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advocates. Procedural guidance is provided in internal DOE Directives.

PART 907—ACQUISITION PLANNING

Subpart 907.3—Contractor Versus Government Performance

Sec.

907.307 Appeals.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 11944, Mar. 28, 1984, unless otherwise noted.

Subpart 907.3—Contractor Versus Government Performance

907.307 Appeals.

An appeal of a decision to convert to contract or to continue in-house performance may be made by an affected party. Appeals shall be made in writing, be based only on specific alleged material deviation (or deviations), from OMB Circular A-76, and be supported by appropriate documentation. Appeals must be delivered within 15 working days of the announced decision, to the contracting officer. The contracting officer shall process any such appeal in accordance with internal Departmental procedures.

PART 908—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 908.8—Acquisition of Printing and Related Supplies

Sec.

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908.7121 Special materials.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 11945, Mar. 28, 1984, unless otherwise noted.

Subpart 908.8—Acquisition of Printing and Related Supplies

908.802 Policy. (DOE coverage—paragraph (b))

(b) Inclusion of printing requirements (limited exceptions are set forth in paragraphs 35-2 through 35-4 of the Government Printing and Binding Regulations) in contracts for supplies and services is prohibited unless specifically approved by the Director, Office of Administrative Services, Headquarters. Contracting officers shall insert the clause at 48 CFR 952.208-70.

[61 FR 41705, Aug. 9, 1996]

Subpart 908.11—Leasing of Motor Vehicles

SOURCE: 61 FR 41705, Aug. 9, 1996, unless otherwise noted.

908.1102 Presolicitation requirements. (DOE coverage—paragraph (a))

(a)(4) Commercial vehicle lease sources may be used only when the General Services Administration (GSA) has advised that it cannot furnish the vehicle(s) through the Interagency

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Motor Pool System and it has been determined that the vehicle(s) are not available through the GSA Consolidated Leasing Program.

908.1104 Contract clauses. (DOE coverage—paragraph (e))

(e) The clause at 48 CFR 952.208-7, Tagging of Leased Vehicles, shall be inserted whenever a vehicle(s) is to be leased over 60 days, except for those vehicles exempted by (FPMR) 41 CFR 101-38.6.

908.1170 Leasing of fuel-efficient vehicles.

(a) All sedans and station wagons and certain types of light trucks, as specified by GSA, that are acquired by lease for 60 continuous days or more for official use by DOE or its authorized contractors, are subject to the requirements of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 and of Executive Order 12003 and subsequent implementing regulations.

(b) Leased vehicles will meet the miles-per-gallon criteria of, and be incorporated in, the approved plan of the fiscal year in which leases are initiated, reviewed, extended, or increased in scope. Vehicle leases will specify the vehicle model type to be provided.

Subpart 908.71—Acquisition of Special Items

908.7100 Scope of subpart.

This subpart sets forth requirements and procedures for the acquisition of special items by DOE and contractors authorized to use special sources of supply to the extent indicated herein.

908.7101 Motor vehicles.

908.7101-1 Scope of section.

Acquisitions by purchase of motor vehicles shall be in accordance with this section.

908.7101-2 Consolidated acquisition of new vehicles by General Services Administration.

(a) New vehicles shall be procured in accordance with FPMR 41 CFR 101-25.304, 101-26.501, and 101-38.13, and

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DOE-PMR 41 CFR 109-25.304, 109-38.13, and 109-38.51.

(b) Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice, in accordance with FPMR 41 CFR 101-26.501. Requisitions for sedans, station wagons, and certain light trucks as specified by GSA, should contain a certification that the acquisition is in conformance with Pub. L. 94-163, and Executive Order 12003 and 12375 and subsequent implementations.

(c) The schedule of dates for submission of orders is contained in FPMR 41 CFR 101-26.501-4. The Heads of Contracting Activities shall consolidate and submit their requirements for passenger automobiles early in the fiscal year. Requisitions for sedans, station wagons and certain types of light trucks shall be submitted through Headquarters as outlined in 908.7101-6. Requisitions for all other types of vehicles shall be submitted directly to GSA.

[49 FR 11945, Mar. 28, 1984; 49 FR 38949, Oct. 2, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7101-3 Direct acquisition.

Vehicles may be acquired by DOE activities directly rather than through GSA when a waiver has been granted by GSA. A copy of the activity's request to GSA for a waiver shall be forwarded to the Director, Office of Property Management, within the Headquarters procurement organization. In those cases involving general purpose vehicles where GSA refuses to grant a waiver and where it is believed that acquisition through GSA would adversely affect or otherwise impair the program, authority for direct acquisition shall be obtained from the above-mentioned Headquarters official, prior to acquisition. In the acquisition of special purpose vehicles for use by DOE and its authorized contractors, the Head of the Contracting Activity may authorize direct purchases. The purchase price for sedans and station wagons, shall not exceed any statutory limitation in effect at the time the acquisition is

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made. (See DOE-PMR 41 CFR 109-38.5102-4).

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7101-4 Replacement of motor vehicles.

(a) The replacement of motor vehicles shall be in accordance with the replacement standards prescribed in FPMR 41 CFR 101-38.9 and DOE-PMR 41 CFR 109-38.9.

(b) The Heads of Contracting Activities may arrange to sell, as exchange sales, used motor vehicles being replaced and to apply the proceeds to the purchase of similar new vehicles. However, in the event personnel are not available to make such sales, or it is in the best interest of the DOE office, GSA may be requested to sell the used vehicles.

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7101-5 Used vehicles.

Normally, DOE does not purchase or authorize contractors to purchase used vehicles. However, the Heads of Contracting Activities may authorize the purchase of used vehicles where justified by special circumstances; e.g., when new vehicles are in short supply, the vehicles are to be used for experimental or test purposes, or the vehicles are acquired from exchange sale. In accordance with DOE-PMR 41 CFR 109-38.5102, the statutory passenger vehicle allocation requirements for DOE shall apply to any purchase of used vehicles except in the case of vehicles to be used exclusively for experimental or test purposes.

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7101-6 Acquisition of fuel-efficient vehicles.

(a) All purchases of sedans and station wagons, and certain types of light trucks as specified by GSA, are subject to the requirements of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163, and of Executive Orders 12003 and 12375 and subsequent implementing regulations. Ac-

cordingly, the Director of Administration and the Heads of Contracting Activities will submit annually to the Director, Office of Property Management, within the Headquarters procurement organization, for approval, a forecast of plans for the purchase of such vehicles during the fiscal year. Such forecast shall be submitted so as to arrive at Headquarters on or before December 1 of each year. Additionally, the original and 2 copies of requisitions (GSA form 1781) for purchase of such vehicles shall also be forwarded to the above official for review and certification/approval prior to submission to GSA. All such documentation will be reviewed by this official and a determination made as to conformance with applicable annual forecasts and pertinent public laws and their implementations. (See DOE-PMR 41 CFR 109-38.13.)

(b) Sedans, station wagons, and light trucks requisitioned according to an approved forecast, but not contracted for by GSA until the subsequent fiscal year, will be included in the acquisition plan for the miles-per-gallon criteria of the year in which GSA signs the purchase contract along with the new vehicles planned for acquisition that year.

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7101-7 Government license tags.

(a) Government license tags shall be procured and assignments recorded by DOE offices in accordance with FPMR 41 CFR 101-38.303.

(b) The letter "E" has been designated as the prefix symbol for all DOE official license tags. Assignments of specific "blocks" of tag numbers and the maintenance of tag assignment records, are performed by the Director, Office of Property Management, within the Headquarters procurement organization. Assignments of additional "blocks" of tag numbers will be made upon receipt of written requests from field offices.

(c) Special license tags for security purposes shall be purchased in accordance with state and local laws, regulations, and procedures.

(d) In the District of Columbia, official Government tags shall be obtained

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from the Department of Transportation, Motor Vehicles Services Branch, District of Columbia, for all motor vehicles (except vehicles exempt for security purposes) based or housed in the District.

(e) See DOE-PMR 41 CFR 109-38.3 and 109-38.6 for additional guidance.

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

908.7102 Aircraft.

Acquisition of aircraft shall be in accordance with DOE-PMR 41 CFR 109-38.5205.

908.7103 Office machines.

Acquisitions of office machines by DOE offices and its authorized contractors shall be in accordance with FPMR 41 CFR 101-25.104, 101-25.302, 101-25.302-3, 101-25.302-4, and 101-25.302-6, and 101-25.403, and DOE-PMR 41 CFR 109-25.302, 109-25.302-3, and 109-25.4.

908.7104 Office furniture and furnishings.

Acquisitions of office furniture and furnishings by DOE offices shall be in accordance with FPMR 41 CFR 101-25.104, 101-25.302, 101-25.302-1, 101-25.302-5, 101-25.302-7, and 101-25.302-8, 101-25.404 and 101-26.505, and DOE-PMR 41 CFR 109-25.302, 109-25.302-1, and 109-25.350.

908.7105 Filing cabinets.

Acquisitions of filing cabinets shall be in accordance with FPMR 41 CFR 101-26.308 and 101-25.302-2 and DOE-PMR 41 CFR 109-25.302-2.

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984]

908.7106 Security cabinets.

(a) Acquisitions of security cabinets shall be in accordance with FPMR 41 CFR 101-26.507 and the "prerequisites to ordering" criteria contained in FPMR 41 CFR 101-25.302-2 and DOE-PMR 41 CFR 109-25.302-2.

(b) Fixed-price prime contractors and lower tier subcontractors may use GSA acquisition sources for security cabi-

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nets in accordance with FPMR 41 CFR 101-26.407 and FAR 51.

[49 FR 11945, Mar. 28, 1984; 49 FR 38950, Oct. 2, 1984]

908.7107 Alcohol.

(a) This section covers (1) Bureau of Alcohol, Tobacco and Firearms, (ATF), Treasury Department, alcohol regulations applicable to DOE, (2) delegations of authority to submit applications to purchase tax-free alcohol or specially denatured alcohol, and (3) purchases of alcohol by DOE or authorized contractors. To the fullest extent practicable, alcohol for use by DOE or its cost-type contractors shall be procured on a tax-free basis.

(b) ATF regulations relating to the acquisition and use of alcohol free of tax, by Government agencies, are set forth in 26 CFR 213.141-213.146. Copies of excerpts from these regulations may be secured from the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury, Washington, DC 20226. These regulations shall be followed in the acquisition of alcohol.

(c) ATF Form 1444/1486, "Tax Free Spirits or Specially Denatured Spirits for Use of United States," shall be used for acquisitions of specially denatured alcohol and ethyl alcohol. Section I of the form is the application for permission to acquire and Section II is the permit. If acquisition from more than one warehouse is desirable, separate applications must be made for withdrawal from each warehouse. When permits are no longer required, they should be forwarded to the Bureau of Alcohol, Tobacco and Firearms for cancellation. Alcohol procured by use of the ATF form referred to in this subsection shall be used exclusively on DOE work.

(d) The Procurement Executive has been authorized to sign and delegate to others authority to sign applications under Bureau of Alcohol, Tobacco and Firearms regulations relating to the acquisition and use of alcohol free of tax. Specific DOE personnel have been delegated authority to execute Part I of Form 1444/1486 by letters to the Director, Bureau of Alcohol, Tobacco and Firearms without power of redelegation. Copies of such letters have been

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furnished to field offices. Only the individuals so authorized shall execute Section I of these forms. Requests by field offices for new authorizations or changes to existing authorizations shall be submitted by letter to the Procurement Executive.

(e) Applications on the ATF Form 1444/1486 shall be executed in duplicate by an authorized DOE official and mailed directly to the address on the application. Only one permit will be provided to each field organization. Due to the numerous locations managed by field operations offices, the exact shipping address need not be shown in block 3 of the form. Shipments, however, must be addressed to the "Department of Energy at various locations within the United States". The ATF will assign the application a permit number and return it to the requestor. Distribution of certified copies shall be controlled and each holder of a certified copy recorded.

(f) Annually, the Bureau of Alcohol, Tobacco and Firearms publishes printed lists of Distilled Spirits Plants, Bonded Warehouses and Denaturing Plants Authorized to Operate. Copies of these lists and supplies of Form 1444/1486 may be secured by written request to the Director, Bureau of Alcohol, Tobacco and Firearms, Special Operations Branch, Washington, DC 20226.

(g) A signed copy of the permit shall accompany the original purchase order issued to the plant or warehouse, where it shall be retained or returned with the shipment. Subsequent orders shall refer to the permit on file in the plant or warehouse if it was retained.

(h) When alcohol is shipped, the shipper prepares the required form as specified by Bureau of Alcohol, Tobacco and Firearms regulations and forwards them to the consignee. Upon receipt of the receiving report covering the shipment, the officer who signed the purchase order shall execute the certificate of receipt and forward it to the appropriate Regional Director, Bureau of Alcohol, Tobacco and Firearms. The carrier transporting the alcohol shall also be given a receipt as specified by Bureau of Alcohol, Tobacco and Firearms regulations.

(i) Abandoned and forfeited alcohol which has come into the custody or

control of a Federal agency may be obtained by following the procedure set forth in FPMR 41 CFR 101-48.1

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

908.7108 Helium.

(a) Acquisitions of helium by DOE and its authorized contractors shall be in accordance with this section.

(b) The Helium Act (Pub. L. 86-777, as amended (50 U.S.C. 167(d)) provides that, to the extent that supplies are readily available, whether in gaseous or liquid form, DOE shall purchase all major requirements of helium from the Secretary of Interior, Bureau of Mines, or from the Bureau of Mines distribution contractors eligible to sell Bureau of Mines helium to Federal agencies and their users in accordance with 30 CFR part 602.

(c)(1) Purchases may be made directly from the Bureau of Mines by forwarding a purchase order in duplicate to: Bureau of Mines, Division of Helium Operations, 1100 South Fillmore Street, Amarillo, Texas 79101.

(2) Purchases may be made from those commercial firms listed in the Bureau of Mines as eligible to sell helium to Federal users.

(i) The purchase document shall contain the following statement: "Helium furnished under this contract shall be Bureau of Mines Helium."

(ii) A copy of each acquisition document shall be furnished to the address in paragraph (c)(1) of this section.

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

908.7109 Fuels and packaged petroleum products.

Acquisitions of fuel and packaged petroleum products by DOE offices shall be in accordance with FPMR 41 CFR 101-26.602. When contractors are authorized, consistent with 951, to acquire such products from Defense sources, they shall do so in accordance with FPMR 41 CFR 101-26.602.

908.7110 Coal.

DOE offices and authorized contractors may participate in the Defense Fuel Supply Center (DFSC) coal contracting program for carload or larger

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lots. If participation is desired, estimates shall be submitted to DFSC in accordance with FPMR 41 CFR 101-26.602.

908.7111 Arms and ammunition.

Pursuant to 10 U.S.C. 4655, the Secretary of the Army is authorized to furnish arms, suitable accouterments for use therewith, and ammunition for the protection of public money and property.

(a) The Department of the Army has granted clearance for Federal agencies to procure, without further reference to or clearance from that Department, all arms and ammunition of types which are not peculiar to the military services, and which are readily procurable in the civilian market.

(b) Acquisition of arms and ammunition readily procurable in the civilian market shall be made in accordance with regular acquisition procedures.

(c) Acquisition of arms and ammunition which are peculiar to the military services shall be made by submission of order form to the Commanding General, Headquarters, U.S. Army Material Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

[49 FR 11945, Mar. 28, 1984, as amended at 49 FR 38950, Oct. 2, 1984]

908.7112 Materials handling equipment replacement standards.

Materials handling equipment shall be purchased for replacement purposes in accordance with the standards in FPMR 41 CFR 101-25.405 and DOE-PMR 41 CFR 109-25.4. The Heads of Contracting Activities are authorized to replace an item earlier than the date specified in such standards under unusual circumstances. A written justification shall be placed in the purchase file.

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

908.7113 Calibration services.

Orders for calibration services may be placed with the National Bureau of Standards, Washington, DC 20234, by either DOE acquisition offices or its authorized contractors. Copies of the letters authorizing contractors to order

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calibration services on behalf of DOE shall be sent to the Bureau of Standards, Attention: "Administrative Services Division."

908.7114 Wiretapping and eavesdropping equipment.

Acquisition by DOE offices and contractors of devices primarily designed to be used surreptitiously to overhear or record conversations is prohibited.

908.7115 Forms.

(a) DOE forms shall be obtained by DOE offices in accordance with DOE Order 1322.2, (See current version.). Cost-type contractors shall obtain DOE forms through the DOE contracting officer.

(b) Standard, optional, and certain other agency forms as listed in the GSA Supply Catalog will be obtained by DOE offices in accordance with FPMR 41 CFR 101-26.302.

(c) Marginally punched continuous forms shall be obtained in accordance with FPMR 41 CFR 101-26.703.

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

908.7116 Electronic data processing tape.

(a) Acquisitions of electronic data processing tape by DOE offices shall be in accordance with FPMR 41 CFR 101-26.508.

(b) Acquisitions of electronic data processing tape by authorized contractors shall be in accordance with FPMR 41 CFR 101-26.508-1. However, if adequate justification exists, the Heads of Contracting Activities may authorize contractors to obtain their tape from other sources. When such an authorization is granted, a copy of the authorization and justification shall be retained in the contract file.

[49 FR 11945, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

908.7117 Tabulating machine cards.

DOE offices shall acquire tabulating machine cards in accordance with FPMR 41 CFR 101-26.509.

908.7118 Rental of post office boxes.

DOE offices and authorized contractors may rent post office boxes on an

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annual basis, or for shorter periods by quarters, where necessary. Payments for annual rentals are to be made in advance at the beginning of the fiscal year, and for periods of less than a year, either in advance for the whole period or at the beginning of each quarter in which the box is to be used.

908.7119-908.7120 [Reserved]

908.7121 Special materials.

This section covers the purchase of materials peculiar to the DOE program. While purchases of these materials are unclassified, the specific quantities, destination or use may be classified. See appropriate sections of the Classification Guide. Contracting activities shall require authorized contractors to obtain the special materials identified in the following subsections in accordance with the procedures stated therein.

(a) *Heavy water.* The Senior Program Official or designee controls the acquisition and production of heavy water for a given program. Request for orders shall be placed directly with the cognizant Senior Program Official or designee.

(b) *Precious metals.* The DOE Oak Ridge Operations Office is responsible for maintaining the DOE supply of precious metals. These metals are platinum, palladium, iridium, osmium, rhodium, ruthenium, gold and silver. The DOE Oak Ridge Operations Office has assigned management of these metals to Martin Marietta Energy Systems, Inc., MS8207, P.O. Box 2009, Oak Ridge, TN 37831. DOE offices and authorized contractors shall coordinate with the operating contractor regarding the availability of the above metals prior to the purchase of these metals on the open market.

(c) *Lithium.* Lithium is available at no cost other than normal packing, handling, and shipping charges from Oak Ridge. The excess quantities at Oak Ridge are to be considered as the first source of supply prior to procurement of lithium compounds from any other source.

[54 FR 27646, June 30, 1989, as amended at 59 FR 9105, Feb. 25, 1994; 62 FR 2312, Jan. 16, 1997]

PART 909—CONTRACTOR QUALIFICATIONS

Subpart 909.1—Responsible Prospective Contractors

Sec.

909.104-1 General Standards.

909.104-3 Application of standards.

Subpart 909.4—Debarment, Suspension, and Ineligibility

909.400 Scope of subpart.

909.401 Applicability.

909.403 Definitions.

909.405 Effect of listing.

909.406 Debarment.

909.406-2 Causes for debarment.

909.406-3 Procedures.

909.406-6 Requests for reconsideration of debarment.

909.407-2 Causes for suspension.

909.407-3 Procedures.

Subpart 909.5—Organizational and Consultant Conflicts of Interest

909.503 Waiver.

909.504 Contracting Officer's Responsibility.

909.507 Solicitation provisions and contract clause.

909.507-1 Solicitation provisions.

909.507-2 Contract Clause.

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418(b); and 50 U.S.C. 2401 *et seq.*

SOURCE: 49 FR 11949, Mar. 28, 1984, unless otherwise noted.

Subpart 909.1—Responsible Prospective Contractors

909.104-1 General Standards.

(h) For solicitations for contract work subject to the provisions of 10 CFR part 707, Workplace Substance Abuse Programs at DOE sites, the prospective contractor must agree, in accordance with 48 CFR 970.5223-3., Agreement Regarding Workplace Substance Abuse Programs at DOE Sites, to provide the contracting officer with its written workplace substance abuse program in order to be determined responsible and, thus, eligible to receive the contract award.

[57 FR 32675, July 22, 1992, as amended at 62 FR 42074, Aug. 5, 1997; 65 FR 81006, Dec. 22, 2000]