

301.106

U.S.C. 301 and section 205(c) of the *Federal Property and Administrative Services Act of 1949*, as amended (40 U.S.C. 486(c), as delegated by the Secretary.

(c) The HHSAR is issued in the Code of Federal Regulations (CFR) as *Chapter 3 of Title 48, Department of Health and Human Services Acquisition Regulation*. It may be referenced as “48 CFR Chapter 3.”

301.106 Office of Management and Budget approval under the Paperwork Reduction Act.

(a) The Paperwork Reduction Act of 1980 (44 U.S.C 3501 *et seq.*) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget (OMB) before collecting the same information from 10 or more members of the public.

(b) The following OMB control numbers apply to the information collection and recordkeeping requirements contained in this chapter:

HHSAR segment No.	OMB control No.
315.4	0990-0139
342.7101	0990-0131
352.233-70	0990-0133
352.270-1	0990-0129
352.270-2	0990-0129
352.270-3	0990-0129
352.270-5	0990-0130
352.270-8	0990-0128
352.270-9	0990-0128
370.1	0990-0129
370.2	0990-0129

(c) The Contracting Officer shall insert the clause in 352.201-70, Paperwork Reduction Act, in solicitations, contracts, and orders that include a requirement to collect the same information from 10 or more persons.

Subpart 301.2—Administration

301.270 Executive Committee for Acquisition.

(a) The Associate Deputy Assistant Secretary for Acquisition (Associate DAS for Acquisition) has established the Executive Committee for Acquisition (ECA) to facilitate the planning, development, and implementation of HHS acquisition policies and procedures and to share successful acquisition practices.

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(b) The ECA consists of members and alternates from the following organizations:

(1) ASFR/Office of Grants and Acquisition Policy and Accountability (OGAPA)/Division of Acquisition (DA).

(2) Agency for Healthcare Research and Quality (AHRQ).

(3) Assistant Secretary for Preparedness and Response/Office of Acquisitions Management, Contracts and Grants (ASPR/OAMCG).

(4) Centers for Disease Control and Prevention (CDC).

(5) Centers for Medicare and Medicaid Services (CMS).

(6) Food and Drug Administration (FDA).

(7) Health Resources and Services Administration (HRSA).

(8) Indian Health Service (IHS).

(9) National Institutes of Health (NIH).

(10) Program Support Center (PSC).

(11) Substance Abuse and Mental Health Services Administration (SAMHSA).

(c) The Associate DAS for Acquisition is the Chair of the ECA. The Chair will call all meetings and direct all ECA activities.

[74 FR 62398, Nov. 27, 2009, as amended at 75 FR 21509, Apr. 26, 2010]

Subpart 301.4—Deviations From the FAR

301.403 Individual deviations.

Contracting activities shall prepare requests for individual deviations to either the *FAR* or HHSAR in accordance with 301.470.

301.404 Class deviations.

Contracting activities shall prepare requests for class deviations to either the *FAR* or HHSAR in accordance with 301.470.

301.470 Procedure.

(a) Contracting activities shall prepare deviation requests in memorandum form and forward them through the Head of the Contracting Activity (HCA) to the Associate DAS for Acquisition. The Associate DAS for

Health and Human Services

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Acquisition (non-delegable) is the official authorized to approve all deviation requests. Contracting activities may request a deviation telephonically or by e-mail in an exigent situation, but shall confirm the request by memorandum as soon as possible.

(b) A deviation request shall clearly set forth the—

(1) Nature of the deviation, including what contract(s)/contractor(s) is involved;

(2) Identification of the FAR or HHSAR citation from which the deviation is needed;

(3) Circumstances under which the deviation will be used;

(4) Intended effect of the deviation;

(5) Period of applicability;

(6) Rationale for the deviation (NOTE: The Contracting Officer shall include a copy of pertinent background papers, such as a contractor's request, as part of the deviation request.); and

(7) Suggested wording for the deviation, if applicable.

Subpart 301.6—Career Development, Contracting Authority, and Responsibilities

301.602 Contracting Officers.

301.602-3 Ratification of unauthorized commitments.

(b) *Policy.*

(1) The Government is not bound by agreements with, or contractual commitments made to, prospective contractors by individuals who do not have delegated contracting authority. However, an authorized official may later ratify and execute otherwise proper contracts that were made by individuals without contracting authority or by Contracting Officers in excess of their delegated authority. The ratification shall be in the form of a written document that clearly states that ratification of a previously unauthorized act is intended.

(2) The HCA is the official authorized to ratify an unauthorized commitment—but see paragraph (b)(3) of this section.

(3) The HCA may redelegate ratification authority for actions up to \$100,000 to the Chief of the Contracting Office

(CCO). No other redelegations are authorized.

(c) *Limitations.*

(5) The concurrence of legal counsel concerning an unauthorized commitment is optional. If a contracting activity determines that a legal review is necessary, the HCA or CCO shall coordinate the request for ratification with the Office of General Counsel (OGC), General Law Division (GLD).

(e) *Procedures.*

(1) The individual who is responsible for the unauthorized commitment shall provide the reviewing Contracting Officer all records and documents concerning the commitment and a complete written statement of facts, including a description of the requirement; the estimated or agreed upon price; the funds citation; an explanation of why the contracting office was not used and why the proposed contractor was selected; a list of other sources considered; and a statement as to whether the contractor has commenced work or an item has been delivered.

(2) The Contracting Officer shall review the submitted material and, if the Contracting Officer determines that the ratification request has merit, prepare it for ratification. The Contracting Officer shall forward the ratification document and related materials to the HCA or CCO, as appropriate, with any comments or information which the approving official should consider in evaluating the ratification request.

(3) If the HCA or CCO approves the ratification request, the Contracting Officer shall issue a purchase order or contract, as appropriate, upon return of the approved ratification document and file.

301.603 Selection, appointment, and termination of appointment of Contracting Officers.

301.603-1 General.

(a) The HCA (non-delegable) shall select, appoint, and terminate the appointment of Contracting Officers—*i.e.*, those individuals who are authorized to obligate the Government to the expenditure of funds for contracts and orders with dollar values that exceed (or