DHS Office of Legislative Affairs.

(5) When delay in award of the contract action would result in serious injury (financial or otherwise, such as environmental disaster), the contracting officer, in coordination with the OE's congressional affairs office, shall provide the information required by the DHS form 2140-01 to the DHS Legislative Affairs Office telephonically concurrent with the award notice to the contractor. The telephonic approval shall be documented and placed in the contract file.

Subchapter 3005.4 Release of Information

3005.401 General.

After consultation with legal counsel or personnel from the Freedom of Information Act (FOIA) office (as applicable), the contract file must be documented to provide the rationale for withholding information other than that permitted to be withheld in (FAR) 48 CFR 5.401(b).

3005.403 Requests from Members of Congress.

(a) *Individual requests.* The Head of the Contracting (HCA) is delegated this authority. The HCA must consult with the Office of Chief Procurement Officer (OCPO) prior to release.

3005.404 Release of long-range acquisition estimates.

3005.404-1 Release procedures.

(a) and (b) The authorities under (FAR) 48 CFR 5.404-1 are delegated to the contracting officer. The contracting officer shall ensure that the conditions set forth at 5.404-1(b) are adequately addressed. Contracting officers must comply with the security requirements set forth under

HSAM 3004.4 concerning the release of classified information.

Subchapter 3005.5 Paid Advertisements

3005.502 Authority.

Publication of paid advertisements must be approved one level above the contracting officer.

CHAPTER 3006 COMPETITION REQUIREMENTS

Subchapter	**3006.1**	**Full and Open Competition**
	3006.101-70	Definitions.
	3006.102	Use of competitive procedures.
	3006.106	Use of competitive procedures.
Subchapter	**3006.3**	**Other Than Full and Open Competition**
	3006.302	Circumstances permitting other than full and open competition.
	3006.302-1	Only one responsible source and no other supplies or services will satisfy agency requirements.
	3006.303.2	Content.
	3006.304	Approval of the justification.
Subchapter	**3006.5**	**Competition Advocates**
	3006.570	Competition advocates for the procuring activity.

Subchapter 3006.1 Full and Open Competition

3006.101-70 Definitions.

"Agency competition advocate" means an individual designated by the Chief Procurement Officer (CPO) to perform, at a minimum, the functions under (FAR) 48 CFR 6.502(b) and is synonymous with "Departmental Competition Advocate" and "Senior Competition Advocate (SCA)."

"Competition advocate for the procuring activity" means the individual who has been designated by the Organization Element (OE) to approve Justifications and Approvals (J & As) for other than full and open competition as permitted by the (FAR) 48 CFR 6.304 and to perform the duties and responsibilities assigned under (FAR) 48 CFR 6.502. This is synonymous with procuring activity competition advocate.

3006.102 Use of competitive procedures.

(b) If only one responsible offer is received from the release of a competitive solicitation, the contracting officer should attempt to ascertain the reasons for the lack of response and place a written statement in the contract file documenting all conclusions regarding the lack of competition under the solicitation prior to proceeding to award.

Subchapter 3006.3 Other Than Full and Open Competition

3006.302 Circumstances permitting other than full and open competition.

3006.302-1 Only one responsible source and no other supplies or services will satisfy

agency requirements.

(b)(4) The CPO will make the determination.

3006.304 Approval of the justification.

(a) A sample Justification and Approval (J&A) format is provided at Appendix A of this Chapter. Individuals acting in the place of approving officials shall meet the qualification requirements of (FAR) 48 CFR 6.304.

(c) Class justifications shall be approved by the same approval authority as for individual justifications (see (FAR) 48 CFR 6.304(a) and HSAM 3006.304(a) above).

Subchapter 3006.5 Competition Advocates

3006.501 Requirement.

The OE is authorized to appoint a competition advocate.

3006.502 Duties and responsibilities.

(b)(2) Competition advocates for the procuring activities shall submit an annual OE report to the Departmental Competition Advocate on or before November 1 for the preceding fiscal year (FY) (i.e., the report for FY04 covering October 1, 2003 through September 30, 2004, is due November 2004). The Departmental Competition Advocate shall submit an annual Departmental report to the CPO on or before December 15 on an annual basis.

3006.570 Competition advocates for the procuring activity.

A listing of OE positions designated as competition advocates for the procuring activity (see HSAM 3006.101-70 above) is maintained by CPO. The HCA shall provide any revisions to this listing to CPO within 10 working days of designation.

CHAPTER 3006 – APPENDIX A

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION (J & A)

DHS is legally required to promote full and open competition; however, there are statutory authorities that allow for the absence of competition (See (FAR) 48 CFR 6.302). The frequent exceptions to competition are 1. Only one source is available; and 2. The requirement has unusual and compelling urgency. This section provides assistance in the preparation of the J & A. It is the customer's responsibility to fill out this justification. There are twelve elements to the J & A (See (FAR) 48 CFR 6.303-2). Each element is addressed below.

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Pursuant to the requirements of the Competition in Contracting Act (CICA) as implemented by FAR Subpart 6.3 and in accordance with the requirements of FAR 6.303-1, the justification for the use of the statutory authority under FAR Subpart 6.3 is justified by the following facts and rationale required under FAR 6.303-2 as follows:

(1) *Agency and Contracting Activity*—Identification of the agency and the contracting activity, and specific identification of the document as a Justification for other than full and open competition. Example: The Department of Homeland Security, Office of Procurement Operations, proposes to enter into a contract on a basis other than full and open competition.

(2) Nature *and/or description of the action being approved*. –Approval for a sole source, follow-on procurement for supplies, services, maintenance, rework, etc. Example: DHS has a requirement on a sole source basis to upgrade and maintain proprietary software at an estimated cost of $5,520,000. List the name and address of the proposed contractor(s).

(3) *Description of Supplies/Services*—Describe the supplies or services to be acquired. Provide the estimated total value (including options, if any). Example: The requirement is to provide upgrades and support for XYZ software at a total cost of $5,520,000. The re-capitalization system software requires upgrades to allow integration of information from BCIS and CBP system with DHS' system. This upgrade will allow DHS to consolidate all the information automatically. The manufacturer is the only one that provides this upgrade and the required support for a smooth transition.

Period		Unit Price		Total
Base Year	12 mo	$70,000		$840,000
Option Year 1	12 mo	$80,000		$960,000
Option Year 2	12 mo	$90,000		$1,080,000
Option Year 3	12 mo	$100,000		$1,200,000
Option Year 4	12 mo	$120,000		$1,440,000
			Total	$5,520,000

(4) *Identification of Statutory Authority Permitting Other Than Full and Open Competition* Cite the authority under one of the "seven exceptions" listed under FAR 6.302: for example, the statutory authority permitting other than full and open competition is 10 USC 2304(c)(1) or 41 USC 253(c)(1), as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-1 entitled "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements".

(5) *Demonstration That the Nature of the Acquisition Require Use of the Authority Cited.* This paragraph is one of the most important parts of the J&A and should spell out why you have to restrict competition on this acquisition. If using only one responsible source as your authority, explain in detail the specific requirements (not what the equipment or process is capable of doing), why only one contractor is capable of fulfilling those requirements, and where other proposed contractors fail to meet those requirements. If using "Unusual and Compelling Urgency" as your authority, explain in detail why the urgency was not the result of poor planning. You must paint the full picture of this emergency situation and why it was not the user or contracting office's inability to plan that turned a normal acquisition into an urgent one. Identify what unique qualifications the proposed contractor has for fulfilling the contract requirements. Example: This requirement is a modification to existing software that was designed by XYZ contractor. The existing software is proprietary and only XYZ may make the modifications.

(6) Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable. The description should include whether a FedBizOpps notice was or will be publicized, as required by FAR 5.2, and if not, which exception under FAR 5.202 applies. If an announcement has already been made in FedBizOpps, give the date of issuance.

(7) *Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable.* This paragraph should always begin with a sentence similar to the following: The contracting officer determines that the anticipated price(s) will be fair and reasonable based on…." You may have information, such as, commercial pricelists or prior acquisition history that will help the contracting officer determine the anticipated cost is fair and reasonable (FAR Part 15.4).

(8) *Description of Market Research.* Market Research is required by FAR Part 10. Describe the results of your market research. If no market research was conducted, provide a reason for its absence: for example, the internet was searched for a list of contractors that could provide the software or compatible software that would work with XYZ software. The market research showed that only XYZ could provide the upgrade and there are no other distributors but the manufacturer. On a sole source acquisition, the only possible way you can state in paragraph 5 of the J&A that there is only one contractor who can fulfill the agency's needs is to conduct market research, and it should be summarized here. This is also where you would describe the circumstances for acquiring a patented or copyrighted product on the representation of the intellectual property holder that has not been licensed for resale.

(9) *Any Other Facts Supporting the Use of Other Than Full and Open Competition.* You must explain why technical data packages, specifications, SOW, or purchase descriptions are not suitable for full and open competition. Discuss why your requirement cannot be modified to enhance competition. If you are contending only one source can provide

your need, you must provide information why you this feature and the extent the Government will be harmed if not acquired. Example: Your requirement is for modification of a software package designed by XYZ Corporation. If XYZ does not do the modification, the new contractor will have to re-write 2/3rds of the existing software to make the modification. In this case, you must provide an estimate of the cost to the Government that would be duplicated and how it was derived. If using exception 6.302-2, data, estimated cost, or other rationale as to the extent and nature of the harm is not all safety concerns only those that maybe life threatening.

(10) *A Listing of the Sources, if Any, That Expressed, in Writing, an Interest in the Acquisition.* Example: A synopsis was issued in the CBD on 12/3/2000 requesting that parties express their interest in writing to the contracting officer. Only XYZ Corporation responded.

(11) *A Statement of the Actions, if Any, the Agency May Take to Remove or Overcome Any Barriers to Competition Before Any Subsequent Acquisition for Supplies or Services Required*. Include a statement of actions taken or will be taken to increase competition for future acquisitions of the same item/service. Will the government revise overly technical specifications; acquire data rights and drawings, etc.? An example of a statement of actions is as follows: "CG is replacing motors on all boats that are clockwise to counter clockwise rotation. Only one source can provide clockwise rotation motors. Once replaced, market research shows that a minimum of 20 manufacturers will be able to compete for this requirement. Any subsequent requirements will be acquired with counter clockwise rotation. If urgent and compelling circumstances are being relied upon, is the agency working on a fully competitive procurement to satisfy longer term needs that will be conducted at the earliest opportunity?

(12) Contracting Officer's Certification

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief.

_____ _____

Contracting Officer Date

Technical/Requirements Personnel Certification

I certify this requirement meets the Government's minimum need and that the supporting data, which forms a basis for this justification, is complete and accurate.

_____ _____

Technical Representative Date

APPROVAL:

_____ _____

Contracting Officer <$500K Date

_____	_____
>$500K - <$10mil Competition Advocate	Date
_____	_____
>$10mil to $50 mil HCA	Date
_____	_____
>$50mil CPO	Date

CHAPTER 3007 ACQUISITION PLANNING

Subchapter	**3007.1**	**Acquisition Plans**
	3007.101	Definitions.
	3007.102	Policy.
	3007.103	Agency-head responsibilities.
	3007.103-70	Other officials' responsibilities.
	3007.104	General procedures.
	3007.107	Additional requirements for acquisitions involving bundling of contract requirements.
	3007.170	Waivers.
	3007.171	Reserved.
	3007.172	Advance Acquisition Plans
Subchapter	**3007.2**	**Planning for the Purchase of Supplies in Economic Quantities**
	3007.204	Responsibilities of contracting officers.
	3007.270	Additional Requirements for Acquisitions Involving Strategically Sourced Commodities.
	3007.270-1	Scope of subchapter.
	3007.270-2	Definitions.
	3007.270-3	General requirements.
	3007.270-4	Review procedures.
	3007.270-5	Waiver procedures.
	3007.270-6	Procedural documentation requirements.
	3007.271	DHS-wide Agency Contracts
	3007.271-1	General requirements.
	3007.271-2	Award notifications.
Subchapter	**3007.4**	**Equipment Lease or Purchase**
	3007.401	Acquisition considerations.
Subchapter	**3007.5**	**Inherently Governmental Functions**
	3007.502	Applicability.
	3007.503	Policy.

Subchapter 3007.1 Acquisition Plans

This subchapter applies to all of DHS including the Transportation Security Administration.

3007.101 Definitions.

"Acquisition Plan", as used in this chapter, means a document used to fulfill the acquisition planning requirements of (FAR) 48 CFR Parts 7.105 and 7.107. This includes all acquisitions, including acquiring by contracts, orders under task or delivery orders contracts (for example Federal Supply Schedule contracts, Government Wide Agency Contracts (GWACs), etc).

"Acquisition" also includes intra-agency and interagency acquisitions.

"Advance Acquisition Plan (AAP)"means a plan of all anticipated procurements, including interagency agreements, blanket purchase agreements and task orders over $100,000 for the forthcoming fiscal year. This does not include interagency agreements where the bureau is acting as the servicing activity. See HSAM 3007.172. The AAP will also be used to compile and publish the annual "Forecast of Contract Opportunities" which is issued by the Office of Small and Disadvantaged Business Utilization (OSDBU).

"Plan" means an acquisition plan.

3007.102 Policy.

(a) Acquisition planning shall be initiated well in advance of the fiscal year in which contract award(s) is necessary. Preliminary acquisition efforts (e.g., defining requirements; issuing market search synopses and draft specification/statements of work; preparing and releasing draft solicitations) may be performed before the plan is completed and approved. If the approved acquisition strategy in the plan is different than what was included in the initial draft RFP, strong consideration should be given to issuing another draft RFP by posting to FedbizOpps.gov to inform industry of the changes.

(b) No synopsis for a solicitation may be released, solicitations issued, or funds transferred within or outside the Department until the plan has been completed and approved. In the case of inter-agency (to other federal agencies) or intra-agency (between DHS elements) agreements, the following requirements apply:

(1) If an OE is transferring funds to another agency via an inter-agency agreement, the OE must prepare and complete an acquisition plan.

(2) If another federal agency transfers funds to an OE via an inter-agency agreement, the receiving OE must prepare and complete an acquisition plan.

(3) If two or more OEs are jointly planning an acquisition/program and funds will be transferred via an intra-agency agreement, the receiving OE must prepare and complete the acquisition plan. If an OE transfers funds via an intra-agency agreement to another OE for purposes of awarding onto an existing contract, the originating OE is responsible for completing the acquisition plan. **No** acquisition plan is necessary if the intra-agency agreement is executed under the Tri-Bureau Shared Services agreements.

3007.103 Agency-head responsibilities.

(d) DHS's implementation of (FAR) 48 CFR Part 7 acquisition planning requirements is as follows:

(2) Content Requirements.

(i) Acquisitions greater than $5 million require a written acquisition plan that complies with the planning requirements of (FAR) 48 CFR Part 7.1 including (FAR) 48 CFR Part 7.106, Additional Requirements for Major Systems.

(ii) When the acquisition involves contract bundling, the plan shall also include the acquisition research and analysis requirements of (FAR) 48 CFR Part 7.107.

(iii) Appendix A, DHS Acquisition Planning Guide, Version 2.0, provides additional requirements and guidance on preparing written Acquisition Plans.

(3) Acquisition plans are not required for:

(i) Agreements between DHS elements in which all work is performed by DHS personnel;

(ii) Emergency acquisitions (i.e., when the need for the supplies/services is of such an unusual and compelling urgency that the Government would be seriously injured if the supplies/services were not immediately acquired);

(iii) Actions subsequent to the initial submittal of a plan which have already been included as part of an approved plan (e.g., exercise of options);

(iv) Procurements conducted under the Small Business Innovative Research Program (SBIR); and

(v) Procurements for sealed bid construction projects.

(e) Individual procurements where written plans for a program have already been approved and address the specific contracting actions do not require a separate acquisition plan.

(h) Review and Approval of Acquisitions Plans.

(1) Review and Approvals.

(i) For acquisitions greater than $5 million, the HCAs for the United States Secret Service (USSS) and the Federal Law Enforcement Training Center (FLETC) shall submit <u>all</u> acquisition plans to OCPO for review and approval. For acquisitions greater than $25 million (except $10 million for A-76 studies), the United States Coast Guard (USCG) shall submit all acquisition plans to OCPO for review and approval. All other OE HCAs shall submit acquisition plans with a total value exceeding $10 million to OCPO for review and approval.

(ii) The Chief Procurement Officer may, at his discretion, waive the requirements of paragraph (h).

(2) Submission requirements. Before APs are submitted to OCPO, the HCA must review, approve and endorse the plan. If more than one OE is involved in the acquisition, the OE preparing the acquisition plan must coordinate the plan with the appropriate individuals within the Department.

(3) Revisions. Any significant change to an approved AP must be reviewed and approved before implementing any such changes following the process defined in this paragraph.

(4) Other review and approval requirements.

(i) Refer to MD Number 1400, Investment Review Process for additional submittal, review and approval requirements.

(ii) The Chief Procurement Officer retains the right to review any acquisition plan.

3007.103-70 Other officials' responsibilities.
(a) *Acquisition planner/Technical official.* The development of plans, and updates to them, is the responsibility of the acquisition planner (e.g., program manager). The acquisition planner is located within the requiring agency (if outside DHS) or within the requiring OE (if within DHS). The acquisition planner is usually the technical official, and is responsible for providing applicable input for the plan (e.g., quality, quantity, delivery requirements). The acquisition planner, among other functions, shall:
(1) coordinate with all personnel responsible for significant aspects of the plan (e.g., contracting, fiscal, legal, technical, and logistics);

(2) provide input to the plan as necessary;

(3) obtain applicable concurrences;

(4) forward the plan through the approval process; and

(5) review and update the plan.

(c) *Contracting officer.* The contracting officer is responsible for providing applicable input for the plan (e.g., type of contract to be used, procurement milestones, set-aside considerations).

(d) *Competition Advocate.* The cognizant competition advocate within the OE is responsible for reviewing streamlined acquisition plans before they are submitted to the approving official when other than full and open competitive procedures are expected to be used.

(e) *HCA.* At the earliest market research and planning stage, the Head of the Contracting Activity (HCA) shall report the intended acquisition of any automated acquisition related systems to the DHS CPO for coordination, collaboration, and approval by the CPO.

3007.104 General procedures.

OE program officials must forecast ongoing and future requirements to ensure applicable projects are covered in Acquisition Plans. Additionally, chiefs of contracting offices should issue instructions establishing procurement lead-times and cut-off dates.

3007.107 Additional requirements for acquisitions involving bundling of contract requirements.

(a) The contracting officer shall conduct market research to determine whether bundling is necessary and justified. See (FAR) 48 CFR Part 10.001(c) for additional requirements.

(b) The DHS Deputy Secretary, without redelegation, shall determine that bundling is necessary and justified under the circumstances at (FAR) 48 CFR Part 7.107(c). When the contracting officer believes that these circumstances apply to the acquisition, the HCA shall forward to the CPO the following:
(1) A copy of the approved acquisition plan required by (FAR) 48 CFR Parts 7.105 and 7.107;

(2) A copy of the SBA's representative's (e.g. Procurement Center Representative) concurrence with the bundling of requirements or the decision of the HCA (see HSAM 3019.505); and

(3) A copy of the contracting officer's calculations showing how the expected benefits below the monetary thresholds under (FAR) 48 CFR 7.107(b) were derived.

The CPO will review the information. If the CPO proposes to recommend disapproval to DHS Deputy Secretary, the reasons for disapproval will be discussed and resolved with the contracting officer and/or at a managerial level within the OE. The CPO findings on any unresolved issues will be forwarded by the CPO to the Deputy Secretary for a final decision.

3007.170 Waivers.

Waiver requests to the planning requirements in this subchapter shall be submitted through the OE approving official to the CPO for approval. Waiver requests shall contain sufficient detail to clearly explain the basis for the request, procedures to be waived, and any recommended alternative action.

3007.171 Reserved.

3007.172 Advance Acquisition Plans.

(a) Advance acquisition plans (AAPs), DHS Form 700-15, shall be developed for all acquisitions over $100,000. Once developed, the AAP may be modified as necessary throughout the acquisition cycle. OEs shall assign an AAP coordinator.

(1) AAPs shall be developed on a fiscal year basis. They shall include at a minimum the fiscal year; the bureau name and the bureau office; proposed award date; the principle contact and their telephone number; length of the contract; a description of the requirement; an estimated value of the planned acquisition, and the availability of the acquisition to be used by the OE, other DHS organizations, or government-wide.

(2) The AAP contains the integrated/coordinated efforts of all personnel engaged in managing the acquisition process in the determination of requirements, finance, strategic planning, development of the technical data package, contracting, and contract administration.

(3) The AAP coordinator and the small business specialist shall work concurrently to ensure that the AAP/Forecast is distributed to the appropriate OE offices for completion. They shall also

ensure that the information for both the AAP and the Forecast is complete and accurate prior to the electronic submission to the Office of the Chief Procurement Officer (OCPO). The Excel spreadsheets shall be submitted electronically to the OCPO, Attn: Angelie Jackson (angie.jackson@dhs.gov) and ilene.waggoner@dhs.gov. AAP/Forecast spreadsheets for FY 05 are due August 15, 2004. See also HSAM 3019.202-270.

(4) No later than October 15 of each year, the OCPO will establish OE-specific acquisitions to be reviewed and notify each HCA. The HCA is responsible for notifying the specific contracting office of the required annual review and approvals as established by the OCPO.

Subchapter 3007.2 Planning for the Purchase of Supplies in Economic Quantities

3007.204 Responsibilities of contracting officers.

(a) The contracting officer shall transmit in writing to the cognizant requirements office either the actual offeror responses or a summary of their salient points.

(b) All transmittals shall request a prompt response which is to indicate whether the acquisition should remain as is, be amended, or cancelled. Before continuing with the negotiation or award of the acquisition, the contracting officer shall decide, in conjunction with the program manager, if continuing outweighs the potential cost saving benefits of delaying the acquisition.

Subchapter 3007.270 Additional Requirements for Acquisitions Involving Strategically Sourced Commodities.

3007.270-1 Scope of subchapter.

(a) Procedures for all requirements, regardless of dollar value, for all strategically sourced commodities listed in MD Number 0730, Strategic Sourcing Group Operations, are described in this subchapter. This subchapter applies to contracting officers, contracting officials and purchase card holders.

(b) This subchapter does not apply to the purchase of commodities that are not strategically sourced.

3007.270-2 Definitions.

“Commodity” means a good or a service or a combination thereof.

“Strategically Sourced” means designated as a commodity type in MD Number 0730 and purchased through a corporate contractual vehicle.

3007.270-3 General Requirements.

(a) Prior to contracting for, ordering against an existing contract, or making a purchase with a purchase card, regardless of dollar value, the contracting officer or ordering official shall review MD Number 0730 for the listing of commodities that are to be strategically sourced.

(b) The contracting officer, ordering official, or purchase card holder shall place an order for any commodity listed in MD Number 0730 in accordance with the instructions provided in the directive, unless a waiver is granted by the Strategic Sourcing Group.

3007.270-4 Review procedures.

Contracting Officers, Ordering Officials, and Purchase Card Holders: Contracting officers, ordering officials and purchase card holders are responsible for ensuring that acquisition of a commodity listed in MD Number 0730, regardless of dollar value, is acquired in an efficient and effective manner. This requires that the contracting officer, ordering official and purchase card holder review the commodities listed in the directive and the definition provided for those commodities. Any purchase of a commodity covered by the commodity's definition shall be acquired in accordance with the procedures provided in MD Number 0730.

3007.270-5 Waiver Procedures.

Contracting officers, ordering officials, and purchase card holder requesting a waiver to the procedure in MD Number 0730 shall provide a description of the requirement(s) along with a detailed explanation and rational justifying why a wavier is necessary. Waiver requests shall be submitted in writing and addressed to the CPO.

3007.270-6 Procedural documentation requirements.

(a) The contract file shall be documented as to whether or not a purchase of a commodity defined in MD Number 0730 was placed in accordance with the procedures provided in the MD.

(b) If granted, the waiver shall be placed in the contract file.

3007-271 DHS-wide Agency Contracts.

3007.271-1 General requirements.

(a) DHS-wide agency contracts are those that support multiple (2 or more) organizational elements.

(b) The CPO must approve the designation of a contractual action as a DHS-wide Acquisition Contract. Written approval by the CPO must be received prior to issuing a pre-solicitation synopsis in FedBizOpps or other public notice. Requests for DHS-wide designation must be submitted to the CPO by the HCA.

(c) DHS-wide contractual action will require the designated acquisition office to coordinate the DHS-wide requirement(s) with the DHS Director of Strategic Sourcing and other OEs which may have requirements for similar items or services. Coordination includes, but is not limited to identifying common requirements from OEs, establishing ordering and contract management procedures, and determining administrative costs/assessments for use of the DHS-wide contract.

3007.271-2 Post-award notification.

The HCA must notify the CPO once the DHS-wide Agency Contract is awarded, so that information about the contract can be distributed and posted on the DHS website. This notification must list the awardee, the office making the award, program/project description, contract type, fee arrangements, competition status, lead time requirements, and any other pertinent comments regarding the contract.

Subchapter 3007.4 Equipment Lease or Purchase

3007.401 Acquisition considerations.

The contracting officer shall make any required comparison and document the contract file.

Subchapter 3007.5 Inherently Governmental Functions

3007.502 Applicability.

While inherently governmental activities require the exercise of substantial discretion, not every exercise of discretion is evidence that an inherently governmental activity is involved. Rather, the use of discretion must have the effect of committing the Government to a course of action when two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders or other guidance that: (1) identify specified ranges of acceptable decisions or conduct; and (2) subject the discretionary authority to final approval or regular oversight by agency officials. An activity may be properly awarded to contract or public reimbursable performance where the offeror does not have the authority to decide on the course of action, but is tasked to develop options or implement that course of action, with agency oversight. The following factors should be considered when deciding whether award to a private sector or public reimbursable provider might effect a transfer of inherently governmental authority:

(a) Congressional legislative restrictions or authorizations.

(b) The degree to which official discretion is or would be limited, i.e., whether the agency, private sector or public reimbursable provider’s involvement is or would be so extensive that senior management ability to develop and consider options other than those provided by the provider is inappropriately restricted.

(c) In claims or entitlement adjudication and related services; (i) the finality of any agency, private sector or public reimbursable’s action affecting individual claimants or applicants, and whether or not review of the providers action is de novo (i.e., to be effected without the appellate body's being bound by prior legal rulings or factual determinations) on appeal of the decision to an agency official; (ii) the degree to which agency, private sector or public reimbursable activities may involve wide-ranging interpretations of complex, ambiguous case law and other legal authorities, as opposed to being circumscribed by detailed laws, regulations, and procedures; (iii) the degree to which matters for decision by agency, private sector or public reimbursable providers involve

recurring fact patterns or unique fact patterns; and (iv) the discretion to determine an appropriate award or penalty.

(d) The agency, private sector or public reimbursable provider's authority to take action that will significantly and directly affect the life, liberty, or property of individual members of the public, including the likelihood of the provider's need to resort to force in support of a police or judicial function; whether force, especially deadly force, is more likely to be initiated by the provider or by some other person; and the degree to which force may have to be exercised in public or relatively uncontrolled areas. (Note that contracting for guard, convoy security, and plant protection services, armed or unarmed, is not proscribed by these policies.)

(e) The availability of special agency authorities and the appropriateness of their application to the situation at hand, such as the power to deputize private persons.

(f) Whether the commercial activity in question is already being performed by private persons, and the circumstances under which it is being performed by them.

3007.503 Policy.

(e) Contracts cannot be awarded for services/functions that are inherently governmental as defined in (FAR) 48 CFR 7.503. The requiring office shall provide the determination with the purchase requests for services (either in whole or in part) which confirms that none of the services to be performed are inherently governmental. Disagreement pertaining to the determination shall be resolved by the Chief of Contracting Officer (COCO) before release of the solicitation.

DHS Acquisition Planning Guide

July 2005
Version 2.0

Office of the Chief Procurement Officer
Acquisition Policy and Oversight Division

Purpose
Planning is the first step to successful completion of the Department of Homeland Security's (DHS) mission. Acquisitions are an important method to meet mission requirements. The purpose of this document is to provide Program Managers (PM) and other acquisition personnel a way to organize and plan each acquisition to meet their portion of DHS's mission. This guide complies with the Federal Acquisition Regulation (FAR) 7.102 and HSAM 3007.1. Acquisition Plans (AP) prepared using this guide will document the acquisition planning and provide a road map to complete each acquisition.

Policy
All DHS acquisitions shall be planned. All DHS acquisitions or combination of acquisitions supporting a program that meet the threshold requirements in HSAM 3007.103(d)(2)(i) require a formal written approved Acquisition Plan (AP) before initiating any contractual action, unless an exception applies. Acquisitions include, but are not limited to, contracts, orders against the GSA federal supply schedule, basic ordering agreements, interagency agreements, memorandum of understand or memorandum of agreements.

For research and development efforts where one or more acquisitions are planned, the Acquisition Plan will be titled Acquisition Strategy. In all other cases, the documentation of the plan for each contractual action will be called an Acquisition Plan.

Introduction
This document is written in three parts. Part I is general information about acquisition planning. This document does not provide guidance on program planning, it covers only how to plan acquisitions to meet program requirements. Part II provides narrative detailed information on the contents required in an AP and how to prepare an AP. Part III is a set of AP templates designed to assist with completing an AP for standard types of acquisitions.

Table of Contents

Part I – Overview of the Acquisition Planning Process 5

1.1 What is an Acquisition Plan? 5

1.2 When is an Acquisition Plan required? 5

1.3 Who prepares an Acquisition Plan? 5

1.4 What is the scope of the Acquisition Plan? 6

1.5 When do Program Acquisition Plans get revised? 6

1.6 How long does an Acquisition Plan take to be approved? 6

1.7 Can the Acquisition Plan be waived or tailored? 6

1.8 Are there page limitations for the AP? 7

1.9 Is there a required numbering system for the AP? 7

1.10 Who signs, reviews and approves the AP? 7

1.11 Is there any help in preparing an AP? 7

1.12 When are design-to-cost and life-cycle-cost techniques used? 8

Part II – Preparation and Contents of an Acquisition Plan 9

AP Contents 9

Program Wide Information 9

For each Acquisition 9

Section A. Acquisition Background and Objectives 9
- **A1. Statement of Need** 9
- **A2. Applicable Conditions** 10

Section B. Technical Issues 11
- **B1. Capability or Performance** 11
- **B2. Delivery or Performance-Period Requirements** 11
- **B3. Product or Service Description** 11
- **B4. Test and Evaluation** 11
  - **Developmental Testing** 12
  - **Operational Assessment** 12
  - **Operational Testing** 12
  - **Acceptance Testing** 12
- **B5. Logistics Considerations** 12

Section C. Business and Management Issues 13
- **C1. Cost, Budgeting and Funding** 13
  - **Cost** 13

Budgeting and Funding 13
C2. Trade-offs and Risks 14
Trade-offs 14
Risks 15
C3. Acquisition Considerations 15
Acquisition Streamlining 15
Competition 15
Sources 16
C4. Source Selection Considerations 16
C5. Contract Admininstration, Management Information Requiremetns and Technical Data 17
C6. Transition Planning 17
C7. Government Furnished Information and Property 18
C8. Contractor versus Government Property 18
C9. Inherently Governmental functions 18

Section D. Other Considerations 18
D1. Priorities, Allocations and Allotments 18
D2. Make or Buy/Lease or Buy 19
D3. Environmental Considerations and Energy Conservation 19
D4. Security Considerations 19
D5. Other Issues 19
Standardization 19
Strategtic Sourcing 19
Open Systems 19
Occupational Safety, and Health Considerations 19
Systems Safety Program 19
Fair Labor Standards 19
Disposal 19

Section E. Participants in AP Development 19

Section F. Milestones for the Acquisition Cycle 19

Part III Templates 21

Acquisition Strategy for Research and Development (R&D) 21

Acquisition Plan for Non-Information Technology Programs 21

Acquisition Plan for Information Technology Programs 21

Acquisition Plan for Interagency Agreements 21

Acquisition Plan for Competitive Sourcing 21

Glossary of Terms 22

Part I – Overview of the Acquisition Planning Process

1.1 What is an Acquisition Plan?

An Acquisition Plan (AP) documents a program's plan for meeting a portion of the DHS mission through one or more acquisitions. It is a comprehensive plan that provides the background necessary to understand the program and how each acquisition will support the program and DHS. An AP is also required to document the planning for stand alone acquisitions that are separate from DHS identified programs. For these acquisitions, the AP describes DHS's need for the stand alone acquisition. The AP is a means to discuss the acquisition process and documents the decisions made prior to processing each contractual action. The AP serves as a mechanism to review, approve and document acquisition decisions, as well as creating a road map for implementation of the acquisition decisions. Once approved, an AP provides direction and approval for execution of each contractual action.

All APs, program or stand alone, address the technical, business, management and other significant considerations that will affect the acquisition strategy and execution of each contractual action.

1.2 When is an Acquisition Plan required?

The Federal Acquisition Regulation (FAR) 7.102(a) and HSAM 3007.102 require planning for all acquisitions. Acquisition planning is prepared as the first step in any acquisition and should be begun as early in the program life cycle as possible, or for stand alone acquisitions as soon as the need is known. Where the planned acquisition(s) meet or exceed the DHS thresholds in HSAM 3007.103(d)(2)(i) of $2 million, a formal written acquisition plan is prepared. For acquisitions below the HSAM 3007.103(d)(2)(i) threshold, informal written acquisition plans should be completed where possible. DHS components may provide thresholds and requirements for informal written acquisition plans.

1.3 Who prepares an Acquisition Plan?

The Program Manager (PM) is responsible for developing and executing the program. The PM prepares the program acquisition plan with the team who will be responsible for executing the plan. The acquisition team should include at a minimum the PM, the Contracting Officer (KO) and the budget officer. For stand alone acquisitions, the sponsor prepares the stand alone acquisition plan in conjunction with the KO and a budget officer if applicable.

Because acquisition planning is an inherently governmental function, the AP should normally be prepared and reviewed only by government personnel. Contractor support personnel should not normally be employed in direct support of acquisition planning or in the development of APs. If contractor personnel need to be involved in preparing the AP or even reviewing the AP, appropriate Organizational Conflict of Interest provisions must be included in the contract under which the contractor's services have been obtained and non-disclosure agreements must be executed. In order to avoid the appearance of a conflict of interest, a contractor who participates in acquisition planning may not participate in any other aspect of implementing the program at DHS. If there is any question concerning a potential, actual or the appearance of an organizational conflict of interest, the KO shall contact the Office of General Counsel before undertaking any acquisition planning involving a contractor's participation.

1.4 What is the scope of the Acquisition Plan?
Program APs cover an entire program and describe how that program will meet its portion of the DHS mission through one or more acquisitions. Program APs should include all acquisitions including (i.e. administrative contracts, training and technical support contracts, independent validation and verification contracts, and basic or applied research and development efforts) for the program. Stand alone APs may be prepared for single acquisitions not covered by a program. These APs cover acquisitions that are not part of a formal program but need to be performed to support DHS as an organization.

1.5 When do Program Acquisition Plans get revised?
The PM and the KO review the AP at lease annually and at each Key Decision Point (KDP) milestone. The AP is revised whenever there is a new acquisition; there is a major program change; or whenever there is a significant change to the approved AP. An AP change is significant if it what is being procured changes; how it is being procured (including method and contract type) changes or funding changes. AP revisions are subject to the same review and signature process as the original document.

1.6 How long does an Acquisition Plan take to be approved?
Acquisitions plans requiring CPO approve in accordance with HSAM 3007(h)(1)(i) should be submitted immediately after receiving formal program approval. In general APs are reviewed and approved within seven calendar days where the acquisitions included in the AP were listed in the Advanced Acquisition Plan, the Program is approved for the current milestone decision and AP Templates were used to develop the AP.

1.7 Can the Acquisition Plan be waived or tailored?
The contents of an AP vary depending on the nature, scope, complexity, circumstances, program level, and phase of the acquisition program life cycle. APs consider all of the topics listed in Part II of this guide, but the contents of each topic will vary and may be tailored. APs should reference the applicable program documents and summarize them where appropriate. The AP summarizes program approvals and does not substitute for KDP or other programmatic decisions.

In rare cases, the requirement for an AP may be waived by the DHS Chief Procurement Officer (CPO) on the basis of urgency or some other justifiable basis. Waivers are required in writing and describe the facts and the basis for the request. A waiver will not be considered when the urgency stems from the lack of planning. Requests for waivers are submitted to the CPO for approval, in the same manner as the AP. The waiver is only available prior to the first action in the acquisition process (i.e. announcement of the requirement, Justification for Other than Full and Open Competition etc).

Waivers, if granted, do not constitute authority for any deviation, special condition or clause which might be needed for an acquisition. Neither an approved AP nor a waiver of an AP substitutes for any determination and findings, Justification for Other than Full and Open Competition, or waiver or deviation from FAR or HSAR requirements.

1.8 Are there page limitations for the AP?
The AP should be concise. In general, an AP should not exceed 50 pages. To condense the size of the AP, program wide information should be presented first and then information for each acquisition should be presented separately. Use charts and table whenever possible to separate information associated with each acquisition where more than one acquisition is covered in the AP. Cite programmatic documents such as the Mission Needs Statement, OMB 300 exhibits, Acquisition Program Baseline, test plans, support plants, evaluation plans by reference whenever possible and summarize the documents.

1.9 Is there a required numbering system for the AP?
Yes, The OE shall assign a nine digit identifier followed by the date of the AP for each formal written AP. The first four digits on DHA APs will be "HSXX" referring to the Department of Homeland Security (HS) and issuing Acquisition Component (XX). The next two digits shall be the fiscal year in which the AP was or will be approved. The last three digits shall be assigned sequentially. The AP date is the date the AP was approved.

Revision to the AP shall be identified with the identification number of the original AP followed by the revision number and date the revision was approved.

1.10 Who signs, reviews and approves the AP?
All APs that meet exceed the HSAM 3007(d)(2)(i) threshold shall be signed at a minimum by the PM, competition advocate, small business specialist, KO and Head of the Contracting Activity (HCA). By signing the AP, the PM certifies that the information in the AP is current, accurate and complete. The Competition Advocate must concur if any of the planned acquisitions are for other than full and open competition. The small business specialist reviews and signs the AP concurring with the market research and resulting acquisition strategy unless all acquisitions covered in the AP are set aside for small business. The KO's signature certifies that the acquisition methodology is sound and that the KO independently concurs that the AP reflects the best business strategy for the acquisition(s). The HCA signature signifies that the HCA concurs with the AP contents and has met all of the HCA responsibilities in FAR 7.103 and HSAM 3007.103.

All APs that meet or exceed the HSAM 3007(h)(1)(i) threshold shall be reviewed by the Office of the Chief Procurement Officer (CPO) and approved by the CPO.

1.11 Is there any help in preparing an AP?
While this guide is designed to be the primary tool to help in preparing DHS APs, additional assistance is provided by the Desk Officer for each OE. Seek Office of General Counsel assistance with planning multi-year procurements, incremental funding, etc.

1.12 When are design-to-cost and life-cycle-cost techniques used?
Design-to-cost is a method of acquiring supplies and services where cost is treated as an independent variable. In this instance, the Offerors are provided with the budgeted amount and required to propose solutions to provide as much of the requirement as possible within the budget. This acquisition technique is required to be considered whenever the budgeted amount shown in paragraph C.1 of the AP is less than the independent cost estimate. If design-to-cost is considered, but rejected where the budgeted amount is less than the independent government estimate, the AP must explain why design-to-cost was rejected and how the funding shortfall will be accommodated.

Life-cycle cost is the total program cost to meet program mission or need. It includes the estimated cost for all contract actions from basic research through disposition at the end of the mission need. It does not include internal government costs, but does include training in maintenance and operation as well as ancillary supplies and services that are needed to meet the full mission need. Life-cycle costs must be addressed in paragraph C.1 whenever a system (supply or software) is procured to meet a mission need.

Part II – Preparation and Contents of an Acquisition Plan
Each numbered sub-section in Part II shall be addressed in every AP, but the contents of each subsection may be tailored to the program or noted as "not applicable".

AP Contents
To make the AP as brief as possible the contents of the AP should first present those characteristics that apply to the entire program. This should be followed by a separate discussion of each acquisition under the AP where there are unique characteristics separate from the general program information.

Program Wide Information
In this guide, "program wide" refers to the program information common to all the acquisitions covered in the plan. The use of separate plans, such as logistics support plans, test and evaluation plans, safety plans, environmental protection plans and risk management plans is encouraged for large and complex programs in order to simply the AP, Cite and summarize information in these separate plans in the AP, do not duplicate the information.

For each Acquisition
A program may require one or more acquisitions to meet its mission. In this guide "for each acquisition" means the specific and unique information associated with each acquisition. Each acquisition may include one or more contractual actions to obtain the entire supply or service required. Each acquisition and each known contractual action that supports the acquisition should be documented in the AP.

Section A. Acquisition Background and Objectives

Why is this program or stand alone acquisition being done? What is it mission and what will each acquisition accomplish?

Identify if this is a new AP or an AP update. If it is an update, provide the reason for the update and summarize the new information.

A1. Statement of Need

A1a. Program History

Program Wide
Introduce the AP with a brief statement of need summarizing the approved Mission Need Statement (MNS) or other requirements documents.

Identify the MNS or other document that authorized program initiation and approval for current program life cycle phase (KDP approval). If the MNS is not available or applicable, cite any applicable program authorization or explain why it is not applicable. Do not attach a copy of the entire MNS.

If the program includes involves information technology discuss how OMB circular A-130 will be met. If the acquisition is for a capital asset, provide summary information from the applicable OMB exhibit 300 submission.

Summarize the relevant technical and contractual history of the acquisition program, preferably in 250 words or less. Include a brief statement indicating how long the program has been in development or production and how long it is expected to continue. This history should include the current program life cycle phase, accomplishments in the previous program phases as well as the program's relationship to other programs.

A1b. Contract History

Program Wide
Include or attach a brief summary chart or table of major contract actions completed for the program to date. Include all types of acquisitions and include grants, memoranda of agreement, memoranda of understanding and Other Transactions. The information must include at least the applicable document or action identifier, the name of the firm or source who performed the service or provided the supply, the type of contractual vehicle used, a description of the supply or service provide, the quantity of supplies provide or the duration and level of service provided and the historical or estimated value of each acquisition identified.

The following chart may be used:

Identifier	Contractor or Source	Contractual Vehicle Type	Supply or Service	Quantity or Period of Performance	Historical or estimated value

A2. Applicable Conditions

Program Wide
State all significant conditions or constraints affecting the acquisition such as the interrelationship between the acquisitions covered under the AP, the relationship between the acquisitions under the AP and the historical acquisitions cited in paragraph A1b. Also discuss constraints such as single sources of supply for key components or new technology required to meet the program needs. If there are external constraints on the cost (i.e. limited budget or funds from fees), schedule (i.e. congressionally mandated implementation dates) or capability or performance (i.e. new technology or interoperability) discuss them from a programmatic prospective.

Section B. Technical Issues

B1. Capability or Performance

Program Wide
Summarize the key capability or performance characteristics from the MNS or requirements document. Show how those characteristics will be achieved through the acquisitions covered in the AP.

For each acquisition
What are the results required from each acquisition covered under the AP? What does each supply need to be able to do? What capability will each service provide to DHS? What unique knowledge, skills, experience does the contractor need to provide the supply or service.

B2. Delivery or Performance-Period Requirements

Program Wide
Describe the overall timeframe for the program and the anticipated dates for each program life cycle phase. Describe any mandated deadlines or any integration issues that affect performance schedules.

For each acquisition
State the period of performance for each acquisition and discuss why that period of performance was chosen. If any time frame is longer than 5 years, summarize the market research that supports the extended period of performance.

B3. Product or Service Description

For each acquisition
Discuss what will be procured and how it will be described in the solicitation and award documents. If the supply or service will not be described in performance based terms, provide the rationale and market research that supports your alternative method.

State whether the supply or service is a commercial item. Summarize the market research that supports the commercial item status. If not a commercial item, describe what will be done to convert to a commercial item in the future.

B4. Test and Evaluation

Program Wide
How will the program be tested and evaluated? How will the usefulness and performance of the program be verified? Summarize the program wide test and evaluation plan and provide details for each type of test and evaluation below.

B4a. Developmental Testing

Program Wide
Summarize how the program will document how it is progressing toward meeting the MNS or other requirements document. Site any applicable acquisition program baseline and discuss any known or potential variances.

For Each Acquisition
If the acquisition is for developmental testing or includes developmental testing as part of the acquisition, summarize the nature and extent of the testing and how the results of the testing will be evaluated and used.

B4b. Operational Assessment

Program Wide
Summarize how the program will document how useful the program is to DHS. Summarize benchmarking, market analysis or other efforts that have been or will be undertaken to ensure that the program continues to best meet DHS's needs.

For Each Acquisition
If the acquisition is to provide an operational assessment or assist in the government's operational assessment, summarize the assessment method, the analysis that will be required and discuss how the results of the assessment will be reported and used.

B4c. Operational Testing

Program Wide
Summarize how the program will test the supplies and services covered by the AP to ensure that they work when provided to the end user. Discuss when the testing will occur, by whom and how the results will be analyzed and evaluated.

For Each Acquisition
If the acquisition is to provide Operational Testing, discuss how it will be performed independent from the supply or service provider. Discuss how information will be collected by users of the supply or service and how maintenance problems or failure to perform as needed will be analyzed, evaluated and reported.

B4d. Acceptance Testing

For Each Acquisition
Summarize how (through testing or otherwise) each line item will be accepted by the government before payment for the supplies or services.

B5. Logistics Considerations

Program Wide

For complex programs cite and summarize the logistics plan that includes training, use, maintenance, repair, upgrade and or replacement of supplies or services within the program. Discuss the expected life of the supply or service and how the logistic plan will promote competition throughout the life cycle of the supply or service for the logistic items.

For IT acquisitions, discuss the use of open standards.

For each Acquisition
Discuss the assumptions made about the supplies or services being acquired. Discuss the logics supplies and services that will be included in the acquisition including training, maintenance, repair, upgrade, replacement etc. Discuss how competition will be maintained if logistics items are not purchased or described in the initial acquisition document.

Section C. Business and Management Issues

C1. Cost, Budgeting and Funding

C1a. Cost

Program Wide
Provide the estimated cost of the program broken down by fiscal year. Provide the estimated cost for each program life cycle phase and the estimate for each acquisition within each life cycle phase. Discuss the method used to derive the estimated cost including the supporting rationale and assumptions. If the program's life cycle costs were not estimated, explain why.

For each Acquisition
Provide the estimated value of the acquisition and a detailed independent government estimate of the acquisition cost. Discuss the value of the acquisition in relationship to the life cycle cost of the supply or service discussed under the program wide information. Discuss whether cost constraints require the acquisition to use design-to-cost objectives. Discuss whether a should-cost analysis has been done or will be done for the supply or service being procured.

C1b. Budgeting and Funding

For each Acquisition

	PriorYear Obligated Amount	FY 1	FY 2	FY 3	FY 4	FY 5	Total Funding
Funding Source 1							
Amount Required							
Amount Budgeted							
(Under or							

Overage)							
Funding Source 2							
Amount Required							
Amount Budgeted							
(Under or Overage)							
Total Funding							
Amount Required							
Amount Budgeted							
(Under or Overage)							

In the table, list source of funds that will be used to fund each acquisition and the independent cost estimate as the amount required. In the Under or Overage row provide the difference between the amount required and the amount budgeted for the effort. If the amount required does not equal the amount in the table, explain the difference in a note below the table.

C2. Trade offs and Risks

C2a. Trade-offs

<u>Program Wide</u>
Discuss program cost, schedule and performance trade-offs. If the amount required is less than the funding budgeted in C1b, discuss how schedule and performance will be traded-off against cost to obtain program objectives within budget. Note do not discuss proposal trade-offs between cost and technical factors here. This paragraph describes the programmatic trade offs outside of source selection.

C2b. Risks

<u>For each Acquisition</u>

Risk Event	Risk Category	Risk Probability	Impact	Risk Management	Responsible
(Identify the risk)	*(Cost, Schedule, Performance,*	*(High, Medium or Low)*	*(What would happen and how sever*	*(Describe the mitigation strategy)*	*(Name and title of the person who is*

	Political or Organizational)		*would it be if the risk event occurred)*		*responsible for managing the risk)*

Identify the risks to each acquisition and complete the table above for e ach identified risk. Risks may include cost schedule, performance, political and organizational risks. If there is a risk management plan, cite the plan number and date and include a brief summary instead of completing the chart.

C3. Acquisition Considerations

C3a. Acquisition Streamlining

<u>For each Acquisition</u>

Acquisition streamlining includes efforts that result in a more efficient and effective use of resources during the acquisition process. List each item that may be used in each acquisition to streamline the acquisition process. Examples of streamlining include:

- Draft solicitations including draft SOOs, SOWs, or PWSs released for industry comment.
- Limiting the size of proposals to less than 50 pages for RFPs and 20 pages for RFQs.
- Limiting the number of evaluators to 5 or less.
- Using performance work statements (PWS).
- Acquiring Commercial Off the Shelf (COTS) products.
- Using pre-solicitation and pre-proposal conferences.
- Using oral presentations.
- Using advisory process to advise potential Offerors before the solicitation is released.

C3b. Competition

<u>For each Acquisition</u>
State the type of acquisition process that will be used and describe how it will maximize competition throughout the life of the resulting contractual instrument. If the action is a sole source or limited competition, describe how and when competition will be introduced into the acquisition after award of the initial contractual instrument.

C3c. Sources

<u>For each Acquisition</u>
Summarize the market research performed and cite the Market Research report. Summarize your market research to find the appropriate sources. If small business set aside was not selected as the acquisition process, describe why small businesses were not considered appropriate sources for this work. If this is a sole source acquisition, summarize the basis for the sole source.

C4. Source Selection Considerations

For each Acquisition

Describe the process used for each acquisition citing the applicable FAR section (i.e. FAR 15 full and open competition, FAR 19 small business set aside competition, FAR 8.4 GSA task order competition). Discuss why the acquisition process was chosen and briefly discuss the alternative acquisition processes considered. Describe the term of the contract action and provide at least the following information:

i. Discuss whether each acquisition will be performance based.

ii. This contract vehicle will contain ☐ will not contain ☐ options in accordance with FAR 17.2.

iii. This contract vehicle will be ☐ will not be ☐ incrementally funded in accordance with FAR 32.7.

iv. This will be ☐ will not be ☐ a multiple award Indefinite Quantity or Indefinite Delivery contract in accordance with FAR 16. If this is a single award IDIQ contract, provide the justification for the single award.

v. This is ☐ is not ☐ a multi-year procurement in accordance with FAR 17.1.

vi. The resulting contracting vehicle will contain the following line items using the associated contract types:

Base or Option Item	Line Item Number	Description	Contract Type

C5. Contract Administration, Management Information Requirements and Technical Data

C5a. The Contracting Officer Technical Representative is .

C5b. The COTR will manage the technical aspects of the contract by .

C5c. The contractual vehicle will include ☐ will not include ☐ Earned Value Management as a contract administration tool. If not, discuss what will be used to measure cost, schedule and performance during the contract term. If EVM will be used discuss how it will be used.

C5d. Each line item will be accepted after successful completion of . Invoices will be reviewed by the COTR to ensure that the Contractor has met all of the acceptance criteria prior to approval and payment of each invoice.

C5e. The contract vehicle will include the following data rights clauses:

C5f. State that the contract vehicle will require metric system of measurement in proposed acquisitions in accordance with 15 U.S.C. 205b (see FAR 11.002(b)) and DHS metric plans and guidelines.

C5g. Summarize any printing/copying requirements hand how they will comply with the standards specified in section 505 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition (see FAR 11.303).

C5h. If the acquisition is not performance based, explain why it is not. Address whether the Electronic and Information Technology Accessibility Standards (see 36 CFR part 1194) are applicable (see FAR 11.002(e)). If so, explain how these standards are included in requirements planning, as appropriate (see FAR Subpart 39.2).

C5i. The contract vehicle will include the following data rights clauses:

C6. Transition Planning

For Each Acquisition

Identify whether the contract vehicle will ☐ will not ☐ contain a line item for "transition in" and or a line item for "transition out". Discuss the period of performance for each line item and the tasks that will be included.

C7. Government Furnished Information and Property

For each Acquisition

C7a. Provide the following information**:** The following GFP clauses will be included in the contract vehicle **.** The Offerors will ☐ will not ☐ have a due diligence event to evaluate the government furnished property or information before award. The estimated of all GFP to be provided is $.

C7b. List the property or information will be provided with the date that it will be provided and the date it will be returned.

Description of Government Property or information	Date/ Event when provided	Date/Event when returned

C8. Contractor versus Government Performance
Address whether any of the acquisitions covered under the AP are covered by OMB circular A-76 or state that this paragraph is not applicable.

C9. Inherently governmental functions
Discuss whether the Contracting Officer has determined whether any of the work is inherently governmental and how the contractor will be prevented from performing inherently governmental functions.

Section D. Other Considerations

D1. Priorities, Allocations and Allotments

For each Acquisition
Generally this paragraph is not applicable. However, if your program is authorized under the Defense Productions Act of 1950 as amended and will be using a preferential or priority rating, identify the applicable information.

D2. Make or Buy/Lease or Buy

For each Acquisition

D2a. State whether a Make or Buy plan is ☐ is not ☐ required in accordance with FAR 15.407-2. If not required, cite the applicable exception.

D2b. State whether a Lease or Buy decision is ☐ is not ☐ applicable to this acquisition. If the decision is applicable, please provide the factors and analysis considered as required under FAR 7.4.

D3. Environmental Consideration and Energy Conservation.
List the environmental and energy conservation clauses that will be included in the resulting contractual instrument. Discuss any environmentally-related requirements to be included in the solicitation or resulting contractual action.

D4. Security Considerations
D4.a Describe whether all ☐ some ☐ none ☐ of the contractor's employees will be required to pass a background investigation ☐ , possess a secret level clearance ☐ or possess a top secret level clearance**.**

D4b. List the clauses that will be included in the resulting contractual instrument addressing personnel, data or physical security.

D5. Other Issues

For each acquisition

D5a. Standardization. For each acquisition of a system, discuss what will be done to ensure that the system will be procured to industry standards or whether the system is compatible with industry standards.

D5b. Strategic Sourcing. If not discussed in paragraph A1, discuss whether the Commodity Council was consulted regarding this acquisition. Discuss wither this is a DHS wide acquisition and if it is not why it is not a DHS wide acquisition.

D5c. Open Systems. If the acquisition involves software, discuss steps being taken to avoid proprietary standards and to acquire systems with open standards.

D5d. Occupational Safety and Health Considerations. Describe the strategy to ensure that occupational safety or health is being managed under the resulting contractual action. If there are no occupational safety, or health considerations, discuss why this paragraph is not applicable.

D5e. System Safety Program. If the acquisition is for a system, summarize the systems safety plan. If this is not a system's acquisition, this paragraph is Not Applicable.

D5f. Fair Labor Standards. State whether the Services Contract Act is ☐ is not ☐ applicable to this acquisition. If applicable, state that all required clauses and provisions will be included in the solicitation and resulting contractual instrument. (Note: Ensure that the independent government estimate in Section C includes the applicable SCA increases.)

D5g. Disposal. State whether the acquisition will ☐ will not ☐ result in any hazardous material being created or used. If applicable, describe how any hazardous material will be required to be disposed.

Section E. Participants in AP Development

List the individuals who participated in the preparing the AP. Provide the name, title, organization, telephone number and email for each individual. Each AP must include participation from at least the Program Manager, Contracting Officer, Budget Officer, Small Business Specialist and Commodity Council representative.

Name	**Title**	**Organization**	**Telephone Number**	**Email**
	Program Manager			
	Contracting Officer			
	Budget Officer			
	Small Business Specialist			

	Commodity Council			

Section F. Milestones for the Acquisition Cycle

For each acquisition
List each significant event from acquisition initiation through the end of the contract action (pre and post award). For each event identify the completion date and the individual responsible for completion of the action.

Event	Date Completed or Due	Person Responsible
Program initiated		**Program Manager**
IPT formed		**Program Manager**
Market Research Completed		
Program Approvals Obtained		
AP approved		
PR with funding provided to KO		
Solicitation Package Complete		
Solicitation Package reviewed by OGC		
Solicitation Released		
Proposals/Quotes Received		
Evaluators Trained		
Evaluation Complete		
Source Selected		
Post selection documentation complete		
Notification of Unsuccessful		
Award		
Notification of Award		

Part III – Templates

The Templates are Word documents that provide more specific guidance for each of the paragraphs listed in Part II of the guide. The Templates are designed to focus the PM and the acquisition team on the important issues unique to specific types of acquisitions or specific parts of the program life cycle. The Templates do not replace the information requirements in Part II of the guide, but supplement that guidance for individual actions. Each AP should be tailored to ensure that it addresses all issues even if they are not included in the template.

The following Templates in a fill-able Word format are available only at the DHS Online Portal: Management - Acquisition – Policy - Acquisition Planning:
https://dhsonline.dhs.gov/portal/jhtml/community.jhtml?index=42&community=Management&id=2009480007

To use the Template Word files you must save the file to your desktop and turn on/turn off the paragraph icon in your toolbar to unhide/hide the form instructions.

Acquisition Strategy for Research and Development (R&D) actions
Acquisition Plan for Non-Information Technology Programs
Acquisition Plan for Information Technology (IT) Programs
Acquisition Plan for Interagency Agreements
Acquisition Plan for Competitive Sourcing

Glossary

Acquisition means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract (see FAR 2.101).

Acquisition cost means the amount that the contractor will receive for successfully completing the contract action.

Acquisition planning means the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition (see FAR 2.101).

Acquisition Program Baseline (APB) is a program document required for all programs that are reviewed and or approved by DHS headquarters. The APB establishes the program's performance requirements, schedule requirements and estimate of total acquisition cost of the entire program (rather than each acquisition).

Acquisition Strategy includes: the proposed contract type, terms and conditions, and acquisition planning schedules; the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; and related program documents (see FAR 15.201). For Major Systems the Acquisition Strategy is the program manager's overall plan for satisfying the mission need in the most effective, economical, and timely manner. The strategy shall be in writing and prepared in accordance with the requirements of FAR 7.1 (also see FAR 34.004, HSAR 3007, HSAM 3007 and Template for Acquisition Strategies).

Acquisition streamlining means any effort that results in more efficient and effective use of resources to design and develop, or produce quality systems. This includes ensuring that only necessary and cost-effective requirements are included, at the most appropriate time in the acquisition cycle, in solicitations and resulting contracts for the design, development, and production of new systems, or for modifications to existing systems that involve redesign of systems or subsystems (see FAR 7.101).

Advanced Acquisition Plan (AAP) means a plan of all anticipated procurements, including interagency agreements, blanket purchase agreements and task orders over $100,000 for the forthcoming fiscal year. This does not include interagency agreements where DHS is acting as the serving activity (See HSAM 3007.102 and HSAM 3007.172).

Bundling or bundled contract means consolidating two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, orders, into a

solicitation for a single contract or order that is likely to be unsuitable for award to a small business concern due to—

(i) The diversity, size, or specialized nature of the elements of the performance specified;

(ii) The aggregate dollar value of the anticipated award;

(iii) The geographical dispersion of the contract performance sites; or

(iv) Any combination of the factors described in paragraphs (1)(i), (ii), and (iii) of this definition (see FAR 2.101).

Commercial Item means a supply or service that is commonly available to the public. All items purchased under FAR Part 12 or under FAR 8.4 must be commercial items.

Contractual actions means any contract purchase order project order, delivery or task order, interagency agreement, memorandum of agreement, memorandum of understanding to obtain anything of value (supply or service) in exchange for money.

Design-to-cost means a concept that establishes cost elements as management goals to achieve the best balance between life-cycle cost, acceptable performance, and schedule. Under this concept, cost is a design constraint during the design and development phases and a management discipline throughout the acquisition and operation of the system or equipment (see FAR 2.101).

Life-cycle cost means the total cost to the Government of acquiring, operating, supporting, and (if applicable) disposing of the items being acquired (see FAR 7.101).

Major system means that combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software, or any combination thereof, but exclude construction or other improvements to real property. A system is a major system if the total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a “major system” established Management Directive MD 1400; or the system is designated a “major system” by DHS (see 10 U.S.C. 2302, 41 U.S.C. 403, FAR 2.101 and HSAR 3002.101).

Multi-year contract means a contract for the purchase of supplies or services for more than 1, but not more than 5, program years. A multi-year contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds, and (if it does so provide) may provide for a cancellation payment to be made to the contractor if appropriations are not made. A multi-year contract, defined in the statutes cited at FAR 17.101, buys more than 1 year’s requirement (of a product or service) without establishing and having to exercise an option for each program year after the first (see FAR 17.103).

Multiple year contract means a contract that buys more than 1 year's requirement (of a product or service) using options for each program year after the first (see FAR 17.103).

Order means an order placed under a Federal Supply Schedule contract; or a task order contract or delivery-order contract awarded by another agency, (*i.e.*, Government wide acquisition contract or multi-agency contract, see FAR 7.101).

Performance Based contracting means structuring all aspects of an acquisition around the purpose of the work to be performed with the contract requirements set forth in clear, specific and objective terms with measurable outcomes as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work (see FAR 2.101).

Value of the acquisition means the maximum monetary amount that the government could obligate against a contractual action including all options, incentives, award fees and cancellation fees.

CHAPTER 3008 REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subchapter 3008
3008.002 Priorities for use of Government supply sources.

Subchapter 3008.8 Acquisition of Printing and Related Supplies
3008.802 Policy.
3008.870 Acquisition of DHS Employee Business Cards.

Subchapter 3008.11 Leasing of Motor Vehicles
3008.1102 Presolicitation requirements.

Subchapter 3008.002 Priorities for use of Government supply sources.

(a) In accordance with HSAM 3007.270-3, the contracting officer or ordering official shall review the commodities list in DHS Management Directive (MD) Number 0731, Strategically Sourced Commodities Policy and Procedures, prior to making a purchase using commercial sources.

Subchapter 3008.8 Acquisition of Printing and Related Supplies

3008.802 Policy.

(b) The DHS Chief, Administrative Services has been designated as the Department's central printing authority for DHS. Each Organizational Element (OE) has appointed a printing control point. Approval must be obtained prior to acquiring **in any manner** any of the supplies or services delineated in (FAR) 48 CFR Part 8.802(b).

3008.870 Acquisition of DHS Employee Business Cards.

(a) The purchase of business cards for official use by DHS employees whether by the use of appropriations or by the employee's own funds will be made in accordance with DHS MD Number 0570, Acquisition of Department of Homeland Security Employee Business Cards.

Subchapter 3008.11 Leasing of Motor Vehicles

3008.1102 Presolicitation requirements.

(a)(2) The DHS Chief, Administrative Services is the certifying official under (FAR) 48 CFR 8.1102(a)(2) as designated in DHS MD No. 0510, Motor Vehicle Fleet Management.

Subpart 3008.90 Purchase of Motor Vehicles.

3008.9000 General.

(a) Section 1343 (b)2 of Title 31 United States Code requires that agency appropriations must authorize the purchase or lease of passenger motor vehicles.

CHAPTER 3009 CONTRACTOR QUALIFICATIONS

Subchapter	**3009.1**	**Responsible Prospective Contractors**
	3009.105	Procedures.
	3009.105-2	Determinations and documentation.
Subchapter	**3009.2**	**Qualification Requirements**
	3009.202	Policy.
	3009.204	Responsibilities for establishment of a qualification requirement.
	3009.206	Acquisitions subject to qualification requirements.
	3009.206-1	General.
Subchapter	**3009.3**	**First Article Testing and Approval**
	3009.302	General.
Subchapter	**3009.4**	**Debarment, Suspension, and Ineligibility**
	3009.402	Policy.
	3009.403	Definitions.
	3009.404	List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
	3009.405	Effect of listing.
	3009.405-1	Continuation of current contracts.
	3009.405-2	Restrictions on subcontracting.
	3009.406	Debarment.
	3009.406-1	General.
	3009.406-3	Procedures.
	3009.407	Suspension.
	3009.407-1	General.
	3009.407-3	Procedures.
	3009.408	Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.
Subchapter	**3009.5**	**Organizational and Consultant Conflicts of Interest**
	3009.503	Waiver.

Subchapter 3009.1 Responsible Prospective Contractors

3009.105 Procedures.

3009.105-2 Determinations and documentation.

DHS Form 700-12, Determination of Contractor Responsibility, shall be used to make the determination and document that a contractor is/is not responsible.

Subchapter 3009.2 Qualification Requirements

3009.202 Policy.

The Head of the Contracting Activity (HCA) is delegated the authority at (FAR) 48 CFR 9.202. The cognizant technical office shall prepare and submit a written justification or waiver request to the contracting officer, who shall coordinate the justification through the Organizational Element's (OE) competition advocate for HCA approval.

3009.204 Responsibilities for establishment of a qualification requirement.

(a)(3) A written determination shall be completed and placed in the contract file. At a minimum the determination shall include the name of the firm for which the qualification tests will be performed, the amount of increased competition expected, and the dollar value of anticipated future requirements for the qualified product.

(c) The cognizant technical office shall provide the list of qualified manufacturers and suppliers to the contracting officer.

3009.206 Acquisitions subject to qualification requirements.

3009.206-1 General.

(b) The authorities at (FAR) 48 CFR 9.206-1 is delegated the HCA. The cognizant technical office shall prepare and submit a written justification for the emergency to the contracting officer, who shall coordinate the justification through the OE competition advocate for the HCA for approval.

Subchapter 3009.3 First Article Testing and Approval

3009.302 General.

The initiator of the procurement request shall prepare a written statement addressing the factors enumerated in (FAR) 48 CFR 9.302 whenever first article testing and approval is required. The statement shall be forwarded with the procurement request to the contracting office.

Subchapter 3009.4 Debarment, Suspension, and Ineligibility

3009.402 Policy.

The DHS procedures to implement the debarment and suspension requirements of (FAR) 48 CFR Subpart 9.4 are established in this subchapter.

3009.403 Definitions.

"Debarring official" means—
(b) The HCA.

"Suspending official" means—
(b) The HCA.

“Unfair trade practices” means--
(3) The HCA is authorized to make the determination at (FAR) 48 CFR 9.403(3).

3009.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(c)(4) The HCA shall maintain records regarding debarment and suspension actions for 3 years after a contractor has been excluded from procurement programs.

(d) No hard copies of the listing are available from GSA/GPO after July 2003.

3009.405 Effect of listing.

The HCA is delegated the authority under (FAR) 48 CFR 9.405(a), (d)(2), and (d)(3).

3009.405-1 Continuation of current contracts.

The HCA is delegated the authority under (FAR) 48 CFR 9.405-1(a) and (b).

3009.405-2 Restrictions on subcontracting.

The HCA is delegated the approval authority under (FAR) 48 CFR 9.405-2(a) .

3009.406 Debarment.

3009.406-1 General.

(c) The HCA is delegated approval authority under (FAR) 48 CFR 9.406-1(c). However, see HSAM 3023.506(e) regarding waivers to debarment or suspension determinations for actions under (FAR) 48 CFR Subpart 23.5, Drug-Free Workplace.

3009.406-3 Procedures.

(a) Investigation and referral. In coordination with OE legal counsel, the Chief of Contracting Office (COCO) shall prepare a written report of a proposed debarment action which contains the following information, if available:

(1) Name, address and telephone number for the point of contact for the office making the report;

(2) Name and address of the contractor;

(3) Names and addresses of the members of the board, principal officers, partners, owners, and managers;

(4) Names and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship;

(5) For each contract affected by the conduct being reported--

(i) The contract number;

(ii) Description of supplies or services;

(iii) The amount;

(iv) The percentage of completion;

(v) The amount paid to the contractor;

(vi) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(vii) The amount due to the contractor.

(6) For any other contracts outstanding with the contractor or any of its affiliates--

(i) The contractor number(s);

(ii) The amount(s);

(iii) The amounts paid to the contractor;

(iv) Whether the contract(s) is assigned under the Assignment of Claims Act and, if so, to whom; and

(v) The amount(s) due the contractor;

(7) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor;

(8) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated);

(9) The comments and recommendations of the contracting officer and each higher level contracting review authority regarding--

(i) Whether to suspend or debar the contractor;
(ii) Whether to apply limitations to the suspension or debarment;

(iii) The period of any recommended debarment; and

(iv) Whether to continue any current contracts with the contractor (explain why a recommendation regarding current contract is not included); and

(10) When appropriate, as an enclosure to the report--

(i) A copy or extracts of each pertinent contract;

(ii) Witness statements or affidavits;

(iii) Copies of investigative reports;

(iv) Certified copies of indictments, judgments, and sentencing actions; and

(v) Any other appropriate exhibits or documents.

(b) Decision making process. After receipt of the COCO report, the Debarring official may request from interested parties (including the contractor if deemed appropriate) a meeting or additional supporting information to assist in the debarment decision in accordance with OE procedures.

(c) Notice of proposal to debar. After reviewing the COCO's report, and any additional information received in accordance with paragraph (b) above, the Debarring official shall prepare and coordinate with the OE legal counsel, a written notice of proposed debarment.

(d) Debarring official's decision. When it is found that the contractor's submission raises a genuine dispute over facts material to the proposed debarment, the Debarring official may request the Department of Transportation's Board of Contract Appeals (DOTBCA) to conduct fact finding and provide a report containing the results of the fact finding.

(e) Notice of debarring official's decision. The Debarring official shall notify the COCO of the decision. The COCO shall ensure a copy of the debarment action is included in the contract file, and the information of the decision is submitted electronically to the following offices or web address:

(1) Input data on the decision at www.epls.gov;

(2) Chief Procurement Officer (CPO); and

(3) OE Legal Counsel.

3009.407 Suspension.

3009.407-1 General.

(d) The HCA is delegated the authority under (FAR) 48 CFR 9.407-1(d). However, see HSAM 3023.506(e) regarding waivers to debarment or suspension determinations for actions under

(FAR) 48 CFR Subpart 23.5, Drug-Free Workplace.

3009.407-3 Procedures.

(a) Investigation and referral. In coordination with OE legal counsel, the COCO shall prepare a written report of a proposed suspension action containing the information listed in HSAM 3009.406-3.

(b) Decision making process. After receipt of the COCO report, the Suspension official may request from interested parties (including the contractor if deemed appropriate) a meeting or additional supporting information to assist in the suspension decision.

(c) Notice of suspension. After reviewing the COCO's request, and any additional information received in accordance with paragraph (b), the Suspension official shall prepare and coordinate with the OE legal counsel, a written notice of suspension.

(d) Suspending official's decision. When it is found that the contractor's submission raises a genuine dispute over facts material to the proposed suspension, the Suspension official may request the DOTBCA to conduct fact finding and provide a report containing the results of the fact finding.

(e) The Suspension official shall notify the COCO of the decision to impose a suspension. The COCO shall ensure a copy of the suspension action is included in the contract file, and the information of the decision is submitted electronically to the following offices or web address:

(1) Input data on the decision at www.epls.gov;

(2) CPO; and

(3) OE Legal Counsel.

3009.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.

(a)(2) Prior to proceeding with the contract award, the contracting officer shall notify the Debarment and Suspension official of the facts, and submit a copy of the written responsibility determination.

Subchapter 3009.5 Organizational and Consultant Conflicts of Interest

3009.503 Waiver.

The HCA is delegated the authority under (FAR)48 CFR 9.503.

CHAPTER 3010

MARKET RESEARCH

(RESERVED)

There is no text implementing or supplementing FAR Part 10.

CHAPTER 3011 DESCRIBING AGENCY NEEDS

Subchapter 3011.1 Selecting and Developing Requirements Documents
3011.101 Order of Precedence for requiring documents.

Subchapter 3011.2 Using and Maintaining Requirements Documents
3011.202 Maintenance of standardization documents.

Subchapter 3011.6 Priorities and Allocations
3011.602 General.

Subchapter 3011.1 Selecting and Developing Requirements Documents

3011.101 Order of Precedence for requiring documents.

Safeguards to ensure safety, security (including sensitive information and information technology security) and environmental protection shall be included, as applicable, in all requirements documents.

Subchapter 3011.2 Using and Maintaining Requirements Documents

3011.202 Maintenance of standardization documents.

All recommendations for changes to standardization documents must be submitted through the Chief Procurement Officer (CPO).

Subchapter 3011.6 Priorities and Allocations

3011.602 General.

(c) For the purposes of the Defense Priorities and Allocations System (DPAS), Organizational Element's (OE) that meet the definition of a delegated agency shall establish internal procedures for placing rated orders.

CHAPTER 3012 ACQUISITION OF COMMERCIAL ITEMS

Subchapter	**3012.1**	**Acquisition of Commercial Items-General**
	3012.102	Applicability.
Subchapter	**3012.3**	**Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**
	3012.301	Solicitation provisions and contract clauses for the acquisition of commercial items.
	3012.302	Tailoring of provisions and clauses for the acquisition of commercial items.

Subchapter 3012.102 Applicability.

(f) The Head of the Contracting Activity, without further delegations, shall determine the supplies and service to be treated as a commercial item(s).

Subchapter 3012.3 Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

3012.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(b)(4) See HSAM 3025.1001(a)(2)(iii) for the approving authority to waive the examination of records clause.

3012.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) An individual waiver shall be approved by the Chief of the Contracting Office (COCO) and a class waiver by the Head of Contracting Activity (HCA). The waiver shall be reviewed by legal counsel.

CHAPTER 3013 SIMPLIFIED ACQUISITION PROCEDURES

Subchapter	**3013.1**	**Procedures**
	3013.101	General.
Subchapter	**3013.2**	**Actions At or Below the Micro-Purchase Threshold**
	3013.201	General.
	3013.201-70	Acquisitions involving strategically sourced commodities.
Subchapter	**3013.3**	**Simplified Acquisition Methods**
	3013.301	Governmentwide commercial purchase card.
	3013.301-70	Acquisitions involving strategically sourced commodities.
	3013.302	Purchase orders.
	3013.302-3	Obtaining contractor acceptance and modifying purchase orders.
	3013.303	Blanket purchase agreements (BPAs).
	3013.303-3	Preparation of BPAs.
	3013.303-370	Modification of a BPA.
	3013.303-6	Review procedures.
	3013.303-670	Review responsibility.
	3013.305	Imprest funds and third party drafts.
	3013.305-2	Agency responsibilities.
	3013.305-3	Conditions for use.
	3013.306	SF44, Purchase Order--Invoice--Voucher.
Subchapter	**3013.70**	**Special Streamlined Acquisition Authority**
	3013.7001	Delegations.

Subchapter 3013.1 Procedures

3013.101 General.

Except for acquisitions of $2,500 or less, DHS Form 700-16, Simplified Acquisition Summary, should be used or a form substantially similar if authorized in accordance with OE procedures and contains the same elements to document purchases covered by (FAR) 48 CFR Part 13. The documentation should be placed in the order file.

Subchapter 3013.2 Actions At or Below the Micro-Purchase Threshold

3013.201 General.

(c) Purchase cardholders shall be authorized and trained in accordance with DHS Management Directive (MD) Number 0760, Government Purchase Card Program.

3013.201-70 Acquisitions involving Strategically Sourced Commodities.

In accordance with HSAM 3007.270-3, the contracting officer or ordering official shall review the commodities list in MD Number 0730 prior to making a purchase using the purchase card.

Subchapter 3013.3 Simplified Acquisition Methods

3013.301 Government-wide commercial purchase card.

(b) DHS policies and procedures for the use of the DHS Purchase Card Program are contained in the DHS MD Number 0760, Government purchase Card Program.

3013.301-70 Acquisitions involving Strategically Sourced Commodities.

Prior to making a purchase with the purchase card, regardless of value, the contracting officer or ordering official shall review DHS MD Number 0730, Strategic Sourcing Group Operations. Also see HSAM 3013.201-70.

3013.302 Purchase orders.

3013.302-3 Obtaining contractor acceptance and modifying purchase orders.

(b) The SF 30 shall be used to modify a purchase order.

3013.303 Blanket purchase agreements (BPAs).

3013.303-3 Preparation of BPAs.

3013.303-370 Modification of a BPA.

The SF 30 shall be used to modify a BPA.

3013.303-6 Review procedures.

3013.303-670 Review responsibility.

(a) The contracting officer or the designated representative of the contracting officer is responsible for the review of all calls placed under the BPA.

3013.305 Imprest funds and third party drafts.

3013.305-2 Agency responsibilities.

Head of Contracting Activities (HCAs) must establish procedures for designation of personnel authorized to approve requisitions and make purchases using imprest funds. HCAs may require that only contracting officer approve requisitions using imprest funds.

3013.305-3 Conditions for use.

(a) The Chief Financial Officer (CFO) is delegated the authority to approve the imprest fund transaction limit.

3013.306 SF44, Purchase Order--Invoice--Voucher.

(a)(1) Fuel and lubricant purchases for USCG cutters and aircraft are permitted up to a limitation of $25,000.

(d) Organizational Elements (OEs) are responsible for establishing procedures to control the use of SF 44s and to account for all purchases made using the form, including:

(1) Maintenance of a list of designated individuals authorized to make purchase using the form;

(2) Controls for issuance of the form to authorized individuals; and

(3) Review of purchase transactions using the form to assure compliance with authorized procedures.

Subchapter 3013.70 Special Streamlined Acquisition Authority

3013.7001 Delegations.

Requests for delegation under (HSAR) 48 CFR 3013.7001, shall be submitted to the Chief Procurement Officer (CPO) for processing and forwarded to the Under Secretary of Management for approval.

CHAPTER 3014 SEALED BIDDING

Subchapter	**3014.1**	**Use of Sealed Bidding**
	3014.101	Elements of sealed bidding.
	3014.101-70	Independent Government estimates.
Subchapter	**3014.2**	**Solicitation of Bids**
	3014.201	Preparation of invitation for bids.
	3014.201-7	Contract clauses.
	3014.202	General rules for solicitation of bids.
	3014.202-4	Bid samples.
	3014.202-5	Descriptive literature.
Subchapter	**3014.4**	**Opening of Bids and Award of Contract**
	3014.404	Rejection of bids.
	3014.404-1	Cancellation of invitations after opening.
	3014.407	Mistakes in bids.
	3014.407-3	Other Mistakes disclosed before award.

Subchapter 3014.1 Use of Sealed Bidding

3014.101 Elements of sealed bidding.

3014.101-70 Independent Government Cost Estimates.

The requirements for an independent Government cost estimate found at HSAM 3015.404-70 also apply to this subchapter.

Subchapter 3014.2 Solicitation of Bids

3014.201 Preparation of invitation for bids.

3014.201-7 Contract clauses.

(b)(2) Chiefs of Contracting Office (COCOs) are authorized to waive inclusion of (FAR) 48 CFR 52.214-27 and 52.214-28.

3014.202 General rules for solicitation of bids.

3014.202-4 Bid samples.

(c) *Justification.* The justification required by (FAR) 48 CFR 14.202-4(c) shall be prepared and signed by the technical official responsible for the procurement request and concurred in writing by the contracting officer.

3014.202-5 Descriptive literature.

(b) *Justification.* The justification required by (FAR) 48 CFR 14.202-5(b) shall be prepared and signed by the technical official responsible for the procurement request and concurred in writing by the contracting officer.

Subchapter 3014.4 Opening of Bids and Award of Contract

3014.404 Rejection of bids.

3014.404-1 Cancellation of invitations after opening.

COCOs, without redelegation, are authorized to make the written determinations at (c), (e) and (f).

3014.407 Mistakes in bids.

3014.407-3 Other mistakes disclosed before award.

COCOs, without redelegation, are authorized to make the written determinations at (c), (e) and (f).

CHAPTER 3015 CONTRACTING BY NEGOTIATION

Subchapter	**3015.2**	**Solicitation and Receipt of Proposals and Information**
	3015.204	Contract format.
	3015.207	Handling proposals and information.
	3015.209	Solicitation provisions and contract clauses.
Subchapter	**3015.3**	**Source Selection**
	3015.303	Responsibilities.
	3015.303-70	Responsibilities (Competitive Sourcing).
	3015.304	Evaluation factors and significant subfactors.
	3015.305	Proposal evaluation.
Subchapter	**3015.4**	**Contract Pricing**
	3015.400-70	Scope of subpart.
	3015.404-2	Information to support proposal analysis.
	3015.404	Proposal analysis.
	3015.404-4	Profit.
	3015.404-70	Independent Government estimate.
	3015.406	Documentation.
	3015.406-170	Prenegotiation objectives.
	3015.406-370	Documenting the negotiation.
	3015.407	Special cost or pricing areas.
	3015.407-4	Should-cost review.

Subchapter 3015.2 Solicitation and Receipt of Proposals and Information.

3015.204 Contract format.

(e) The Chief of the Contracting Office (COCO) is delegated authority to exempt contracts from the uniform contract format.

3015.207 Handling proposals and information.

(a) Proposals and information received in response to a request for information shall be marked in accordance with HSAM 3003.104-4, as applicable.

3015.209 Solicitation provisions and contract clauses.

(b)(4) See HSAM 3025.1001(a)(2)(iii) for the approving authority to waive the examination of records clause.

Subchapter 3015.3 Source Selection

3015.303 Responsibilities.

(a) The authority given to the agency head is hereby delegated to the Head of Contracting Activity (HCA).

3015.303-70 Responsibilities (Competitive Sourcing).

(a) Competitive Sourcing. A solicitation shall not be issued that increases, conveys, or places additional risk on one offeror over another; violates industry service or service grouping norms; omits statutory obligations; or regulatory requirements. The solicitation shall be open to innovative approaches for accomplishing the work and, while it may offer the use of existing Government facilities and equipment, the DHS Chief Procurement Officer (CPO) shall approve mandatory use. The OE Competitive Sourcing and Privatization Official (CSPO) shall: (1) determine if existing Government assets are to be provided to all offerors and, if only provided to the Most Efficient Organization, (2) justify the long-term benefits to the Government in the Agency Management Plan.

3015.304 Evaluation factors and significant subfactors.

(c)(3)(i) DHS Source Selection officials shall use the Past Performance Information Retrieval System (PPIRS) for obtaining contractor past performance information in source selections.

3015.305 Proposal evaluation.

(a)(4) *Cost information.* Cost information may be provided to members of the technical evaluation team as the SSA deems necessary.

Subchapter 3015.4 Contract Pricing

3015.400-70 Scope of subpart.

Whenever agreement on prices is necessary for prime contracts, contract modifications, and any order issued under a contract, the requirements of (FAR) 48 CFR 15.4 and this subchapter apply unless specifically excluded.

3015.404 Proposal analysis.

3015.404-2 Information to support proposal analysis.

(c) Audit Assistance for prime contractors or subcontracts. Pursuant to the Memorandum of Understanding (MOU) among Defense Contract Audit Agency and U.S. Department of Homeland Security and DHS Office of Inspector General, all requests for DCAA audit services shall be made through the DHS Office of Inspector General. When requesting DCAA audit services, DHS contracting professionals shall follow the procedures outlined in the MOU. A copy of that MOU is available at the DHS acquisition web site (www.dhsonline/dhs.gov/) under the “Policy” tab.

3015.404-4 Profit.

(b) *Policy.*
(1) Pursuant to (FAR) 48 CFR 15.404-4, DHS has established a structured approach for determining the profit or fee objective.

(i) The contracting officer shall use the DHS structured approach (DHS Form 700-17, Weighted Guidelines Profit/Fee Objective) or a form substantially similar if authorized according to OE procedures, to determine the profit or fee objective before conducting negotiations for those acquisitions that require cost analysis. DHS Form 700-17 shall be made a part of the prenegotiation memorandum.

(ii) The contracting officer may use an alternate structured approach in lieu of the weighted guidelines for the acquisitions listed below. The rationale for profit or fee determined by the alternate structured approach shall be substantiated in a manner similar to that used in the weighted guidelines method.

(A) Architect-engineering contracts;
(B) Management contracts for operation and/or maintenance of Government facilities;
(C) Construction contracts;
(D) Contracts primarily requiring delivery of material supplied by subcontractors;
(E) Termination settlements;
(F) Cost-plus-award-fee contracts; and
(G) Contracts having unusual pricing situations.

(d) Profit-analysis factors. (1) Appendix A, Structured Approach for Profit or Fee Objective, cites elements which should be considered when completing DHS Form 700-17.

(2) *Additional factors.* Factors to be considered for nonprofit organizations also are contained in Appendix A.

3015.404-70 Independent Government Cost Estimate.

(a) The requiring office shall provide an Independent Government Cost Estimate (IGCE) for proposed negotiated acquisitions, unless exempted by HSAM 3015.404-70(c).

(b) The IGCE should reflect how the estimate was derived by delineating such costs as the major labor categories, materials, travel, consultant, computer usage, etc. Any previous cost experience the Government has had in acquiring the same or similar items also should be provided with the IGCE.

(c) Unless the contracting officer requires otherwise, an IGCE is not required for the following:

(1) proposed awards using simplified acquisition procedures under (FAR) 48 CFR Part 13;

(2) administrative modifications such as incremental funding;

(3) modifications to exercise fixed priced options;

(4) modifications to resolve cost overruns under cost reimbursement contracts;

(5) proposed acquisitions for items that meet the commercial item definition in (FAR) 48 CFR Part 2; and

(6) when prices for the supplies or services are set by law or regulation.

3015.406 Documentation.

3015.406-170 Prenegotiation objectives.

(a) The Government's prenegotiation objective shall be in writing and have substance, rationale, and detail sufficient to explain to a third party how the overall reasonableness of the proposed prices were determined and how the objective represents a fair and reasonable amount.

(b) OEs shall establish procedures for the review and approval of the prenegotiation objective which shall be documented in a Prenegotiation Memorandum (PM). The PM shall be signed by the contracting officer, approved at a level commensurate with the value and complexity of the proposed acquisition, and be in consonance with the requirements of HSAM 3004.70.

3015.406-370 Documenting the negotiation.

(a) See HSAM 3004.70 for the review and approval of the document described at (FAR) 48 CFR 15.406-3.

3015.407 Special cost or pricing areas.

3015.407-4 Should-cost review.

(b) *Program should-cost review*.

(4) The should-cost review team report shall include the following:

(a) Results of the review, including proposed versus recommended hours, tasks, or issues. Discuss each cost element in terms of review method, finding, and proposed or recommended cost. Do not accumulate the dollar value of individual recommendations into a recommended total price. Indicate team members available to support negotiations;

(b) Improvement recommendations, including long and short term benefits, to be passed on to the contractor or the Government, including monitoring approach;

(c) A list of lessons learned having value to later should-cost teams; and

(d) Attachments, including letters recommending changes, implementing plans, prenegotiation objectives, and price negotiation memorandum.

CHAPTER 3015 - APPENDIX A

STRUCTURED APPROACH FOR PROFIT OR FEE OBJECTIVE

INTRODUCTORY REMARKS.

When using the DHS Form 700-17, Weighted Guidelines Profit/Fee Objective, the contracting officer must categorize the acquisition as a manufacturing, research and development (R&D) or a services effort. To determine to which category a particular acquisition belongs, the contracting officer must rely on the nature of the work to be performed. When acquisitions involving R&D and services require a significant amount of facilities for efficient contract performance (as determined by the contracting officer), the manufacturing weighted guidelines method may be appropriate. Similarly, certain contracts for the manufacture of small quantities of high technology supplies and equipment may not require a significant amount of facilities. In these cases, an R&D classification may be appropriate.

In determining profit or fee, the tax posture of the business entity is certainly recognized. A fair and reasonable management fee to a non-profit organization with a tax-exempt status is considerably lower than a profit/fee to a commercial enterprise with a taxable status.

Non-Profit Organizations.

The following applies to non-profit organizations:

1. As used in this subchapter, non-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes; of which no part of the net earnings accrue to the benefit of any private shareholder or individual; of which no substantial part of the activities include carrying on propaganda, or otherwise, on behalf of any candidate for public office; and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

2. When the Weighted Guidelines Method for arriving at a profit/fee position is used for non-profit organizations, the contracting officer must make the following adjustments:

a. The weight ranges for "Cost risk" (Item 14 on the DHS Form 700-17) must be replaced with 1 to 0.

b. The Total Profit/Fee Objective (Item 20 on the DHS Form 700-17) must be reduced by up to 1% for manufacturing type efforts and up to 3% for R&D or Services type efforts.

Commercial Organizations.

For the purposes of this subchapter, HS utilizes the description from (FAR) 48 CFR 31.103 to describe commercial organizations.

I. CONTRACTOR EFFORT.

This factor takes into account what resources are necessary and what the contractor must do to meet the contract performance requirements. Evaluation of this factor and the assignment of weights on the DHS Form 700-17 requires analyzing the cost content of the proposed contract in the following areas:

A. Material acquisition (e.g., subcontracted items, purchased parts, and other material).

1. Consider the managerial and technical efforts necessary for the prime contractor to administer subcontracts and select subcontractors, including efforts to break out subcontracts from sole sources through the introduction of competition.

2. Consider whether the contractor's purchasing program makes a substantial contribution to the performance of a contract through the use of subcontracting programs involving many sources; new complex components, systems, or subsystems; and close surveillance by the prime contractor.

B. *Direct labor (e.g., engineering, service, manufacturing, and other labor).*

1. Analysis of the various items of cost must include evaluation of the comparative quality and level of the engineering talents, manufacturing and service skills, and experience to be employed. In evaluating labor for the purpose of assigning profit weights, consideration must be given to the amount of notable scientific talent, unusual or scarce engineering talent needed, in contrast to journeyman engineering effort or supporting personnel. Higher weights are normally assigned to engineering, professional, or highly technical skill levels and lower weights to semiprofessional or other skill levels.

2. The variety of engineering, manufacturing and other types of labor skills required and the contractor's manpower resources for meeting these requirements must be considered.

C. *Overhead and general management (general and administrative (G&A)).*

When analyzing overhead and G&A, consider the makeup of these expenses and how much they contribute to contract performance. If the contractor proposes a single indirect cost rate, the contracting officer must breakout the composite rate or contact the auditor to determine what is in the overhead and G&A expense pools. This information will assist in determining the appropriate weights for overhead and G&A on the DHS Form 700-17.

D. *Other costs.*

Include all other direct costs associated with contractor performance under this item. This includes airfare, lodging, computer support, etc. The assignment of a weight on the DHS Form 700-17 for this factor must be based on the nature of these costs and how much they contribute to contract performance.

II. CONTRACTOR RISK.

The degree of cost risk assumed by the contractor should influence the amount of profit/fee

anticipated. Consider the following when determining a weight for cost risk:
A. *Contract type*.

The degree of cost risk is related to the selection of contract type. For example, if a portion of the risk has been shifted to the Government through cost-reimbursement, or other risk reducing measures, the weight assigned to this factor should be less than acquisitions where the contractor assumes most or all of the risk. This is particularly evident when using time-and-material and labor-hour contracts priced on a time and material basis. These contract types must be considered to be cost-plus-fixed-fee contracts for the purpose of establishing a profit weight in the evaluation of the contractor's assumption of cost risk.

B. *Subcontracting program*.

The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a particular contract type. Analysis is necessary to determine if real cost risk has been transferred to a subcontractor. If this is the case, the contract cost risk weight assigned may be below the range that would normally be assigned.

C. *Definitization*.

For procurement actions that involve definitization of a letter contract, unpriced change orders, etc., where partial performance has occurred, evaluate the effect on total contract cost risk. If it is determined that the total amount of cost risk has been effectively reduced as a result of the partial performance, a lower weight may be appropriate. In addition, evaluate the type of work performed (e.g., complexity) and the type of work remaining to ensure an equitable weight assignment.

III. FACILITIES INVESTMENT.

DHS Form 700-18, Contract Facilities Capital and Cost of Money or a form substantially similar if authorized according to OE procedures, is used to determine the capital employed and cost of money amounts to be entered on the DHS Form 700-17, Weighted Guidelines.

A. *Utilization*.

To evaluate how facilities contribute to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors furnishing their own facilities that significantly contribute (as determined by the contracting officer) to lower total contract costs generally receive additional profit/fee. Conversely, contractors that rely on the Government to provide or finance needed facilities normally receive a correspondingly lower profit/fee. The following factors should also be considered:

1. The productivity improvements resulting from the facilities capital investment including the economic value of the facilities capital (e.g., physical age, undepreciated value, idleness, and expected contribution to future Government needs).

2. The degree to which the capital investment has direct, identifiable, and exceptional benefits to the Government, such as: new investments in state-of-the-art technology which reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries, or investment in new equipment for R&D applications.

B. *New Investment*.

To assist in evaluating *new* investment, the contracting officer should request the contractor to submit reasonable evidence that the new facilities investment will result in benefits to the Government.

IV. SPECIAL FACTORS.

A. *Productivity*.

The purpose of this factor is to recognize a prospective contractor's investment in modern cost-reducing facilities and other improvements in efficiency. This factor is applied when the acquisition is a follow-on manufacturing effort, actual cost data are available to establish a baseline, and changes in item configuration are not large enough to invalidate price comparability. The dollar amount inserted under the measurement base on the DHS Form 700-17 is based on the estimated cost reduction that can be attributed to productivity gains.

B. *Independent development*.

The purpose of this factor is to recognize independent research and development on the part of the prospective contractor pertaining to the end item being procured. To determine the appropriate weight to assign this factor on the DHS Form700-17, it is important to evaluate whether the development cost was recovered directly or indirectly from Government sources. This factor is applied when the item is important to the advancement of the DHS mission and the prospective contractor demonstrates initiative in determining the need and application of the developed item.

C. *Other*.

1. *Socioeconomic programs*. This factor covers a number of special circumstances or particular acquisitions. It relates to the prospective contractor's participation in Federal socioeconomic programs. In addition to providing a reward for an unusual initiative in supporting Government socioeconomic programs, failure or unwillingness on the part of the prospective contractor to support these programs should be viewed as evidence of poor performance for the purpose of establishing this profit/fee objective factor.

2. *Performance*. The purpose of this factor is to evaluate the prospective contractor's past and present performance in such areas as: product quality, meeting specifications and contract schedules (including the administrative aspects of performance), efficiency in cost control (including the need for and reasonableness of costs incurred) especially under cost reimbursement contracts, accuracy and reliability of previous cost estimates, timely processing

of changes, standards of good workmanship, history for reasonable and cooperative behavior and commitment to customer satisfaction, and the prospective contractor's business-like concern for the interest of the customer.

CHAPTER 3016 TYPES OF CONTRACTS

Subchapter	**3016.5**	**Indefinite-Delivery Contracts**
	3016.501-2	General.
Subchapter	**3016.6**	**Time-And-Materials, Labor-Hour, and Letter Contracts**
	3016.601	Time-and-materials contracts.
	3016.602	Labor-hour contracts.
	3016.603	Letter contracts.
	3016.603-2	Application.
	3016.603-3	Limitations.

Subchapter 3016.5 Indefinite-Delivery Contracts

3016.501-2 General.

(a) For the U. S. Coast Guard (USCG), see HSAM Subchapter 3017.204(e)(1) for the limitation on the period of task order or delivery orders contracts awarded by USCG pursuant to 10 U.S.C 2304a.

(b)(2) The procurement request initiator must prepare a written statement outlining the basis and methodology for determining the estimated quantity under an indefinite-quantity contract and a requirements contract. Whenever possible and appropriate, all procurement offices must coordinate their indefinite delivery contract requirements with procurement offices of other Organizational Elements (OEs).

Subchapter 3016.6 Time-And-Materials, Labor-Hour, and Letter Contracts

3016.601 Time-and-materials contracts.

(c) *Limitations.* When making the required determination and findings, the contracting officer must use a format substantially the same as the format found in Appendix A to this chapter.

3016.602 Labor hour contracts.

When making the required determination and findings, the contracting officer must use a format substantially the same as the format found in Appendix A to this chapter.

3016.603 Letter contracts.

3016.603-2 Application.

(c) Chiefs of the Contracting Offices (COCOs) are authorized to approve a contracting officer's determination of a reasonable price or fee for a letter contract. Extensions to the definitization of a letter contract must be approved by the COCO. See HSAM 3043.70 for other requirements applicable to letter contracts as undefinitized contract actions.

3016.603-3 Limitations.

COCOs are authorized to approve the use of a letter contract. Letter contracts must contain the appropriate sections of the uniform contract format as discussed (FAR) 48 CFR 15.204-1 as practicable. Profit or fee under letter contracts must not be paid until after definitization of the letter contract (see ((HSAR) 48 CFR) 3052.216-74).

Requests for authority to issue a letter contract include as a minimum:

(1) the name and address of the proposed contractor;

(2) the location where the contract is to be performed;

(3) the contract number, including modification number, if applicable;

(4) a brief description of the work or services to be performed;

(5) the amount of the letter contract;

(6) the performance period or delivery schedule;

(7) the estimated total amount of the definitive contract;

(8) the type of definitive contract to be executed (firm-fixed-price, cost-plus-award-fee, etc.);

(9) a statement that the definitive contract will contain all required clauses or that deviations to the required clauses have been obtained;

(10) a statement as to the necessity and advantage to the Government of a letter contract and why no other contract type is suitable; and

(11) a statement as to the competition received pursuant to (FAR) 48 CFR 16.603-3(b).

CHAPTER 3016 - APPENDIX A

DETERMINATION AND FINDINGS

Authority to use a *(specify Time and Materials, or Labor Hour)* contract

FINDINGS

1. The *(specify OE and contracting office within the OE)* of the Department of Homeland Security proposes to contract for *(describe the supplies and/or services being procured and identify program/project, if applicable).*

2. The estimated amount of the contract is $_____.

3. *(Explain why no other type of contract is suitable for procuring the supplies or services of the kind or quantity required without using the proposed type of contract.)*

DETERMINATION

On the basis of the above findings, I hereby determine that no other type of contract other than a *(specify a Time and Materials or Labor Hour contract)* is suitable for this procurement.

_____ _____

Date Signature of Approving Official

CHAPTER 3017 SPECIAL CONTRACTING METHODS

Subchapter	**3017.1**	**Multi-Year Contracting**
	3017.105-1	Uses.
	3017.106	Procedures.
	3017.106-3	Special procedures applicable to DoD, NASA, and the Coast Guard.
	3017.108	Congressional notification.
Subchapter	**3017.2**	**Options**
	3017.204	Contracts.
Subchapter	**3017.5**	Interagency Acquisitions Under The Economy Act
	3017.500	Scope of subchapter.
	3017.501	Definition.
	3017.502	General.
	3017.503	Determinations and findings requirements.

Subchapter 3017.1 Multi-Year Contracting

3017.105-1 Uses.

For the Coast Guard, the Head of Contracting Activity (HCA) is delegated authority for this subpart.

3017.106 Procedures.

3017.106-3 Special procedures applicable to DoD, NASA, and the Coast Guard.

(e) *Recurring costs in cancellation ceiling.* The HCA is authorized to include recurring costs in the cancellation ceiling.

(f) and (g) The Chief of the Contracting Officer (COCO) is delegated the authority under (FAR) 48 CFR 17.106-1(f) and (g).

3017.108 Congressional notification.

The Chief Procurement Officer (CPO) is delegated authority for all congressional notifications. Organizational Elements (OEs) shall prepare the written notification of the proposed contract and proposed cancellation ceiling and forward through the HCA to the CPO.

Subchapter 3017.2 Options

3017.204 Contracts.

(e) COCOs, except for the USCG, may approve, without redelegation, total contract periods to exceed five years. Documentation shall include rationale for why a period longer than five years

is necessary and how the price risks normally associated with a long performance period were mitigated.

(1) The ordering period of a task order or delivery order contract awarded by USCG pursuant to 10 U.S.C. 2304a—

(i) May be for any period up to 5 years;

(ii) May be subsequently extended for one or more successive periods in accordance with an option provided in the contract or a modification of the contract; and

(iii) Shall not exceed 10 years unless the head of the contracting activity (HCA) determines in writing that exceptional circumstances require a longer ordering period.

(2) Paragraph (e)(1) of this section—

(i) Also applies to information technology task or delivery order contracts;

(ii) Does not apply to contracts, including task or delivery order contracts, awarded under other statutory authority; and

(iii) Does not apply to the following:

(A) Advisory and assistance service task order contracts (authorized by 10 U.S.C. 2304b that are limited by statute to 5 years, with the authority to extend an additional 6 months (see (FAR) 48 CFR 16.505(c)).

(B) Definite-quantity contracts.

(C) GSA schedule contracts.

(D) Multi-agency contracts awarded by agencies other than NASA, DoD, or the Coast Guard.

(3) Obtain approval from the HCA before issuing an order against a task or delivery order contract subject to paragraph (e)(1) of this section if performance under the order is expected to extend more than 1 year beyond the 10-year limit or extended limit described in paragraph (e)(1)(iii) of this section (see (FAR) 48 CFR 37.106 for funding and term of service contracts).

Subchapter 3017.5 Interagency Acquisitions Under The Economy Act

3017.500 Scope of subchapter.

This subchapter establishes DHS policy and procedures to assure the appropriate and consistent use of interagency acquisitions under the Economy Act (31 U.S.C. 1535) as prescribed by (FAR) 48 CFR 17.5. The DHS Management Directive (MD) Number 0710.1, Reimbursable Agreements (which will be superseded with an updated version entitled, Inter/Intra-agency Agreements (IAs)) applies to all DHS interagency agreements.

3017.501 Definition.

"Memoranda of Understanding (MOU)" or "Memorandum of Agreement (MOA)" means the legal instrument used when OEs commit to the performance of specified actions with another OE, another Federal agency, or a non-Federal entity and the exchange of funds or property is not involved.

"Military Interdepartmental Procurement Requests (MIPR)" means a type of interagency agreement used to place orders for supplies and non-personal services with a military department.

"Requesting Agency" means the Federal agency which needs the supplies or services, and is obligating the funds to provide for the costs of performance.

"Servicing Agency" means the Federal agency which is providing the supplies, or performing the services, directly or indirectly, and will be receiving the funds to provide for the costs of performance.

3017.502 General.

(a) *Policy.* Before transferring funds in an Inter/Intra-agency Agreement (IA), the OE shall assure that the IA complies with the requirements in MD 0710.1, Reimbursable Agreements, (which will be superseded with an updated version entitled, Inter/Intra-agency Agreements (IAs)). Review and approvals shall be in accordance with HSAM subchapter 3004.7. Upon issuance of the updated MD, OEs will be required to prepare IA reports upon request from OCPO.

(b) *Exceptions.* The provisions of this subchapter do not apply to:

(1) MOUs and MOAs, as defined in HSAM 3017.501 above;

(2) Supplies and services acquired from or through Government sources, as described in (FAR) 48 CFR Part 8; and

(3) Contracts with the Small Business Administration based upon Section 8(a) of the Small Business Act.

3017.503 Determinations and findings requirements.

The determination shall be prepared in the format as shown in MD Number 0710.1, Reimbursable Agreements (which will be superseded with an updated version entitled, Inter/Intra-agency Agreements (IAs)).

CHAPTER 3018

(RESERVED)

CHAPTER 3019 SMALL BUSINESS PROGRAMS

Subchapter	**3019.2**	**Policies**
	3019.201	General policy.
	3019.202	Specific policies.
	3019.202-270	Procurement forecast.
	3019.202-271	DHS Small Business Review Form.
Subchapter	**3019.5**	**Set-Asides for Small Business**
	3019.501	General.
	3019.502	Setting aside acquisitions.
	3019.502-3	Partial set-asides.
	3019.505	Rejecting Small Business Administration recommendations.
	3019.506	Withdrawing or modifying small business set-asides.
Subchapter	**3019.6**	**Certificates of Competency and Determinations of Responsibility**
	3019.602	Procedures.
	3019.602-1	Referral.
	3019.602-3	Resolving differences between the agency and the Small Business Administration.
Subchapter	**3019.7**	**The Small Business Subcontracting Program**
	3019.704	Subcontracting plan requirements.
	3019.704-70	Reporting requirements.
	3019.705	Responsibilities of the contracting officer under the subcontracting assistance program.
	3019.705-2	Determining the need for a subcontracting plan.
	3019.705-6	Postaward responsibilities of the contracting officer.
Subchapter	**3019.8**	**Contracting with the Small Business Administration (The 8(A) Program)**
	3019.800	General.
	3019.804	Evaluation, offering, and acceptance.
	3019.804-3	SBA acceptance.
	3019.804-470	Repetitive acquisitions.
	3019.810	SBA appeals.
	3019.811.1	Sole source.
	3019.812	Contract administration.

Subchapter 3019.2 Policies

3019.201 General policy.

(d)(7) and (8) The Head of Contracting Activity (HCA) is delegated the authority of the Director

Office of Small and Disadvantaged Business Utilization (OSDBU) to assign a small business technical advisor (i.e., small business specialist) to each contracting activity within the agency to which the Small Business Administration (SBA) has assigned an SBA procurement center representative. A copy of the written assignment to the advisor must be provided to the Director, OSDBU.

(d)(9) The cognizant Organizational Element (OE) small business specialist acting on behalf of the OSDBU must review each procurement request to comply with the requirements of (FAR) 48 CFR 19.

(e) The HCA must appoint small business specialists in accordance with HSAM 3019.201(d)(7). the specialist must:

(1) Ensure that all small businesses are given an equal opportunity to compete for DHS acquisitions;

(2) Assist contracting officers in locating small businesses to participate in DHS acquisitions;

(3) Assist the Director, OSDBU in carrying out the purpose of the Small Business Act, particularly Sections 8 and 15;

(4) Cooperate with the Small Business Administration (SBA) representatives in carrying out their assignments and responsibilities as related to DHS acquisitions;

(5) Seek alternatives to the practice of contract bundling and help mitigate the effects of any necessary and justified contract bundling;

(6) Participate in the evaluation of prime contractor's small business subcontracting programs;

(7) Assure that records are maintained and accurate reports prepared concerning small business participation in acquisition programs;

(8) Act as liaison with appropriate SBA office or representative on connection with set-asides, certificates of competency, size classification, and any other matter concerning the small business programs; and

(9) Participate in business opportunity, Federal procurement and other Government-industry conferences and meetings as required.

(f)(1) The Director, OSDBU, is the agency designee responsible for making the determination that there is an undue burden on non-Small Disadvantaged Business (SDB) firms in one of the major industry groups and regions identified by the Department of Commerce. The HCA must notify the OSDBU when it is believed or if it receives public notification of undue burden on the information required by (FAR) 48 CFR 19.201(f)(1)(i) through (iv). The HCA or designee is

encouraged to discuss specific situations of burden with OSDBU prior to submitting a formal notice to the OSDBU.

3019.202 Specific policies.

3019.202-270 Procurement forecast.

(a) Requirement. Title V, Contract Planning, Goal Setting and Reviews of Public Law 100-656, requires each agency to prepare a procurement forecast for the next and succeeding fiscal years. The forecast must be also updated within the year. The procurement forecast is not a substitute for meeting the (FAR) 48 CFR 7 requirements for acquisition planning.

(b) Purpose. The purpose of the procurement forecast is to make available to small businesses, those expected contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. The forecast is a summary of the acquisition planning process conducted in each OE.
The following requirements apply:

(1) Responsibility. The HCA or designee (written delegation required) must ensure the forecast and any updates to it are prepared for those expected contract opportunities valued over $100,000 which are proposed to result in contracts issued by DHS contracting officers. The forecast must be prepared in accordance with instructions issued by DHS. For fiscal year 2005, the forecast data collection is being combined with the advance acquisition plan (AAP), and both requirements are being captured on one Excel spreadsheet (See HSAM 3007.172).

(2) Preparation and approval. The forecast (combined with the AAP) must be prepared and approved the year preceding the fiscal year in which the procurement action will be initiated. The initial forecast must be approved and forwarded by the OE approving official no later than August 15, and any updates must be approved and submitted by March 15. A negative response to ODSBU is required when neither an initial forecast nor update is required for the period.

(c) Exceptions. The following proposed procurement actions should not be included in the forecast:

(1) Actions proposed under inter and intra agency agreements for work to be performed by Government employees; and

(2) Actions conducted under the Small Business Innovative Research Program (SBIR).

(d) Reporting. DHS will provide the initial forecast and any updates to it to the Administrator of the SBA and to small businesses as required by Public Law 100-656.

Subchapter 3019.202-271 DHS Small Business Review Form.

(a) Purpose. The DHS Form 700-22, Small Business Review, documents efforts to ensure small business concerns are considered for inclusion in Federal Government acquisition and that market research is conducted for every open market procurement.

(b) Requirement. In accordance with (FAR) 48 CFR 19.202, Specific Policies, Organizational Elements (OEs) shall use the DHS Form 700-22 to comply with the small business review requirements and to document considerations and recommendations for applicable acquisitions prior to synopsis or solicitation release. **This requirement is exclusive of EMALL use.** The form shall be used as follows and dollar values include both base and option periods:

(1) Review for small business considerations in all open market actions of $100,000 or more (see (FAR) 48 CFR 19) and;

(2) Review for substantial bundling for all procurements of $2,000,000 or more planned under open market procurement as well as for pre-existing contract vehicles (such as Multiple Award Schedules (MAS), including GSA Federal Supply Schedules (FSS) delivery and task orders, Multi-Agency Contracts (MACs), Governmentwide Acquisition Contract (GWACs), DHS-wide contracts, multiple award contracts, and Blanket Purchase Agreements (BPAs). (See (FAR) 48 CFR 7.104(d), (FAR) 48 CFR 7.107 and (FAR) 48 CFR 19.202-1, and HSAM 3007.107 for bundling considerations and approval requirements.)

(c) Preparation and Approval. The Small Business Specialist (SBS) and the SBA Procurement Center Representative (PCR) respectively shall complete the review process within 2 business days. The completed DHS Form 700-22, Small Business Review, shall be placed in the solicitation file.

Subchapter 3019.5 Set-Asides for Small Business

3019.501 General.

(c) Each DHS proposed acquisition exceeding the simplified acquisition threshold must be reviewed by the cognizant OE small business specialist prior to synopsizing the requirement and the results documented in the file. The requirement must be reviewed for potential inclusion in the socio-economic programs. The Chief of the Contracting Office (COCO) must resolve any disagreement between the specialist and the contracting officer on the determination. Disagreement between the contracting officer and personnel from the Small Business Administration will be resolved in accordance with (FAR) 48 CFR 19. The COCO must furnish a copy of the determination to the OSDBU.

3019.502 Setting aside acquisitions.

3019.502-3 Partial set-asides.

(a)(5) The COCO is authorized to make the determination.

3019.505 Rejecting Small Business Administration recommendations.

(b) and (d) The COCO is delegated the authority to make the decision and forward the justification for its decision to the agency head.

3019.506 Withdrawing or modifying small business set-asides.

(b) The COCO is responsible for resolution of disagreements between the contracting officer and the OE Small Business Specialist, in coordination with the OSDBU.

Subchapter 3019.6 Certificates of Competency and Determinations of Responsibility

3019.602 Procedures.

3019.602-1 Referral.

(a)(2) The contracting officer shall forward to the OSDBU, a copy of the notice of nonresponsibility determination sent to SBA.

3019.602-3 Resolving differences between the agency and the Small Business Administration.

When following the procedures under (FAR) 48 CFR 19.602-3, the contracting officer shall coordinate through the HCA and the OSDBU prior to SBA taking a final action on a Certificate of Competency.

The designated official is the COCO. The COCO shall provide copies of all SBA correspondence to the OSDBU.

Subchapter 3019.7 The Small Business Subcontracting Program

Subcontracting plan requirements.

3019.704-70 Reporting requirements.

The contracting officer shall forward a copy of the first SF-294 and the original of each SF-295 received from contractors to OSDBU.

3019.705 Responsibilities of the contracting officer under the subcontracting assistance program.

3019.705-2 Determining the need for a subcontracting plan.

A copy of the determination that there are no subcontracting opportunities (see (FAR) 48 CFR 19.705-2(c)) shall be provided to the Director, OSDBU.

3019.705-6 Postaward responsibilities of the contracting officer.

A copy of the approved small business subcontracting plan shall be provided to the Director, OSDBU.

Subchapter 3019.8 Contracting with the Small Business Administration (The 8(A) Program)

3019.800 General.

(b) The DHS and the SBA signed a Partnership Agreement (PA) dated April 25, 2003. Effective April 25, 2003 through the September 30, 2006, (the term of the PA) the PA applies to all new DHS acquisitions under the 8(a) Program. The PA amends and in some cases, supersedes certain requirements in (FAR) 48 CFR 19.8. For example, the PA delegates to DHS Head of Contracting Activity (HCAs) the authority to contract directly with firms under the SBA 8(a) Program, on behalf of the SBA. The HCA may redelegate this authority to OE contracting officers, who must be designated the "agency contracting officer."

3019.804 Evaluation, offering, and acceptance.

3019.804-3 SBA acceptance.

(d)(2) The HCA is delegated this authority.

3019.804-470 Repetitive acquisitions.

Any requirement which has previously been procured through the 8(a) Program, but which is now being proposed for reprocurement outside of the 8(a) Program shall be approved by the Director, OSDBU, in accordance with OE procedures. The clearance shall be obtained prior to any public notice or solicitation of the requirement.

3019.810 SBA appeals.

The HCA is delegated this authority.

3019.811-1 Sole source.

(a) The contract to be awarded shall be prepared in accordance with the PA according to HSAM 3019.800(b).

3019.812 Contract administration.

(d) The COCO is delegated this authority.

CHAPTER 3020

CHAPTER 3021

(RESERVED)

CHAPTER 3022 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subchapter	**3022.000**	**Scope**
	3022.001	Definition.
Subchapter	**3022.1**	**Basic Labor Policies**
	3022.101	Labor relations.
	3022.101-1	General.
	3022.101-170	DHS Labor Coordinator/Advisor.
	3022.101-3	Reporting labor disputes.
	3022.101-4	Removal of items from contractor's facilities affected by work stoppages.
	3022.103	Overtime.
	3022.103-4	Approvals.
Subchapter	**3022.3**	**Contract Work Hour and Safety Standards Act**
	3022.302	Liquidated damages and overtime pay.
Subchapter	**3022.4**	**Labor Standards for Contracts Involving Construction**
	3022.404	Davis-Bacon Act wage determinations.
	3022.404-6	Modifications of wage determinations.
	3022.406	Administration and enforcement.
	3022.406-2	Wages, fringe benefits and overtime.
	3022.406-8	Investigations.
	3022.406-9	Withholding from or suspension of contract payments.
	3022.406-13	Semi-Annual enforcement reports.
Subchapter	**3022.6**	**Walsh-Healy Public Contracts Act**
	3022.604	Exemptions.
	3022.604-2	Regulatory exemptions.
Subchapter	**3022.8**	**Equal Employment Opportunity**
	3022.803	Responsibilities.
	3022.804	Affirmative action programs.
	3022.804-2	Construction.
	3022.805	Procedures.
	3022.807	Exemptions.
Subchapter	**3022.10**	**Service Contract Act of 1965, as amended**
	3022.1008	Procedures for preparing and submitting Notice (SF98/98a).
	3022.1021	Request for hearing.
	3022.1021-70	Additional hearings data.
Subchapter	**3022.13**	**Special Disabled Veterans, Veterans of the Vietnam Era, and**

		Other Eligible Veterans
	3022.1305	Waivers.
	3022.1308	Compliant procedures.
Subchapter	**3022.14**	**Employment of Workers with Disabilities**
	3022.1403	Waivers.
	3022.1406	Compliant procedures.
Subchapter	**3022.90**	**Local Hire (USCG).**
	3022.9000	Policy (USCG).

Subchapter 3022.0 Scope

3022.001 Definition.

For the purpose of DHS, the term "contracting agency," wherever it appears under (FAR) 48 CFR Part 22 , means the Organizational Element (OE).

Subchapter 3022.1 Basic Labor Policies

3022.101 Labor relations.

3022.101-1 General.

(e) The Head of Contracting Activity (HCA) authority under (FAR) 48 CFR 22.101-1(e) is not redelegable.

3022.101-170 DHS Labor Coordinator/Advisor.

(a) The labor coordinator for DHS procurements is the Director, Office of Acquisition Policy and Oversight.

(b) Each OE may appoint a labor advisor at the Headquarters level. If one is appointed, the OEs shall advise, in writing, the contracting offices under their cognizance of the appointment. The labor advisor will be responsible for coordinating and obtaining advice from the DHS labor coordinator on contracting matters when deemed appropriate or as may be required by this chapter.

3022.101-3 Reporting labor disputes.

(a) Contracting officers shall report to their labor advisor or the DHS labor coordinator if an OE labor advisor does not exist, any potential or actual labor disputes (e.g., strike) that may have a serious impact on the Department's programs. The following information shall be provided to the advisor/coordinator:

(1) The contractor's and, if applicable, subcontractor's name, address, contract number, and the

contractor's point of contact at the contractor's plant or the place where work is being performed (e.g., construction site);

(2) The date the strike began or will begin;

(3) The urgency or critical nature of the affected contract, and whether another source can perform the contract;

(4) Name, address, and telephone number of the local union and union representative(s);

(5) An assessment of the strike with regard to settlement of the issues;

(6) Number of employees affected by the strike; and

(7) The extent, if any, of participation by a federal or state mediation agency.

(b) The contracting officer shall advise, as applicable, the cognizant OE labor advisor or DHS labor coordinator when the strike is terminated and the work has resumed under the contract.

3022.101-4 Removal of items from contractors' facilities affected by work stoppages.

(a) If the decision is to remove items or materials from the contractor's/subcontractor's facility, the contracting officer shall follow the below procedures:

(1) Contact the OE's labor advisor or DHS labor coordinator and apprise that person of the decision;

(2) Obtain a list of the contracts the contractor has with other Government agencies or DHS OEs. If contracts of the agency or OE are or may become involved in the removal of items, advise the applicable contracting office of the decision to remove items; and

(3) Unless otherwise advised by the labor advisor or labor coordinator, submit a written request for removal of items to the contractor and the union representative. The request shall include the following:

(i) A statement of the urgency or criticality of the items or materials;

(ii) A full description (i.e., color, weight, dimensions, etc.), quantity, contract/subcontract number, contract line item number, etc.; and

(iii) A decision on whether personnel of the Government or contractor/subcontractors will remove the items from the location, and the mode of transportation and destination, if the delivery terms will not be the same as those in the contract.

(b) If the contractor or subcontractor and union representative grant the request for removal of items and Government personnel will remove the items, extreme care shall be taken to avoid the

use or appearance of force and prevent incidents that might detrimentally affect labor-management relations.

(c) If a negative response is received from the contractor, subcontractor, or union representative and the items are still critical, the contracting officer shall seek advice from the Chief of the Contracting Office (COCO) and the DHS labor coordinator on the next action to be taken. It may also become necessary to seek advice or assistance from the National Office of the Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, DC, 20006, or other mediation agency.

3022.103 Overtime.

3022.103-4 Approvals.

(a) An official at one level above the contracting officer is designated to sign the D&F required by (FAR) 48 CFR 22.103-4. The D&F shall be written, in the format of Appendix A, and placed in the contract file.

Subchapter 3022.3 Contract Work Hours and Safety Standards Act

3022.302 Liquidated damages and overtime pay.

(c) The contracting officer is delegated authorities under this subsection. The contracting officers recommendation in (FAR) 48 CFR 22.302(c)(3) shall be transmitted to the Secretary of Labor by the HCA.

(d) The contracting officer shall provide instructions to the cognizant finance office. The contractor shall be provided with a written decision on the disposition of funds withheld and the basis for the decision.

Subchapter 3022.4 Labor Standards for Contracts Involving Construction

3022.404 Davis-Bacon Act wage determinations.

3022.404-6 Modifications of wage determinations.

(b)(6) The contracting officer is delegated this authority.

3022.406 Administration and enforcement.

3022.406-2 Wages, fringe benefits, and overtime.

(b)(2) The contracting officer shall submit the information required by (FAR) 48 CFR 22.406-2(b)(2) to the Administrator, Wage and Hour Division, DOL. The contracting officer shall advise interested parties of DOL's determination within ten working days after receipt of the determination.

3022.406-8 Investigations.

(d) *Contracting officer's report.* The COCO is authorized to receive from the contracting officer the report of violations regarding labor standards. The contracting officer may use DHS Form 700-19, Summary of Underpayments or a form substantially similar if authorized according to OE procedures, to support the total number of employees cited on SF 1446, Labor Standards Investigation Summary Sheet.

3022.406-9 Withholding from or suspension of contract payments.

(c) *Disposition of contract payments withheld or suspended.*

(4) *Liquidated damages.* The contracting officer shall provide instructions to the cognizant finance office. The contractor shall be provided with a written decision on the disposition of funds withheld and the basis for the decision.

3022.406-13 Semiannual enforcement reports.

Each OE shall submit the semiannual report by April 25 and October 25 of each calendar year by email at osp@fenix2.dol-esa.gov. The format and instructions for the semiannual report are provided at Appendix B. Negative responses are not required.

Subchapter 3022.6 Walsh-Healey Public Contracts Act

3022.604 Exemptions.

3022.604-2 Regulatory exemptions.

(b)(1) The HCA is authorized to request the Secretary of Labor to exempt a specific contract.

Subchapter 3022.8 Equal Employment Opportunity

3022.803 Responsibilities.

(d) The contracting officer shall obtain the assistance of the OE's legal counsel on matters concerning the applicability of E.O. 11246. If further assistance is still required, the matter shall be referred to the nearest DOL Office of Federal Contracts Compliance Programs (OFCCP). Questions concerning the implementation of the E.O. in the ((FAR) 48 CFR) or DHS guidance shall be referred to the Chief Procurement Officer (CPO).

3022.804 Affirmative action programs.

3022.804-2 Construction.

(b) The Office of Federal Contract Compliance Program (OFCCP), DOL publishes in the Federal

Register goals and timetables for minority and female utilization in the construction industry. This information is listed at http://www.dol-esa.gov/preaward/.

3022.805 Procedures.

(a) *Preaward clearances for contracts and subcontracts of $10 million or more (excluding construction).*

(6) The contracting officer must prepare a letter request in substantially the same format as Appendix C, in strict accordance with the instructions, to prevent premature disclosure of the proposed contractor, subcontractor, if any, and the amount of the award. Since the OFCCP conducts the compliance review at the primary point of production of each contractor and first-tier subcontractor, contracting officers shall request the clearance from the OFCCP regional office which has jurisdiction over the contractor and subcontractor.

(8) The HCA authority is not redelegable.

(b) *Furnishing posters.* The contracting officer may order the poster titled "Equal Employment Opportunity is the Law, Discrimination is Prohibited" from the nearest supply depot of the GSA under National Stock Number 7690-00-926-8988.

3022.807 Exemptions.

(a)(1) The HCA, without redelegation, is authorized to determine for a contract, that national security precludes compliance with all or part of the requirements of E.O. 11246. A justification shall be in substantially the same format as Appendix A.

(c) The justification shall be in substantially the same format as Appendix A. All requests for exemptions shall be submitted via the HCA to the CPO for the Deputy Assistant Secretary's approval.

Subchapter 3022.10 Service Contract Act of 1965, as Amended

3022.1008 Procedures for preparing and submitting Notice (SF 98/98a).

Contracting officers may elect to use the e98 request form for any Service Contract Act (SCA)-covered contract action. Also, if a contracting officer cannot obtain an appropriate SCA WD within the WDOL.gov database for use in an official contract action, the contracting officer must request an official SCA WD from DOL by completing the e98. Most requests are processed immediately, however some requests will require research and DOL may need additional time to respond.

3022.1021 Request for hearing.

3022.1021-70 Additional hearings data.

(a) In addition to the requirements of (FAR) 48 CFR 22.1021(a), the request for a variance hearing shall include copies of the relevant wage determination, if issued, collective bargaining agreement, and the SF 98 and 98a that requested the wage determination in question. The statement shall contain an analysis concerning the differences between the collectively bargained rates issued and the rates contained in the following:

(1) Corresponding Federal wage board rates and surveys (while it is not necessary that the challenged rate be higher than the corresponding Federal rate, this is an important factor);

(2) Relevant Bureau of Labor Statistics survey data and the comparable Service Contract Act wage determination;

(3) Other wage data (e.g., rates paid in local hospitals would be appropriate for comparison on contracts for hospital antiseptic services, while rates paid in local schools could be of value in comparison for janitorial or food service workers); and

(4) Other collectively-bargained wages and benefits.

(b) If the contracting officer cannot provide all of the information required in paragraph (a) above with the request for a hearing, the approximate time needed to obtain the data or to develop the information shall be provided. The request shall clearly demonstrate the efforts being made to obtain or develop the information. A statement that data are not available will not be accepted by DOL.

Subchapter 3022.13 Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

3022.1305 Waivers.

(b) The HCA, without redelegation, may waive this requirement.

(c) The contracting officer shall prepare a D&F setting forth clear and convincing reasons why an exemption will be necessary. D&Fs shall be in substantially the same format as Appendix A.

Subchapter 3022.14 Employment of Workers with Disabilities

3022.1403 Waivers.

(a)(1) The HCA is delegated this authority.

(a)(2) The CPO is delegated this authority.

(b)(1) The HCA is delegated this authority.

(c) The contracting officer shall prepare a D&F setting forth clear and convincing reasons for the exemption. The D&F shall be in substantially the same format as Appendix A.

3022.1406 Complaint procedures.

When oral complaints are received, contracting officers shall request that the nature of the complaint (e.g., by whom, against whom, the reason, etc.) signed by the plaintiff be submitted in writing directly to the OFCCP. Written complaints received by contracting officers shall be forwarded to the OFCCP by letter.

Subchapter 3022.90 Local Hire

3022.9000 Policy (USCG).

(a) The Coast Guard HCA is authorized to waive the inclusion of (HSAR) 48 CFR 3052.222-90, Local Hire (USCG), in contracts for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the National average rate of unemployment (as determined by the Secretary of Labor).

(b) Waiver requests shall be submitted to Commandant (CG-85) for processing to the Coast Guard HCA. Any request must describe the acquisition and clearly explain the reasons why it is in the interest of national security or economic efficiency to exclude the Local Hire clause.

CHAPTER 3022 - APPENDIX A

DETERMINATION AND FINDINGS

Authority to
{indicate what is being waived, exempted, granted, etc.}

FINDINGS

1. *{Identify the contracting office, Organizational Element, and agency (i.e., DHS), what is being acquired, and the intended use of the product or service.}*

2. *{Include, as applicable or appropriate, the information required by (FAR) 48 CFR 1.704.}*

DETERMINATION

As *{insert the title of the approving official that shall sign this document}*, I hereby determine that *{state the determination made (e.g., the contract is essential to the national security, one or more of the terms of a clause is waived, overtime is essential to meet delivery or performance schedules, etc.).}*

Date: *{Signature of the official making the determination and the date of the determination}*

CHAPTER 3022 - APPENDIX B

SEMI-ANNUAL LABOR COMPLIANCE REPORT

The following semi-annual report (Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act) by *{insert Organizational Element's name}* is submitted as required by 29 CFR, Part 5.7(b), and All Agency Memorandum #189, dated February 5, 1998.

1. Period covered:

2. Number of prime contracts awarded:

3. Total dollar amount of prime contracts awarded:

4. Number of contractors against whom complaints were received:

5. Number of investigations completed:
6. Number of contractors found in violation:

7. Amount of back wages found due:
    a. Davis-Bacon Act: (prevailing wage violations)

    b. Contract Work Hours and Safety Standards Act (CWHSSA): (overtime violations)
8. Amount of back wages paid:
    a. Davis-Bacon Act:

    b. CWHSSA:
9. Total number of employees paid wage restitution under the Davis-Bacon and related Acts and/or CWHSSA:

10. Amount of liquidated damages assessed under CWHSSA:
    Federal Agency:
    Responsible Official:
    Title:
    Address and Phone No:
    E-mail Address (if available):

DHS INSTRUCTIONS FOR COMPLETING THE SEMIANNUAL LABOR COMPLIANCE REPORT

1. Enter the beginning and ending dates of the period covered by the semiannual report.

2. Enter the number of prime contracts which are subject to the Davis-Bacon Act (or any of the related statutes listed in 29 CFR Part 5), awarded by the Organizational Element (OE) and/or (where applicable) its operating and management contractors. Include federally assisted contracts subject to these Acts.

3. To the extent available, enter the total dollar amount of the contracts.

4. Enter the total number of contractors (including subcontractors) against whom complaints were received by your OE.

5. Enter the total number of investigations completed by your OE.

6. Enter the number of contractors (including subcontractors) found in violation as a result of the investigations reported in item 5 above. Do not count a contractor or subcontractor more than once in a single investigation because of a violation of more than one Act, or because more than one contract is included in the investigation.

7. Enter the total amount of back wages due employees of the contractors/subcontractors reported in item 6 above, showing under (a) the amount found due because of violations of the Davis-Bacon and Related Acts; and (b) the amount of back wages found due because of violations of the Contract Work Hours and Safety Standards Act.

8. Enter the amount of back wages paid showing under (a) the back wages paid due to violations of the Davis-Bacon and Related Acts; and (b) the back wages paid due to violations of the Contract Work Hours and Safety Standards Act.

9. Enter the number of employees paid wage restitution (i.e., back wages) under the Davis-Bacon and related Acts and/or the Contract Work Hours and Safety Standards Act. This figure is the unduplicated count; that is, an employee paid wage restitution as a result of an investigation shall be counted only once, regardless of the fact that the employee may have been paid wage restitution under the Davis-Bacon and Related Acts and also paid wage restitution under the Contract Work Hours and Safety Standards Act.

10. Enter the total amount of liquidated damages assessed as a result of violations of the Contract Work Hours and Safety Standards Act, including any such amounts assessed by your OE as a result of investigations made by DOL.

CHAPTER 3022 - APPENDIX C

Department of Labor
Office of Federal Contract Compliance Program
{Insert the address of the appropriate OFCCP regional office}

This letter, or portions thereof, contains PROPRIETARY OR SOURCE SELECTION INFORMATION related to the conduct of a Federal agency procurement, the disclosure of which is restricted by Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). The unauthorized disclosure of such information may subject both the discloser and recipient of the information to contractual, civil and/or criminal penalties as provided by law.

An Equal Employment Opportunity preaward clearance is requested on *{insert the name, address, and telephone number of the prospective contractor}*

{Insert all other applicable information required by (FAR) 48 CFR .805(a)(5). The amount of the proposed contract(s) and subcontract(s), if any, shall not be disclosed. In lieu thereof, insert "$10 million or more" as the estimated amount of the prime contract and first-tier subcontract(s).}

It is requested that verbal clearance and a written confirmation be provided as soon as possible to *{insert the name, title, and telephone number of the point of contact in the contracting office}*.

{Insert name, title, and signature of authorized contracting person}

Note: The first paragraph of the above letter is primarily for full and open competition acquisitions. The paragraph may be deleted or modified when requesting a preaward clearance for other than full and open competition acquisitions. Written pre-award clearances ARE NOT required if the contractor is listed on the Pre-Award Contractor Registry located at http://www.dol-esa.gov/preaward/.

CHAPTER 3023 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG FREE WORKPLACE.

Subchapter 3023.2 Energy and Water Efficiency and Renewable Energy
3023.204 Energy-savings performance contracts.

Subchapter 3023.4 Use of Recovered Materials
3023.400 General.

Subchapter 3023.2 Energy and Water Efficiency and Renewable Energy

3023.204 Energy-savings performance contracts.

(c) DHS and its OEs may enter into Energy Savings Performance Contracts (ESPC) under 42 U.S.C. 8287, as amended, subject to the requirements of 10 CFR Part 436. The contracting officer shall notify the CPO by contacting the Director, Acquisition Policy and Oversight (e-mail notification is acceptable) when DHS or an OE contemplates a procurement under this section. Notification should be provided at project inception but must occur before selection of the ESPC contractor. Upon receiving notification, CPO will coordinate with the DHS Office of Safety and Environment, and as needed, additional information will be requested from the contracting office. The purpose of early notification is to provide DHS Headquarters the opportunity to provide assistance and guidance to the contracting activity.

Subchapter 3023.4 Use of Recovered Materials

3023.400 General.

The DHS's *Affirmative Procurement Program (APP) for Products Containing Recovered Materials* required by the Resource Conservation Act of 1976 (RCRA), as amended, and Executive Order 13101 is found at Appendix A to this Chapter. The purpose of the DHS Affirmative Procurement Program is to foster markets for recovered materials by maximizing the Federal Government's recycled products. A secondary objective is to reduce the amount of solid waste requiring disposal through the purchase and use of products containing recovered materials. Procedures for purchases under the micro-purchase threshold and for consolidating and reporting data estimates are also located in the APP.

CHAPTER 3023 – APPENDIX A

DEPARTMENT OF HOMELAND SECURITY AFFIRMATIVE PROCUREMENT PROGRAM FOR RECOVERED MATERIALS

I. General Policy. DHS has adopted the Environmental Protection Agency (EPA) minimum content standards in implementing this affirmative procurement program (APP). These minimum content standards specify the minimum recovered materials content an item must contain to be considered for an award. The EPA recommended minimum content standards were set forth in the Recovered Materials Advisory Notice (RMAN) published in the Federal Register, Vol 60, on May 1, 1995 and updates are found on the EPA RMAN list. A list of the EPA designated items and EPA's RMAN guideline for the minimum recovered material content standards is available from the EPA website.

A. It is the policy of DHS to acquire designated items with recovered materials to the greatest extent practicable, to promote cost effective waste reduction and recycling of reusable materials from wastes generated by Federal activities, and to encourage economically efficient market demand for designated items produced using recovered materials by directing the immediate implementation of a cost effective procurement preference program favoring the purchase of such items.

(1) EPA's procurement guidelines only apply to an agency whose total annual purchases (for each designated item) equals $10,000 or more, or when the procuring agency purchased $10,000 or more of the item (or of a functionally equivalent item) during the preceding year. This $10,000 threshold includes micro-purchases. Thus, because the procurement requirements identified in EPA's guidelines apply to DHS as a whole, all OE program offices, operations offices, sites, and applicable contractors shall be responsible for implementing the procurement requirement outlined in both this document and EPA's guidelines. Agencies and supply centers are required to report purchases made from non-Governmental (commercial) sources. Forms will be furnished to OE procurement offices by DHS, Office of the Chief Procurement Officer. Accordingly, when submitting agency annual reports under RCRA, OE's shall report all purchases of items covered in this document and the percentage of recovered material required to be reported by FAR clause 52.223-9 to DHS, Office of the Chief Procurement Officer. Individual OE statistics will be combined into one DHS response to the Office of the Federal Environmental Executive and the Office of Federal Procurement Policy.

(2) Contractors: DHS's APP shall only apply to such contractors as long as appropriate provisions are contained in the contracts. It is the responsibility of each OE to ensure that appropriate existing contracts are revised to include APP compliance provisions, and appropriate new contracts contain APP compliance provisions ((FAR) 48 CFR 52.204-4, 52.223-4, 52.223-8, 52.223-9). Nothing in DHS's APP would preclude a DHS contractor from voluntarily implementing an APP until such time as provisions are incorporated into the contract.

(3) State and Local Agencies: State and local agencies purchasing more than $10,000 worth of particular EPA-designated item in a year, and using some Federal funds for these purchases, are

required to establish an APP for those particular items. The APP must include the four elements specified by Section 6002 of RCRA: (1) a preference program; (2) a promotion program; (3) estimation, certification, and verification procedures; and (4) procedures for annual review and monitoring. For any questions concerning the applicability of the APP to Federal, State, or local agencies, and government contractors and private party recipients of Federal loans, grants, or funds, contact the Chief, Administrative Services.

B. It is DHS policy to procure 100 percent of EPA-designated products with recovered material, unless the item cannot be acquired competitively within a reasonable time frame; meet appropriate performance standards; or procured at a reasonable price. This policy includes the purchase of items at or below the micro purchase level. However, *tracking micro purchases of EPA-designated items is not required* as an exemption (as specified at (FAR) 48 CFR 23.405) from establishing an APP will not be requested by DHS.

C. Special requirements apply when procuring certain items. These are:

(1) DHS requires 100 percent of purchases of printing and writing paper to meet or exceed one of the following minimum content standards: For high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard must be no less than 30 percent post consumer materials; and

(2) Virgin material or supplies composed of or manufactured using virgin material cannot be required unless compelled by law or regulation or unless virgin material is vital for safety or meeting performance requirements of the contract.

II. Affirmative Procurement Preference Program.

A. When formulating requirements, DHS requiring and contracting offices are to employ acquisition strategies that maximize the utilization of environmentally preferable products and services (EPA guidance for utilizing environmentally preferable products and services is found at http://www.ofee.gov/); maximize the utilization of energy-efficient products; eliminate or reduce the generation of hazardous waste and the need for special handling, storage, treatment, and disposal; promote use of nonhazardous and recovered materials; realize life-cycle cost savings; promote cost-effective waste reduction when creating plans, drawings, etc., authorizing material substitutions, extensions of shelf-life, and process improvements; and consider the use of biobased products. Organizational Elements must establish programs that support the DHS APP. Refer to DHS MD 5130, Department of Homeland Security Waste Prevention, Recycling and Acquisition; and MD 5300, Energy Management Program for guidelines on preference programs.

B. EPA Designated Items. EPA designates certain items which must meet the standard for recovered material content. An official list of these is found at 40 CFR 247.10-247.17. A list of these items is also located on the EPA website.

C. Future EPA Designated Items. This APP will be modified, as necessary; to incorporate future EPA designated items and minimum content standards.

D. Recovered Materials Determination Form . In making the determinations required in HSAM 3023.4, program offices shall use the format or substantially the same format as shown in attachment 1. This form must be signed by the cognizant program official and maintained in the procurement file. In developing plans, drawings, work statements, specifications, or other product descriptions, program offices shall consider the following factors: elimination of virgin material requirements, use of recovered materials, reuse of products, life-cycle cost, recyclability, use of environmentally preferable products, waste prevention (including toxicity reduction or elimination), and ultimate disposal, as appropriate. These factors should be used in acquisition planning for all procurements and in the evaluation and award of contracts (i.e., the bidder most able to cost-effectively satisfy the recovered material content specifications as well as the performance/design specifications outlined in the solicitation document).

E. Request for Waiver. To request a waiver from the purchase of EPA designated items containing other than recovered materials, program offices and contracting officers shall use the format or substantially the same format as shown in Attachment 2. This form must be signed by the cognizant program official and maintained in the procurement file.

F. Federal Sources of Recycled and Environmental Products. Thousands of recycled and environmental products are available to procuring agencies through established Federal supply sources, and new items are continuously being added. Federal sources of EPA-designated items and other recycled and environmental products include the General Services Administration (GSA) Federal Supply Service (FSS), Government Printing Office (GPO) and the Defense General Supply Center (DGSC). GSA FSS publishes various documents to assist in identifying and requisitioning recycled and environmental products. These documents are available on the GSA website and are available through Centralized Mailing List Service (CMLS), P.O. Box 6477, Fort Worth, TX 76115, and phone number: (817) 334-5215, fax number (817) 334-5227.

G. Other Recycled and Environmentally Preferable Products. EPA's guidelines may not reflect those procured products or services most often used by DHS. Procurement originators are encouraged to request, procure, and use other products containing recovered materials in addition to those specified in this APP. At the discretion of the OE, items other than EPA designated items for which recovered material content must be specified may be adopted.

H. Life-Cycle Cost Analysis. OFPP Policy Letter 92-4 required Federal agencies to use life-cycle cost analysis, wherever feasible and appropriate, to assist in selecting products and services. At this time, life-cycle cost information for EPA designated items is not available. Until such information is developed and issued, OEs shall rely on minimum content standards of preference standards in EPA's guidelines (RMAN).

III. Recovered Materials Promotion Program.

A. the DHS preference for recovered materials shall be incorporated into all applicable solicitations. This shall be accomplished by including explicit recovered material preference

standards for EPA-designated items in appropriate solicitations for bids, statements of work, and during contract negotiations.

B. Each DHS procuring office shall promote the DHS APP within its operation. The promotional program shall include at least the following:

(1) Procuring offices shall include in their CBD announcements a statement of the recycling and recovery requirements of the solicitation, if applicable;

(2) Contracting officers should seek from the marketplace and annotate their sources/bidders lists with information on vendors offering recovered products and services;

(3) Contracting officers should encourage each contractor under a value engineering program to look for savings opportunities which could be proposed; and

(4) Contracting officers shall promote the fact that they are seeking to buy recovered materials at pre-bid and pre-proposal conferences, where applicable.

IV. Procedures for Vendor Estimation and Certification.

A. Estimation. DHS's minimum content standards for EPA designated items shall be specified in the statement of work. Vendors responding to solicitations for EPA designated items must meet the minimum content standards; therefore a separate estimate from the vendor regarding the percentage of recovered materials in the product is not required unless the product exceed the minimum content standards specified.

B. Certification. Vendors/offerors are responsible for: (1) providing written certification to the contracting officer that their products meet minimum content standards, (2) maintaining copies of certification documents, and (3) producing copies of the written certification upon request. (See (FAR) 48 CFR 23.406 for solicitation provisions and contract clauses.)

C. Verification. COCOs shall periodically review vendor certification documents as part of their review and monitoring processes. Such review shall enable DHS's Environmental Executive to verify DHS's compliance with Executive Order 13101.

D. Exclusions. Federal supply sources such as GSA, GPO, and DGSC have established their own estimation, certification, and verification procedures for EPA-designated items. Therefore, there is no requirement to conduct independent estimation, certification, and verification procedures.

V. Annual Review and Reporting.

A. Federal agencies are required, on an annual basis, to review the effectiveness of its affirmative procurement program and provide reports to the Federal Environmental Executive and to OFPP.

B. OFPP has devised a standard format for use in reporting affirmative procurement program effectiveness. The report shall be transmitted to the Office of the Chief Procurement Officer for

consolidation into a Departmental response, which has historically been due in December of each year. However, since the reporting format and due date of the report has changed over the years, The Office of the Chief Procurement Officer will provide each OE an updated reporting format, if necessary, and the response date in writing in sufficient time for the OEs to respond in a timely manner.

VI. Waste Prevention. Executive Order 13101 encourages Federal agencies to implement waste prevention techniques, such as electronic transfer and double-sided copying, so that annual expenditures for recycled printing and writing paper do not exceed current annual budgets for paper products as measured by average annual expenditures. To this end, it DHS policy that a contractor submitting paper documents relating to an acquisition, should, if possible, submit those documents printed/copies double-sided on recycled paper (see (FAR) 48 CFR 4.303). The clauses at (FAR) 48 CFR 52.204-4, Printed or Copied Double-Sided on Recycled Paper, shall be inserted in solicitations and contracts greater than the simplified acquisition threshold

DEFINITIONS

Sec. 201. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

Sec. 202. "Executive agency" or "agency" means an executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Sec. 203. "Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. "Postconsumer material" is a part of the broader category of "recovered material."

Sec. 204. "Acquisition" means the acquiring by contract with appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Sec. 205. "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (42 U.S.C. 6903 (19)).

Sec. 206. "Recyclability" means the ability of a product or material to be recovered from, or otherwise diverted from, the solid waste stream for the purpose of recycling.

Sec. 207. "Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

Sec. 208. "Waste prevention" means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Sec. 209. "Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

Sec. 210. "Life cycle cost" means the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs, and disposal costs discounted over the lifetime of the product.

Sec. 211. "Life cycle assessment" means the comprehensive examination of a product's environmental and economic aspects and potential impacts throughout its lifetime, including raw material extraction, transportation, manufacturing, use, and disposal.

Sec. 212. "Pollution prevention" means "source reduction" as defined in the Pollution Prevention Act of 1990 (42 U.S.C. 13102), and other practices that reduce or eliminate the creation of pollutants through: (a) increased efficiency in the use of raw materials, energy, water, or other resources; or (b) protection of natural resources by conservation.

Sec. 213. "Biobased product" means a commercial or industrial product (other than food or feed) that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

Sec. 214. "Major procuring agencies" shall include any executive agency that procures over $50 million per year of goods and services.

Affirmative Procurement Program (APP) - a program assuring Guideline items composed of recovered materials will be purchased to the maximum extent practicable, consistent with Federal law and procurement regulations. [RCRA, section 6002]

Case-by-Case Procurement - open competition for contract awards among products made of virgin and recovered materials with preference being given to the latter (vice identifying minimum content standards required). [RCRA, section 6002]

Certification - provided by offerors/bidders/vendors, it is written documentation certifying the percentage of recovered materials contained in products or to be used in the performance of the contract is at least the amount required by applicable specifications or other contractual requirements. Certification on multi-component or multi-material products should verify the

percentage of post consumer waste and recycled material contained in the major constituents of the product. [EPA Guidelines]

Cost-Effective Procurement Preference Program - a procurement program favoring more environmentally-sound or energy-efficient products and services than other competing products and services, where price and other factors are equal. [OFPP Policy Letter 92-4]

Designated Item - an available EPA guideline item or category of items, made with recovered material, advancing the purpose of RCRA when purchased. [RCRA, section 6002]

Energy-efficient product – a product in the upper 25 percent of efficiency for all similar products or, if there are applicable Federal appliance or equipment efficiency standards, a product that is at least 10 percent more efficient than the minimum Federal standard

Environmentally Preferable - "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service. [EO 13101]

Environmentally-Sound - a product or service less damaging to the environment when used, maintained, and disposed of in comparison to a competing product or service. [OFPP Policy Letter 92-4]

Estimation - quantitative determination made by vendors of the total percentage of recovered material contained in offered products. Estimations should be based on historical or actual percentages of recovered materials in products sold in substantial quantities to the general public or on other factual basis. EPA recommends procuring agencies maintain records of these documents for three years by product type, quantity purchased, and price paid. [EPA Guidelines]

Federal Supply Source - any supply source managed by a Federal agency such as the General Services Administration, Government Printing Office, or Defense General Supply Center.

Minimum Content Standard - the minimum recovered material content specifications set to assure the recovered material content required is the maximum available without jeopardizing the intended item use or violating the limitations of the minimum content standards set forth by EPA's guidelines. [RCRA, section 6002]

Performance Specification - a specification stating the desired product operation or function but not specifying its construction materials. [EPA Guidelines]

Post consumer Waste - a material or product, discarded for disposal after passing through the hands of a final user, having served its intended purpose. Post consumer waste is part of the broader category "recycled material." [OFPP Policy Letter 92-4 and 49 CFR 247.101(e)]

Practicable - capable of performing in accordance with applicable specifications, available at a reasonable price and within a reasonable period of time, and while a satisfactory level of competition with other products is being maintained. [EPA Guidelines]

Preference - when two products or services are equal in performance characteristics and price, the Government, in making purchasing decisions, will favor the more environmentally-sound or energy-efficient product. [OFPP Policy Letter 92-4]

Preference Standard - the highest practicable minimum content standards for products. When minimum content is impractical to calculate, preference is for the presence of a recovered material or an environmentally-preferable trait (i.e., retread tires).

Procurement Guidelines - regulations issued by EPA pursuant to section 6002 of RCRA: (1) identifying items produced (or can be produced) with recovered materials and where procurement of such items will advance the objectives of RCRA; and (2) providing recommended practices for the procurement of such items. [RCRA, section 6002]

Procuring Agency - any Federal or State agency, or agency of a state's political subdivision using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract. [EPA Guidelines]

Recycled Material - a material utilized in place of raw or virgin material in product manufacturing consisting of materials derived from post consumer waste, industrial scrap, material derived from agricultural wastes, and other items, all of which can be used in new product manufacture. [EPA Guidelines and OFPP Policy Letter 92-4]

Solid Waste - garbage, refuse, sludge, and other discarded solid materials, including those from industrial, commercial, and agricultural operations, and from community activities. This *excludes* solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flow, etc. [EPA Guidelines]

Specification - a clear and accurate description of the technical requirements for materials, products, or services including the minimum requirement for materials' quality and construction and any equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references. [EPA Guidelines]

Unreasonable Price - when recycled product cost is greater compared to virgin material cost. (Unreasonable price is not a factor when minimum content standards are specified in the statement of work/procurement request, because price estimates will only be obtained from vendors who can supply products meeting recovered material content requirements.)

Verification - procedures used by procuring agencies to confirm both vendor estimates and certifications of the percentages of recovered material contained in the products supplies to them or to be used in the performance of a contract. [EPA Guidelines]

Attachment 1

RECOVERED MATERIALS DETERMINATION FORM

Instructions: This form is to be completed by the procurement originator where the items or deliverables subject to DHS's Affirmative Procurement Program (APP) for recovered Materials are being procured from outside vendors. This form is not required for items requisitioned from established Federal supply sources.

1. The procurement originator (program official) lists the EPA designated item(s) which apply to the procurement request, and signs and dates the bottom of the form.

2. The completed form becomes part of the official contracting office contract file.

Procurement Request No:

The Statement of Work/Specifications covering this procurement request is subject to the DHS APP for recovered materials. The items being procured are:

_____
_____
_____
_____

I hereby certify that the Statement of Work/Specifications for the requisition of materials/services listed above complies with applicable DHS preference standards for recycled/recovered materials.

_____ _____

Procurement Originator's Signature Date

Attachment 2

REQUEST FOR WAIVER

Instructions: This form is needed only if the item(s) being procured are subject to DHS's Affirmative Procurement Program (APP) for Recovered Materials.

1. This form is to be completed by the procurement originator (program official) and contracting officer, as appropriate, when items subject to DHS's APP are not procured.

2. The procurement originator and contracting officer checks the appropriate justification(s), provides a written explanation, and signs and dates the form.

3. The original form is maintained in the official contract file.

Procurement Request No: _____

1. To be completed by the contracting officer:

Products containing recovered materials and meeting DHS's preference standards for the following designated items:

_____
_____
_____
were not obtained because:

_____ Use of minimum content standards would result in inadequate competition.

_____ Products containing recovered materials would require paying a price premium.

_____ Other: (Written justification for not procuring designated items containing recovered material.)

Remanufactured or recycled toner cartridges for use in laser printers, photocopies, facsimile machines, or micrographic printers were not obtained because:

_____ _____

Contracting Officer's Signature Date

2. To be completed by Procurement Originator:

Products containing recovered materials and meeting DHS's preference standards for the following designated items:

_____
_____
_____
were not obtained because:

_____ Items do not meet all reasonable performance specifications.

_____ Items are not available within a reasonable period of time.

_____ Other: (Written justification for not procuring designated items containing recovered material.)

_____ _____

Procurement Originator's Signature Date

CHAPTER 3024

PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

(RESERVED)

CHAPTER 3025 FOREIGN ACQUISITION

Subchapter	**3025.1**	**Buy American Act—Supplies**
	3025.103	Exceptions.
	3025.104	Nonavailability articles.
	3025.105	Determining reasonableness of cost.
Subchapter	**3025.2**	**Buy American Act—Construction Materials**
	3025.202	Exceptions.
Subchapter	**3025.10**	**Additional Foreign Acquisition Regulations**
	3025.1001	Waiver of right to examination of records.

Subchapter 3025.1 Buy American Act—Supplies

3025.103 Exceptions.

(a) *Public Interest.* The Head of Contracting Activity (HCA) is delegated this authority.

(b) *Nonavailability.*

(2)(i) The Chief of the Contracting Office (COCO) is delegated this authority,

(b)(2)(ii) Determinations required shall be submitted to the Chief Procurement Officer (CPO).

3025.104 Nonavailability articles.

(b) Documentation shall be submitted to the CPO.

3025.105 Determining reasonableness of cost.

(a)(1) The COCO is delegated this authority. Determinations shall be sent to the CPO.

Subchapter 3025.2 Buy American Act—Construction Materials

3025.202 Exceptions.

(a)(1) The HCA is delegated this authority.

Subchapter 3025.10 Additional Foreign Acquisition Regulations

3025.1001 Waiver of right to examination of records.

(a)(2)(iii) The HCA, without redelegation, is authorized to make the determination.

CHAPTER 3026 OTHER SOCIOECONOMIC PROGRAMS

RESERVED

There is no text implementing or supplementing FAR Part 26.

CHAPTER 3027 PATENTS, DATA, AND COPYRIGHTS

Subchapter	**3027.2**	**Patents**
	3027.203	Patent indemnification of Government by contractor.
	3027.203-6	Clause for Government waiver of indemnity.
Subchapter	**3027.3**	**Patent Rights Under Government Contracts**
	3027.302	Policy.
	3027.303	Contract clauses.
	3027.304	Procedures.
	3027.304-1	General.
	3027.305	Administration of patent rights clauses**.**
	3027.305-4	Conveyance of invention rights acquired by the Government.

Subchapter 3027.2 Patents

3027.203 Patent indemnification of Government by contractor.

3027.203-6 Clause for Government waiver of indemnity.

The Chief of the Contracting Office (COCO) is delegated this authority and must coordinate with legal counsel.

Subchapter 3027.3 Patent Rights Under Government Contracts

3027.302 Policy.

(a) The Head of Contracting Activity (HCA) is responsible for promoting commercialization.

3027.303 Contract clauses.

(a)(3), (b)(2), (c)(3), and (d)(1)(ii). The HCA is delegated the authority to make these determinations.

3027.304 Procedures.

3027.304-1 General.

(a)(5), (a)(7), (b), (g)(2), (g)(3), (g)(5) through (7) The COCO is delegated this authority, after coordination with legal counsel.

3027.305 Administration of patent rights clauses

3027.305-4 Conveyance of invention rights acquired by the Government.

(b) When a contractor discloses an invention under a contract, the contracting officer shall

consult with the Organizational Element (OE) Patent Counsel to determine the proper action to be taken. OE with no Patent counsel should contact the DHS Office of General Counsel.

CHAPTER 3028 BONDS AND INSURANCE

Subchapter	**3028.1**	**Bonds and Other Financial Protections**
	3028.101	Bid guarantees.
	3028.101-1	Policy on use.
	3028.105	Other types of bonds.
	3028.106	Administration.
	3028.106-2	Substitution of surety bonds.
	3028.106-6	Furnishing information.
Subchapter	**3028.2**	**Sureties and Other Security for Bonds**
	3028.202	Acceptability of corporate sureties.
	3028.203	Acceptability of individual sureties.
	3028.203-7	Exclusion of individual sureties.
	3028.204	Alternatives in lieu of corporate or individual sureties.
Subchapter	**3028.3**	**Insurance**
	3028.305	Overseas workers' compensation and war-hazard insurance.

Subchapter 3028.1 Bonds

3028.101 Bid guarantees.

3028.101-1 Policy on use.

(c) The Head of Contracting Activity (HCA) is authorized to approve a class waiver.

3028.105 Other types of bonds.

The contracting officer is delegated this authority.

3028.106 Administration.

3028.106-2 Substitution of surety bonds.

(a) The contracting officer is delegated this authority.

3028.106-6 Furnishing information.

(c) The contracting officer is delegated this authority after consultation with legal counsel.

Subchapter 3028.2 Sureties and Other Security for Bonds

3028.202 Acceptability of corporate sureties.

(d) Department of the Treasury's Listing of Approved Sureties (Department Circular 570) is available at http://www.fms.treas.gov/c570/index.html.

3028.203 Acceptability of individual sureties.

(g) Contracting officers, after consultation with the Organizational Element (OE) legal counsel, shall refer evidence through the HCA to the Office of Inspector General (OIG), or other investigatory organization, with a copy to the Chief Procurement Officer (CPO). The OIG shall provide a report of findings to the debarring and suspension official.

3028.203-7 Exclusion of individual sureties.

(a) The HCA is delegated this authority.

(d) Justifications shall be prepared by the contracting officer and forwarded to the Debarring and Suspension official for approval.

3028.204 Alternatives in lieu of corporate or individual sureties.

(a) HCAs shall establish required safeguards to protect against the loss of the security.

Subchapter 3028.3 Insurance

3028.305 Overseas workers' compensation and war-hazard insurance.

(d) The HCA shall make the recommendation to the Secretary of Labor.

CHAPTER 3029 TAXES

Subchapter	**3029.1**	**General**
	3029.101	Resolving tax problems.
Subchapter	**3029.3**	**State and Local Taxes**
	3029.303	Application of State and local taxes to Government contractors and subcontractors.

Subchapter 3029.1 General

3029.101 Resolving tax problems.

(a) The agency designated legal counsel is the Organizational Elements (OE) legal counsel. Any recommended changes to DHS policy or procedures concerning taxes resulting from consultation with OE legal counsel, shall be transmitted by the Head of Contracting Activity (HCA) to the Chief Procurement Officer (CPO).

(1) All problems forwarded to the OE's legal counsel for review and/or resolution shall be accompanied by:

(i) A copy of the contract, when applicable;

(ii) A comprehensive statement of the facts, any substantiating documents or correspondence, the legal issues, and recommended course of action, if any; and

(iii) When applicable, a statement concerning the effect the problem has or will have on existing acquisition policy and procedures, and any recommended changes to them.

Subchapter 3029.3 State and Local Taxes

3029.303 Application of State and local taxes to Government contractors and subcontractors.

(a) The HCA is delegated authority, without redelegation, to review this designation. The HCA shall coordinate with the OE's legal counsel. The HCA shall provide a copy of the review documentation and designation to the Office of the Chief Procurement Officer (OCPO).

CHAPTER 3030 COST ACCOUNTING STANDARDS ADMINISTRATION

Subchapter 3030.2 CAS Program Requirements
3030.202 Disclosure requirements.

Subchapter 3030.2 CAS Program Requirements

3030.202 Disclosure requirements.

3030.202-2 Impracticality of submission.

The agency head authority determination is not delegable. Submit all requests using the procedures and format at (HSAR) 48 CFR 3001.7.

CHAPTER 3031 CONTRACT COST PRINCIPLES AND PROCEDURES

Subchapter	**3031.1**	**Applicability**
	3031.101	Objectives.
	3031.109	Advance agreements.
Subchapter	**3031.2**	**Contracts with Commercial Organizations**
	3031.205	Selected costs.
	3031.205-6	Compensation for personal services.
	3031.205-32	Precontract costs.

Subchapter 3031.1 Applicability

3031.101 Objectives.

Individual and class deviations concerning the cost principles shall be submitted to the Office of Chief Procurement Officer (OCPO) for processing. The Chief Procurement Officer (CPO) is delegated the authority to grant individual deviations. The CPO will forward the requests for class deviations to the Civilian Agency Acquisition Council for approval.

3031.109 Advance agreements.

See HSAM 3031.205-32.

Subchapter 3031.2 Contracts with Commercial Organizations

3031.205 Selected costs.

3031.205-6 Compensation for personal services.

(g)(3) The Head of Contracting Activity (HCA) is delegated, without redelegation, authority to waive the cost allowability limitations.

3031.205-32 Precontract costs.

(b) When the contracting officer determines in writing that it is necessary to incur pre-contract costs to meet the proposed contract delivery schedule, the determination shall be approved by the Chief of the Contracting Office (COCO) and include the following:

(1) Identification of the requirement and a brief description of the work for which precontract costs are necessary;

(2) A statement that all statutory and regulatory actions required to justify source selection have occurred;

(3) Name of the prospective contractor;

(4) Total amount of pre-contract costs involved and a statement that the funds necessary to cover this amount have been provided to the contracting officer;

(5) Total estimated time of the effort requiring pre-contract costs;

(6) Discussion of reasons justifying why it is necessary for the contractor to proceed prior to contract award; and

(7) A statement that the contracting officer has advised the prospective contractor that incurrence of pre-contract costs is solely at its own risk and in the event negotiations do not result in a contract, the Government shall be under no obligation to reimburse the contractor for pre-contract costs.

CHAPTER 3032 CONTRACT FINANCING

Subchapter	**3032.000**	**Scope**
	3032.003	Simplified acquisition procedures financing.
Subchapter	**3032.1**	**Non-Commercial Item Purchase Financing**
	3032.102	Description of contract financing methods.
	3032.113-70	Customary contract financing.
	3032.114	Unusual contract financing.
Subchapter	**3032.2**	**Commercial Item Purchase Financing**
	3032.202-4	Security for Government financing.
	3032.206	Solicitation provisions and contract clauses.
Subchapter	**3032.4**	**Advance Payments for Non-Commercial Items**
	3032.402	General.
	3032.404	Exclusions.
	3032.409	Contracting officer action.
	32.409-1	Recommendation for approval.
	32.409-2	Recommendation for disapproval.
Subchapter	**3032.5**	**Progress Payments Based On Costs**
	3032.501	General.
	3032.501-2	Unusual progress payments.
	3032.502	Preaward matters.
	3032.502-2	Contract finance office clearance.
	3032.504	Subcontracts under prime contracts providing progress payments.
Subchapter	**3032.6**	**Contract Debts**
	3032.601	Definition.
	3032.614	Interest.
	3032.614-1	Interest Charges.
Subchapter	**3032.7**	**Contract Funding**
	3032.702	Policy.
	3032.702-70	Procurement requests.
	3032.702-71	Use of private sector financing.
	3032.703-3	Contracts crossing fiscal years.
Subchapter	**3032.8**	**Assignment of Claims**
	3032.802	Conditions.
	3032.803	Policies.
Subchapter	**3032.9**	**Prompt Payment**
	3032.903	Responsibilities.

	3032.904	Determining payment due date.
	3032.906	Making payments.
Subchapter	**3032.11**	**Electronic Funds Transfer**
	3032.1107-70	Payment Information.
Subchapter	**3032.70**	**Contract Payments**
	3032.7000	Scope of subchapter.
	3032.7001	Policy.
	3032.7002	Invoice and voucher review and approval.
	3032.7003	Record of Payment.

Subchapter 3032.000 Scope

3032.003 Simplified acquisition procedures financing.

Where appropriate, Head of Contracting Activity (HCAs) may determine that contract financing for commercial items may be provided for purchases made under (FAR) 48 CFR Part 13. A written determination must be prepared detailing the rationale supporting the decision.

Subchapter 3032.1 Non-Commercial Item Purchase Financing

3032.102 Description of contract financing methods.

(e)(2) Progress payments based on a percentage or stage of completion are authorized only under contracts for construction, alteration, and repair, shipbuilding, and architect-engineering. Contracting officers must ensure that the payments are commensurate with the work and that the work meets the contract requirements. When contracting officers propose to make these types of payments under other contracts, a written Determination & Finding (D&F) in the format of Appendix A must be signed by the HCA. The D&F must provide the reasons that progress payments based on costs cannot be possible and why it is feasible to administer progress payments based on a percentage or stage of completion.

3032.113-70 Customary contract financing.

(a) It is DHS's expectation that contracts will be fully funded except as permitted by FAR 32.703.

(b) Financing of contracts and requirements using other than progress payments or performance-based payments requires:

(1) HCA approval and review; and

(2) Legal counsel review and approval for legal sufficiency.

3032.114 Unusual contract financing.

Authority to approve unusual contract financing is delegated to the HCA

Subchapter 3032.2 Commercial Item Purchase Financing

3032.202-4 Security for Government financing.

(a)(2) The required determination shall be in writing, reviewed by legal counsel, and retained in the contract file.

3032.206 Solicitation provisions and contract clauses.

(g) The HCA is authorized to develop procedures under (FAR) 48 CFR 32.206.

(g)(2) The HCA is authorized to develop procedures under (FAR) 48 CFR 32.206.

Subchapter 3032.4 Advance Payments for Non-Commercial Items

3032.402 General.

(c)(1)(iii) The authority to make the determination prescribed in (FAR) 48 CFR 32.402(c)(1)(iii) is delegated, without power of redelegation, to the HCA.

(e)(2) When the contracting officer proposes to provide advance payments to a contractor, the requisitioning office, legal counsel, and finance office shall be consulted prior to writing the D&F. The D&F shall be written in the format of (FAR) 48 CFR 32.410.

3032.404 Exclusions.

(a)(9) Unless otherwise approved by the Chief Procurement Officer (CPO), no other types of transactions are excluded from the requirements of (FAR) 48 CFR Subpart 32.4.

3032.409 Contracting officer action.

3032.409-1 Recommendation for approval.

After review by counsel, the D&F and the other items shall be forwarded through appropriate office(s) to the approving official (see HSAM 3032.402) for review and approval. Contracting officers shall also discuss the proposed payments with the applicable finance office to ensure compliance with all Department of Treasury regulations governing these payments.

3032.409-2 Recommendation for disapproval.

Contracting officers shall transmit the information required through appropriate office(s) to the approving official under HSAM 3032.402 for approval of the recommendation to disapprove the

request for advance payment.

Subchapter 3032.5 Progress Payments Based On Costs

3032.501 General.

3032.501-2 Unusual progress payments.

(a)(3) The Chief of the Contracting Officer (COCO) is delegated authority to approve the contractor's request for unusual progress payments.

3032.502 Preaward matters.

3032.502-2 Contract finance office clearance.

Contracting officers shall obtain written approval and coordination from the officials named below before taking any of the following actions:

(a) From the COCO, to provide a progress payment rate higher than the customary rate (see (FAR) 48 CFR 32.501-1);

(b) From the COCO, to deviate from the progress payment terms prescribed in (FAR) 48 CFR Part 32; and

(c) When providing progress payments to a contractor--

(1) From the COCO (with advice from OE legal counsel), when the contractor's financial condition is in doubt;

(2) From the COCO (with advice from OE legal counsel), when the contractor has had an advance payment request or loan guarantee denied for financial reasons (or approved but withdrawn or lapsed) within the previous 12 months; and

(3) From the HCA (with advice from OE legal counsel), when the contractor is named in the consolidated list of contractors indebted to the United States (known commonly as the "Hold-up List").

3032.504 Subcontracts under prime contracts providing progress payments.

(c) The contracting officer shall obtain approval from the COCO to authorize contractors to make unusual progress payments to subcontractors. A written D&F is not required; however, if the contractor's request to make unusual progress payments is granted, the contract file shall be documented to reflect the rationale for the decision.

Subchapter 3032.6 Contract Debts

3032.601 Definition.

Contracting officers shall administer the collection of contract debts and applicable interest in accordance with DHS MD Number 1180.1, Collections and Deposits Processing as implemented by OE procedures, if any. If OE procedures do not exist, contracting officers shall consult with their finance office concerning debt collection.

3032.614 Interest.

3032.614-1 Interest charges.

(a)(3) The contracting officer shall consult with the OE's finance office concerning contractor's debts that may be exempt from interest charges.

Subchapter 3032.7 Contract Funding

3032.702 Policy.

(c) If a contract action containing a cancellation or termination fee, has been determined legally sufficient (see HSAM 3004.7003), the cancellation fee must be fully funded (obligated) at the time of contract award unless otherwise authorized by statute (e.g., see 10 U.S.C 2306b for U.S. Coast Guard funding of cancellation costs for multi-year contracts).

(d) The minimum guaranteed quantity specified under indefinite delivery indefinite quantity contracts must be fully funded (obligated) at the time of contract award.

(e) To avoid violating the Anti-Deficiency Act, fixed price, time and material, and labor hour contracts shall not be incrementally funded. Only cost type contracts may be incrementally funded provided such contracts include FAR Clause 52.232-22, Limitation of Funds, as appropriate.

3032.702-70 Procurement requests.

The contracting officer shall accept certified funds submitted electronically via OE approved financial and procurement systems. The contracting officer may require a hardcopy procurement request only from units exempt from the use of OE approved financial and procurement systems.

3032.702-71 Use of private sector financing.

All proposed contract actions, including orders under GSA FSS contracts and orders under indefinite delivery contracts, that use private sector financing shall be approved by the Office of Chief Procurement Officer (OCPO). The HCA shall submit the action, including legal counsel review and approval for legal sufficiency, to the OCPO for approval.

3032.703-3 Contracts crossing fiscal years.

(b) The COCO is authorized to approve contracts, options, or orders under contracts for

severable services for a period beginning in one fiscal year and ending in the next, provided the period of the basic contract, option or order does not exceed one year.

Subchapter 3032.8 Assignment of Claims

3032.802 Conditions.

(e)(1) The contracting officer is the designated recipient of the document.

3032.803 Policies.

(d) By Memorandum dated October 3, 1995, the President delegated the authority to determine whether to include a no-setoff commitment in any contract, except a contract under which full payment has been made, to the head of the agency. In addition, the memorandum stated that the authority could be further delegated. The HCA is authorized, with further authority to redelegate, to determine whether to include a no-setoff commitment in any contract, except a contract where full payment has been made.

Subchapter 3032.9 Prompt Payment

3032.903 Responsibilities.

The Chief Financial Officer (CFO) is delegated the authority to prescribe policies and procedures for prompt payment.

3032.904 Determining payment due dates.

Prior to including a payment clause in a solicitation or contract that will require payments to be made earlier than those specified in the Prompt Payment Act, contracting officers shall consult with their cognizant finance office.

3032.906 Making payments.

(b) The contracting officer is delegated authority to determine whether to make invoice and contract financing payments earlier than 7 days prior to the due dates specified in the contract.

Subchapter 3032.11 Electronic Funds Transfer

3032.1107-70 Payment Information.

DHS has established with the Department of Treasury Regional Financial Center, Kansas City, MO, an electronic communication connection for payments via the Automated Clearinghouse (ACH) (a nationwide electronic payments network). DHS finance offices shall use the information in the DOD Central Contractor Registration database to make EFT payments to contractors.

Subchapter 3032.70 Contract Payments

3032.7000 Scope of subchapter.

This subchapter prescribes policies and procedures for the submission, review, and approval of payments under contracts and orders as defined under (FAR) 48 CFR Part 16.

3032.7001 Policy.

It is the policy of DHS to perform an in-depth review of all invoices and vouchers submitted by contractors under contracts; therefore, the COCO must ensure that the requirements of this subchapter are met.

3032.7002 Invoice and voucher review and approval.

(a) Contracting officers are ultimately responsible for the review and approval of each invoice and/or voucher submitted by the contractor. However, the contracting officer may delegate to a representative, the authority to review and approve invoices submitted for payment under fixed-price contracts. The person delegated this authority must provide a copy of the approved invoice and supporting documents to the contracting officer for the contract file. When invoices and vouchers are reviewed, the extent of the review depends on the terms and conditions of the contract. The following list is representative of the tasks associated with reviewing and approving invoices and vouchers.

(1) Ensure that the contractor completes and submits the invoice or voucher in accordance with the contract;

(2) Ensure that the invoice or voucher is "proper" as that term is defined in the contract;

(3) Ensure that the billed costs are allocable to the contract and allowable in accordance with (FAR) 48 CFR Part 31 and any other terms and conditions of the contract;

(4) Ensure that evidence of receipt, inspection, and acceptance of the supplies or services has been received from a Government representative (this may be done electronically);

(5) Ensure that the contractor's progress under the contract is commensurate with the payment requested (i.e., the unliquidated progress payments do not exceed the fair value of the work to be accomplished on the undelivered portion of the contract; and

(6) Ensure that the correct amounts are withheld from the invoice or voucher as required by the contract (i.e., progress payment liquidation, percentage of fixed fee, etc.).

(b) When cost-reimbursement payments will be made under the contract, the contracting officer shall obtain the recommendation of Government personnel (i.e., technical representatives, quality assurance inspectors, auditors, etc.) concerning payment of the voucher.

(c) If the contracting officer determines the amount billed is allocable and allowable, he/she shall furnish the designated payment office with written approval of the amount to be paid the contractor (See Appendix B for a sample format).

3032.7003 Record of payment.

(a) The contracting officer shall establish a record (either hard copy or electronic) of payment file for each contract. The file must provide evidence of the amount paid; any amounts disallowed or withheld, and the rationale for the disallowances or withholdings; balance available for payment under the contract after the invoice or voucher has been paid, and any correspondence to the contractor concerning the payments.

CHAPTER 3032 - APPENDIX A

DETERMINATION AND FINDINGS

Authority to Make Progress Payments

FINDINGS

1. The *(identify the OE and the contracting office)* of the Department of Homeland Security proposes to contract for *(describe the supplies and/or services being procured and identify the program/project, if applicable).*

2. *(Indicate the type of contract proposed and the estimated amount of the contract.)*

DETERMINATION

On the basis of the above findings, I hereby determine that *(explain why progress payments based on costs cannot be practically used and why it will be feasible to administer progress payments based on a percentage or stage of completion basis).*

(Signature of the Head of Contracting Activity (HCA))

CHAPTER 3032 - APPENDIX B

ACTION: Payment under *(Enter the DHS number assigned to the contractual instrument)*

From: *(Enter the name and title of the individual authorized to sign this portion of the memorandum - e.g., contracting officer, specialist/administrator, etc.)*

To: *(Enter the name of the person to whom the memorandum is being sent - e.g., contracting officer's representative, inspector, etc.)*

The attached invoice/voucher was submitted by the contractor for payment under the subject contract. Please review this document and provide, as appropriate, your recommendation or acceptance by endorsement below.

(Signature of individual authorized to sign)

Attachment *(Enter the invoice or voucher number and the amount)*

FIRST ENDORSEMENT
From: *(Enter the name and title of the individual authorized to sign this portion of the memorandum - e.g., contracting officer's representative, inspector, etc.)*

To: *(Enter name of the person to whom the memorandum is being sent - e.g., contracting officer, specialist/administrator, etc.)*

I have reviewed the attachment(s) and the following applies *(check one)*:

(a) Cost-reimbursement contract. I recommend ___ approval ___ disapproval. The costs incurred ___ are ___ are not reasonable or allocable for the reasons indicated on the attachment.

(b) Fixed-price contract. I recommend ___ approval ___ disapproval.
(1) The supplies or services were accepted on _____ OR
(2) The supplies or services ___ are not acceptable for the reasons indicated on the attachment.

(c) Progress Payment. I recommend ___ approval ___ disapproval for the reasons indicated on the attachment.

(Signature of individual authorized to sign)
Attachment

SECOND ENDORSEMENT

From: *(Enter name of the contracting officer)*
To: *(Enter name of the finance officer)*

The attached Invoice/Voucher No. *(Insert number and amount)* is approved for payment in the amount of *(Insert amount)*. After this payment, the balance remaining available for payment under this contract is *(Insert amount)*. Please contact me if this balance does not agree with your payment record.

(Signature of contracting officer)

Attachment

CHAPTER 3033 PROTESTS, DISPUTES, AND APPEALS

Subchapter	**3033.1**	**Protests**
	3033.102	General.
	3033.103	Protests to the agency.
	3033.104	Protests to the General Accounting Office (GAO).
Subchapter	**3033.2**	**Disputes and Appeals**
	3033.101	Definitions.
	3033.203	Applicability.
	3033.209	Suspected fraudulent claims.
	3033.210	Contracting officer's authority.
	3033.212	Contracting officer's duties upon appeal.
	3033.215	Contract clause.

Subchapter 3033.1 Protests

3033.102 General.

(b) The contracting officer may make the determination.

3033.103 Protests to the agency.

(d)(4) Procedures shall be developed by each Organizational Element (OE). Such procedures must consider the use of Alternative Disputes Resolution (ADR) in all protest actions.

3033.104 Protests to GAO.

(a) *General procedure.* The Chief of the Contracting Office (COCO) shall prepare and provide to the GAO the required agency report. The agency report shall be coordinated with legal counsel before the report is signed and sent to GAO.

(a)(3)(iv)(B) If the protest is made before an award, the agency report shall contain either a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties and/or additional Government expense, or, an estimate of the length of time an award may be delayed without difficulty in performance or significant expense.

(a)(4)(i) The protestor's copy shall be hand-carried or express mailed. (Regular mail delivery will not suffice.)

(b) *Protests before award.* The written finding shall be coordinated with legal counsel. A copy of the signed written finding and the signed written notice to GAO shall be provided to the Chief Procurement Officer (CPO) within 2 working days after documents are sent to GAO. In addition, the applicable Congressional and Public Affairs offices shall be informed of this action in accordance with OE policies and procedures.

Subchapter 3033.2 Disputes and Appeals

3033.201 Definitions.

Agency Board of Contract Appeals means the Department of Transportation Board of Contract Appeals (DOTBCA). The DOTBCA is the authorized representative of the Secretary of Homeland Security in hearing, considering, and determining all appeals of decisions of contracting officers filed by contractors pursuant to (FAR) 48 CFR Subpart 33.2.

3033.203 Applicability.

(b)(2) The Head of Contracting Activity (HCA) shall make the determination that the application of the Contract Disputes Act (CDA) of 1978 to any contract with (1) a foreign government or agency of that government, or (2) an international organization or a subsidiary body of that organization would not be in the public interest. The Transportation Security Administration (TSA) will use the DOTBCA for CDA matters.

3033.209 Suspected fraudulent claims.

Chiefs of the Contracting Office (COCOs) shall refer matters to the Office of the Inspector General (OIG) or other appropriate investigative organizations.

3033.210 Contracting officer's authority.

It is the DHS's policy to encourage the use of ADR procedures. A decision to use ADR procedures requires review and approval by legal counsel.

3033.212 Contracting officer's duties upon appeal.

Upon receipt of notice of appeal by a contractor, the contracting officer will notify OE legal counsel, who will appoint an attorney to represent the Government before the DOTBCA.

3033.215 Contract clause.

When using the clause at (FAR) 48 CFR 52.233-1, Disputes, with its Alternate I, the contracting officer shall make the determination that continued performance is necessary.

CHAPTER 3034 MAJOR SYSTEMS ACQUISITION

SUBCHAPTER 3034.0 General
3034.002 Policy.

3034.0 General

3034.002 Policy.

Refer to DHS MD Number 1400, Investment Review Process, for submittal, review and approval requirements for major systems acquisitions.

CHAPTER 3035 RESEARCH AND DEVELOPMENT CONTRACTING

Subchapter 3035.000 Scope
3035.017 Federally Funded Research and Development Centers (FFRDC).
3035.017-2 Establishing or changing an FFRDC.

3035.017 Federally Funded Research and Development Centers.

3035.017-2 Establishing or changing an FFRDC.

(j) The Secretary, acting through the Under Secretary for Science and Technology is authorized to establish or change the basic purpose and mission of an FFRDC under (FAR) 48 CFR 35.017-2(j).

CHAPTER 3036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subchapter	**3036.2**	**Special Aspects Of Contracting For Construction**
	3036.201	Evaluation of contractor performance.
	3036.203	Government estimate of construction costs.
	3036.206	Liquidated damages.
	3036.208	Concurrent performance of firm-fixed-price and other types of construction contracts.
	3036.209	Construction contracts with architect-engineer firms.
	3036.212	Preconstruction orientation.
	3036.212-70	Contracting with the National Institute of Building Sciences.
	3036.212	Special procedures for sealed bidding in construction contracting.
	3036.213-2	Presolicitation notices.
Subchapter	**3036.6**	**Architect-Engineer Services**
	3036.602	Selection of firms for architect-engineer contracts.
	3036.602-1	Selection criteria.
	3036.602-2	Evaluation boards.
	3036.602-3	Evaluation board functions.
	3036.602-4	Selection authority.
	3036.602-5	Short selection process for contracts not to exceed the simplified acquisition threshold.
	3036.603	Collecting data on and appraising firms' qualifications.
	3036.604	Performance evaluation.
	3036.605	Government cost estimate for architect-engineer work.
	3036.606	Negotiations.
	3036.606-70	General.
	3036.609	Contract clauses.
	3036.609-1	Design within funding limitations.

Subchapter 3036.2 Special Aspects of Contracting for Construction

3036.201 Evaluation of contractor performance.

(a)(4) The Head of Contracting Activity (HCA), without redelegation, must establish procedures which ensures that fully qualified personnel prepare and review performance reports.

(c)(1) Contracting officers must determine the appropriate distribution of the reports.

3036.203 Government estimate of construction costs.

(a) The Government estimate must be designated "For Official Use Only" unless the nature of the information therein requires a security classification, in which event it shall be handled in accordance with applicable security regulations. The "For Official Use Only" designation must be removed only when the estimate is made public in accordance with the instructions below.

(b) If the acquisition is by sealed bidding, a sealed copy of the detailed Government estimate must be filed with the bids until bid opening. After the bids are read and recorded, the "For Official Use Only" designation must be removed and the estimate read and recorded in the same detail as the bids.

(c) If the acquisition is by negotiation, the following procedures apply:

(1) The overall amount of the Government estimate must not be disclosed prior to award;

(2) At the time of award, the "For Official Use Only" designation on the Government estimate must be removed; and

(3) After award, the Government estimate may be revealed, upon request.

3036.206 Liquidated damages.

Liquidated damages provisions are generally appropriate in construction contracts in accordance with the provisions of (FAR) 48 CFR 11.500.

3036.208 Concurrent performance of firm-fixed-price and other types of construction contracts.

The Chief of the Contracting Office (COCO) is delegated the authority to approve the use of cost-plus-fixed-fee, price-incentive, or other types of contracts with cost variation or cost adjustment features concurrently at the same work site with firm-fixed-price, lump sum, or unit price contracts.

3036.209 Construction contracts with architect-engineer firms.

The Head of Contracting Activity (HCA) or designee no lower than a Senior Executive Service (SES) or flag officer level may approve the award of a contract for the construction of a project to the firm that designed the project or its subsidiaries or affiliates. COCOs must submit requests to include: (1) the reason(s) why award to the design firm is required; (2) an analysis of the facts involving potential or actual organizational conflicts of interest, including benefits and detriments to the Government and prospective contractor; and (3) measures to be taken to avoid, neutralize, or mitigate conflicts of interest.

3036.212 Preconstruction orientation.

(b) DHS Form 700-11, "Preconstruction Conference Agenda and Checklist," or a similar checklist, must be used as the agenda of, or checklist for, the preconstruction conference.

3036.212-70 Contracting with the National Institute of Building Sciences.

(a) The National Institute of Building Sciences (NIBS) was chartered in 1974 to provide advice to the public and private sectors on issues involving new building technology and the building

regulatory process. Public Law 93-383, Housing and Community Development Act of 1974, specifically authorizes agencies to contract with and accept contracts from the NIBS for specific services where deemed appropriate by the responsible Federal officials involved. NIBS provides assistance or advice on building-related matters by processing:

(1) On-line databases on current developments in building science and technology in areas such as architecture and engineering, products and materials, health and safety, and codes and standards; and

(2) Information pertaining to asbestos in public buildings and lead-based paint poisoning, energy efficiency in offices and industrial buildings, and seismic safety of buildings.

(b) Section 809(g)(3) of Public Law 93-383 expressly authorizes agencies and departments to contract with NIBS. In this regard, the exception to full and open competition at (FAR) 48 CFR 6.302-5 may be used, if the contracting officer determines this to be an appropriate exception, to award such contracts. However, the exception to full and open competition at (FAR) 48 CFR 6.302-1 should be used when it is determined that NIBS, because of its unique capabilities and charter, is the only source that will satisfy the requirement.

(c) The synopses requirements at (FAR) 48 CFR 5.2 are applicable unless a waiver is granted pursuant to (FAR) 48 CFR 5.202(b).

3036.213 Special procedures for sealed bidding in construction contracting.

3036.213-2 Presolicitation notices.

The COCO may waive the requirement to send presolicitation notices to prospective bidders on any construction requirement when the proposed contract is expected to equal or exceed $100,000.

3036.213-70 Report of proposed Federal construction.

(a) Section 1.4 of the Davis-Bacon Procedural Rules, 29 CFR Part 1, Procedures for Predetermination of Wage Rates, requires agencies using wage determinations under the Davis-Bacon Act, among other statutes, to furnish the Administrator, Department of Labor (DOL), a general outline of its proposed construction programs for the coming year indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction.

(b) OEs must use the DOL-1671, Report of Proposed Federal Construction, found in HSAM Chapter 3053, to fulfill the requirements of HSAM 3036.213-70(a). The report must be submitted to the Office of the Chief Procurement Officer (OCPO) not later than July 30 of each fiscal year. The OCPO will consolidate the OE reports for transmittal to DOL. Negative reports are required.

Subchapter 3036.6 Architect-Engineer Services

3036.602 Selection of firms for architect-engineer contracts.

3036.602-1 Selection criteria.

(b) The COCO is authorized to approve the use of design competition and must be obtained prior to soliciting proposals.

3036.602-2 Evaluation boards.

The COCO must establish one or more ad hoc Architect-Engineer (A-E) evaluation boards for each acquisition of A-E services. For A-E acquisitions exceeding the simplified acquisition threshold, the following requirements apply in addition to (FAR) 48 CFR 36.602-2:

(a) The A-E evaluation board(s) must be composed of the following members:

(1) One member with experience in acquisition of A-E services (normally the contracting officer or contract specialist/negotiator);

(2) One or more members with technical experience in the fields of architecture, engineering or construction (normally someone from the organization responsible for establishing the A-E work requirements);

(3) One member with technical knowledge of the functional (user) requirements of the project; and

(4) Other special members as are deemed necessary.

(b) A-E board members may be appointed from among highly qualified professional employees of other Government agencies or the private sector who are engaged in the practice of architecture, engineering, construction, or related professions.

3036.602-3 Evaluation board functions.

The HCA retains the authority to direct the functions of the evaluation board.

(a) For A-E acquisitions exceeding the simplified acquisition threshold, the A-E evaluation board must perform the following functions in addition to, or in combination with, those of (FAR) 48 CFR 36.602-3, and in the sequence indicated:

(1) Analyze the nature and scope of the project work requirements.

(2) Develop the evaluation criteria and rating systems to be used in screening firms for the pre-selection list and in the final selection. The screening criteria should be based on information provided by the Standard Form (SF) 330, Architect-Engineer Qualifications.

(3) Prepare the public announcement (see (FAR) 48 CFR 5.205(d)) for the project and provide it to the contracting officer for publication.

(4) Screen the SFs 330 and any other qualification data received in response to the public announcement of the project and prepare a pre-selection list of the best qualified firms for further consideration. The preselection list must consist of at least three firms.

(5) When appropriate, obtain in writing more specific and detailed qualification, experience and past performance data (see (FAR) 48 CFR 36.602-1(a)) not provided by the SFs 330 which are needed to evaluate the firms using the established selection criteria. The firms should also be provided with a description of the nature and the scope of work to be accomplished to assist them in their responses. The A-E firms shall be advised not to submit price proposals, design sketches, drawings or design data at the time the qualification and past performance information is submitted.

(6) Conduct interviews with the firms on the preselection list. As part of the interview, the A-E firms shall be given an opportunity to make an oral presentation of their qualifications and experience, proposed project approach and any other relevant data. The program and project manager and other key project personnel and consultants proposed by a firm should participate in the interview.

(7) Whenever it is practical and advantageous, the A-E evaluation board should visit the offices of the A-E firms on the preselection list to inspect their facilities and work environments, to meet members of the proposed project team, and to see both work in progress and additional examples of completed projects.

(8) Review the SFs 330 and other experience and qualification data for each firm on the preselection list, and perform a systematic numerical evaluation rating of the firms.

(9) Develop a rank order listing of at least three firms considered most highly qualified to perform the required work, based on the numerical evaluation ratings of the firms on the preselection list.

(10) Prepare a report which shall include in sufficient detail:

(i) The extent of the board's review and evaluation;

(ii) The list described in paragraph (i) of this section;

(iii) Recommendations; and

(iv) Considerations on which the recommendations are based.

(d) The COCO is delegated the authority to receive the report prepared by the evaluation board.

3036.602-4 Selection authority.

(a) The COCO is authorized to make the final selection of the most highly qualified firms.
(b) The recommendations of the evaluation board will normally be approved, unless the report does not adequately support the recommendations. If recommendations are not approved, the A-E evaluation board shall be required to reconvene until an acceptable set of recommendations is agreed upon. The approved report serves as authorization for the contracting officer to commence negotiations with the A-E firm ranked number one by the A-E evaluation board.

3036.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

OEs are authorized to use either of the short selection processes of (FAR) 48 CFR 36.602-5.

(b) *Selection by the chairperson of the board.* The COCO is authorized to review and approve the selection report.

3036.603 Collecting data on and appraising firms' qualifications.

Because it is DHS policy to establish ad hoc evaluation boards instead of a permanent board to select A-E firms, each OE must establish or designate an office or offices to meet the requirements of (FAR) 48 CFR 36.603(a).

3036.604 Performance evaluation.

(a)(5) The HCA retains the authority to ensure that fully qualified personnel prepare and review performance reports.

(c) Performance reports must be distributed per OE procedures.

3036.605 Government cost estimate for architect-engineer work.

(b) Contracting officers may release Government estimates on an as-needed basis.

3036.606 Negotiations.

3036.606-70 General.

The limitation on A-E fees of six percent of the estimated construction cost (see (FAR) 48 CFR 15.404(c)(4)(i)(B)) applies to all services that are an integral part of the production and delivery of plans, designs, drawings and specifications of a construction project. The limitation, however, does not apply to the cost of investigative and other services including but not limited to the following:

(a) Development of program requirements (scope of work);

(b) Determination of project feasibility;

(c) Preparation of drawings of an existing facility, where current drawings are not available;

(d) Subsurface investigations (soil borings);

(e) Structural, electrical and mechanical investigations of an existing building, where current information is not available;

(f) Surveys: topographic, boundary, utility;

(g) Preparation of models, color renderings, photographs or other presentation materials;

(h) Travel and per diem for special presentations;

(i) Supervision and inspection of construction;

(j) Preparation of operating and maintenance manuals; and

(k) Master planning.

3036.609 Contract clauses.

3036.609-1 Design within funding limitations.

(c) The HCA may determine in writing not to include clause (FAR) 46 CFR 52.236-22 in fixed-priced A-E contracts because: (1) cost limitations are secondary to performance consideration and additional project finding can be expected, if necessary, (2) the design is for a standard structure and is not intended for a specific location, or (3) there is little or no design effort involved.

CHAPTER 3037 SERVICE CONTRACTING

Subchapter	**3037.1**	**Service Contracts--General**
	3037.102	Policy.
	3037.102-70	Prohibition of on Acquisition of Branding Strategies, Seals, Logos**.**
	3037.104	Personal services contracts.
	3037.104-70	Personal services contracts.
	3037.106	Funding and term of service contracts.
	3037.112	Government use of private sector temporaries.
	3037.112-70	Stenographic reporting services.
	3037.113-1	Waiver of cost allowability limitations.
Subchapter	**3037.2**	**Advisory and Assistance Services**
	3037.203	Policy.
	3037.203-70	Services of individual experts and consultants.
	3037.203-71	Third party benefits.
	3037.204	Guidelines for determining availability of personnel.
	3037.205	Contracting officer responsibilities.
	3037.205-70	Accounting and information system.
Subchapter	**3037.5**	**Management Oversight of Service Contracts**
	3037.503	Agency-head responsibilities.

Subchapter 3037.1 Service Contracts-General

Subchapter 3037.102 Policy.

Subchapter 3037.102-70 Prohibition on Acquisition of Branding Strategies, Seals, Logos.

(a) Procurement requests for Departmental branding strategies including seals and logos or similar services are prohibited, without the expressed written approval of DHS Public Affairs. The Chief Financial Officer's (CFO) memorandum, Prohibition on Acquisition of Branding Strategies, Seals/Logos, includes any requirements to change or modify existing strategies, seals or logos.

Subchapter 3037.104 Personal services contracts.

Subchapter 3037-104-70 Personal services contracts.

(b) The Department of Homeland Security was given the Personal Services Contracting (PSC) authority in the Homeland Security Act (HSA) Section 832 (1) and (2).

(1) The rate of pay for services rendered by an expert or consultant is governed by Management Directive (MD) Number 3010.2, Employment of Experts and Consultants. The pay cannot exceed the daily equivalent of the maximum rate payable for a senior-level position under 5 U.S.C. 3109 for PSCs authorized under the Homeland Security Act (HSA) Section 832(1). If the

services are necessary due to urgent homeland security needs under HSA Section 832(2) and justified in a Determination and Findings (D&F), the pay limitations do not apply (See 5 U.S.C. 5376).

(2) The duration of the PSC must conform to one of the following scenarios:

(i) HSA Section 832(1): The duties are of a temporary nature and the consultant will work on a full-time basis for a maximum of 2 years, an initial appointment not to exceed one year and a possible reappointment (option) not to exceed 1 additional year; or, the duties are of an intermittent nature or a part-time nature and the total time will not exceed the 2 year limitation or the cumulative earnings will have a lifetime limit of twice the maximum annual rate payable under the annualized basic pay limitations of 5 U.S.C.3109 AND 5 U.S.C. 5376.

(ii) HSA Section 832(2): The duties are in response to an urgent homeland security need, will not exceed an initial one year period, but may have a possible reappointment (option) not to exceed 1 additional year and the pay limitations of section 3109 are waived.

(3) The following are requirements that must be satisfied to use the authority.

(i) Verify it would not be practicable to obtain such services by other means (See FAR 37.104 for the definition of a PSC).

(ii) Verify that the contract will not involve the following:

(A) A position requiring Presidential appointment;
(B) A Senior Executive Service Position;
(C) Performance of managerial or supervisory work;
(D) Work currently being performed by your regular employees;
(E) Filling in for staffing shortages; and
(F) Providing that individual a career appointment.

(iii) Prepare a determination and findings (D&F) in accordance with (FAR) 1.7 and include a determination that states the following:

(A) The duties are of a temporary nature and the consultant will work on a full-time basis for a maximum of 2 years, an initial appointment not to exceed one year and a reappointment not to exceed 1 additional year. OR; The duties are of an intermittent nature or part-time nature and the total time will not exceed the 2 year limitation or the cumulative earnings will have a lifetime limit of twice the maximum annual rate payable under the annualized basic pay limitations of 5 U.S.C. 3109 and 5 U.S.C. 5376. OR HSA Section 832(2): The duties are in response to an urgent homeland security need, will not exceed an initial one year period, but may have a possible reappointment (option) not to exceed 1 additional year and the pay limitations of section 3109 are waived.
(B) DHS personnel with necessary skills are not available;
(C) The contract will not fill a staffing shortage;
(D) Excepted appointment cannot be obtained;

(F) A nonpersonal services contract is not practicable;
(G) If the pay limitation of 5 U.S.C. 3109 is exceeded, the D&F supports the rationale and include the finding that the services are necessary due to urgent homeland security needs; and
(H) Any other determination required by statues has been made.

(iv) Coordinate benefits, taxes, personnel ceilings, or conflict of interest matters with the cognizant civilian personnel office.

(4) Legal Review: Legal review is required for personal services contracts in accordance with FAR 37.104(e).

(5) Approval: The Chief of the Contracting Office (COCO) shall approve the required D&F unless the personal services contract for experts and consultant services are acquired without regard to the pay limitation of 5 U.S.C. 3109 in which case, the Head of the Contracting Activity (HCA) shall approve.

(6) Additional Considerations: The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(7) Reporting Requirements: In accordance with 5 U.S.C. 3109 and MD 3010.2, each agency shall report to the Office of Personnel Management on an annual basis with respect to:

(i) The number of days each expert or consultant employed by the agency during the period was so employed; and
(ii) The total amount paid by the agency to each expert and consultant for such work during the period.
(iii) In order to comply with this requirement, each OE shall maintain a record of the above information for inclusion in a consolidated agency report.

3037.106 Funding and term of service contracts.

(b) The Chief of the Contracting Office (COCO) is delegated this authority.

3037.112 Government use of private sector temporaries.

(a) Definitions. The following words and terms are used in and defined for this subsection.

"Critical need" means a sudden or unexpected occurrence; an emergency; a pressing necessity; or an exigency. Such occasions are characterized by additional work or deadlines required by statute, executive order, court order, regulation, or formal directive from the Secretary of Homeland Security or designee. A recurring, cyclical peak workload, by itself, is not a critical need.

"Federal supervisor" means an individual employed by DHS to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

"Parental and family responsibilities" means situations such as absence for pregnancy, childbirth, child care, and care for elderly or infirm parents or other dependents.

"Temporaries" means those employees of a temporary help service firm who are supervised and paid by that firm and whom that firm assigns to perform the contract work assignments.

"Temporary help service firm" means a contractor which provides services that are performed by its pool of employees possessing the appropriate work skills for brief or intermittent periods. The firm is the legally responsible employer and maintains that relationship during the time its employees are assigned to the contract. The firm recruits, tests, hires, trains, assigns, pays, provides benefits and leave to, and as necessary, addresses performance problems, disciplines, and terminates its employees. The firm is responsible for payroll deductions and payment of income taxes, social security (FICA), unemployment insurance, and worker's compensation, and any required liability insurance and bonding.

(b) *Policy.* Temporary help services may be acquired for the brief or intermittent use of the skills of private sector temporaries. Acquisition of these services is subject to the following conditions:

(1) The temporary will be performing the work of an employee who will be absent from the position for a temporary period (short-term) because of a personal need including emergency, accident, illness, parental or family responsibilities, or mandatory jury service.

(2) In the judgment of the head of the requesting office, the temporary help is for a critical need which cannot be delayed.

(c) *Exceptions.* Temporary help services cannot be acquired--

(1) To displace a Federal employee;

(2) For the work of managerial or supervisory positions;

(3) For the work of or to fill an Senior Executive Service (SES) employee or position; or

(4) To circumvent the regular recruitment and hiring procedures under the civil service laws for permanent appointment in the competitive civil service.

(5) To circumvent controls on employment levels; or

(6) In lieu of appointing a surplus or displaced Federal employee as required by 5 CFR Part 330, Subpart F (Agency Career Transition Assistance Plan for Displaced Employees) and Subpart G Interagency Career Transition Assistance Plan for Displaced Employees).

(d) *Certification of need.* The requirements office must submit a Checklist for Private Sector Temporary Personnel, Appendix A, with the procurement request (PR) for temporary help services. The entire checklist must be completed, including the certification of the regulatory requirements by the Chief Human Capital Officer or OE servicing Human Resource Official

(e) *Acquisition and contract requirements.* The contracting officer shall comply, as applicable, with all of the policy and procedures of the FAR to acquire temporary help services by contract. The following limitations apply:

(1) The contract shall not create or imply an employer-employee relationship between the Government and the contractor's temporary, and the temporary shall not be eligible for civil service employee benefits, including retirement; and

(2) *Time limit on use of temporary help service firm.* The contract shall not require the use of a temporary help service firm in a single situation, as defined at HSAM 3037.112(a), initially for more than 120 workdays. However, if the Government employee's absence or DHS's critical need continues to exist beyond the initial 120 workdays, the temporary help services may be extended up to a maximum limit of 240 workdays.

(3) *Time limit on use of individual employee of a temporary help service firm.* The contract shall not require that a temporary at an office work for more than 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment. However, the temporary may work up to a maximum of 240 workdays if it is determined that using the services of the same individual for the same situation will prevent significant delay.

(f) *Approval for extended services by the OE personnel office.* If the requiring office desires to retain the services of the same temporary help service firm beyond 120 workdays, or needs to use a temporary beyond the 120 workdays, the requiring office must submit information to the OEA personnel office for approval. The OE personnel office should receive the notification at least 10 working days before the 120 workday period expires. The information required for submission is:

(1) A full justification for the extension beyond the 120 workday period;

(2) The new termination date or number of extra workdays needed;

(3) The total number of days worked by the current temporary and the reason for using the individual;

(4) The importance of the work to be done and the impact of delay or interruption; and

(5) The actions taken to find other solutions, and the availability of external and internal candidates.

(g) *Contract administration.* The office receiving the temporary shall ensure that an employer-employee relationship is not established with the contractor's temporary. However, technical advice, assignment of task, task-related instructions, office orientation, and review of the

temporary's work products are necessary to ensure that the temporary performs the requisite services.

3037.112-70 Stenographic reporting services.

(a) The contracting officer is delegated authority under 5 U.S.C. 3109 (to procure stenographic services by contract).

3037.113-1 Waiver of cost allowability limitations.

(a) The Head of Contracting Activity (HCA) is delegated this authority.

Subchapter 3037.2 Advisory and Assistance Services

3037.203 Policy.

3037.203-70 Services of individual experts and consultants.

(a) The Chief of the Contracting Officer (COCO) is delegated authority under 5 U.S.C. 3109 (to procure by contract the temporary or intermittent services of experts or consultants or an organization thereof, if such an acquisition is authorized by an appropriation or other statute).

(b) The rate of pay for services rendered by an expert or consultant is limited and cannot be exceeded unless specifically authorized by the appropriation or other statute which authorizes the acquisition of the services. The rate of pay for services rendered by a consultant to an advisory committee is governed by Management Directive Number 3010, Use of Experts and Consultants or 41 CFR, Subpart 101-6.10.

(c) Since the statutes governing the acquisition of and rate of pay for these services are subject to change, the contracting officer must seek the advice of the OE's legal counsel prior to taking action on the procurement request for such services.

3037.203-71 Third party benefits.

When a contract calls for providing technical assistance or advice that will benefit a third party, these services are advisory and assistance in the context of any regulation, statute, or guidance on these services. While these services may ultimately benefit an external or third party such as grantees or the states, the services are being acquired to accomplish the program objectives of DHS.

3037.204 Guidelines for determining availability of personnel.

(a), (b), and (d) The COCO is delegated the authorities at (FAR) 48 CFR 37.204.

(b)(1) The determination must ensure that the requirements of (FAR) 48 CFR 9.5 and (HSAR) 48 CFR 3052.209-70 are met regarding potential organizational and consultant conflicts of interest.

3037.205 Contracting officer responsibilities.

In addition to the requirement of (FAR) 48 CFR 37.205, the contracting officer must ensure that the requirements of (FAR) 48 CFR 9.5 and (HSAR) 48 CFR 3052.209-70 are met regarding potential organizational and consultant conflicts of interest.

Subpart 3037.5 Management Oversight of Service Contracts

3037.503 Agency-head responsibilities.

(a) and (b) The contracting officer must ensure that requirements for services are clearly defined, appropriate performance standards are developed, and that service contracts are awarded and administered in a manner that will provide the customer its supplies and services timely and within budget.

(c) and (d) The HCA must ensure that procedures are in place for service contracting to ensure compliance with the OFPP Policy Letter 92-1, Inherently Governmental Functions, and performance-based contracting.

CHAPTER 3037 - APPENDIX A

CHECKLIST FOR PRIVATE SECTOR TEMPORARY PERSONNEL

PART I
(Must be completed by the Requesting Office)

1. The services of private sector temporaries are needed for the following reason *(Note: The Office of Personnel Management regulation authorizes the use of private sector temporaries only in the short-term situations described below. Please check the situation which exists in your office or work unit)*:

a. {____} An employee *(DO NOT insert employee's name)* currently filling the position of *(insert the title, series, and grade of the employee)* _____ is absent from this position for a temporary period (short-term) because of a personal need including emergency, accident, illness, parental or family responsibilities, or mandatory jury service, but not including vacations or other circumstances that are not shown to be compelling in the judgment of the requesting office.

b. {____} I have determined that work must be carried out for a temporary period cannot be delayed because of a critical need. The critical need is:

2. We will need these services starting on _____ and ending on _____. *(Note: If the required services are for other than full-time continuing, also show the total number of days _____ and/or total number of hours _____ the services will be needed.)* Also, this need cannot be met with current employees within the time available, by the date, and for the duration of time the help is needed. *(Note: Length of time for using a private sector temporary must not exceed 120 work days in a 24-month period. If an appropriate need still exists at the end of the 120 work days, the temporary may work up to a maximum of 240 workdays provided it has been determined that using the services of the same individual for the same situation will prevent significant delay.)*

3. A full description of the needed work is as follows or is attached *(Note: Do not use the Government employee's position description since it is too general for the purpose of describing the work to be performed by the temporary)*:

4. The person must have the following knowledge, skills and abilities in order to work:

5. The person may be required to use the following equipment *(List the equipment that will be used, showing the make and model of personal computer, word processor, typewriter, mail sorter, etc.)*

6. If a specific personal computer program is required, show the name.

7. Describe the work environment by stating the type of setting in which the temporary will be working (e.g., general office, front office, typing pool, information desk, mailroom, warehouse, etc.).

8. List any physical endurance, such as a significant amount of walking (e.g., mail clerk), bending and lifting (e.g., warehousing), standing (e.g., clerk-photocopying), etc. that the work will require.

9. List any other special conditions of the work (e.g., security clearance requirements).

10. List administrative information, such as address and location of the workplace including building and room number; the daily working hours and lunchtime; the name, address, room number, and telephone number of the person to whom the temporary should report on the first day of work. For example:

U.S. Department of Homeland Security
(Insert OE's name)

Washington, DC

Temporary Worker Should Report to:
_____
in Room:_____

11. I certify that the statements under #1 through #10 are correct to the best of my knowledge, and the temporary or use of these temporary services:

(a) _____ Will not displace a Federal employee;
(b) _____ Is not for the work of managerial or supervisory positions;
(c) _____ Will not be for the work of or to fill an SES employee or position;
(d) ____ Does not circumvent the regular recruitment and hiring procedures under the civil service laws for permanent appointment in the competitive civil service;
(e)_____ Will not circumvent controls on employment levels; and
(f)_____ Will not be used in lieu of appointing a surplus or displaced Federal employee as required by 5 CFR Part 330, Subpart F (Agency Career Transition Assistance Plan for Displaced Employees) and Subpart G (Interagency Career Transition Assistance Plan for Displaced Employees).

_____
(Signature)

_____
(Title of Office Official)

_____
(Date)

CHECKLIST FOR PRIVATE SECTOR TEMPORARY PERSONNEL

PART II

(Must be completed by the Chief, Human Capital Personnel Officer or OE servicing Chief Human Resource Official)*

1. I have reviewed Part I to ensure compliance with regulatory requirements and to ensure that the information is sufficient to contract with the private sector. I certify the following:
(a) That the need ___ can ___ cannot be met through the direct appointment of temporary employees within the time available, by the date, and for the duration of time the work is needed;
(b) That there ___ are (see attachment) ___ are no qualified candidates on the applicant supply file or on the reemployment priority list; and
(c) That there ___ are (see attachment) ___ are no qualified disabled veterans with a compensable service-connected disability of 30 percent or more under 5 U.S.C. 3112, who are immediately available for temporary appointment of the duration required.

_____
(Signature)

_____
(Title of Chief, Human Capital Office OE's Personnel Official)

_____
(Date)

CHAPTER 3038 FEDERAL SUPPLY SCHEDULE CONTRACTING

(RESERVED)

There is no text implementing or supplementing FAR Part 38.

CHAPTER 3039 ACQUISITION OF INFORMATION RESOURCES

Subchapter 3039.1 General
3039.101 Policy.

Subchapter 3039.2 Electronic and Information Technology
3039.203 Applicability.

Subchapter 3039.1 General

3039.101 Policy.

(b)(1) Department of Homeland Security Management Directives (MDs) that apply to the acquisition of Information Technology (IT) and provide policy and guidance for the information resource management and IT program are:
(i) MD Number 4200.1, IT Capital Planning and Investment Control (CPIC) and Portfolio Management;
(ii) MD Number 1400, Investment Review Process; and
(iii) MD Number 4300.1, Information Technology Systems Security.

(2) See HSAM 3004.470 for security requirements for contractor access to unclassified IT resources.

3039.2 Electronic and Information Technology

3039.203 Applicability.

(a) DHS MD Number 4010.1, Electronic and Information Technology Accessibility applies to the acquisition of Electronic Information Technology (EIT). Exception determinations shall be justified in writing by the requiring official, approved in accordance with OE established procedures and forwarded with the Purchase request to the contracting officer to include in the contract file. See HSAM Subchapter 3039.204(e) regarding the additional review and approval requirements for the Undue Burden exception.

3039.204 Exceptions.

(e) All Undue Burden determinations shall be forwarded to the DHS Chief Information Officer (CIO) for review and approval by the DHS Undue Burden Board.

CHAPTER 3040

(RESERVED)

CHAPTER 3041 ACQUISITION OF UTILITY SERVICES

Subchapter 3041.1 General
3041.103 Statutory and delegated authority.

Subchapter 3041.2 Acquiring Utility Services
3041.201 Policy.

Subchapter 3041.5 Solicitation Provision and Contract Clauses
3041.501 Solicitation provision and contract clauses.

Subchapter 3041.1 General

3041.103 Statutory and delegated authority.

(c) Requests for individual and class certifications, that allow for delegations of authority from GSA for utility service contracts for periods over one year and not greater than ten years, shall be referred by the Head of the Contracting Activity (HCA) to the Chief Procurement Officer (CPO).

Subchapter 3041.2 Acquiring Utility Services

3041.201 Policy.

(d)(2)(i) The contracting officer is authorized to enter into a contract pursuant to 42 U.S.C. 8287 (which pertains to the subject of shared energy savings including cogeneration).

(d)(3) The contracting officer is delegated the authority for (FAR) 48 CFR 41.201(d)(3).

Subchapter 3041.5 Solicitation Provision and Contract Clauses

3041.501 Solicitation provision and contract clauses.

(a) Variations in the provisions and clauses shall be reviewed by counsel for legal sufficiency.

CHAPTER 3042 CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subchapter	**3042.002**	**Interagency agreements.**
Subchapter	**3042.1**	**Contract Audit Services**
	3042.102	Assignment of contract audit services.
Subchapter	**3042.2**	**Contract Administration Services**
	3042.202	Assignment of contract administration.
Subchapter	**3042.6**	**Corporate Administrative Contracting Officer**
	3042.602	Assignment and location.
Subchapter	**3042.7**	**Indirect Cost Rates**
	3042.703	General.
	3042.703-1	Policy.
	3042.703-2	Certificate of indirect costs.
	3042.705	Final indirect cost rates.
	3042.705-1	Contracting officer determination procedure.
	3042-708	Quick-closeout procedure.
	3042.708-70	DHS quick-closeout procedures.
Subchapter	**3042.8**	**Disallowance of Costs**
	3042.803	Disallowing costs after incurrence.
Subchapter	**3042.14**	**Traffic And Transportation Management**
	3042.1401	General.
	3042.1403	Shipping documents covering f.o.b. origin shipments.
	3042.1404	Shipments by parcel post or other classes of mail.
	3042.1404- 1	Parcel post eligible shipments.
Subchapter	**3042.15**	**Contractor Performance Information**
	3042.1502	Policy.
	3042.1503	Procedures.
Subchapter	**3042.70**	**Contracting Officer's Technical Representative**
	3042.7000	Policy

Subchapter 3042.002 Interagency agreements.

(c) Memoranda of Understanding (MOU) for contract administration and audit services are established between the Department of Homeland Security and the Department of Defense components. These MOUs serve as interagency agreements within the meaning of (FAR) 48 CFR Part 42.

Subchapter 3042.1 Contract Audit Services

3042.102 Assignment of contract audit services.

(a) Contracting offices shall follow the procedures under the MOU between DHS and the Defense Contract Audit Agency (DCAA) to order audit services.

Subchapter 3042.2 Contract Administration Services

3042.202 Assignment of contract administration.

(a) Contracting officers shall comply with the procedures under the MOU between DHS and the Defense Contract Management Agency for contract administration support services.

(c) Delegating additional functions. (2) The Chief of the Contracting Office (COCO) is authorized to approve the delegation to the contract administration office (CAO).

Subchapter 3042.6 Corporate Administrative Contracting Officer

3042.602 Assignment and location.

The Head of Contracting Activity (HCA) or designee no lower than flag officer or Senior Executive Service (SES) level is delegated this authority.

Subchapter 3042.7 Indirect Cost Rates

3042.703 General.

3042.703-1 Policy.

DHS normally relies on the indirect cost rates established by DCAA unless the DHS Office of Inspector General (IG) and DCAA mutually agree that the IG or another agency will be the cognizant audit agency.

3042.703-2 Certificate of indirect costs.

(b) *Waiver of certification*. (1) The COCO is delegated this authority.

3042.705 Final indirect cost rates.

3042.705-1 Contracting officer determination procedure.

(a) *Applicability and responsibility*. The contracting officer is responsible for ensuring that the direct and indirect costs paid under a cost reimbursement contract are allowable. Under most circumstances, DHS recognizes that periodic incurred cost audits by a contractor's cognizant audit agency are the preferred mechanism to assist the contracting officer in ensuring the validity

of direct and indirect costs billed under cost reimbursement contracts. If at any time the contracting officer decides not to obtain an independent audit, the contracting officer shall document the file as to why the independent audit was not obtained. The file documentation shall include, as a minimum, a discussion of: (1) the reason an independent audit was not obtained (e.g., small dollar amounts remaining unaudited or unsettled; low dollar value of the contracts; planned audit was cancelled); (2) the extent of the analysis that was performed in lieu of obtaining an independent audit (e.g., desk analysis; a comparison of proposed direct costs and indirect rates to incurred direct costs and actual indirect rates; an examination of the costs included in the submission of indirect costs to detect any unallowable costs, or questionable amounts or accounts); and (3) other factors affecting the contracting officer's decision and the mitigation of risk (e.g., an approved accounting system; the absence of significant audit issues and problems in previous pre-award, post-award, or final audits; contract ceilings below claimed indirect rates).

(3) The Administrative Contracting Office (ACO) is responsible for obtaining or negotiating the rate using the guidance under (FAR) 48 CFR 42.704, and HSAM 3042.708, and 3042.708-70.

3042-708 Quick-closeout procedure.

3042.708-70 DHS quick-closeout procedures.

The contracting officer may:

(a) Require the contractor to submit the following: (1) the contractor's final indirect cost rate proposal reflecting actual cost experience during the covered period(s), together with supporting cost or pricing data, for each of its fiscal years for which quick-closeout is involved, and (2) a final voucher and a summary of all costs by cost element and for each of its fiscal years for the contract(s) in question.

(b) Notify the cognizant audit activity, either verbally or in writing, identify the contract(s), and request: (1) the contractor's indirect cost history covering a sufficient number of fiscal years to see the trend of claimed, audit questioned, and disallowed costs; and (2) any other information that could impact the decision to use quick-closeout procedures. Indirect cost histories should be requested from the contractor only when the cognizant audit activity is unable to provide the information.

(c) Review the contract(s) for indirect cost rate ceilings and any other contract limitations, as well as the rate history information.

(d) If quick-closeout procedures are appropriate based upon the information obtained pursuant to paragraphs (a), (b), and (c), the contracting file shall be documented with the findings and rationale. See HSAM 3042.7100, Policy, on what is to be included in the file documentation.

(e) Final indirect cost rates should be established using one of the following:

(1) ceiling indirect cost rates established in the contract (if applicable), consistent with (FAR) 48

CFR 42.707(c)(1) and (2).

(2) contractor's claimed actual rates adjusted based on the contractor's indirect cost history.

(3) recommended rates from the cognizant audit agency, the local pricing office, another installation pricing office, or other recognized knowledgeable source.

(4) billing rates established in the contract.

(5) previous year's final rates in the contract, if established.

(6) contracts established final rates for another fiscal year closest to the period for which closeout rates are being established.

(f) If an agreement is reached with the contractor, obtain a release of all claims and other applicable closing documents (see (HSAR) 48 CFR 3004.804-570).

Subchapter 3042.8 Disallowance of Costs

3042.803 Disallowing costs after incurrence.

(b) *Auditor receipt of vouchers.*

(3)(ii) When the contractor files a claim for unreimbursed costs under the Disputes clause of the contract, contracting officers shall process the claim in accordance with OE procedures.

Subchapter 3042.14 Traffic and Transportation Management

3042.1401 General.

(b) Contracting officers shall contact their OE transportation office for assistance concerning the tasks delineated under (FAR) 48 CFR 42.1401.

3042.1403 Shipping documents covering f.o.b. origin shipments.

(a) Contracting officers shall provide instructions, according to OE procedures, in the contract to the contractor for obtaining a Government Bill of Lading (GBL). To avoid delays, instructions shall require the contractor to provide advance notification (in working days) for GBLs.

3042.1404 Shipments by parcel post or other classes of mail.

3042.1404-1 Parcel post eligible shipments.

(b)(1) Any OE without authorization to use penalty indicia mail shall submit the deviation request to: U.S. Postal Service, Official and International Mail Accounting Division, Office of Accounting, Washington, DC, 20260-5230. Contracting officers must ensure that contractors are

informed of the requirements described in paragraph 137.272 or Section 137.28 of the U.S. Postal Service Domestic Mail Manual.

Subchapter 3042.15 Contractor Performance Information

3042.1502 Policy.

The HCA is responsible for ensuring that contractor performance evaluations are completed to meet the requirements of (FAR) 48 CFR Subpart 42.15 and reported into the Contractor Performance System for all contracts including the evaluation of task and delivery orders which exceed $100,000. Interim evaluations should be performed on contracts exceeding one year in duration to assist with improving contractor's marginal performance and identifying any major deficiencies. These procedures include evaluation of Contractor performance in the attempt to achieve and the achievement of goals identified in the small business subcontracting plan when the contract includes the clause at (FAR) 48 CFR 52.219-9, Small Business Subcontracting Plan.

3042.1503 Procedures.

(a) The COCO shall determine which government personnel will complete the contractor past performance evaluation reports.

Subchapter 3042.70 Contracting Officer's Technical Representative

3042.7000 Policy.

DHS Management Directive (MD) Number 0780.1, Contracting Officer's Technical Representative (COTR), Certification, Appointment and Responsibilities, provides policy and procedures concerning the selection and training, certification, appointment, and termination of a COTR.

CHAPTER 3043 CONTRACT MODIFICATIONS

Subchapter	**3043.2**	**Change Orders**
	3043.205	Contract clause.
Subchapter	**3043.70**	**Undefinitized Contract Actions**
	3043.7000	Definitions.
	3043.7001	Administration of UCAs.
	3043.7002	UCA monitoring system and report.

Subchapter 3043.2 Change Orders

3043.205 Contract clause.

The 30-day period cited in the clauses referenced at (FAR) 48 CFR 43.205(a) through (d) may be changed at the discretion of the contracting officer. The contracting file shall be documented with the contracting officer's rationale for this decision.

Subchapter 3043.70 Undefinitized Contract Actions

3043.7000 Definitions.

"Undefinitized contract action" (UCA) means the following:

(1) Change Orders. All modifications/supplemental agreements issued under the "Changes" clause when the price for the change has not been negotiated; and

(2) Letter Contracts.

3043.7001 Administration of UCAs.

Contracting officers shall negotiate the UCA and issue the definitized contractual document within six months after the UCA has been issued to the contractor.

3043.7002 UCA monitoring system and report.

(a) The Head of Contracting Activity (HCA) shall ensure that a system is developed and maintained to monitor UCAs. The Chief of the Contracting Office (COCO) shall ensure that progress is made to definitize the UCAs within the six-month period (except see (FAR) 48 CFR 16.603-2 for additional requirements for letter contracts.) Also, see HSAM 3016.603-2(c) for COCO approval to extend the definitization schedule under letter contracts.

(b) Organizational Elements may be required to prepare UCA reports upon request from CPO. Therefore, the UCA monitoring system established by the HCA should be able to provide, at a minimum, the total number and value of all UCAs.

CHAPTER 3044 SUBCONTRACTING POLICIES AND PROCEDURES

Subchapter 3044.3 Contractors' Purchasing Systems Reviews
3044.302 Requirements.

Subchapter 3044.3 Purchasing Systems Reviews

3044.302 Requirements.

The Chief of the Contracting Office (COCO) is delegated this authority when the contract administration is retained.

CHAPTER 3045 GOVERNMENT PROPERTY

SUBCHAPTER	**3045.1**	**General**
	3045.104	Review and correction of contractors' property control systems.
	3045.105	Records of Government property.
Subchapter	**3045.3**	**Providing Government Property to Contractors**
	3045.302	Providing facilities.
	3045.302-1	Policy.
	3045.302-6	Required Government property clauses for facilities contracts.
	3045.302-670	Unauthorized use of Government facilities.
	3045.307	Providing special test equipment.
	3045.307-2	Acquiring special test equipment.
	3045.309	Providing Government production and research property under special restrictions.
Subchapter	**3045.4**	**Contractor Use and Rental of Government Property**
	3045.403	Rental Use and Charges clause.
	3045.405	Contracts with foreign governments or international organizations.
	3045.407	Non-Government use of plant equipment.
Subchapter	**3045.5**	**Management of Government Property in the Possession of Contractors**
	3045.505	Records and reports of Government property.
	3045.505-2	Records of pricing information.
	3045.505-6	Special reports of plant equipment.
	3045.505-1470	Operating administration contract property report.
Subchapter	**3045.6**	**Reporting, Redistribution, and Disposal of Contractor Inventory**
	3045.602	Reutilization of Government property.
	3045.602-3	Screening.

Subchapter 3045.1 General

3045.104 Review and correction of contractors' property control systems.

(b) Appendix A, Compliance Checklist for Contractors' Property Control System, may be completed, signed by the appointed property administrator, and placed in the contract file.

3045.105 Records of Government property.

(b) If the contracting officer maintains the file on Government property in the possession of the contractors. At a minimum, the file shall contain the following:

(1) A copy of the applicable portions of the contract that list the Government-furnished property (GFP);

(2) Contracting officer's letters assigning the Government property administrator to the contract;

(3) Written evidence that the contractor's property control system was reviewed and approved as required by (FAR) 48 CFR 45.104;

(4) If applicable, documentation of the request and approval or denial of the contractor's requests to acquire or fabricate special test equipment in accordance with (FAR) 48 CFR 45.307 or other property;

(5) The contractor's written notice of receipt of the GFP and any reported discrepancies thereto, as required by (FAR) 48 CFR 45.502-1 and 45.502-2, respectively;

(6) Any other documents pertaining to or affecting the status of the Government property in the possession of contractors or subcontractors under the contract;

(7) A copy of the contractor's annual and inventory reports of Government property as required by (HSAR) 48 CFR 3045.505-14 and (HSAR) 48 CFR 3045.508; and

(8) Documentation of the screening and disposal of all Government property as required by (FAR) 48 CFR Subpart 45.6.

Subchapter 3045.3 Providing Government Property to Contractors

3045.302 Providing facilities.

3045.302-1 Policy.

(a)(4) The Chief of the Contracting Office (COCO) is delegated authority to issue and approve the D&F after coordination with the government facilities property office.

3045.302-6 Required Government property clauses for facilities contracts.

3045.302-670 Unauthorized use of Government facilities.

(c) The contracting officer is delegated authority to waive the contractor’s liability for the unauthorized use of items of the facilities and to determine that without such a waiver, gross inequity would result. (see (FAR) 48 CFR 52.245-9(j)).

3045.307 Providing special test equipment.

3045.307-2 Acquiring special test equipment.

(b)(2) The Organizational Element's (OE) property officer should be contacted for assistance.

3045.309 Providing Government production and research property under special restrictions.

(a) The Head of Contracting Activity (HCA) at (FAR) 48 CFR 45.309(a) is not redelegable.

(3) The contracting officer is authorized to include in the contract an alternate provision.

Subchapter 3045.4 Contractor Use and Rental of Government Property

3045.403 Rental Use and Charges clause.

The contracting officer is authorized to make the determination.

3045.405 Contracts with foreign governments or international organizations.

Contracting officers shall compute rental costs for the use of Government production and research property with foreign governments or international organizations in accordance with (FAR) 48 CFR 52.245-9, Use and Charges. See also OMB Circular A-25, User Charges for guidance on the establishment of fees to recover costs.

3045.407 Non-Government use of plant equipment.

The HCA is authorized to approve non-Government use of active plant equipment exceeding 25 percent.

Subchapter 3045.5 Management of Government Property in the Possession of Contractors

3045.505 Records and reports of Government property.

3045.505-1470 OEs contract property report.

(a) By October 31 of each year, each OE shall submit a consolidated contract property report to the Office of Property Management. The report shall contain the information extracted from DHS Form 0700-05, Contractor Report of Government Property. See (HSAR) 48 CFR 3045.505-14.

Subchapter 3045.6 Reporting, Redistribution, and Disposal of Contractor Inventory

3045.602 Reutilization of Government property.

3045.602-3 Screening.

The contracting officer shall contact the appropriate OE property office for guidance.

(b) *Special screening requirements.*

(2) Special test equipment with commercial components. The contracting officer shall contact the appropriate OE property office for guidance.

(3) *Printing equipment.* To ensure compliance with the regulations of the Joint Committee on Printing, Title 44 U.S.C., contracting officers shall report all excess printing equipment to the DHS Chief Administrative Services. This includes all equipment for use in authorized printing plants and auxiliary equipment (i.e., composing machine, process camera folder, collator, cutter, drill, or other production equipment) for use with duplicators or copying equipment.

CHAPTER 3045 - APPENDIX A

INSTRUCTIONS FOR COMPLETING

COMPLIANCE CHECKLIST

FOR

CONTRACTORS' PROPERTY CONTROL SYSTEM

1. The list of requirements on the checklist is a synopsis of the requirements cited under (FAR) 48 CFR Part 45, Government Property. The Government Property Administrator (PA) shall refer to the FAR for additional information concerning a specific requirement.

2. When the answer to a question on the checklist is "NO", the PA shall attach an explanation of the deficiency and the action the contractor shall take to correct the deficiency.

3. If the PA conditionally approves or disapproves the contractor's property control system, the PA shall follow the procedures of (FAR) 48 CFR 45.104.

COMPLIANCE CHECKLIST FOR CONTRACTRS' PROPERTY CONTROL SYSTEM

REQUIREMENT	YES	NO	N/A	REFERENCE
A. MANAGEMENT.				
1. Has or will the contractor assign a property administrator to the contract to ensure that the requirements of (FAR) 48 CFR Subpart 45.5, (HSAR) 48 CFR 3045, and the contract requirements will be met?				
B. CONTROL.				
1. For both the Government provided and contractor acquired property, is there a system for: (a) Recording the receipt of property? (b) Recording the rejection of property? (c) Recording the acceptance of property? (d) Recording the property in the formal property account?				

(e) Marking property? (f) Recording and reporting overages? (g) Recording and reporting damages?				
2. Is there a system for providing a financial account to the Government property administrator of the Government-owned property?				
3. Is there a system or technique for locating any item of Government property within a reasonable time period after a request from the Government?				
4. Are the contractor's property records set up to provide the information required under (FAR) 48 CFR 45.505-1(a) through (g)?				
5. Is there a system for the immediate identification and reporting of excess (no longer needed Government property)?				
6. Does the contractor require that a physical inventory of Government property be made? If yes, circle how often is will be done: Monthly; Quarterly; Semiannually; Annually				
7. Is there a system for the proper care and maintenance of Government property?				
8. Is there a system for providing an inventory schedule of the Government property?				
9. Will the property be stored in a secure area to prevent theft?				
10. Will the maintenance program ensure that the property operates or functions for the purpose intended?				
11. Will Government property be provided to or acquired by subcontractors?				
12. If the answer to 11. is "YES", has the contractor included (FAR) 48 CFR Part 45, (HSAR) 48 CFR 3045, and the applicable property clauses in the subcontract(s)?				
13. If the answer to 11. is "YES", has the contractor reviewed and approved the subcontractor's property control system to ensure that the property control system requirements of (FAR) 48 CFR Subpart 45.5, (HSAR) 48 CFR 3045, and the contract are met? Date of approval: _____				

14. Other requirements (i.e., list of unique requirements set forth in the contract)?				
C. APPROVAL, CONDITIONAL APPROVAL, OR DISAPPROVAL The contractor's property control system was reviewed by: _____ *(Insert property administrator's name/agency/office)* on _____. The system is: *(Insert date)* 1. _____ Approved. 2. _____ Conditionally approved. (see attached discrepancies) 3. _____ Disapproved. (see attached discrepancies)				
D. SIGNATURE OF PROPERTY ADMINISTRATOR _____ *(Signature of property administrator)*				

CHAPTER 3046 QUALITY ASSURANCE

Subchapter	**3046.3**	**Contract Clauses**
	3046.316	Responsibility for supplies.
Subchapter	**3046.4**	**Government Contract Quality Assurance**
	3046.401	General.
Subpart	**3046.6**	**Material Inspection and Receiving Reports**
	3046.670	Inspection and receiving report.
	3046.671	Acceptance report.
	3046.672	Inspection, Acceptance and Receiving Report.
Subchapter	**3046.7**	**Warranties**
	3046.702	General.
	3046.703	Criteria for use of warranties.
	3046.704	Authority for use of warranties.
	3046.708	Warranties of data.

Subchapter 3046.3 Contract Clauses

3046.316 Responsibility for supplies.

When the contracting officer deems it necessary, (FAR) 48 CFR 52.246-16, Responsibility for Supplies, may be used in solicitations and contracts when the contract amount is not expected to exceed the simplified acquisition threshold.

Subchapter 3046.4 Government Contract Quality Assurance

3046.401 General.

(f) Inspection shall be documented as prescribed in HSAM 3046.6.

Subpart 3046.6 Material Inspection and Receiving Reports

3046.670 Inspection and receiving report.

(a) Unless otherwise prescribed by Organizational Element (OE) procedures, a receiving report statement shall be signed by the authorized Government representative to evidence Government inspection and receipt, except for simplified acquisitions using OF 347. The receiving report shall be completed at the place(s) specified in the contract for performance of Government quality assurance.

(b) For simplified acquisitions using OF 347, or an equivalent authorized OE form, the receiving report section shall be completed for inspection and receipt and signed by the authorized Government representative.

3046.671 Acceptance report.

(a) Unless otherwise prescribed by OE procedures, an acceptance report statement shall be signed by the authorized Government representative to evidence Government acceptance, except for simplified acquisitions using OF 347. The acceptance report shall be completed at the place(s) specified in the contract for Government acceptance.

(b) For simplified acquisitions using OF 347, or an equivalent, authorized OE form, the receiving report section shall be completed for acceptance and signed by the authorized Government representative.

3046.672 Inspection, Acceptance and Receiving Report.

All contract and order files shall contain the following information, in an OE authorized form or format, when OF 347, or an equivalent, has not been used:

Date:

Contract Number:

Modification Number:

Contractor's Name:

Date items received or date recurring payment due:

Location where items were delivered or contractor's performance:

All the requirements have been inspected, received and accepted by me and meet the terms of the contract except as noted below:

List the requirements that were not accepted and/or the deductions made and state the reason why:

Total amount of deductions:

Signature of authorized government representative:

Title of authorized government representative:

Date signed:

OEs are authorized to use DHS 700-21, Material Inspection and Receiving Report, and Continuation Sheet, or a form substantially similar if authorized in accordance with OE procedures.

Subchapter 3046.7 Warranties

3046.702 General.

The following areas shall also be addressed by all OEs in relation to the use of warranties in DHS contracts:

(a) Planning is an essential step in obtaining an effective warranty and should begin early enough to address warranty requirements during the development of the item. Therefore, consideration of warranty provisions and their impact shall be included within the comprehensive acquisition planning process required by (FAR) 48 CFR Part 7, (HSAR) 48 CFR Part 3007, and HSAM Chapter 3007.

(b) The acquisition cost of a warranty may be included as part of an item's price when cost or pricing data will clearly define cost of the warranty to the Government, or may be set forth as a separate contract line item.

(c) Each OE shall establish a tracking and enforcement system, as appropriate, to identify items covered, to provide information to Government personnel about enforcing the warranty provisions, and to accumulate data relative to warranty costs.

3046.703 Criteria for use of warranties.

Warranties should be obtained only when they are cost beneficial. To determine whether use of a warranty is cost beneficial, an analysis shall be performed to compare the benefits to be derived from the warranty with its acquisition and administration costs. The analysis should examine the procurement's life cycle costs, both with and without a warranty. Where possible, a comparison should be made with the costs of obtaining and enforcing warranties for similar supplies or services. If a warranty is determined to be appropriate, the contract file shall be documented with the reason for inclusion of a warranty and identify the specific parts, subassemblies, systems or contract line item(s) on which a warranty should apply, and shall address why a warranty is appropriate under the criteria set forth in (FAR) 48 CFR 46.703.

3046.704 Authority for use of warranties.

Contracting officers are authorized to approve the use of warranties.

3046.708 Warranties of data.

Warranties of data shall be used only after consultation with legal counsel.

CHAPTER 3047 TRANSPORTATION

Subchapter	**3047.2**	**Contracts for Transportation or for Transportation-Related Services**
	3047.205	Availability of term contracts and basic ordering agreements for transportation or for transportation-related services.
Subchapter	**3047.5**	**Ocean Transportation by U.S.-Flag Vessels**
	3047.506	Procedures.

Subchapter 3047.2 Contracts For Transportation or for Transportation-Related Services

3047.205 Availability of term contracts and basic ordering agreements for transportation or for transportation-related services.

(a) Contracts or basic ordering agreements awarded by DHS contracting officers for transportation or for transportation-related services greater than the small purchase limit requires approval one level above the contracting officer.

Subchapter 3047.5 Ocean Transportation by U.S.-Flag Vessels

3047.506 Procedures.

(c) The Maritime Administration (MARAD) address is: Director, Office of Cargo Preference, (MAR-590), 400 Seventh Street, S.W., Washington, D. C., 20590.

(d) If no transportation officer is available, the contracting officer shall submit a copy of the rated “on board” bill of lading, for each shipment, no later than 20 days after the vessels loading date for exports and 30 days for imports as stated in 46 CFR 381.3. All non-vessel ocean common carrier bills of lading should be accompanied by the underlying carrier’s ocean bill of lading to MARAD. The bill of lading shall contain the following information:

(1) Name of sponsoring Government agency or department;
(2) Name of vessel;
(3) Vessel flag of registry;
(4) Date of loading;
(5) Port of loading;
(6) Port of final discharge;
(7) Commodity description;
(8) Gross weight in kilos; and
(9) Total ocean freight revenue in U.S. dollars.

CHAPTER 3048 VALUE ENGINEERING

Subchapter	**3048.001**	**Definitions.**
Subchapter	**3048.1**	**Policies and Procedures**
	3048.102	Policies.
	3048.103	Processing value engineering change proposals.
	3048.104	Sharing arrangements.
	3048.104-3	Sharing collateral savings.
Subchapter	**3048.2**	**Contract Clauses**
	3048.201	Clauses for supply or service contracts.
	3048.202	Clause for construction contracts.

3048.001 Definitions.

For purposes of this manual, the definition at (FAR) 48 CFR 48.001 also includes: "Value engineering" includes technology refreshment and technology enhancement.

Subchapter 3048.1 Policies and Procedures

3048.102 Policies.

(a) The Head of Contracting Activity (HCA) is authorized to grant exemptions on a (case-by-case) basis. The CPO is authorized to exempt contracts on a class basis. Submit requests per (HSAR) 48 CFR 3001.7000(a). Exemptions shall be retained in the contract file.

(b) The Chief Procurement Officer (CPO) is responsible for managing and monitoring value engineering (VE) efforts at DHS (see OMB Circular A-131).

3048.103 Processing value engineering change proposals.

(a) OE technical personnel are responsible for: conducting a comprehensive review of Value Engineering Change Proposals (VECPs) for technical feasibility, usefulness, and adequacy of the contractor's estimate of cost savings; making a written report; and recommending acceptance or rejection to the contracting officer.

3048.104 Sharing arrangements.

3048.104-3 Sharing collateral savings.

The Chief of the Contracting Officer (COCO) is authorized to make the cost determination at (FAR) 48 CFR 48.104-2(a).

Subchapter 3048.2 Contract Clauses

3048.201 Clauses for supply or service contracts.
(a) *General.*

(6) The Head of Contracting Activity (HCA) is authorized to exempt a contract from the requirements of (FAR) 48 CFR Part 48 under (FAR) 48 CFR 48.201(a)(6). The CPO is authorized to exempt contract actions on a class basis. Submit requests per (HSAR) 48 CFR 3001.7000(a). Exemptions will be retained in the contract file.

(e) The COCO is authorized to make the cost determination for an individual contract only at (FAR) 48 CFR 48.201(e).

3048.202 Clause for construction contracts.

The COCO is authorized to make the cost determination for an individual contract only at (FAR) 48 CFR 48.202.

CHAPTER 3049 TERMINATION OF CONTRACTS

Subchapter 3049.1 General Principles
3049.106 Fraud or other criminal conduct.
3049.111 Review of proposed settlements.

Subchapter 3049.1 General Principles

3049.106 Fraud or other criminal conduct.

The Termination Contracting Officer (TCO) shall submit the report required by (FAR) 48 CFR 49.106, along with supporting documentation, to legal counsel and the Office of the Inspector General (OIG) for review and concurrence prior to submission to the HCA.

3049.111 Review of proposed settlements.

All proposed settlement agreements shall be reviewed by counsel for legal sufficiency.

CHAPTER 3050 EXTRAORDINARY CONTRACTUAL ACTIONS

Subchapter 3050.2 Delegation of and Limitations on Exercise of Authority
3050.201 Delegation of authority.

Subchapter 3050.4 Residual Powers
3050.401 Standards for use.

Subchapter 3050.2 Delegation of and Limitations on Exercise of Authority

3050.201 Delegation of authority.

The authority of the Secretary is retained at the Agency head level.

Subchapter 3050.4 Residual Powers

3050.401 Standards for use.

Generally, it is DHS policy not to authorize indemnification to contractors or subcontractors against unusually hazardous or nuclear risks, pursuant to Public Law 85-804 (National Defense Contract Authorization Act), as amended, and (FAR) 48 CFR Subpart 50.4. Contracting officers shall not include in solicitations or contracts the clause at (FAR) 48 CFR 52.250-1, Indemnification Under Public Law 85-804, unless specifically authorized by the Secretary. OEs must direct all requests for indemnification through the Organizational Element's (OE) Office of the Chief Counsel for appropriate coordination with the DHS Office of General Counsel before transmittal to the Secretary. A copy of any OE requests for indemnification shall be transmitted to the Office of the Chief Procurement Officer (OCPO).

CHAPTER 3051

USE OF GOVERNMENT SOURCES BY CONTRACTORS

(RESERVED)

CHAPTER 3052

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

(RESERVED)

CHAPTER 3053 FORMS

Subchpater	**3053.1**	**General**
	3053.101	Requirements for use of forms.
	3053.103	Exceptions.
	3053.105	Computer generation.
Subchapter	**3053.2**	**Prescription of Forms**
	3053.203-70	Proprietary information.
	3053.203-71	Source selection information.
	3053.205-70	Contract award notification.
	3053.207-70	Advanced Acquisition Plans
	3053.209-70	Determination of prospective contractor responsibility
	3053.213-70	Simplified acquisitions.
	3053.215-70	Contracting by negotiations.
	3053.219-70	Small Business Review.
	3053.222-70	Summary of underpayments.
	3053.232-70	Contract financing.
	3053.236-70	Construction and architect-engineer contracts.

Subchapter 3053.1 General

3053.101 Requirements for use of forms.

Unless the Chief Procurement Officer (CPO) grants an exception or the Organizational Element (OE) substitutes a form via internal procedures according to HSAM 3053.103(b), the forms prescribed in HSAM Chapter 3053 are required for use by all OEs.

3053.103 Exceptions.

(a) Requests for exceptions to forms contained in HSAM Chapter 3053 shall be submitted to the CPO. Each request shall: (1) include the substitute format that will be used in place of the HSAM form; (2) include the OE rationale for the exception; and (3) be submitted by the Head of Contracting Activity (HCA). The following are not eligible for exceptions:
DHS Form 2140-01, Contract Award Notification;
DHS Form 700-12, Determination of Prospective Contractor Responsibility;
DHS Form 700-15, Advanced Acquisition Plans;
DHS Form 700-22, Small Business Review; and
DOL form-1671, Report of Proposed Federal Construction.

(b) OEs may substitute any of the following HSAM forms if authorized in OE procurement procedures:
DHS Form 700-11, Precontruction Conference Agenda and Checklist;
DHS Form 700-13, Cover Page Source Selection Information;
DHS Form 700-14, Cover Page Proprietary Information;
DHS Form 700-16, Simplified Acquisition Summary and Continuation Sheet;

DHS Form 700-17, Weighted Guidelines Profit/Fee Objective;
DHS Form 700-18, Contract Facilities Capital and Cost of Money;
DHS Form 700-19, Summary of Underpayments;
DHS Form 700-20, Procurement Requests and Continuation Sheet; and
DHS Form 700-21, Material Inspection and Receiving Report and Continuation Sheet.

3053.105 Computer generation.

(b) Organizational elements may computer-generate the forms prescribed in the HSAR and this manual. Computer-generated HSAM forms shall not change the name, content, or sequence of the data elements and shall carry the assigned number (e.g., DHS Form 700-7) and edition date. The HSAM form are available electronically on DHS Online at https://dhsonline.dhs.gov/portal/jhtml/general/forms.jhtml.

Subchapter 3053.2 Prescription of Forms

3053.203-70 Proprietary information.

DHS Form 700-14, Cover Page Proprietary Information, shall be used as specified in HSAM 3003.104-4(b)(ii).

3053.203-71 Source selection information.

DHS Form 700-13, Cover Page Source Selection Information, shall be used as specified in HSAM 3003.104-4(b)(iii).

3053.205-70 Contract award notification.

DHS Form 2140-01, Contract Award Notification, shall be used as specified in HSAM 3005.303(a)(1).

3053.207-70 Acquisition Plans.

DHS Form 700-15 dated 04/04 is reserved. Each August, the OCPO will establish the format and instructions for the submittal of the annual Advance Acquisition Plans.

3053.209-70 Responsibility determination.

DHS Form 700-12, Determination of Prospective Contractor Responsibility, shall be used as specified in HSAM 3009.105-2.

3053.213-70 Simplified acquisitions.

DHS Form 700-16, Simplified Acquisition Summary, shall be used as specified in HSAM 3013.101.

3053.215-70 Contracting by negotiation.

The following forms are prescribed for use as specified in HSAM 3015.404-4:

(a) *DHS Form 700-17, Weighted Guidelines Profit/Fee Objective*.

(b) *DHS Form 700-18, Contract Facilities Capital and Cost of Money*.

3053.219-70 Small Business Review.

DHS Form 700-22, Small Business Review, shall be used as specified in HSAM 3019.202-271.

3053.222-70 Summary of underpayments.

DHS Form 700-19, Summary of Underpayments Sheet, shall be used as specified in HSAM 3022.406-8(d)).

3053.232-70 Contract financing.

DHS Form 700-20, Procurement Request, an*d Procurement Request Continuation Sheet* shall be used as specified HSAM 3032.702-70.

3053.236-70 Construction and architect-engineer contracts.

The following forms shall be used as specified in HSAM 3036.212(b) and HSAM 3036.213-70(b) respectively:

(a) *Form DOL-1671, Report of Proposed Federal Construction.*

(b) *DHS Form 700-11, Preconstruction Conference Agenda and Checklist.*

3053.246-70 Material Inspection and Receiving Report.

DHS Form 700-21, Material Inspection and Receiving Report, and Material Inspection and Receiving Report - (Continuation Sheet) shall be used as specified in HSAM 3046.672.

Form Name	Form Number	Forms files
Preconstruction Conference Agenda and Checklist	DHS 700-11	DHS-700-11.pdf
Determination of Prospective Contractor Responsibility	DHS 700-12	DHS-700-12.pdf
Cover Page Source Selection Information	DHS 700-13	DHS-700-13.pdf
Cover Page Proprietary Information	DHS 700-14	DHS-700-14.pdf
Advanced Acquisition Plan-Reserved	DHS 700-15	
Simplified Acquisition Summary and Continuation Sheet	DHS 700-16	DHS-700-16.pdf
Weighted Guidelines Profit/Fee Objective	DHS 700-17	DHS-700-17.pdf
Contract Facilities Capital and Cost of Money	DHS 700-18	DHS-700-18.pdf
Summary of Underpayments	DHS 700-19	DHS-700-19.pdf
Procurement Request and Continuation Sheet	DHS 700-20	DHS-700-20.pdf
Material Inspection and Receiving Report and Continuation Sheet	DHS 700-21	DHS-700-21.pdf
Small Business Review Form	DHS 700-22	DHS-700-22.pdf
Contract Award Notification	DHS 2140-1	DHS 2140.1.doc
Report of Proposed Federal Construction	DOL-1671	FORMDOL1671.xls

DEPARTMENT OF HOMELAND SECURITY

PRECONSTRUCTION CONFERENCE AGENDA AND CHECKLIST

CONTRACT NO.

CONTRACTOR	CONFERENCE HELD AT
CONTRACT DESCRIPTION AND LOCATION	**PERSONS ATTENDING CONFERENCE** NAME ORGANIZATIONS

Place "X" in appropriate box if items discussed with contractor

1. GOVERNMENT REPRESENTATIVES		A. CONTRACTING OFFICER *(Name and title)*
		B. AUTHORIZED REPRESENTATIVE *(Name and title)*
2. STATUS		A. COMMENCEMENT, PROGRESS, AND COMPLETION OF WORK
3. PROGRESS SCHEDULE		A. SUBMISSION FOR APPROVAL
		B. ITEMS TO BE INCLUDED
		C. COMPLIANCE WITH PROGRESS SCHEDULE AND ACTION BY CONTRACTING OFFICER IF CONTRACTOR FAILLS TO MAINTAIN PROGRESS
		D. LIQUIDATED DAMAGES
4. CHANGES		A. AUTHORITY
5. CORRESPONDENCE		A. NORMALLY, ALL CORRESPONDENCE WILL BE ADDRESSED TO THE CONTRACTING OFFICER WITH A COPY TO HIS REPRESENTATIVE
6. SUPERINTENDENCE BY CONTRACTOR		A. NAME OF REPRESENTATIVE
7. OTHER CONTRACTS		A. COOPERATION WITH CONTRACTORS AND OTHER GOVERNMENT EMPLOYEES
		B. USE OF ROADS AND UTILITIES
		C. COORDINATION BETWEEN CONTRACTORS
8. SUBCONTRACTORS		A. PERCENTAGE ITEMS OF WORK PERFORMED BY PRIME CONTRACTOR'S OWN FORCES
		B. STATEMENT AND ACKNOWLEDGMENT, SF-1413, FOR EACH SUBCONTRACT. (FAR 52.222-11)
		C. CONTRACTUAL RELATIONS BETWEEN SUBCONTRACTORS AND GOVERNMENT
9. PAYMENT TO CONTRACTOR		A. RETAINED PERCENTAGE
		B. PAYMENT FOR MATERIAL AND EQUIPMENT ON SITE
		C. STORAGE AND PROTECTION
10. SHOP DRAWINGS		A. SUBMITTAL OF SHOP DRAWINGS
		B. SUBMITTAL OF EQUIPMENT LAYOUT
		C. RESPONSIBILITY OF CONTRACTOR TO ALERT GOVERNMENT IF ITEMS ARE NOT FULFILLING CONTRACT REQUIREMENTS
11. INSPECTION		A. RIGHT TO REJECT DEFECTIVE MATERIAL OR WORKMANSHIP
		B. NO REPRESENTATIVE IS AUTHORIZED TO CHANGE ANY PROVISION OF THE CONTRACT
		C. PRESENCE OR ABSENCE OF INSPECTOR SHALL NOT RELIEVE CONTRACTOR FROM REQUIREMENT OF CONTRACT
		D. ACCEPTANCE OF WORK
		E. SPECIFICATIONS GOVERN WHEN DIFFERENCES EXIST BETWEEN DRAWINGS AND SPECIFICATIONS

Place "X" in approopriate box if itemis discussed with contractor		
12. OPERATIONS AND STORAGE		A. STORAGE AREAS TO BE AUTHORIZED OR APPROVED
		B. DISPOSAL AREAS
13. LAYOUT OF WORK		A. GOVERNMENT ESTABLISHED BASE LINE AND BENCH MARK
		B. CONTRACTOR RESPONSIBILITY FOR LILNE AND GRADES
14. COORDINATION OF TRADES		A. CONTRACTOR TO COORDINATE VARIOUS TRADES
		B. CONTRACTOR TO COORDINATE SHOP DRAWING AND LAYOUT OF VARIOUS TRADES
15. GOVERNMENT-FURN. PROPERTY AND SALVAGED MATERIAL		A. DELIVERY, INVENTORY, AND ACCEPTANCE
		B. STORAGE AND PROTECTION
		A. AUTHORITY
16. PROTECTION OF MATERIAL AND WORK		A. PROTECTION OF EXISTING STRUCTURES, UTILITIES, WORK, AND VEGETATION
		B. PERSONNEL SECURITY CLEARANCE AND IDENTIFICATION (*IF APPLICABLE)*
17. LABOR		A. EQUAL OPPORTUNITY
		B. DAVIS-BACON ACT *(INCLUDING LABOR DEPARTMENT WAGE DETERMINATION)*
		C. CONTRACT WORK HOURS STANDARDS ACT - OVERTIME COMP.
		D. APPRENTICES
		E. PAYROLL RECORDS AND PAYROLLS
		F. COPELAND *("ANTI-KICKBACK")* ACT
		G. WITHHOLDING OF FUNDS TO ASSURE WAGE PAYMENT
		H. SUBCONTRACTORS - TERMINATION
18. NOTICE OF DELAYS		A. NOTICE TO CONTRACTING OFFICER OF ACTUAL AND POTENTIAL LABOR DISPUTES
		B. OTHER ACTUAL AND POTENTIAL DELAYS
19. SMALL BUSINESS SUBCONTRACTING PROGRAM		A. CONTRACTOR DESIGNATES LIAISON OFFICER
		B. MAINTAINS RECORDS AVAILABLE FOR REVIEW
		C. NOTIFIES CONTRACTING OFFICER IF SMALL BUSINESS IS NOT SOLICITED FOR SUBCONTRACTS
20. COMPLIANCE		A. COMPLIANCE WITH LOCAL RULES AND REGULATIONS
21. SAFETY		A. ACCIDENT PREVENTION
		B. CLEANING-UP
22. OTHER ITEMS *(Add as necessary)* *(Key to previous items, if applicable)*		

CERTIFICATION: The preceding items marked by "X" have been discussed.

SIGNATURE FOR THE CONTRACTOR	SIGNATURE FOR THE GOVERNMENT

REMARKS *(Continue on attached sheet(s), if necessary)*

DEPARTMENT OF HOMELAND SECURITY

DETERMINATION OF PROSPECTIVE CONTRACTOR RESPONSIBILITY

1. SEALED BID OR RFP NO.

2. NAME AND ADDRESS OF PROSPECTIVE CONTRACTOR

3. DESCRIPTION OF SUPPLIES OR SERVICES

4. TYPE OF CONTRACT

5. SMALL BUSINESS *(Check one)*

☐ YES ☐ NO

6. REMARKS

LEGEND: TYPE OF EVALUATION

Type A - On-site Pre-Award. This constitutes an inspection of the contractor's facility by the Contracting Officer or his/her representative.

Type B - Desk-Type Pre-Award. This may consist of information obtained from the following sources: Prospective contractor, Duns & Bradstreet reports, National Credit Office reports, records of past and present Contractor. Performance Evaluation reports from CPS or PPIRS, List of Parties Excluded from Federal Procurement or Non-Procurement Programs, or Certificates of Competency issued by the Small Business Administration.

Type C - Personal Knowledge. When the Contracting Officer has sufficient personal knowledge of a company's capabilities which wil enable him/her to make a determination regarding the responsibility of the company without benefit of either on-site or desk-type pre-award survey.

INSTRUCTIONS - Check type of evaluation and rate each factor applicable to the proposed procurement. N/A shall be checked for those factors not applicable. All rating assigned to Type A or B evaluations shall be supported by attached survey reports, detailed evaluations, documents, etc.

7. EVALUATION AND RATINGS

	FACTOR All References to FAR 9.104-1, unless indicated	**EVALUATION**			**RATING**		**N/A** (F)
		TYPE A (A)	TYPE B (B)	TYPE C (C)	S-SATIS-FACTORY (E)	U-UNSATIS-FACTORY (E)	
1	Management Personnel						
2	Technical Capability						
3	Production Capability						
4	Drug Free Workplace (23.504(a))						
5	Technical Equipment and Facilities						
6	Performance Record on Prior and Current Contracts						
7	Quality Assurance Program and Procedures						
8	Cost Estimating and Accounting System						
9	Purchasing System (Make or Buy Program)						
10	Financial Capability						
11	Security Clearance						
12	Equal Opportunity (22.802)						
13	Small Business Subcontracting Compliance (9.104-3(a))						
14	Property and Inventory Control						
15	Ability to Meet Delivery or Performance Date						
16	Satisfactory Record of Integrity and Business Ethics						
17	Environmental/Energy Considerations (23.104(a))						
18	Safety						
19							
20							

DETERMINATION

8. OFFEROR *(Check one)*

☐ IS ☐ IS NOT considered responsible in accordance with FAR Part 9.1

9. DATE

10. NAME OF CONTRACTING OFFICER

11. SIGNATURE OF CONTRACTING OFFICER

COVER PAGE

SOURCE SELECTION INFORMATION

See FAR 3.104

This document contains source selection information related to the conduct of a Federal agency procurement, the disclosure of which is restricted by Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). The unauthorized disclosure of such information may subject both the discloser and recipient of the information to contractual, civil, and/or criminal penalties as provided by law.

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PROPRIETARY INFORMATION

See FAR 3.104

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DEPARTMENT OF HOMELAND SECURITY

SIMPLIFIED ACQUISITION SUMMARY

(See Continuation on Reverse)

REQUISITION NO.

PURCHASE ORDER NO.

1. SOURCES CONSIDERED

SUPPLIES

1. ☐ DHS Inventories
2. ☐ Excess from other Agencies
3. ☐ Federal Prison Industries
4. ☐ Blind/Disabled
5. ☐ Wholesale Supply Source
6. ☐ Mandatory Federal Supply Schedules
7. ☐ Optional Use Federal Supply Schedule
8. ☐ Commercial

SERVICES

1. ☐ Blind/Disabled
2. ☐ Mandatory Federal Supply Schedule
3. ☐ Optional Use Federal Supply Schedule
4. ☐ Federal Prison Indusries or Commercial

2. BASIS FOR AWARD

☐ Sole/proprietary source (Complete Blocks #3, #5, & #6 below) and reverse side.
☐ Not over $2,500 (Complete Blocks #3 and #6 below).
☐ Low quote/offer/GSA, FSS price (Complete Block #7 below).
☐ Mandatory GSA/FSS or other agency contract (Complete Block #7 below).

3. BASIS FOR DETERMINING PRICE REASONABLENESS

☐ Comparison with published price lists, catalogs, or advertisements

Specify source(s) _____

☐ Comparison of quote(s) with competitive prices in previous procurements

List previous purchase order number(s) _____

☐ Lowest of 3 or more oral or written quotes, including previous supplier, if practicable. (Complete Block #4 below.)

☐ Personal Knowledge of item procured. (Complete Block #7 below.)

☐ Unpriced order; explain reason and specify monetary limit (FAR 13.502-2(b)); include clause FAR 52.213-3 with order.)

☐ Other *(Specify):* _____

4. COMPETITIVE PROCUREMENT *(Complete reverse side of form for oral quotations. Optional use permitted for written quotations, if all required information is contained in the quotation.)*

5. NON COMPETITIVE PROCUREMENT

☐ Utility services available from only one source/educational services from nonprofit institution.
☐ Only known source of supply (Document in Block #7 below.)
☐ Other (if greater than $2,500, state reason for noncompetitive action in Block #7 below.)

6. SMALL BUSINESS *(Provide rationale for awarding to other than a small business in Block #7 below.)*

7. REMARKS FOR BLOCKS NO. _____, _____, _____, _____.

SIGNATURE

DATE

SIMPLIFIED ACQUISITION SUMMARY (CONT'D)

FIRM'S NAME			
ADDRESS/TELEPHONE NO./ FAX NO./E-MAIL			
PERSON CONTACTED, DATE CALLED/OFFER RECEIVED			
DELIVERY TIME			
F.O.B. POINT (Origin or Destination)			
PAYMENT TERMS (Not to be part of the evaluated price)			
TYPE OF BUSINESS ED = Educational L = Large LS = Labor Surplus MB = Minority NP = Non-Profit S = Small WO = Women Owned			
GSA CONTRACT NO			
DOL WAGE DETERMINATION NO.			

ITEM	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
PROPOSED PRICE								
DISCOUNT (Trade or Quantity)								
ESTIMATED SHIPPING COST								
TOTAL PRICE								

DUNS/TIN NUMBER *(Provide to accounting office FAR 4.6/FAR 4.9)*

☐ The firm or individual recommended for award does not appear on the debarred, ineligible, and/or suspended bidder's list.

DEPARTMENT OF HOMELAND SECURITY

WEIGHTED GUIDELINES PROFIT/FEE OBJECTIVE

(See Instructions on Reverse)

1. CONTRACTOR IDENTIFICATION	a. COMPANY NAME		b. DIVISION NAME *(If Any)*	
	c. STREET ADDRESS	d. CITY	e. STATE	f. ZIP CODE

2. WEIGHTED GUIDELINES CATEGORY *(Check One)*	3. TYPE OF CONTRACT
☐ MANUFACTURING ☐ RESEARCH & DEVELOPMENT ☐ SERVICES	

4. BASIC PROCUREMENT INSTRUMENT IDENTIFICATION NO.				5. SPECIALIST NAME
a. PURCHASING OFFICE	b. FISCAL YEAR	c. C/S PROD/SVCS CODE	d. PR NO.	

6. **WEIGHTED GUIDELINES PROFIT FACTORS**

PROFIT/FEE FACTOR OR SUBFACTOR (a)	MEASURE-MENT BASE (b)	PROFIT WAGE RANGES MFG (%) (c)	R&D (%) (d)	SVCS (%) (e)	ASSIGNED WEIGHT (%) (f)	PROFIT/FEE DOLLARS (g)
PART 1 - CONTRACTOR EFFORT						
7. MATERIAL ACQUISITION a. SUBCONTRACTED ITEMS		1 TO 5	1 TO 5	1 TO 5		
b. PURCHASED PARTS		1 TO 4	1 TO 4	1 TO 4		
c. OTHER MATERIAL		1 TO 4	1 TO 4	1 TO 4		
8. ENGINEERING a. DIRECT LABOR		9 TO 15	9 TO 15			
b. OVERHEAD		6 TO 9	6 TO 9			
9. MANUFACTURING a. DIRECT LABOR		5 TO 9	5 TO 9			
b. OVERHEAD		4 TO 7	4 TO 7			
10. SERVICES a. DIRECT LABOR				5 TO 15		
b. OVERHEAD				4 TO 8		
11. OTHER COSTS						
12. GENERAL MGMT - G & A		6 TO 8	6 TO 8	6 TO 8		
13. TOTAL EFFORT						
PART II - CONTRACTOR RISK						
14. COST RISK	(Total from Col. b)	0 TO 8	0 TO 7	0 TO 4		
PART III - FACILITIES INVESTMENT						
15. CAPITAL EMPLOYED	HSAM 3015, APP A	16 TO 20				
16. BASIC PROFIT/FEE OBJECTIVE *(Items 13 + 14 + 15, Col. g)*						
PART IV - SPECIAL FACTORS						
17. SPECIAL PROFIT/FEE OBJECT a. PRODUCTIVITY						
b. INDEPENDENT DEVELOPMENT		1 TO 4	1 TO 4			
c. OTHER	(Total from Item 16)	-5 TO +5	-5 TO +5	-5 TO +5		
d. TOTAL SPECIAL PROFIT/FEE OBJECTIVE						
18. SUBTOTAL PROFIT/FEE OBJECTIVE *(Items 16 + 17, Col. g)*						

PART V - COST OF MONEY OFFSET

(Applicable to Research and development and Services Weighted Guidelines only.)

19. LESS: FACILITIES CAPITAL COST OF MONEY	
20. TOTAL PROFIT/FEE OBJECTIVE *(Items 18 - 19, Col. g)*	

DEPARTMENT OF HOMELAND SECURITY

CONTRACT FACILITIES CAPITAL AND COST OF MONEY

(See Instructions on Reverse)

CONTRACTOR	RFP/CONTRACT PIID NO.
BUSINESS UNIT	PERFORMANCE PERIOD
ADDRESS *(Include city, state, and zip code)*	

1. OVERHEAD POOLS	2. COST ACCOUNTING PERIOD	3. CONTRACT OVERHEAD ALLOCATION BASE	FACILITIES CAPITAL COST OF MONEY	
			4. FACTORS	5. AMOUNT
6. CONTRACT FACILITIES CAPITAL COST OF MONEY				
7. FACILITIES CAPITAL COST OF MONEY RATE				
8. CONTRACT FACILITIES CAPITAL EMPLOYED				

AUTHORIZED FOR LOCAL REPRODUCTION

INSTRUCTIONS FOR DHS-700-18
CONTRACT FACILITIES CAPITAL AND COST OF MONEY

PURPOSE: The purpose of this form is to compute the estimated facilities capital to be employed for a specific contract proposal. An intermediate step is to compute the estimated facilities capital cost of money, using the Facilities Capital Cost of Money Factors developed on Forms CASB-CMF (See FAR 30.414 - Appedix A). This procedure is intended to be fully compatible with Cost Accounting Standard 414 "Cost of Money" as an element of the Cost of Facilities Capital, and extend those criteria and techniques to prospective periods for forward pricing purposes.

IDENTIFICATION: Identify the contractor, business unit and address. Identify the specific RFP or contract to which the computation pertains. Identify the estimated performance period of the contract.

OVERHEAD POOLS (Col. 1): List all business unit overhead pools and direct-charging service/support centers whose costs will be allocated to this contract. The structure must be compatible with the contractor's cost proposal and Forms CASB-CMF (See FAR 30.414 - Appendix A).

COST ACCOUNTING PERIOD (Col. 2): This column is used only for the "projected" method of estimating contract facilities capital employed and cost of money. Each Overhead Pool listed must be further broken down by each Cost Accounting Period impacted by the performance period of the contract. The yearly breakdown must also correspond to yearly overhead allocation bases in the contractor's cost proposal, and to separate Forms CASB-CMF for each listed. If the "historical" method is used, the column should be ignored.

CONTRACT OVERHEAD ALLOCATION BASE (Col. 3): For each Overhead Pool and Cost Accounting Period listed, record the same Contract Overhead Allocation Base amounts used in the pricing report to derive the pre-negotiation cost objective. Such amounts should be the same as those used for burdening contract overhead or applying service/ support center use charges. The base units-of-measure must agree with those used on the Forms CASB-CMF.

FACILITIES CAPITAL COST OF MONEY FACTORS (Col. 4): Carry forward the appropriate estimated Facilities Capital Cost of Money Factors from the Forms CASB-CMF. Business units, overhead pools and cost accounting periods must agree.

FACILITIES CAPITAL COST OF MONEY AMOUNT (Col. 5): The product of each Contract Overhead Allocation Base (Col. 3) multiplied by its related Facilities Capital Cost of Money Factor (Col. 4).

CONTRACT FACILITIES CAPITAL COST OF MONEY (Line 6): The sum of Col. 5. This represents the contract's allocable share of the business unit's estimated cost of money for the cost accounting period(s) impacted by the contract performance period. Therefore, it represents a portion of the total(s) of Col. 5 of Forms CASB-CMF.

FACILITIES CAPITAL COST OF MONEY RATE (Line 7): The same Cost of Money Rate used in Col. 1 of the Forms CASB-CMF. Only one rate will be used in the facilities capital estimating process regardless of the length of the contract performance period.

CONTRACT FACILITIES CAPITAL EMPLOYED (Line 8): The quotient of Line 6 divided by Line 7. This represents the contract's allocable share of the business unit's estimated facilities value for the cost accounting period(s) impacted by the contract. Therefore, it represents a portion of the total(s) of Col. 4 of Forms CASB-CMF.

DEPARTMENT OF HOMELAND SECURITY

SUMMARY OF UNDERPAYMENTS

EMPLOYER *(Company Name)*

CONTRACT NUMBER	PRIME CONTRACTOR *(Company Name)*

EMPLOYEE NAME	UNDERPAYMENT			CWHSA* LIQUADATED DAMAGES
	DAVIS-BACON ACT	CWHSA*	TOTAL	
TOTAL				

* CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

DEPARTMENT OF HOMELAND SECURITY

PROCUREMENT REQUEST

Read Instructions on Page 3

PROCUREMENT REQUEST NO.

DATE RECEIVED

1. NAME, PHONE NUMBER, E-MAIL, AND ROUTING SYMBOL OF PERSON TO CONTACT

3. ORIGINATING OFFICE DATA

4. ADDITIONAL INFORMATION *(Suggested supply sources, security data, etc.)*

2. TYPE OF REQUEST *(Check One)*

A. ☐ NEW REQUEST _____

B. ☐ CHANGE TO PENDING PR NO. _____

C. ☐ MODIFICATION TO CONTRACT OR ORDER NO. _____

5. APPROVALS

APPROVING OFFICIALS (A)	ROUTING SYMBOL (B)	DATE (C)	INTERNAL ROUTING INITIALS (D)	INTERNAL ROUTING ROUTING SYMBOL (E)
1. AUTHORIZED REQUISITIONER				
2. ACCOUNTING CERTIFICATION OFFICER				
3.				
4.				

6. CONSIGNEE AND DESTINATION

7. DATE(S) SIGNED

8. GOVERNMENT FURNISHED PROPERTY

☐ YES ☐ NO *(If "Yes" see par. 8 of instructions on page 3)*

9. DESCRIPTION OF ITEMS OF SERVICES

ITEM NO. (A)	ITEM OR SERVICE *(Include Specifications and Special Instructions)* (B)	QTY (C)	UNIT (D)	ESTIMATED COST UNIT PRICE (E)	ESTIMATED COST AMOUNT (F)

10. ACCOUNTING DATA

SYSTEMS DATA

☐ 1ST ☐ 2ND ☐ 3RD ☐ 4TH

TOTAL

AGY	DIST	APPN CODE	LIM CODE	AFC CODE	ALIC	PROGRAM ELEMENT	OBJECT CLASS	DOCUMENT NUMBER TYPR	FY	P.R. NUMBER	SUFFIX	PROJECT	ACCOUNTING AMOUNT

DEPARTMENT OF HOMELAND SECURITY

PROCUREMENT REQUEST - Continuation Sheet

PROCUREMENT REQUEST NO.

9. DESCRIPTION OF ITEMS OF SERVICES

ITEM NO. (A)	ITEM OR SERVICE *(Include Specifications and Special Instructions)* (B)	QTY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
					0%
			0%		
		0%			
	0%				
					$0.00
					$0.00
					$0.00
					$0.00

INSTRUCTIONS FOR PREPARATION OF DHS FORM 700-20, PROCUREMENT REQUEST (PR)

GENERAL - Leave upper right hand corner blank. These spaces are for procurement office use. Complete all applicable blanks. If additional space is needed, use blank paper or Procurement Request Continuation Sheet.

ITEM 1 - NAME, PHONE NUMBER AND ROUTING SYMBOL of person to contact concerning this request.

ITEM 2 - TYPE OF REQUEST

A. Check "New Request" if this is an initial request;
B. If this is a change to a pending PR, check and;
C. If PR is for modifying an existing order or contract, check box, and enter order or contract number assigned by the procurement office.

ITEM 3 - ORIGINATING OFFICE DATA. Enter any internal data needed by the office preparing the PR, such as internal PR number, project or task number, etc.

ITEM 4 - ADDITIONAL INFORMATION. Use this space to indicate suggested sources of supply, any applicable security classification, or for other instruction or data.

If the items or services are proposed to be obtained from only one source of supply, furnish a "sole source" justification with the PR.

ITEM 5 - APPROVALS.

Col. A - APPROVING OFFICIALS. Enter typed name and title for approving officials as indicated below.

(1) Authorized Requisitioned. Signature of person authorized to approve request for procurement action.
(2) Accounting Certification Officer. Signature of accounting representative having authority to certify that funds are available for the procurement.
(3) - (4) For use as may be required by local instructions.

Col. B - ROUTING SYMBOLS. Self explanatory.

Col. C - DATE. Give date of approval.

Col. D and Col. E. - INTERNAL ROUTING. Use these blocks only if internal review and intermediate approvals are requested by approving officials.

ITEM 6 - CONSIGNEE AND DESTINATION. Enter the name of the consignee and address location where requested items are to be delivered or services are to be performed.

If shipments are to be made to more than one destination, enter words "Multiple Destinations" in this block, and attach a list of the consignee address where shipments are to be made.

ITEM 7 - DATE(S) REQUIRED. Enter the date(s) that requested items are required. Do not use "as soon as possible", or similar terms. When the requested items and/or services are required sooner than the normal procurement lead-time would permit, a written justification should be attached to the PR. The justification sdhould state why expedited handling is necessary and the probable rsults if the indicated delivery date(s) is not met.

ITEM 8 - GOVERNMENT FURNISHED PROPERTY. If "Yes" is checked, describe each item to be furnished by the Government and state its acquisition cost (estimated if unattainable), and state the use to be made of the item(s) by the contractor.

ITEM 9 - DESCRIPTION OF ITEMS OR SERVICES

Col. A - ITEM NO. Enter item numbers in numerical sequence.

Col. B - ITEM OR SERVICE. Identify applicable specifications, drawings, and purchase descriptions. Attach a copy of each. Provide Federal Stock Numbers if known and manufacturer's part numbers, if applicable.

If a brand name or equal product, state the commercial brand and model, and set forth those characteristics essential to Government needs.

Furnish an special shipping and routing instructions, and any preservation, packaging, packing, and marking instructions.

Furnish any other instructions, such as inspection and testing requirements.

Col. C - QUANTITY. Enter the quantity of each item requested.

Col D - UNIT. The measure such as "each" or "set."

Col E - ESTIMATED UNIT COST. Use the most current price available, i.e., the reasonable "going market price," as may be obtainable from commercial catalogs, price lists, bulletins, reports, trade journals and the like.

If the requested items or service has been previously procured, and no other more current pricing data is available, use last known purchase price.

Col. F - ESTIMATED TOTAL COST. Enter the total estimated cost for each item and grand total cost for all items.

ITEM 10 - ACCOUNTING DATA. Enter the appropriation(s) under which funds have been made available, and any other accounting data required.

DEPARTMENT OF HOMELAND SECURITY

MATERIAL INSPECTION AND RECEIVING REPORT

DATE

1. CONTRACT NO.	2. ORDER NO.	3. REPORT NO.

4. MATERIAL AND/OR SERVICES INSPECTED

5. CONTRACTOR

6. MANUFACTURER

7. PLACE OF INSPECTION

8. CONTRACT LINE ITEM NO(S) *(If applicable)*	INSPECTION DATES				QUANTITY	
	10. RECEIVED	10. READY	11. STARTED	12. COMPLETED	13. REJECTED	14. ACCEPTED

	PREVIOUS REPORTS	THIS REPORT	TOTAL TO DATE	18. QUANTITY ON ORDER	
15. SUBMITTED				19. ACCEPTED TO DATE	
16. REJECTED					
17. ACCEPTED				20. BALANCE REMAINING	

21. REMARKS *(Use Continuation Sheet for Additional Entries)*

22. INSPECTED BY	23. TITLE

The materials and/or serices listed herein have been iinspected or certified test data has been examined, by me or under my supervision. The materials and/or services listed above as accepted conform to contract requirements. Those listed as rejected do not conform and may not be delivered, except as authorized under "Remarks."

24. SIGNATURE OR NAME	25. TITLE	26. DATE

DHS Form 700-21 (12-03)

DEPARTMENT OF HOMELAND SECURITY

MATERIAL INSPECTION AND RECEIVING REPORT (Cont'd)

3. REPORT NO.

8. CONTRACT LINE ITEM NO(S) *(If applicable)*	INSPECTION DATES				QUANTITY	
	10. RECEIVED	10. READY	11. STARTED	12. COMPLETED	13. REJECTED	14. ACCEPTED

U.S. Department of Homeland Security

CONTRACT AWARD NOTIFICATION

Competition Sensitive - Not to be divulged outside of DHS unless authorized by the Contracting Officer

AGENCY INFORMATION

1. Organizational Element:

2. Contracting Officer: Telephone Number:	3. Project Officer: Telephone Number:

CONTRACTOR INFORMATION

4. Contractor:	5. Contractor Address: *Include City, State and Zip Code* Telephone Number:

6. Contract No.	7. Contract Value, initial award $	8. Contract Value, including Options $

9. Method of Acquisition: *Check One*

☐ Sole Source ☐ Competitive, Sealed Bid ☐ Competitive, Negotiated

10. Major Subcontractor Name(s): *Include Street Address, City, State, and Zip Code*

Subcontractor	Subcontractor	Subcontractor

11. Place(s) of performance (contractor and major subcontractor(s): *Include Street Address, City, State and Zip Code*

Contractor	Subcontractor	Subcontractor

12. Summary of work to be performed: (Include enough information to describe the effort to be performed and its purpose. Attach a copy of the detailed statement of work. It is imperative that a complete description be provided one that is sufficient for preparing a Press Release and/or providing a meaningful description when notifying interested parties.)

Contracting Officer Signature	Date

DEPARTMENT OF HOMELAND SECURITY

SMALL BUSINESS REVIEW FORM

Items (1-8) Request - *Completed by the Contracting Officer in consultation with the Requesting Office*

(1) Requisitioner Name/Telephone Number	(2) Office/Organization	(3) Requisition Number

(4) Contract Specialist Name/Telephone Number	(5) Contracting Officer Name/Telephone Number
	0%

(6) Description of Product or Service

(7) Estimated dollar value: Base Period: $_____ Total Estimated Value Incl.Options $ _____

(8) Period of Performance: Base Period FROM: _____ TO: _____; Option Periods _____ FROM: 0% TO: _____

Items (9-19) - Strategy; to include Proposed Procurement Method - *Completed by the Contracting Officer*

(9) NAICS Code	(10) Small Business Size Standard	(11) Synopsis Requirement
	Employees _____ Avg. annual receipts _____	☐ YES ☐ NO, exceptions [FAR 5.202(a)]

(12) Prior Procurement History:

New Requirement ☐ YES ☐ NO (If no, consult with your SBS to complete Item(12))

Contract/Delivery or Task Order Number	Period of Performance

Contractor Name & Address

Total Price:	Contractor Size/Preference Status:

No. of Offerors: ____ LB ____ SB ____ HUBZ. ____ SDB ____ 8(a) ____ WOB ____ SDVO ____ VET

Remarks: _____

Items (13-19) - **Proposed Procurement Method** - *Completed by the Contracting Officer*

If planning an open market procurement of $100,000 or more, complete Items (13-17). If action is $2,000,000 or more and the use of Pre-existing Contract Vehicle (such as MAS (FSS)-GSA, MAC, GWAC, DHS-wide contract, multiple award contract, BPA) is planned, complete Items (18-19) for Substantial Bundling Review. **Consult your Small Business Specialist for completion of this section.**

****** **** FOR OPEN MARKET PROCUREMENT OF $100,000 OR MORE **** ******

(13) **First Consideration:** Consider one of the socioeconomic initiatives.

Competitive
- ☐ 8(a)
- ☐ HUBZone Set-Aside
- ☐ SDVOSB Set-Aside
- ☐ Total SB Set-Aside
- ☐ Partial SB Set-Aside

Sole Source
- ☐ 8(a)
- ☐ HUBZone
- ☐ SDVOSB
- ☐ Partial SB

Other
- ☐ Multiple Award (any socio-economic program + LB)

(14) **Second Consideration:** If first consideration has been ruled out based on market research, then turn to full and open competition where an other than small business concern is expected to serve as the prime contractor and small business participation will be critical through subcontracting and the DHS Mentor Protégé Program. If no subcontracting opportunities exist, attach the associated documentation.

Competitive
- ☐ Unrestricted (Full and Open)
- ☐ Multiple Award (LB)

Sole Source
- ☐ Other (Attach Justification and Approval (J&A))

(15) Subcontracting Plan Discussion with SBS ☐ Mentor-Protégé Program Discussion with SBS ☐

(16) Reason for Unrestricted Procurement

- ☐ No reasonable expectation that offers will be obtained from at least two 8(a), HubZone small, Service Disabled Veteran Owned small or traditional small business concerns offering the products of different small business concerns.
- ☐ No reasonable expectation that award will be made at a fair market price.
- ☐ Sole Source/Proprietary item justified in accordance with FAR Part 6.3.
- ☐ Requirement not severable into two or more production runs or lots.

(17) Substantial Bundling Review (Completed for all open market actions of $2,000,000 or more)

Does the procurement meet the definition of a Bundled Contract (FAR Part 7.107 and 13 CFR Part 125.2 (d)(1)(i))?
☐ YES ☐ NO; If YES continue, if NO proceed to item (20).
Did procuring activity coordinate acquisition strategy with the small business specialist and the Small Business Administration (SBA) Procurement Center Representative (PCR) (FAR Part 7.104(d)(1) and FAR Part 19.202-1(e)(1)? ☐ YES ☐ NO
Was requirement to notify the affected incumbent small business concerns of the Government's intention to bundle the requirement performed, at least 30 days before release of the solicitation (FAR Part 10.001(c)(2)(i)? ☐ YES ☐ NO
If procuring activity believes bundling is necessary and justified, was proper analysis submitted to CPO (HSAM 3007.107(b))?
☐ YES ☐ NO

****** **** FOR ALL ORDERS OF $2M OR MORE UNDER PRE-EXISTING CONTRACT VEHICLES **** ******

(18) Select from the following Pre-existing Contract Vehicles:

- ☐ Multiple Award Schedule - MAS (FSS) - GSA
- ☐ Multi-Agency Contract - MAC
- ☐ Govt-Wide Acquisition Contract - GWAC
- ☐ Other (such as DHS-wide contract, multiple award contract, BPA, etc.) Specify: _____
  (Attach proposed list of vendors, including size status)

(19) Substantial Bundling Review (Completed for all actions of $2,000,000 or more planned under a pre-existing contract vehicle)

Does the procurement meet the definition of a Bundled Contract (FAR Part 7.107 and 13 CFR Part 125.2 (d)(1)(i))?
☐ YES ☐ NO; If YES continue, if NO proceed to item (20).
Did procuring activity coordinate acquisition strategy with the small business specialist and the Small Business Administration (SBA) Procurement Center Representative (PCR) (FAR Part 7.104(d)(1) and FAR Part 19.202-1(e)(1)? ☐ YES ☐ NO
Was requirement to notify the affected incumbent small business concerns of the Government's intention to bundle the requirement performed, at least 30 days before release of the solicitation (FAR Part 10.001(c)(2)(i)? ☐ YES ☐ NO
If procuring activity believes bundling is necessary and justified, was proper analysis submitted to CPO (HSAM 3007.107(b))?
☐ YES ☐ NO

****** **** **** SUBMISSION AND REVIEW SIGNATURES **** **** ******

Items (20-23) Submission and Reviews (Completed by appropriate officials)

(20) Contracting Officer ☐ Concurrence ☐ Non-Concurrence (Attach justification)

Signature of Contracting Officer: _____ Date _____

(21) Small Business Specialist ☐ Concurrence ☐ Non-Concurrence (Attach justification)

Signature of Small Business Specialist: _____ Date _____

(22) Contracting Officer response to SBS Non-Conur ☐ Concurrence ☐ Non-Concurrence (Attach justification)

Signature of Contracting Officer: _____ Date _____

(23) Completed for all unrestricted actions of $2,000,000 or more, including sole source procurements to other than small business.

SBA Procurement Center Representative ☐ Concurrence ☐ Non-Concurrence

Signature of SBA PCR: _____ Date _____

INSTRUCTIONS FOR DHS FORM 700-22, SMALL BUSINESS REVIEW
(FOR ACQUISITIONS OF $100,000 OR MORE)

Execution of the DHS small business program requires coordination and participation from all members of the acquisition team. The appropriate acquisition personnel to complete this form [i.e. Contracting Officer, Requesting Office (consultation), and the Small Business Specialist (consultation)] are identified by item. The form shall be completed prior to synopsis or solicitation release.

1. The following provides instructions for the completion of each item on the DHS Form 700-22:

Request - Items (1-8) are self explanatory.
Strategy - Items (9-12) are self explanatory.
Proposed Procurement Method - Items (13-19):
If planning an open market procurement of $100,000 or more, complete items 13-17:
Item (13) Indicate the socioeconomic program planned for the requirement, after proper market research.
Item (14) Indicate the full and open competition contracting method in the open market scenario.
Item (15) Indicate if the Subcontracting Plan and Mentor-Protégé Program have been considered for procurement.
Item (16) Indicate reason for unrestricted procurement.
Item (17) Complete substantial bundling review for all open market actions of $2,000,000 or more.
If planning to use a pre-existing contract vehicle for an action of $2,000,000 or more, complete items 18-19 for the bundling review:
Item (18) Indicate the pre-existing contract vehicle planned for the requirement.
Item (19) Complete substantial bundling review when use of a pre-existing contract vehicle of $2,000,000 or more is planned.

Submission and Review Signatures. Items (20-23):
Item (20) Signature of Contracting Officer.
Item (21) Signature of Small Business Specialist (SBS) to indicate concurrence or non-concurrence.
Item (22) Signature of Contracting Officer to indicate concurrence or non-concurrence in the event the SBS non-concurs.
Item (23) Signature of Small Business Administration (SBA) Procurement Center Representative (PCR) to indicate concurrence or non-concurrence.

2. Review and Required Signatures:

Types of Reviews **X - indicates review and signature unless noted otherwise.**	**Contracting Officer**	**Small Business Specialist**	**SBA PCR**
Open market procurement of $100,000 or more.	X	X	
Open market procurement of $2,000,000 or more for substantial bundling.	X	X	X
All actions of $2,000,000 or more planned under a pre-existing contract vehicle (MAS (FSS)-GSA, MAC, GWAC, DHS-wide contract, multiple award, BPA, etc.) for substantial bundling.	X	X	
Open market procurement of $2,000,000 or more for small business consideration and bundling, including sole source procurement to other than small business when an unrestricted procurement is contemplated. (Signature of SBA PCR is not required if one of the small business prime contracting programs will be used.)	X	X	X

3. Additional Requirements for Substantial Bundling:
A separate analysis and justification, including all supporting documentation of decisions made, shall accompany every open market purchase request of $100,000 or more and every planned procurement action of $2,000,000 or more under a pre-existing contract vehicle (such as MAS (FSS)-GSA, MAC, GWAC, DHS-wide contract, multiple award contract, BPA) for a substantial bundling review and approval. (See HSAM 3007.107 and HSAM 3019.202-27.)

4. Standard timeframes for completion of form by review officials:
The SBS shall complete the review process within 2 business days.
The SBA PCR shall complete the review process within 2 business days.

5. The completed DHS Form 700-22 shall be placed in the solicitation file.

REPORT OF PROPOSED FEDERAL CONSTRUCTION

I. CONTROL BLOCKS

A. _____
FISCAL YEAR OF CONSTRUCTION

B. _____
AGENCY

C. _____
NAME AND TITLE OF REPORTING OFFICIAL

D. _____
TELEPHONE NUMBER

II. CONSTRUCTION DATA

A. PROJECT DESCRIPTION	B. TYPE OF CONST.				C. LOCATION OF PROJECT CITY, COUNTY, STATE	D. ESTIMATED COST (000s)
	BLDG	HVY.	HWY.	RES		

DOL Form 1671