

SUBCHAPTER A—GENERAL

PART 1501—GENERAL

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AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8835, Mar. 8, 1984, unless otherwise noted.

1501.000 Scope of part.

The Federal Acquisition Regulation System brings together, in title 48 of the Code of Federal Regulations, the acquisition regulations applicable to all executive agencies of the Government. This part establishes a system of Environmental Protection Agency (EPA) acquisition regulations, referred to as the EPAAR, for the codification and publication of policies and procedures of EPA which implement and supplement the Federal Acquisition Regulation (FAR).

Subpart 1501.1—Purpose, Authority, Issuance

1501.101 Purpose.

This subpart establishes Chapter 15, the Environmental Protection Agency Acquisition Regulation (EPAAR), within Title 48, the Federal Acquisition Regulations System.

[60 FR 38505, July 27, 1995]

1501.104 Applicability.

The FAR (48 CFR chapter 1) and the EPAAR (48 CFR chapter 15) apply to all EPA acquisitions as defined in part 2 of the FAR, except where expressly excluded.

[62 FR 33572, June 20, 1997]

1501.105 Issuance.

1501.105-1 Publication and code arrangement.

The EPAAR will be published in: (a) The FEDERAL REGISTER, (b) cumulated form in the Code of Federal Regulations (CFR), and (c) a separate loose-leaf form in a distinctive light blue color.

[49 FR 8835, Mar. 8, 1984. Redesignated at 62 FR 33572, June 20, 1997]

1501.105-2 Arrangement of regulations.

(a) *References and citations.* This regulation may be referred to as the Environmental Protection Agency Acquisition Regulation or the EPAAR. References to EPAAR materials shall be made in a manner similar to that prescribed by FAR 1.105-2(c).

[49 FR 8835, Mar. 8, 1984. Redesignated and amended at 62 FR 33572, June 20, 1997]

1501.105-3 Copies.

Copies of the EPAAR in FEDERAL REGISTER and CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402. Copies of loose-leaf EPAAR are distributed within EPA and may be obtained from

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the EPA Facilities and Support Services Division.

[49 FR 8835, Mar. 8, 1984. Redesignated at 62 FR 33572, June 20, 1997]

Subpart 1503.3—Agency Acquisition Regulations

1501.301 Policy.

The EPAAR is prescribed by the Director, Office of Acquisition Management.

[49 FR 8835, Mar. 8, 1984, as amended at 59 FR 18976, Apr. 21, 1994]

§ 1501.370 OMB approvals under the Paperwork Reduction Act.

The information collection activities contained in the EPAAR sections listed below have been approved by the Office of Management and Budget (OMB) and have been issued OMB numbers in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

48 CFR citation	OMB control No.
Specification, Standards and other Purchase Descriptions	
1510.011-70 through 1510.011-72	2030-0005
1510.011-80 through 1510.011-81	2030-0023
Contract delivery or performance 1512.104	2030-0023
Small Purchase and Other Simplified Purchase Procedures	
1513.505 through 1513.570	2030-0007
Contract Financing	
1532.170(a)	2030-0016
Solicitation Provisions and Contract Clauses	
1552.209-71	2030-0023
1552.209-73 through 1552.209-74	2030-0023
1552.210-72	2030-0005
1552.210-80	2030-0023
1552.212-71	2030-0023
1552.215-72 through 1552.215-76	2030-0006
1552.227-76	2030-0023

[59 FR 18619, Apr. 19, 1994, as amended at 59 FR 32134, June 22, 1994; 61 FR 29316, June 10, 1996]

Subpart 1501.4—Deviations

1501.401 Definition.

A deviation to the EPAAR is defined in the same manner as a deviation to the FAR (see FAR 1.401).

[49 FR 8835, Mar. 9, 1984; 49 FR 24734, June 15, 1984]

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1501.403 Individual deviations.

Requests for individual deviations from the FAR and the EPAAR shall be submitted to the Head of the Contracting Activity (HCA) for approval. Requests submitted shall cite the specific part of the FAR or EPAAR from which it is desired to deviate, shall set forth the nature of the deviation(s), and shall give the reasons for the action requested.

[65 FR 37291, June 14, 2000]

Subpart 1501.6—Contracting Authority and Responsibilities

1501.602-3 Ratification of unauthorized commitments.

(a) *Applicability.* The provisions of this section apply to all unauthorized commitments, whether oral or written and without regard to dollar value. Examples of unauthorized commitments are;

- (1) Ordering supplies or services by an individual without contracting authority;
- (2) Unauthorized direction of work through assignment of orders or tasks;
- (3) Unauthorized addition of new work;
- (4) Unauthorized direction of contractors to subcontract with particular firms; or
- (5) Any other unauthorized direction which changed the terms and conditions of the contract.

(b) *Ratification approval.* (1) The Chief of the Contracting Office (CCO) is delegated authority to be the ratifying official. In order to act as the ratifying official, a CCO or an acting CCO must have delegated contracting officer authority. A CCO or acting CCO cannot approve a ratification if he/she acted as the contracting officer in preparing the determination and findings required under paragraph (c)(3) of this section.

(2) The CCOs defined in 1502.100 for purposes of ratification authority of \$2,500 or less must meet the following criteria:

- (i) Must possess a contracting officer's warrant and be in the 1102 job series;
- (ii) Are prohibited from re-delegating their ratification authority;

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(iii) Must submit copies of ratification actions to the cognizant Office of Acquisition Management Division Director at Headquarters; and

(iv) As with other ratifying officials, must abide by the other limitations on ratification of unauthorized commitments set forth in FAR 1.602-3(c) and the EPAAR.

(c) *Procedures.* (1) The program office shall notify the cognizant contracting office by memorandum of the circumstances surrounding an unauthorized commitment. The notification shall include:

(i) All relevant documents and records;

(ii) Documentation of the necessity for the work and benefit derived by the Government;

(iii) A statement of the delivery status of the supplies or services associated with the unauthorized commitment;

(iv) A list of the procurement sources solicited (if any) and the rationale for the source selected;

(v) If only one source was solicited, a justification for other than full and open competition (JOFOC) as required by FAR 6.302, FAR 6.303, and 1506.303, or for simplified acquisition procedures exceeding the competition threshold in FAR 13.106, a sole source justification as required by 1513.170;

(vi) A statement of steps taken or proposed to prevent reoccurrence of any unauthorized commitment.

(2) The Division Director (or equivalent) of the responsible office shall approve the memorandum. If expenditure of funds is involved, the program office shall include a Procurement Request/Order, EPA Form 1900-8, with funding sufficient to cover the action. The appropriation data cited on the 1900-8 shall be valid for the period in which the unauthorized commitment was made.

(3) Upon receiving the notification, the Contracting Officer shall prepare a determination and findings regarding ratification of the unauthorized commitment for the ratifying official. The determination and findings shall include sufficient detail to support the recommended action. If ratification of the unauthorized commitment is recommended, the determination and

findings shall include a determination that the price is fair and reasonable. To document the determination, additional information may be required from the Contractor. Concurrence by the Office of General Counsel is not mandatory, but shall be sought in difficult or unusual cases.

(4) The ratifying official may inform the Inspector General (IG) of the action by memorandum through the Head of the Contracting Activity (HCA). For ratification actions exceeding the small purchase limitation, the ratifying official shall submit a memorandum to the Assistant Administrator for Administration and Resources Management through the HCA for transmittal to the Assistant, Associate, or Regional Administrator (or equivalent level) of the person responsible for the unauthorized commitment. This memorandum should contain a brief description of the circumstances surrounding the unauthorized commitment, recommend corrective action, and include a copy of any memorandum sent to the IG. Submission of a memorandum to the appropriate Assistant, Associate, or Regional Administrator for unauthorized commitments at or below the small purchase limitation is optional and may be accomplished at the discretion of the ratifying official.

(d) *Paid Advertisements.* (1) EPA is generally not authorized to ratify improperly ordered paid advertisements. The ratifying official, however, may determine payment is proper subject to the limitations in FAR 1.602-3(c) if the individual responsible for the unauthorized commitment acted in good faith to comply with Agency acquisition policies and procedures.

(2) The paying office shall forward invoice claims received in its office for improper paid advertisements to the cognizant ratifying official for a determination regarding ratification of the action.

(3) If the ratifying official determines that an unauthorized commitment cannot be ratified by the Agency, the ratifying official shall instruct the submitter to present its claim to the General Accounting Office in accordance with the instructions contained in 4

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CFR part 31, Claims Against the United States, General Procedures.

(e) *Payment of Properly Ratified Claims.* After the unauthorized commitment is ratified, the Contractor must submit an invoice (or resubmit an invoice if one was previously submitted) citing the appropriate contract or purchase order number.

[55 FR 18340, May 2, 1990, as amended at 59 FR 18976, Apr. 21, 1994; 60 FR 38505, July 27, 1995; 61 FR 57337, Nov. 6, 1996; 62 FR 33572, June 20, 1997; 65 FR 37291, June 14, 2000; 65 FR 80792, Dec. 22, 2000]

1501.603 Selection, appointment, and termination of appointment.

1501.603-1 General.

EPA Contracting Officers shall be selected and appointed and their appointments terminated in accordance with the Contracting Officer warrant program specified in chapter 8 of the EPA "Contracts Management Manual."

PART 1502—DEFINITION OF WORDS AND TERMS

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1502.1—Definitions

1502.100 Definitions.

Chief of the Contracting Office (CCO) means the Office of Acquisition Management Division Directors at Headquarters, Research Triangle Park and Cincinnati. For the purposes of ratification authority of \$2,500 or less, CCO is also defined as Regional Contracting Officer Supervisors and OAM Service Center Managers. See 1501.602-3(b)(2) for the limits of this ratification authority.

Head of the Contracting Activity (HCA) means the Director, Office of Acquisition Management.

Legal Counsel means those attorneys assigned to the Contracts Law Branch and the Research Triangle Park General Counsel Branch, Office of the General Counsel and designated by the Assistant General Counsel as Contract Law Specialists.

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Procurement Executive (PE) means the Director, Office of Acquisition Management.

[59 FR 18977, Apr. 21, 1994, as amended at 66 FR 80793, Dec. 22, 2000]

PART 1503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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1503.905 Procedures for investigating complaints.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8837, Mar. 8, 1984, unless otherwise noted.

1503.000 Scope of part.

This part implements FAR part 3, cites EPA regulations on employee responsibilities and conduct, establishes responsibility for reporting violations

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and related actions, and provides for authorization of exceptions to policy.

Subpart 1503.1—Safeguards

SOURCE: 64 FR 47410, Aug. 31, 1999, unless otherwise noted.

1503.101-370 Personal conflicts of interest.

(a) Each EPA employee (including special employees) engaged in source evaluation and selection is required to be familiar with the provisions of 40 CFR part 3 regarding personal conflicts of interest. The employee shall inform the Source Selection Authority (SSA) in writing if his/her participation in the source evaluation and selection process could be interpreted as a possible or apparent conflict of interest. The SSA will consult with appropriate Agency officials prior to the SSA's determination. The SSA shall relieve any EPA employee who has a conflict of interest of further duties in connection with the evaluation and selection process.

(b) Each EPA employee (including special employees, as defined by 1503.600-71(b)) involved in source evaluation and selection is required to comply with the Office of Government Ethics ethics provisions at 5 CFR part 2635.

1503.104-5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a)(1) The Chief of the Contracting Office (CCO) is the designated official to make the decision whether support contractors are used in proposal evaluation (as authorized at FAR 15.305(c) and as restricted at FAR 37.203(d)).

(2) The following written certification and agreement shall be obtained from the non-Government evaluator prior to the release of any proposal to that evaluator:

“CERTIFICATION ON THE USE AND DISCLOSURE OF PROPOSALS”

RFP #: _____
Offeror: _____

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objec-

tive review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the evaluation team assembled for this acquisition or individuals designated by the contracting officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

(Name and Organization)

(Date of Execution)

(End of Certificate)

(b) Information contained in proposals will be protected and disclosed to the extent permitted by law, and in accordance with FAR 3.104-5, 15.207, and Agency procedures at 40 CFR part 2.

Subpart 1503.2—Contractor Gratuities to Government Personnel [Reserved]

Subpart 1503.3—Reports of Suspected Antitrust Violations [Reserved]

Subpart 1503.4—Contingent Fees

1503.408 Evaluation of the SF 119.

Subpart 1503.5—Contractor Responsibility to Avoid Improper Business Practices

SOURCE: 65 FR 57103, Sept. 21, 2000, unless otherwise noted.

1503.500-70 Policy.

Government contractors must conduct themselves with the highest degree of integrity and honesty. Contractors should have standards of conduct and internal control systems that:

- (a) Are suitable to the size of the company and the extent of their involvement in Government contracting.
- (b) Promote such standards.

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(c) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts, and

(d) Ensure corrective measures are promptly instituted and carried out.

1503.500-71 Procedures.

(a) A contractor's system of management controls should provide for:

(1) A written code of business ethics and conduct and an ethics training program for all employees;

(2) Periodic reviews of company business practices, procedures, policies and internal controls for compliance with standards of conduct and the special requirements of Government contracting;

(3) A mechanism, such as a hotline, by which employees may support suspected instances of improper conduct, and instructions that encourage employees to make such reports;

(4) Internal and/or external audits, as appropriate.

(5) Disciplinary action for improper conduct;

(6) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection with Government contracts or any other irregularities in connection with such contracts; and

(7) Full cooperation with any Government agencies responsible for either investigation or corrective actions.

(b) Contractors who are awarded an EPA contract of \$1 million or more must display EPA Office of Inspector General Hotline Posters unless the contractor has established an internal reporting mechanism and program, as described in paragraph (a) of this section.

1503.500-72 Contract clause.

As required by EPAAR 1503.500-71(b), the contracting officer shall insert the clause at 1552.203-71, Display of EPA Office of Inspector General Hotline Poster, in all contracts valued at \$1,000,000 or more, including all contract options.

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Subpart 1503.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

1503.600-70 Scope of subpart.

This subpart implements and supplements FAR subpart 3.6 and sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of Government.

1503.600-71 Definitions.

(a) *Regular employee* means any officer or employee of EPA who is employed or appointed, with or without compensation, to serve more than 130 days during any period of 365 consecutive days, including regular officers of the Public Health Service Commissioned Corps and reserve officers of the Public Health Service Commissioned Corps while on active duty.

(b) *Special employee* means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis for not more than 130 days during any period of 365 consecutive days and who actually served more than 60 days during such 365-day period.

1503.601 Policy.

(a) No contract may be awarded without competition to a former regular or special EPA employee (or to a business concern or other organization owned or substantially owned or controlled by a former employee) whose employment terminated within 365 calendar days before submission of a proposal to EPA.

(b) No contract shall be awarded without competition to a firm which employs, or proposes to employ, a current regular or special EPA employee

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or a former EPA regular or special employee whose employment terminated within 365 calendar days before submission of a proposal to EPA, if either of the following conditions exists:

(1) The current or former EPA regular or special employee is or was involved in development or negotiating the proposal for the prospective contractor.

(2) The current or former EPA regular or special employee will be involved directly or indirectly in the management, administration, or performance of the contract.

1503.602 Exceptions.

The Assistant Administrator for Administration and Resources Management may authorize an exception, in writing, to the policy in FAR 3.601 and 1503.601 for the reasons stated in FAR 3.602, if the exception would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or EPA regulations at 40 CFR part 3. The Assistant Administrator shall consult with the Designated Agency Ethics Official before authorizing any exceptions.

[60 FR 38505, July 27, 1995]

1503.670 Solicitation of disclosure provision.

The Contracting Officer shall insert the provision at 1552.203-70, Current/Former Agency Employee Involvement Certification, in all solicitations for sole source acquisitions.

[50 FR 14357, Apr. 11, 1985]

Subpart 1503.9—Whistle Blower Protections for Contractor Employees

1503.905 Procedures for investigating complaints.

The Assistant Administrator for Administration and Resources Management is designated as the recipient of the written report of findings by the Inspector General. The Assistant Administrator shall ensure that the report of findings is disseminated in accordance with FAR 3.905(c).

[61 FR 57337, Nov. 6, 1996]

PART 1504—ADMINISTRATIVE MATTERS

Subpart 1504.6—Contract Reporting

1504.670 Business ownership representation.

Subpart 1504.8—Contract Files

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1504.804 Closeout of contract files.

1504.804-5 Detailed procedures for closing out contract files.

AUTHORITY: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); 41 U.S.C. 418b.

SOURCE: 49 FR 28246, July 11, 1984, unless otherwise noted.

Subpart 1504.6—Contract Reporting

1504.670 Business Ownership Representation.

Contracting officers shall insert the clause at 1552.204-70, Business Ownership Representation, in solicitations and contracts with an estimated dollar value greater than the simplified acquisition threshold. Completion of the clause by the successful awardee is voluntary.

[65 FR 75866, Dec. 5, 2000]

Subpart 1504.8—Contract Files

1504.804 Closeout of contract files.

1504.804-5 Detailed procedures for closing out contract files.

In addition to those procedures set forth in FAR 4.804-5, the contracting office shall, before final payment is made under a cost reimbursement type contract, verify the allowability, allocability, and reasonableness of costs claimed. Verification of total costs incurred should be obtained from the Office of Audit through the cost advisory group at the contracting office in the form of a final audit report. Similar verification of actual costs shall be made for other contracts when cost incentives, price redeterminations, or cost-reimbursement elements are involved. Termination settlement proposals shall be submitted to the cost advisory group at the contracting office for review by the Office of Audit

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as prescribed by FAR 49.107. All such audits will be coordinated through the cost advisory group in the contracting office. Exceptions to these procedures are the quick close-out procedures as

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described in FAR 42.708 and Unit 2 of the EPA Acquisition Handbook.

[49 FR 28246, July 11, 1984, as amended at 63 FR 46899, Sept. 3, 1998]