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(2) Determine whether any action taken by the contractor has resolved the violation satisfactorily; and

(3) If the contracting officer determines that the contractor has not resolved the violation satisfactorily, take any appropriate action in consultation with agency legal counsel.

#### 3.1104 Mitigation or waiver.

(a) In exceptional circumstances, if the contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of the clause at 52.203-16, Preventing Personal Conflicts of Interest, the contractor may submit a request, through the contracting officer, for the head of the contracting activity to—

(1) Agree to a plan to mitigate the personal conflict of interest; or

(2) Waive the requirement to prevent personal conflicts of interest.

(b) If the head of the contracting activity determines in writing that such action is in the best interest of the Government, the head of the contracting activity may impose conditions that provide mitigation of a personal conflict of interest or grant a waiver.

(c) This authority shall not be redelegated.

#### 3.1105 Violations.

If the contracting officer suspects violation by the contractor of a requirement of paragraph (b), (c)(3), or (d) of the clause at 52.203-16, Preventing Personal Conflicts of Interest, the contracting officer shall contact the agency legal counsel for advice and/or recommendations on a course of action.

#### 3.1106 Contract clause.

(a) Insert the clause at 52.203-16, Preventing Personal Conflicts of Interest, in solicitations and contracts that—

(1) Exceed the simplified acquisition threshold; and

(2) Include a requirement for services by contractor employee(s) that involve performance of acquisition functions closely associated with inherently governmental functions for, or on behalf of, a Federal agency or department.

(b) If only a portion of a contract is for the performance of acquisition

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functions closely associated with inherently governmental functions, then the contracting officer shall still insert the clause, but shall limit applicability of the clause to that portion of the contract that is for the performance of such services.

(c) Do not insert the clause in solicitations or contracts with a self-employed individual if the acquisition functions closely associated with inherently governmental functions are to be performed entirely by the self-employed individual, rather than an employee of the contractor.

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

SOURCE: 48 FR 42113, Sept. 19, 1983, unless otherwise noted.

## 4.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files.

[60 FR 28493, May 31, 1995]

## Subpart 4.1—Contract Execution

### 4.001 Definitions.

As used in this part—

*Procurement Instrument Identifier (PIID)* means the Government-unique identifier for each solicitation, contract, agreement, or order. For example, an agency may use as its PIID for procurement actions, such as delivery and task orders or basic ordering agreements, the order or agreement number in conjunction with the contract number (see 4.1602).

*Supplementary procurement instrument identifier* means the non-unique identifier for a procurement action that is used in conjunction with the Government-unique identifier. For example, an agency may use as its PIID for an amended solicitation, the Government-unique identifier for a solicitation number (e.g., N0002309R0009) in conjunction with a non-unique amendment number (e.g., 0001). The non-unique amendment number represents the supplementary PIID.

[76 FR 39235, July 5, 2011]

### 4.101 Contracting officer's signature.

Only contracting officers shall sign contracts on behalf of the United States. The contracting officer's name and official title shall be typed, stamped, or printed on the contract. The contracting officer normally signs the contract after it has been signed by the contractor. The contracting officer shall ensure that the signer(s) have authority to bind the contractor (see specific requirements in 4.102 of this subpart).

[60 FR 34736, July 3, 1995]

### 4.102 Contractor's signature.

(a) *Individuals.* A contract with an individual shall be signed by that individual. A contract with an individual doing business as a firm shall be signed by that individual, and the signature shall be followed by the individual's typed, stamped, or printed name and the words “, an individual doing business as \_\_\_\_\_” [*insert name of firm*].

(b) *Partnerships.* A contract with a partnership shall be signed in the partnership name. Before signing for the

Government, the contracting officer shall obtain a list of all partners and ensure that the individual(s) signing for the partnership have authority to bind the partnership.

(c) *Corporations.* A contract with a corporation shall be signed in the corporate name, followed by the word “by” and the signature and title of the person authorized to sign. The contracting officer shall ensure that the person signing for the corporation has authority to bind the corporation.

(d) *Joint venturers.* A contract with joint venturers may involve any combination of individuals, partnerships, or corporations. The contract shall be signed by each participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. When a corporation is participating, the contracting officer shall verify that the corporation is authorized to participate in the joint venture.

(e) *Agents.* When an agent is to sign the contract, other than as stated in paragraphs (a) through (d) above, the agent's authorization to bind the principal must be established by evidence satisfactory to the contracting officer.

[48 FR 42113, Sept. 19, 1983, as amended at 62 FR 235, Jan. 2, 1997]

### 4.103 Contract clause.

The contracting officer shall insert the clause at 52.204-1, Approval of Contract, in solicitations and contracts if required by agency procedures.

[49 FR 26741, June 29, 1984]

## Subpart 4.2—Contract Distribution

### 4.201 Procedures.

Contracting officers shall distribute copies of contracts or modifications within 10 working days after execution by all parties. As a minimum, the contracting officer shall—

(a) Distribute simultaneously one signed copy or reproduction of the signed contract to the contractor and the paying office;

(b) When a contract is assigned to another office for contract administration (see subpart 42.2), provide to that office—

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(1) One copy or reproduction of the signed contract and of each modification; and

(2) A copy of the contract distribution list, showing those offices that should receive copies of modifications, and any changes to the list as they occur;

(c) Distribute one copy to each accounting and finance office (funding office) whose funds are cited in the contract;

(d) When the contract is not assigned for administration but contains a Cost Accounting Standards clause, provide one copy of the contract to the cognizant administrative contracting officer and mark the copy "FOR COST ACCOUNTING STANDARDS ADMINISTRATION ONLY" (see 30.601(b));

(e) Provide one copy of each contract or modification that requires audit service to the appropriate field audit office listed in the "Directory of Federal Contract Audit Offices" (copies of this directory can be ordered from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402, referencing stock numbers 008-007-03189-9 and 008-007-03190-2 for Volumes I and II, respectively); and

(f) Provide copies of contracts and modifications to those organizations required to perform contract administration support functions (e.g., when manufacturing is performed at multiple sites, the contract administration office cognizant of each location).

[48 FR 42113, Sept. 19, 1983, as amended at 60 FR 34736, July 3, 1995]

### 4.202 Agency distribution requirements.

Agencies shall limit additional distribution requirements to the minimum necessary for proper performance of essential functions. When contracts are assigned for administration to a contract administration office located in an agency different from that of the contracting office (see part 42), the two agencies shall agree on any necessary distribution in addition to that prescribed in 4.201 above.

### 4.203 Taxpayer identification information.

(a) If the contractor has furnished a Taxpayer Identification Number (TIN) when completing the solicitation provision at 52.204-3, Taxpayer Identification, or paragraph (l) of the solicitation provision at 52.212-3, Offeror Representations and Certifications—Commercial Items, the contracting officer shall, unless otherwise provided in agency procedures, attach a copy of the completed solicitation provision as the last page of the copy of the contract sent to the payment office.

(b) If the TIN or type of organization is derived from a source other than the provision at 52.204-3 or 52.212-3(1), the contracting officer shall annotate the last page of the contract or order forwarded to the payment office to state the contractor's TIN and type of organization, unless this information is otherwise provided to the payment office in accordance with agency procedures.

(c) If the contractor provides its TIN or type of organization to the contracting officer after award, the contracting officer shall forward the information to the payment office within 7 days of its receipt.

(d) *Federal Supply Schedule contracts.* Each contracting officer that places an order under a Federal Supply Schedule contract (see Subpart 8.4) shall provide the TIN and type of organization information to the payment office in accordance with paragraph (b) of this section.

(e) *Basic ordering agreements and indefinite-delivery contracts (other than Federal Supply Schedule contracts).* (1) Each contracting officer that issues a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide to contracting officers placing orders under the agreement or contract (if the contractor is not required to provide this information to the System for Award Management)—

(i) A copy of the agreement or contract with a copy of the completed solicitation provision at 52.204-3 or 52.212-3(1) as the last page of the agreement or contract; or

(ii) The contractor's TIN and type of organization information.

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(2) Each contracting officer that places an order under a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide the TIN and type of organization information to the payment office in accordance with paragraph (a) or (b) of this section.

[63 FR 58588, Oct. 30, 1998, as amended at 68 FR 56672, Oct. 1, 2003; 73 FR 33638, June 12, 2008; 78 FR 37677, June 21, 2013]

### Subpart 4.3—Paper Documents

#### 4.300 Scope of subpart.

This subpart provides policies and procedures on contractor-submitted paper documents.

[60 FR 28493, May 31, 1995]

#### 4.301 Definition.

*Printed or copied double-sided*, as used in this subpart, means printing or reproducing a document so that information is on both sides of a sheet of paper.

[65 FR 36017, June 6, 2000]

#### 4.302 Policy.

(a) Section 3(a) of E.O. 13423, Strengthening Federal Environmental, Energy, and Transportation Management, directs agencies to implement waste prevention. In addition, section 2(e) of E.O. 13514, Federal Leadership in Environmental, Energy, and Economic Performance, directs agencies to eliminate waste. Electronic commerce methods (see 4.502) and double-sided printing and copying are best practices for waste prevention.

(b) When electronic commerce methods (see 4.502) are not used, agencies shall require contractors to submit paper documents to the Government relating to an acquisition printed or copied double-sided on at least 30 percent postconsumer fiber paper whenever practicable. If the contractor cannot print or copy double-sided, it shall print or copy single-sided on at least 30 percent postconsumer fiber paper.

[76 FR 31397, May 31, 2011]

#### 4.303 Contract clause.

Insert the clause at 52.204-4, Printed or Copied Double-Sided on Recycled

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Paper, in solicitations and contracts that exceed the simplified acquisition threshold.

[65 FR 36017, June 6, 2000]

### Subpart 4.4—Safeguarding Classified Information Within Industry

#### 4.401 [Reserved]

#### 4.402 General.

(a) Executive Order 12829, January 6, 1993 (58 FR 3479, January 8, 1993), entitled “National Industrial Security Program” (NISP), establishes a program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. Executive Order 12829 amends Executive Order 10865, February 20, 1960 (25 FR 1583, February 25, 1960), entitled “Safeguarding Classified Information Within Industry,” as amended by Executive Order 10909, January 17, 1961 (26 FR 508, January 20, 1961).

(b) The National Industrial Security Program Operating Manual (NISPOM) incorporates the requirements of these Executive Orders. The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, and the Director of Central Intelligence, is responsible for issuance and maintenance of this Manual. The following DOD publications implement the program:

(1) *National Industrial Security Program Operating Manual* (NISPOM) (DOD 5220.22-M).

(2) *Industrial Security Regulation* (DOD 5220.22-R).

(c) Procedures for the protection of information relating to foreign classified contracts awarded to U.S. industry, and instructions for the protection of U.S. information relating to classified contracts awarded to foreign firms, are prescribed in Chapter 10 of the NISPOM.

(d) Part 27, Patents, Data, and Copyrights, contains policy and procedures

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for safeguarding classified information in patent applications and patents.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996; 73 FR 21781, Apr. 22, 2008]

### 4.403 Responsibilities of contracting officers.

(a) *Presolicitation phase.* Contracting officers shall review all proposed solicitations to determine whether access to classified information may be required by offerors, or by a contractor during contract performance.

(1) If access to classified information of another agency may be required, the contracting officer shall—

(i) Determine if the agency is covered by the NISP; and

(ii) Follow that agency's procedures for determining the security clearances of firms to be solicited.

(2) If the classified information required is from the contracting officer's agency, the contracting officer shall follow agency procedures.

(b) *Solicitation phase.* Contracting officers shall—

(1) Ensure that the classified acquisition is conducted as required by the NISP or agency procedures, as appropriate; and

(2) Include (i) an appropriate Security Requirements clause in the solicitation (see 4.404), and (ii) as appropriate, in solicitations and contracts when the contract may require access to classified information, a requirement for security safeguards in addition to those provided in the clause (52.204-2, Security Requirements).

(c) *Award phase.* Contracting officers shall inform contractors and subcontractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and components of the classified contract as follows:

(1) Agencies covered by the NISP shall use the Contract Security Classification Specification, DD Form 254. The contracting officer, or authorized representative, is the approving official for the form and shall ensure that it is prepared and distributed in accordance with the Industrial Security Regulation.

(2) Contracting officers in agencies not covered by the NISP shall follow agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996; 73 FR 21781, Apr. 22, 2008]

### 4.404 Contract clause.

(a) The contracting officer shall insert the clause at 52.204-2, Security Requirements, in solicitations and contracts when the contract may require access to classified information, unless the conditions specified in paragraph (d) below apply.

(b) If a cost contract (see 16.302) for research and development with an educational institution is contemplated, the contracting officer shall use the clause with its Alternate I.

(c) If a construction or architect-engineer contract where employee identification is required for security reasons is contemplated, the contracting officer shall use the clause with its Alternate II.

(d) If the contracting agency is not covered by the NISP and has prescribed a clause and alternates that are substantially the same as those at 52.204-2, the contracting officer shall use the agency-prescribed clause as required by agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996]

## Subpart 4.5—Electronic Commerce in Contracting

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 63 FR 58592, Oct. 30, 1998, unless otherwise noted.

### 4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of electronic commerce in Federal acquisition as required by 41 U.S.C. 2301.

[79 FR 24197, Apr. 29, 2014]

### 4.501 [Reserved]

### 4.502 Policy.

(a) The Federal Government shall use electronic commerce whenever practicable or cost-effective. The use of

terms commonly associated with paper transactions (e.g., “copy,” “document,” “page,” “printed,” “sealed envelope,” and “stamped”) shall not be interpreted to restrict the use of electronic commerce. Contracting officers may supplement electronic transactions by using other media to meet the requirements of any contract action governed by the FAR (e.g., transmit hard copy of drawings).

(b) Agencies may exercise broad discretion in selecting the hardware and software that will be used in conducting electronic commerce. However, as required by 41 U.S.C. 2301, the head of each agency, after consulting with the Administrator of OFPP, shall ensure that systems, technologies, procedures, and processes used by the agency to conduct electronic commerce—

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

(2) Are implemented only after considering the full or partial use of existing infrastructures;

(3) Facilitate access to Government acquisition opportunities by small business concerns, small disadvantaged business concerns, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business concerns;

(4) Include a single means of providing widespread public notice of acquisition opportunities through the Governmentwide point of entry and a means of responding to notices or solicitations electronically; and

(5) 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) Before using electronic commerce, the agency head shall 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.

(d) Agencies may accept electronic signatures and records in connection with Government contracts.

[63 FR 58592, Oct. 30, 1998, as amended at 66 FR 27409, May 16, 2001; 68 FR 28094, May 22, 2003; 70 FR 14954, Mar. 23, 2005; 72 FR 63076, Nov. 7, 2007; 79 FR 24197, Apr. 29, 2014]

### Subpart 4.6—Contract Reporting

SOURCE: 73 FR 21776, Apr. 22, 2008, unless otherwise noted.

#### 4.600 Scope of subpart.

This subpart prescribes uniform reporting requirements for the Federal Procurement Data System (FPDS).

#### 4.601 Definitions.

As used in this subpart—

*Contract action* means any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. Contract action does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

*Contract action report (CAR)* means contract action data required to be entered into the Federal Procurement Data System (FPDS).

*Definitive contract* means any contract that must be reported to FPDS other than an indefinite delivery vehicle. This definition is only for FPDS, and is not intended to apply to Part 16.

*Entitlement program* means a Federal program that guarantees a certain level of benefits to persons or other entities who meet requirements set by law, such as Social Security, farm price supports, or unemployment benefits.

*Generic DUNS number* means a DUNS number assigned to a category of vendors not specific to any individual or entity.

*Indefinite delivery vehicle (IDV)* means an indefinite delivery contract or agreement that has one or more of the following clauses:

(1) 52.216–18, Ordering.

(2) 52.216–19, Order Limitations.

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- (3) 52.216–20, Definite Quantity.
- (4) 52.216–21, Requirements.
- (5) 52.216–22, Indefinite Quantity.
- (6) Any other clause allowing ordering.

[73 FR 21776, Apr. 22, 2008, as amended at 74 FR 2713, Jan. 15, 2009; 75 FR 77735, Dec. 13, 2010]

### 4.602 General.

(a) The FPDS provides a comprehensive web-based tool for agencies to report contract actions. The resulting data provides—

(1) A basis for recurring and special reports to the President, the Congress, the Government Accountability Office, Federal executive agencies, and the general public;

(2) A means of measuring and assessing the effect of Federal contracting on the Nation's economy and the extent to which small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, women-owned small business concerns, and AbilityOne nonprofit agencies operating under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, are sharing in Federal contracts;

(3) A means of measuring and assessing the effect of Federal contracting for promoting sustainable technologies, materials, products, and high-performance sustainable buildings. This is accomplished by collecting and reporting agency data on sustainable acquisition, including types of products purchased, the purchase costs, and the exceptions used for other than sustainable acquisition; and

(4) A means of measuring and assessing the effect of other policy and management initiatives (*e.g.*, performance based acquisitions and competition).

(b) FPDS does not provide reports for certain acquisition information used in the award of a contract action (*e.g.*, subcontracting data, funding data, or accounting data).

(c) The FPDS Web site, <https://www.fpds.gov>, provides instructions for submitting data. It also provides—

(1) A complete list of departments, agencies, and other entities that submit data to the FPDS;

(2) Technical and end-user guidance;

(3) A computer-based tutorial; and

(4) Information concerning reports not generated in FPDS.

[73 FR 21776, Apr. 22, 2008, as amended at 73 FR 53994, Sept. 17, 2008; 76 FR 31397, May 31, 2011; 79 FR 24197, Apr. 29, 2014]

### 4.603 Policy.

(a) In accordance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), all unclassified Federal award data must be publicly accessible.

(b) Executive agencies shall use FPDS to maintain publicly available information about all unclassified contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

(c) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies shall provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see 17.502–1(b)(1)).

(d) Agencies awarding contract actions with a mix of appropriated and non-appropriated funding shall only report the full appropriated portion of the contract action in FPDS.

[77 FR 69721, Nov. 20, 2012]

### 4.604 Responsibilities.

(a) The Senior Procurement Executive in coordination with the head of the contracting activity is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS.

(b)(1) The responsibility for the completion and accuracy of the individual contract action report (CAR) resides with the contracting officer who awarded the contract action. CARs in a

draft or error status in FPDS are not considered complete.

(2) The CAR must be confirmed for accuracy by the contracting officer prior to release of the contract award. The CAR must then be completed in FPDS within three business days after contract award.

(3) For any action awarded in accordance with 6.302–2 or pursuant to any of the authorities listed at FAR subpart 18.2, the CAR must be completed in FPDS within 30 days after contract award.

(4) When the contracting office receives written notification that a contractor has changed its size status in accordance with the clause at 52.219–28, Post-Award Small Business Program Rerepresentation, the contracting officer shall update the size status in FPDS within 30 days after receipt of contractor's notification of rerepresentation.

(5) If after award of a contract, the contracting officer receives written notification of SBA's final decision on a protest concerning a size determination, the contracting officer shall update FPDS to reflect the final decision.

(c) The chief acquisition officer of each agency required to report its contract actions must submit to the General Services Administration (GSA), in accordance with FPDS guidance, within 120 days after the end of each fiscal year, an annual certification of whether, and to what degree, agency CAR data for the preceding fiscal year is complete and accurate.

[73 FR 21776, Apr. 22, 2008, as amended at 76 FR 68044, Nov. 2, 2011; 77 FR 69717, Nov. 20, 2012; 79 FR 43582, July 25, 2014]

#### 4.605 Procedures.

(a) *Procurement Instrument Identifier (PIID)*. Agencies shall have in place a process that ensures that each PIID reported to FPDS is unique Government-wide, for all solicitations, contracts, blanket purchase agreements, basic agreements, basic ordering agreements, or orders in accordance with 4.1601, and will remain so for at least 20 years from the date of contract award. Other pertinent PIID instructions for FPDS reporting can be found at <https://www.fpds.gov>.

(b) *Data Universal Numbering System*. The contracting officer must identify and report a Data Universal Numbering System (DUNS) number (Contractor Identification Number) for the successful offeror on a contract action. The DUNS number reported must identify the successful offeror's name and address as stated in the offer and resultant contract, and as registered in the System for Award Management database in accordance with the provision at 52.204–7, System for Award Management. The contracting officer must ask the offeror to provide its DUNS number by using either the provision at 52.204–6, Data Universal Numbering System Number, the provision at 52.204–7, System for Award Management, or the provision at 52.212–1, Instructions to Offerors—Commercial Items.

(c) *Generic DUNS number*. (1) The use of a generic DUNS number should be limited, and only used in the situations described in paragraph (c)(2) of this section. Use of a generic DUNS number does not supersede the requirements of either provisions 52.204–6 or 52.204–7 (if present in the solicitation) for the contractor to have a DUNS number assigned.

(2) Authorized generic DUNS numbers, maintained by the Integrated Award Environment (IAE) program office (<https://www.acquisition.gov>), may be used to report contracts in lieu of the contractor's actual DUNS number only for—

(i) Contract actions valued at or below \$25,000 that are awarded to a contractor that is—

(A) A student;

(B) A dependent of either a veteran, foreign service officer, or military member assigned outside the United States and its outlying areas (as defined in 2.101); or

(C) Located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas and the contractor does not otherwise have a DUNS number;

(ii) Contracts valued above \$25,000 awarded to individuals located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas; or

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(iii) Contracts when specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services. The contracting officer must include a written determination in the contract file of a decision applicable to authority under this paragraph (c)(2)(iii).

(d) *American Recovery and Reinvestment Act actions.* The contracting officer, when entering data in FPDS, shall use the instructions at <https://www.fpds.gov> to identify any action funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

[73 FR 21776, Apr. 22, 2008, as amended at 74 FR 14638, Mar. 31, 2009; 76 FR 39235, July 5, 2011; 77 FR 69717, Nov. 20, 2012; 78 FR 37677, June 21, 2013; 79 FR 43590, July 25, 2014]

EFFECTIVE DATE NOTE: At 79 FR 31190, May 30, 2014, § 4.065 was amended by adding a sentence to the end of paragraph (b) to read as follows: effective Nov. 1, 2014. For the convenience of the user, the added text is set forth as follows:

### 4.605 Procedures.

\* \* \* \* \*

(b) \* \* \* (For a discussion of the Commercial and Government Entity (CAGE) Code, which is a different identification number, see subpart 4.18.)

\* \* \* \* \*

### 4.606 Reporting Data.

(a) *Actions required to be reported to FPDS.* (1) As a minimum, agencies must report the following contract actions over the micro-purchase threshold, regardless of solicitation process used, and agencies must report any modification to these contract actions that change previously reported contract action data, regardless of dollar value:

(i) Definitive contracts, including purchase orders and imprest fund buys over the micro-purchase threshold awarded by a contracting officer.

(ii) Indefinite delivery vehicle (identified as an "IDV" in FPDS). Examples of IDVs include the following:

(A) Task and Delivery Order Contracts (see Subpart 16.5), including—

(1) Government-wide acquisition contracts.

(2) Multi-agency contracts.

(B) GSA Federal supply schedules.

(C) Blanket Purchase Agreements (see 13.303).

(D) Basic Ordering Agreements (see 16.703).

(E) Any other agreement or contract against which individual orders or purchases may be placed.

(iii) All calls and orders awarded under the indefinite delivery vehicles identified in paragraph (a)(1)(ii) of this section.

(2) The GSA Office of Charge Card Management will provide the Government purchase card data, at a minimum annually, and GSA will incorporate that data into FPDS for reports.

(3) Agencies may use the FPDS Express Reporting capability for consolidated multiple action reports for a vendor when it would be overly burdensome to report each action individually. When used, Express Reporting should be done at least monthly.

(b) *Reporting other actions.* Agencies may submit actions other than those listed at paragraph (a)(1) of this section only if they are able to be segregated from FAR-based actions and this is approved in writing by the FPDS Program Office. Prior to the commencement of reporting, agencies must contact the FPDS Program Office if they desire to submit any of the following types of activity:

(1) Transactions at or below the micro-purchase threshold, except as provided in paragraph (a)(2) of this section.

(2) Any non-appropriated fund (NAF) or NAF portion of a contract action using a mix of appropriated and non-appropriated funding.

(3) Lease and supplemental lease agreements for real property.

(4) Grants and entitlement actions.

(c) *Actions not reported.* The following types of contract actions are not to be reported to FPDS:

(1) Imprest fund transactions below the micro-purchase threshold, including those made via the Government purchase card (unless specific agency procedures prescribe reporting these actions).

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(2) Orders from GSA stock and the GSA Global Supply Program.

(3) Purchases made at GSA or AbilityOne service stores, as these items stocked for resale have already been reported by GSA.

(4) Purchases made using non-appropriated fund activity cards, chaplain fund cards, individual Government personnel training orders, and Defense Printing orders.

(5) Actions that, pursuant to other authority, will not be entered in FPDS (*e.g.*, reporting of the information would compromise national security).

(6) Contract actions in which the required data would constitute classified information.

(7) Resale activity (*i.e.*, commissary or exchange activity).

(8) Revenue generating arrangements (*i.e.*, concessions).

(9) Training expenditures not issued as orders or contracts.

(10) Interagency agreements other than inter-agency acquisitions required to be reported at 4.606(a)(1).

(11) Letters of obligation used in the A-76 process.

(d) *Agencies not subject to the FAR.* Agencies not subject to the FAR may be required by other authority (*e.g.*, statute, OMB, or internal agency policy) to report certain information to FPDS. Those agencies not subject to the FAR must first receive approval from the FPDS Program Office prior to reporting to FPDS.

[73 FR 21776, Apr. 22, 2008, as amended at 73 FR 53994, Sept. 17, 2008; 75 FR 34264, June 16, 2010; 75 FR 82567, Dec. 30, 2010; 77 FR 69717, Nov. 20, 2012]

#### 4.607 Solicitation provisions and contract clause.

(a) Insert the provision at 52.204-5, Women-Owned Business (Other Than Small Business), in all solicitations that—

(1) Are not set aside for small business concerns;

(2) Exceed the simplified acquisition threshold; and

(3) Are for contracts that will be performed in the United States or its outlying areas.

(b) Insert the provision at 52.204-6, Data Universal Numbering System Number, in solicitations that do not

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contain the provision at 52.204-7, System for Award Management, or meet a condition at 4.605(c)(2).

(c) Insert the clause at 52.204-12, Data Universal Numbering System Number Maintenance, in solicitations and resulting contracts that contain the provision at 52.204-6, Data Universal Numbering System.

[73 FR 21776, Apr. 22, 2008, as amended at 77 FR 69717, Nov. 20, 2012; 78 FR 37677, June 21, 2013]

### Subpart 4.7—Contractor Records Retention

#### 4.700 Scope of subpart.

This subpart provides policies and procedures for retention of records by contractors to meet the records review requirements of the Government. In this subpart, the terms “contracts” and “contractors” include “subcontracts” and “subcontractors.”

#### 4.701 Purpose.

The purpose of this subpart is to generally describe records retention requirements and to allow reductions in the retention period for specific classes of records under prescribed circumstances.

#### 4.702 Applicability.

(a) This subpart applies to records generated under contracts that contain one of the following clauses:

(1) Audit and Records—Sealed Bidding (52.214-26).

(2) Audit and Records—Negotiation (52.215-2).

(b) This subpart is not mandatory on Department of Energy contracts for which the Comptroller General allows alternative records retention periods. Apart from this exception, this subpart applies to record retention periods under contracts that are subject to Chapter 137, Title 10, U.S.C., or 40 U.S.C. 101, *et seq.*

[48 FR 42113, Sept. 19, 1983, as amended at 50 FR 1727, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 60 FR 42650, Aug. 16, 1995; 60 FR 48211, Sept. 18, 1995; 62 FR 258, Jan. 2, 1997; 70 FR 57454, Sept. 30, 2005]

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### 4.703 Policy.

(a) Except as stated in 4.703(b), contractors shall make available records, which includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form, and other supporting evidence to satisfy contract negotiation, administration, and audit requirements of the contracting agencies and the Comptroller General for (1) 3 years after final payment or, for certain records, (2) the period specified in 4.705 through 4.705-3, whichever of these periods expires first.

(b) Contractors shall make available the foregoing records and supporting evidence for a longer period of time than is required in 4.703(a) if—

(1) A retention period longer than that cited in 4.703(a) is specified in any contract clause; or

(2) The contractor, for its own purposes, retains the foregoing records and supporting evidence for a longer period. Under this circumstance, the retention period shall be the period of the contractor's retention or 3 years after final payment, whichever period expires first.

(3) The contractor does not meet the original due date for submission of final indirect cost rate proposals specified in subparagraph (d)(2) of the clause at 52.216-7, Allowable Cost and Payment. Under these circumstances, the retention periods in 4.705 shall be automatically extended one day for each day the proposal is not submitted after the original due date.

(c) Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form unless they contain significant information not shown on the record copy. Original records need not be maintained or produced in an audit if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves accurate images of the original records, including signatures and other written

or graphic images, and that the imaging process is reliable and secure so as to maintain the integrity of the records.

(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

(d) If the information described in paragraph (a) of this section is maintained on a computer, contractors shall retain the computer data on a reliable medium for the time periods prescribed. Contractors may transfer computer data in machine readable form from one reliable computer medium to another. Contractors' computer data retention and transfer procedures shall maintain the integrity, reliability, and security of the original computer data. Contractors shall also retain an audit trail describing the data transfer. For the record retention time periods prescribed, contractors shall not destroy, discard, delete, or write over such computer data.

[48 FR 42113, Sept. 19, 1983, as amended at 51 FR 2649, Jan. 17, 1986; 53 FR 43388, Oct. 26, 1988; 54 FR 48982, Nov. 28, 1989; 59 FR 67015, Dec. 28, 1994; 60 FR 42650, Aug. 16, 1995; 62 FR 64915, Dec. 9, 1997; 72 FR 27383, May 15, 2007]

### 4.704 Calculation of retention periods.

(a) The retention periods in 4.705 are calculated from the end of the contractor's fiscal year in which an entry is made charging or allocating a cost to a Government contract or subcontract. If a specific record contains a series of entries, the retention period is calculated from the end of the contractor's fiscal year in which the final entry is made. The contractor should cut off the records in annual blocks and retain them for block disposal under the prescribed retention periods.

(b) When records generated during a prior contract are relied upon by a contractor for certified cost or pricing data in negotiating a succeeding contract, the prescribed periods shall run from the date of the succeeding contract.

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(c) If two or more of the record categories described in 4.705 are interfiled and screening for disposal is not practical, the contractor shall retain the entire record series for the longest period prescribed for any category of records.

[48 FR 42113, Sept. 19, 1983, as amended at 75 FR 53142, Aug. 30, 2010]

#### 4.705 Specific retention periods.

The contractor shall retain the records identified in 4.705-1 through 4.705-3 for the periods designated, provided retention is required under 4.702. Records are identified in this subpart in terms of their purpose or use and not by specific name or form number. Although the descriptive identifications may not conform to normal contractor usage or filing practices, these identifications apply to all contractor records that come within the description.

#### 4.705-1 Financial and cost accounting records.

(a) Accounts receivable invoices, adjustments to the accounts, invoice registers, carrier freight bills, shipping orders, and other documents which detail the material or services billed on the related invoices: Retain 4 years.

(b) Material, work order, or service order files, consisting of purchase requisitions or purchase orders for material or services, or orders for transfer of material or supplies: Retain 4 years.

(c) Cash advance recapitulations, prepared as posting entries to accounts receivable ledgers for amounts of expense vouchers prepared for employees' travel and related expenses: Retain 4 years.

(d) Paid, canceled, and voided checks, other than those issued for the payment of salary and wages: Retain 4 years.

(e) Accounts payable records to support disbursements of funds for materials, equipment, supplies, and services, containing originals or copies of the following and related documents: remittance advices and statements, vendors' invoices, invoice audits and distribution slips, receiving and inspection reports or comparable certifications of receipt and inspection of material or services, and debit and credit memoranda: Retain 4 years.

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(f) Labor cost distribution cards or equivalent documents: Retain 2 years.

(g) Petty cash records showing description of expenditures, to whom paid, name of person authorizing payment, and date, including copies of vouchers and other supporting documents: Retain 2 years.

#### 4.705-2 Pay administration records.

(a) Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; change slips; and tax withholding statements: Retain 4 years.

(b) Clock cards or other time and attendance cards: Retain 2 years.

(c) Paid checks, receipts for wages paid in cash, or other evidence of payments for services rendered by employees: Retain 2 years.

[48 FR 42113, Sept. 19, 1983, as amended at 65 FR 36022, June 6, 2000; 67 FR 70517, Nov. 22, 2002]

#### 4.705-3 Acquisition and supply records.

(a) Store requisitions for materials, supplies, equipment, and services: Retain 2 years.

(b) Work orders for maintenance and other services: Retain 4 years.

(c) Equipment records, consisting of equipment usage and status reports and equipment repair orders: Retain 4 years.

(d) Expendable property records, reflecting accountability for the receipt and use of material in the performance of a contract: Retain 4 years.

(e) Receiving and inspection report records, consisting of reports reflecting receipt and inspection of supplies, equipment, and materials: Retain 4 years.

(f) Purchase order files for supplies, equipment, material, or services used in the performance of a contract; supporting documentation and backup files including, but not limited to, invoices, and memoranda; e.g., memoranda of negotiations showing the principal elements of subcontract price negotiations (see 52.244-2): Retain 4 years.

(g) Production records of quality control, reliability, and inspection: Retain 4 years.

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(h) Property records (see FAR 45.101 and 52.245-1): Retain 4 years.

[48 FR 42113, Sept. 19, 1983, as amended at 63 FR 34060, June 22, 1998; 75 FR 38679, July 2, 2010]

### 4.706 [Reserved]

## Subpart 4.8—Government Contract Files

### 4.800 Scope of subpart.

This subpart prescribes requirements for establishing, maintaining, and disposing of contract files.

[65 FR 36022, June 6, 2000]

### 4.801 General.

(a) The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions.

(b) The documentation in the files (see 4.803) shall be sufficient to constitute a complete history of the transaction for the purpose of—

(1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;

(2) Supporting actions taken;

(3) Providing information for reviews and investigations; and

(4) Furnishing essential facts in the event of litigation or congressional inquiries.

(c) The files to be established include—

(1) A file for cancelled solicitations;

(2) A file for each contract; and

(3) A file such as a contractor general file, containing documents relating—for example—to (i) no specific contract, (ii) more than one contract, or (iii) the contractor in a general way (e.g., contractor's management systems, past performance, or capabilities).

### 4.802 Contract files.

(a) A contract file should generally consist of—

(1) The contracting office contract file, that documents the basis for the acquisition and the award, the assignment of contract administration (including payment responsibilities), and any subsequent actions taken by the contracting office;

(2) The contract administration office contract file, that documents actions reflecting the basis for and the performance of contract administration responsibilities; and

(3) The paying office contract file, that documents actions prerequisite to, substantiating, and reflecting contract payments.

(b) Normally, each file should be kept separately; however, if appropriate, any or all of the files may be combined; e.g., if all functions or any combination of the functions are performed by the same office.

(c) Files must be maintained at organizational levels that ensure—

(1) Effective documentation of contract actions;

(2) Ready accessibility to principal users;

(3) Minimal establishment of duplicate and working files;

(4) The safeguarding of classified documents; and

(5) Conformance with agency regulations for file location and maintenance.

(d) If the contract files or file segments are decentralized (e.g., by type or function) to various organizational elements or to other outside offices, responsibility for their maintenance must be assigned. A central control and, if needed, a locator system should be established to ensure the ability to locate promptly any contract files.

(e) Contents of contract files that are contractor bid or proposal information or source selection information as defined in 2.101 must be protected from disclosure to unauthorized persons (see 3.104-4).

(f) Agencies may retain contract files in any medium (paper, electronic, microfilm, etc.) or any combination of media, as long as the requirements of this subpart are satisfied.

[48 FR 42113, Sept. 19, 1983, as amended at 54 FR 20496, May 11, 1989; 55 FR 36794, Sept. 6, 1990; 59 FR 67016, Dec. 28, 1994; 62 FR 232, Jan. 2, 1997; 67 FR 13063, Mar. 20, 2002]

### 4.803 Contents of contract files.

The following are examples of the records normally contained, if applicable, in contract files:

(a) *Contracting office contract file.* (1) Purchase request, acquisition planning

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information, and other presolicitation documents.

(2) Justifications and approvals, determinations and findings, and associated documents.

(3) Evidence of availability of funds.

(4) Synopsis of proposed acquisition as required by part 5 or a reference to the synopsis.

(5) The list of sources solicited, and a list of any firms or persons whose requests for copies of the solicitation were denied, together with the reasons for denial.

(6) Set-aside decision including the type and extent of market research conducted.

(7) Government estimate of contract price.

(8) A copy of the solicitation and all amendments thereto.

(9) Security requirements and evidence of required clearances.

(10) A copy of each offer or quotation, the related abstract, and records of determinations concerning late offers or quotations. Unsuccessful offers or quotations may be maintained separately, if cross-referenced to the contract file. The only portions of the unsuccessful offer or quotation that need be retained are—

(i) Completed solicitation sections A, B, and K;

(ii) Technical and management proposals;

(iii) Cost/price proposals;

(iv) Any other pages of the solicitation that the offeror or quoter has altered or annotated.

(11) Contractor's representations and certifications (see 4.1201(c)).

(12) Preaward survey reports or reference to previous preaward survey reports relied upon.

(13) Source selection documentation.

(14) Contracting officer's determination of the contractor's responsibility.

(15) Small Business Administration Certificate of Competency.

(16) Records of contractor's compliance with labor policies including equal employment opportunity policies.

(17) Data and information related to the contracting officer's determination of a fair and reasonable price. This may include—

(i) Certified cost or pricing data;

(ii) Data other than certified cost or pricing data;

(iii) Justification for waiver from the requirement to submit certified cost or pricing data; or

(iv) Certificates of Current Cost or Pricing Data.

(18) Packaging and transportation data.

(19) Cost or price analysis.

(20) Audit reports or reasons for waiver.

(21) Record of negotiation.

(22) Justification for type of contract.

(23) Authority for deviations from this regulation, statutory requirements, or other restrictions.

(24) Required approvals of award and evidence of legal review.

(25) Notice of award.

(26) The original of (i) the signed contract or award, (ii) all contract modifications, and (iii) documents supporting modifications executed by the contracting office.

(27) Synopsis of award or reference thereto.

(28) Notice to unsuccessful quoters or offerors and record of any debriefing.

(29) Acquisition management reports (see subpart 4.6).

(30) Bid, performance, payment, or other bond documents, or a reference thereto, and notices to sureties.

(31) Report of postaward conference.

(32) Notice to proceed, stop orders, and any overtime premium approvals granted at the time of award.

(33) Documents requesting and authorizing modification in the normal assignment of contract administration functions and responsibility.

(34) Approvals or disapprovals of requests for waivers or deviations from contract requirements.

(35) Rejected engineering change proposals.

(36) Royalty, invention, and copyright reports (including invention disclosures) or reference thereto.

(37) Contract completion documents.

(38) Documentation regarding termination actions for which the contracting office is responsible.

(39) Cross-references to pertinent documents that are filed elsewhere.

(40) Any additional documents on which action was taken or that reflect

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actions by the contracting office pertinent to the contract.

(41) A current chronological list identifying the awarding and successor contracting officers, with inclusive dates of responsibility.

(42) When limiting competition to women-owned small business (WOSB) concerns eligible under the WOSB Program or economically disadvantaged women-owned small business (EDWOSB) concerns in accordance with subpart 19.15, include documentation—

(i) Of the type and extent of market research; and

(ii) That the NAICS code assigned to the acquisition is for an industry that SBA has designated as—

(A) Underrepresented for economically disadvantaged women-owned small business set-asides, or

(B) Substantially underrepresented for women-owned small business set-asides.

(b) *Contract administration office contract file.* (1) Copy of the contract and all modifications, together with official record copies of supporting documents executed by the contract administration office.

(2) Any document modifying the normal assignment of contract administration functions and responsibility.

(3) Security requirements.

(4) Certified cost or pricing data, Certificates of Current Cost or Pricing Data, or data other than certified cost or pricing data; cost or price analysis; and other documentation supporting contractual actions executed by the contract administration office.

(5) Preaward survey information.

(6) Purchasing system information.

(7) Consent to subcontract or purchase.

(8) Performance and payment bonds and surety information.

(9) Postaward conference records.

(10) Orders issued under the contract.

(11) Notice to proceed and stop orders.

(12) Insurance policies or certificates of insurance or references to them.

(13) Documents supporting advance or progress payments.

(14) Progressing, expediting, and production surveillance records.

(15) Quality assurance records.

(16) Property administration records.

(17) Documentation regarding termination actions for which the contract administration office is responsible.

(18) Cross reference to other pertinent documents that are filed elsewhere.

(19) Any additional documents on which action was taken or that reflect actions by the contract administration office pertinent to the contract.

(20) Contract completion documents.

(c) *Paying office contract file.* (1) Copy of the contract and any modifications.

(2) Bills, invoices, vouchers, and supporting documents.

(3) Record of payments or receipts.

(4) Other pertinent documents.

[48 FR 42113, Sept. 19, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting 4.803, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### 4.804 Closeout of contract files.

#### 4.804-1 Closeout by the office administering the contract.

(a) Except as provided in paragraph (c) below, time standards for closing out contract files are as follows:

(1) Files for contracts using simplified acquisition procedures should be considered closed when the contracting officer receives evidence of receipt of property and final payment, unless otherwise specified by agency regulations.

(2) Files for firm-fixed-price contracts, other than those using simplified acquisition procedures, should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion.

(3) Files for contracts requiring settlement of indirect cost rates should be closed within 36 months of the month in which the contracting officer receives evidence of physical completion.

(4) Files for all other contracts should be closed within 20 months of the month in which the contracting officer receives evidence of physical completion.

(b) When closing out the contract files at 4.804-1(a)(2), (3), and (4), the contracting officer shall use the closeout procedures at 4.804-5. However,

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these closeout actions may be modified to reflect the extent of administration that has been performed. Quick closeout procedures (see 42.708) should be used, when appropriate, to reduce administrative costs and to enable deobligation of excess funds.

(c) A contract file shall not be closed if (1) the contract is in litigation or under appeal, or (2) in the case of a termination, all termination actions have not been completed.

[48 FR 42113, Sept. 19, 1983, as amended at 54 FR 34752, Aug. 21, 1989; 60 FR 34746, July 3, 1995]

#### 4.804-2 Closeout of the contracting office files if another office administers the contract.

(a) Contract files for contracts using simplified acquisition procedures should be considered closed when the contracting officer receives evidence of receipt of property and final payment, unless otherwise specified by agency regulation.

(b) All other contract files shall be closed as soon as practicable after the contracting officer receives a contract completion statement from the contract administration office. The contracting officer shall ensure that all contractual actions required have been completed and shall prepare a statement to that effect. This statement is authority to close the contract file and shall be made a part of the official contract file.

[48 FR 42113, Sept. 19, 1983, as amended at 60 FR 34746, July 3, 1995]

#### 4.804-3 Closeout of paying office contract files.

The paying office shall close the contract file upon issuance of the final payment voucher.

#### 4.804-4 Physically completed contracts.

(a) Except as provided in paragraph (b) below, a contract is considered to be physically completed when—

(1)(i) The contractor has completed the required deliveries and the Government has inspected and accepted the supplies;

(ii) The contractor has performed all services and the Government has accepted these services; and

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(iii) All option provisions, if any, have expired; or

(2) The Government has given the contractor a notice of complete contract termination.

(b) Rental, use, and storage agreements are considered to be physically completed when—

(1) The Government has given the contractor a notice of complete contract termination; or

(2) The contract period has expired.

[48 FR 42113, Sept. 19, 1983, as amended at 72 FR 27383, May 15, 2007]

#### 4.804-5 Procedures for closing out contract files.

(a) The contract administration office is responsible for initiating (automated or manual) administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might deobligate. When complete, the administrative closeout procedures must ensure that—

(1) Disposition of classified material is completed;

(2) *Final patent report is cleared.* If a final patent report is required, the contracting officer may proceed with contract closeout in accordance with the following procedures, or as otherwise prescribed by agency procedures:

(i) Final patent reports should be cleared within 60 days of receipt.

(ii) If the final patent report is not received, the contracting officer shall notify the contractor of the contractor's obligations and the Government's rights under the applicable patent rights clause, in accordance with 27.303. If the contractor fails to respond to this notification, the contracting officer may proceed with contract closeout upon consultation with the agency legal counsel responsible for patent matters regarding the contractor's failure to respond.

(3) Final royalty report is cleared;

(4) There is no outstanding value engineering change proposal;

(5) Plant clearance report is received;

(6) Property clearance is received;

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(7) All interim or disallowed costs are settled;

(8) Price revision is completed;

(9) Subcontracts are settled by the prime contractor;

(10) Prior year indirect cost rates are settled;

(11) Termination docket is completed;

(12) Contract audit is completed;

(13) Contractor's closing statement is completed;

(14) Contractor's final invoice has been submitted; and

(15) Contract funds review is completed and excess funds deobligated.

(b) When the actions in paragraph (a) above have been verified, the contracting officer administering the contract must ensure that a contract completion statement, containing the following information, is prepared:

(1) Contract administration office name and address (if different from the contracting office).

(2) Contracting office name and address.

(3) Contract number.

(4) Last modification number.

(5) Last call or order number.

(6) Contractor name and address.

(7) Dollar amount of excess funds, if any.

(8) Voucher number and date, if final payment has been made.

(9) Invoice number and date, if the final approved invoice has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown.

(10) A statement that all required contract administration actions have been fully and satisfactorily accomplished.

(11) Name and signature of the contracting officer.

(12) Date.

(c) When the statement is completed, the contracting officer must ensure that—

(1) The signed original is placed in the contracting office contract file (or forwarded to the contracting office for placement in the files if the contract administration office is different from the contracting office); and

(2) A signed copy is placed in the appropriate contract administration file

if administration is performed by a contract administration office.

[48 FR 42113, Sept. 19, 1983, as amended at 54 FR 34752, Aug. 21, 1989; 64 FR 72445, Dec. 27, 1999; 76 FR 31408, May 31, 2011]

### 4.805 Storage, handling, and disposal of contract files.

(a) Agencies must prescribe procedures for the handling, storing, and disposing of contract files. These procedures must take into account documents held in all types of media, including microfilm and various electronic media. Agencies may change the original medium to facilitate storage as long as the requirements of Part 4, law, and other regulations are satisfied. The process used to create and store records must record and reproduce the original document, including signatures and other written and graphic images completely, accurately, and clearly. Data transfer, storage, and retrieval procedures must protect the original data from alteration. Unless law or other regulations require signed originals to be kept, they may be destroyed after the responsible agency official verifies that record copies on alternate media and copies reproduced from the record copy are accurate, complete, and clear representations of the originals. Agency procedures for contract file disposal must include provisions that the documents specified in paragraph (b) of this section may not be destroyed before the times indicated, and may be retained longer if the responsible agency official determines that the files have future value to the Government. When original documents have been converted to alternate media for storage, the requirements in paragraph (b) of this section also apply to the record copies in the alternate media.

(b) If administrative records are mixed with program records and cannot be economically segregated, the entire file should be kept for the period of time approved for the program records. Similarly, if documents described in the following table are part of a subject or case file that documents activities that are not described in the table, they should be treated in the same manner as the files of which they are a part. The retention periods for

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acquisitions at or below the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used small purchase procedures. The retention periods for acquisitions above the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used other than small purchase procedures.

Document	Retention period
(1) Records pertaining to Contract Disputes statute actions.	6 years and 3 months after final action or decision for files created prior to October 1, 1979. 1 year after final action or decision for files created on or after October 1, 1979.
(2) Contracts (and related records or documents, including successful proposals) exceeding the simplified acquisition threshold for other than construction.	6 years and 3 months after final payment.
(3) Contracts (and related records or documents, including successful proposals) at or below the simplified acquisition threshold for other than construction.	3 years after final payment.
(4) Construction contracts: (i) Above \$2,000 .....	6 years and 3 months after final payment.
(ii) \$2,000 or less .....	3 years after final payment.
(iii) Related records or documents, including successful proposals, except for contractor's payrolls (see (b)(4)(iv)).	Same as contract file.
(iv) Contractor's payrolls submitted in accordance with Department of Labor regulations, with related certifications, anti-kickback affidavits, and other related papers.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date.
(5) Solicited and unsolicited unsuccessful offers, quotations, bids, and proposals: (i) Relating to contracts above the simplified acquisition threshold.	If filed separately from contract file, until contract is completed. Otherwise, the same as related contract file.
(ii) Relating to contracts at or below the simplified acquisition threshold.	1 year after date of award or until final payment, whichever is later.

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Document	Retention period
(6) Files for canceled solicitations.	5 years after cancellation.
(7) Other copies of procurement file records used by component elements of a contracting office for administrative purposes.	Upon termination or completion.
(8) Documents pertaining generally to the contractor as described at 4.801(c)(3).	Until superseded or obsolete.
(9) Data submitted to the Federal Procurement Data System (FPDS). Electronic data file maintained by fiscal year, containing unclassified records of all procurements other than simplified acquisitions, and information required under 4.603.	5 years after submittal to FPDS.
(10) Investigations, cases pending or in litigation (including protests), or similar matters.	Until final clearance or settlement, or, if related to a document identified in (b)(1)-(9), for the retention period specified for the related document, whichever is later.

[65 FR 36022, June 6, 2000, as amended at 73 FR 21778, Apr. 22, 2008; 79 FR 24197, Apr. 29, 2014]

**Subpart 4.9—Taxpayer Identification Number Information**

**AUTHORITY:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**SOURCE:** 63 FR 58589, Oct. 30, 1998, unless otherwise noted.

**4.900 Scope of subpart.**

This subpart provides policies and procedures for obtaining—

(a) Taxpayer Identification Number (TIN) information that may be used for debt collection purposes; and

(b) Contract information and payment information for submittal to the payment office for Internal Revenue Service (IRS) reporting purposes.

**4.901 Definition.**

*Common parent*, as used in this subpart, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated

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basis, and of which the offeror is a member.

[60 FR 28493, May 31, 1995, as amended at 66 FR 2127, Jan. 10, 2001]

### 4.902 General.

(a) *Debt collection.* 31 U.S.C. 7701(c) requires each contractor doing business with a Government agency to furnish its TIN to that agency. 31 U.S.C. 3325(d) requires the Government to include, with each certified voucher prepared by the Government payment office and submitted to a disbursing official, the TIN of the contractor receiving payment under the voucher. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the contractor's relationship with the Government.

(b) *Information reporting to the IRS.* The TIN is also required for Government reporting of certain contract information (see 4.903) and payment information (see 4.904) to the IRS.

### 4.903 Reporting contract information to the IRS.

(a) 26 U.S.C. 6050M, as implemented in 26 CFR, requires heads of Federal executive agencies to report certain information to the IRS.

(b)(1) The required information applies to contract modifications—

(i) Increasing the amount of a contract awarded before January 1, 1989, by \$50,000 or more; and

(ii) Entered into on or after April 1, 1990.

(2) The reporting requirement also applies to certain contracts and modifications thereto in excess of \$25,000 entered into on or after January 1, 1989.

(c) The information to report is—

(1) Name, address, and TIN of the contractor;

(2) Name and TIN of the common parent (if any);

(3) Date of the contract action;

(4) Amount obligated on the contract action; and

(5) Estimated contract completion date.

(d) Transmit the information to the IRS through the Federal Procurement Data System (see Subpart 4.6 and implementing instructions).

### 4.904 Reporting payment information to the IRS.

26 U.S.C. 6041 and 6041A, as implemented in 26 CFR, in part, require payors, including Government agencies, to report to the IRS, on Form 1099, payments made to certain contractors. 26 U.S.C. 6109 requires a contractor to provide its TIN if a Form 1099 is required. The payment office is responsible for submitting reports to the IRS.

### 4.905 Solicitation provision.

The contracting officer shall insert the provision at 52.204-3, Taxpayer Identification, in solicitations that—

(a) Do not include the provision at 52.204-7, System for Award Management; and

(b) Are not conducted under the procedures of part 12.

[68 FR 56672, Oct. 1, 2003, as amended at 77 FR 69718, Nov. 20, 2012; 78 FR 37678, June 21, 2013]

## Subpart 4.10—Administrative Matters

SOURCE: 62 FR 51230, Sept. 30, 1997, unless otherwise noted.

### 4.1001 Policy.

Contracts may identify the items or services to be acquired as separately identified line items. Contract line items should provide unit prices or lump sum prices for separately identifiable contract deliverables, and associated delivery schedules or performance periods. Line items may be further subdivided or stratified for administrative purposes (e.g., to provide for traceable accounting classification citations).

[62 FR 51230, Sept. 30, 1997]

## Subpart 4.11—System for Award Management

SOURCE: 68 FR 56672, Oct. 1, 2003, unless otherwise noted.

### 4.1100 Scope.

This subpart prescribes policies and procedures for requiring contractor registration in the System for Award Management (SAM) database to—

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(a) Increase visibility of vendor sources (including their geographical locations) for specific supplies and services; and

(b) Establish a common source of vendor data for the Government.

[68 FR 56672, Oct. 1, 2003, as amended at 77 FR 188, Jan. 3, 2012; 78 FR 37678, June 21, 2013]

#### 4.1101 Definition.

As used in this subpart—

*Agreement* means basic agreement, basic ordering agreement, or blanket purchase agreement.

[48 FR 42113, Sept. 19, 1983, as amended at 69 FR 76345, Dec. 20, 2004]

#### 4.1102 Policy.

(a) Prospective contractors shall be registered in the SAM database prior to award of a contract or agreement, except for—

(1) Purchases under the micro-purchase threshold that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card for payment only;

(2) Classified contracts (*see* 2.101) when registration in the SAM database, or use of SAM data, could compromise the safeguarding of classified information or national security;

(3) Contracts awarded by—

(i) Deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peace-keeping operations as defined in 10 U.S.C. 2302(7);

(ii) Contracting officers located outside the United States and its outlying areas, as defined in 2.101, for work to be performed in support of diplomatic or developmental operations, including those performed in support of foreign assistance programs overseas, in an area that has been designated by the Department of State as a danger pay post (*see* [http://aoprals.state.gov/Web920/danger\\_pay\\_all.asp](http://aoprals.state.gov/Web920/danger_pay_all.asp)); or

(iii) Contracting officers in the conduct of emergency operations, such as responses to natural or environmental disasters or national or civil emergencies, e.g., Robert T. Stafford Dis-

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aster Relief and Emergency Assistance Act (42 U.S.C. 5121);

(4) Contracts with individuals for performance outside the United States and its outlying areas;

(5) Contracts to support unusual or compelling needs (*see* 6.302–2);

(6) Contract actions at or below \$25,000 awarded to foreign vendors for work performed outside the United States, if it is impractical to obtain System for Award Management registration; and

(7) Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported (*see* subpart 4.6).

(b) If practical, the contracting officer shall modify the contract or agreement awarded under paragraph (a)(3) of this section to require SAM registration.

(c)(1)(i) If a contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the contractor shall provide the responsible contracting officer a minimum of one business day’s written notification of its intention to change the name in the SAM database; comply with the requirements of Subpart 42.12; and agree in writing to the timeline and procedures specified by the responsible contracting officer. The contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the contractor fails to comply with the requirements of paragraph (c)(1)(i) of the clause at 52.204–13, System for Award Management Maintenance, or fails to perform the agreement at 52.204–13, paragraph (c)(1)(i)(C), and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of the contract.

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(2) The contractor shall not change the name or address for electronic funds transfer payments (EFT) or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see subpart 32.8, Assignment of Claims).

(3) Assignees shall be separately registered in the SAM database. Information provided to the contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of the contract.

[48 FR 42113, Sept. 19, 1983, as amended at 43586, July 27, 2005; 77 FR 69718, Nov. 20, 2012; 78 FR 37678, June 21, 2013]

### 4.1103 Procedures.

(a) Unless the acquisition is exempt under 4.1102, the contracting officer—

(1) Shall verify that the prospective contractor is registered in the SAM database (see paragraph (b) of this section) before awarding a contract or agreement. Contracting officers are encouraged to check the SAM early in the acquisition process, after the competitive range has been established, and then communicate to the unregistered offerors that they must register;

(2) Should use the DUNS number or, if applicable, the DUNS+4 number, to verify registration—

(i) Via the Internet at <https://www.acquisition.gov>;

(ii) As otherwise provided by agency procedures; and

(3) Need not verify registration before placing an order or call if the contract or agreement includes the provision at 52.204-7, or the clause at 52.212-4, or a similar agency clause, except when use of the Governmentwide commercial purchase card is contemplated as a method of payment. (See 32.1108(b)(2)).

(b) If the contracting officer, when awarding a contract or agreement, determines that a prospective contractor is not registered in the SAM database and an exception to the registration requirements for the award does not apply (see 4.1102), the contracting officer shall—

(1) If the needs of the requiring activity allow for a delay, make award after the apparently successful offeror has registered in the SAM database. The contracting officer shall advise the offeror of the number of days it will be allowed to become registered. If the offeror does not become registered by the required date, the contracting officer shall award to the next otherwise successful registered offeror following the same procedures (*i.e.*, if the next apparently successful offeror is not registered, the contracting officer shall advise the offeror of the number of days it will be allowed to become registered, etc.); or

(2) If the needs of the requiring activity do not allow for a delay, proceed to award to the next otherwise successful registered offeror, provided that written approval is obtained at one level above the contracting officer; or

(3) If the contract action is being awarded pursuant to 6.302-2, the contractor must be registered in the System for Award Management within 30 days after contract award, or at least three days prior to submission of the first invoice, whichever occurs first.

(c) Agencies shall protect against improper disclosure of contractor SAM information.

(d) The contracting officer shall, on contractual documents transmitted to the payment office, provide the DUNS number, or, if applicable, the DUNS+4, in accordance with agency procedures.

[59 FR 67018, Dec. 28, 1994, as amended at 71 FR 36924, June 28, 2006; 74 FR 65604, Dec. 10, 2009; 77 FR 188, Jan. 3, 2012; 77 FR 69718, Nov. 20, 2012; 78 FR 37678, June 21, 2013]

### 4.1104 Disaster Response Registry.

Contracting officers shall consult the Disaster Response Registry via <https://www.acquisition.gov> when contracting for debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities inside the United States and outlying areas. (See 26.205).

[74 FR 52849, Oct. 14, 2009, as amended at 77 FR 188, Jan. 3, 2012]

### 4.1105 Solicitation provision and contract clauses.

(a)(1) Except as provided in 4.1102(a), use the provision at 52.204-7, System

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for Award Management, in solicitations.

(2) If the solicitation is anticipated to be awarded in accordance with 4.1102(a)(5), the contracting officer shall use the provision at 52.204-7, System for Award Management, with its Alternate I.

(b) Insert the clause at 52.204-13, System for Award Management Maintenance, in solicitations that contain the provision at 52.204-7, and resulting contracts.

[77 FR 69718, Nov. 20, 2012, as amended at 78 FR 37678, June 21, 2013]

### Subpart 4.12—Representations and Certifications

SOURCE: 69 FR 76345, Dec. 20, 2004, unless otherwise noted.

#### 4.1200 Scope.

This subpart prescribes policies and procedures for requiring submission and maintenance of representations and certifications via the System for Award Management (SAM) to—

(a) Eliminate the administrative burden for contractors of submitting the same information to various contracting offices; and

(b) Establish a common source for this information to procurement offices across the Government.

[69 FR 76345, Dec. 20, 2004, as amended at 72 FR 36854, July 5, 2007; 78 FR 37678, June 21, 2013]

#### 4.1201 Policy.

(a) Prospective contractors shall complete electronic annual representations and certifications at SAM accessed via <https://www.acquisition.gov> as a part of required registration (see FAR 4.1102).

(b)(1) Prospective contractors shall update the representations and certifications submitted to SAM as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and certifications are effective until one year from date of submission or update to SAM.

(2) When any of the conditions in paragraph (b) of the clause at 52.219-28, Post-Award Small Business Program

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Rerepresentation, apply, contractors that represented they were small businesses prior to award of a contract must update the representations and certifications in SAM as directed by the clause. Contractors that represented they were other than small businesses prior to award of a contract may update the representations and certifications in SAM as directed by the clause, if their size status has changed since contract award.

(c) Data in SAM is archived and is electronically retrievable. Therefore, when a prospective contractor has completed representations and certifications electronically via SAM, the contracting officer must reference the date of SAM verification in the contract file, or include a paper copy of the electronically-submitted representations and certifications in the file. Either of these actions satisfies contract file documentation requirements of 4.803(a)(11). However, if an offeror identifies changes to SAM data pursuant to the FAR provisions at 52.204-8(d) or 52.212-3(b), the contracting officer must include a copy of the changes in the contract file.

[69 FR 76345, Dec. 20, 2004, as amended at 71 FR 57363, Sept. 28, 2006; 72 FR 36854, July 5, 2007; 72 FR 63078, Nov. 7, 2007; 73 FR 33638, June 12, 2008; 74 FR 2729, Jan. 15, 2009; 74 FR 11825, Mar. 19, 2009; 77 FR 188, Jan. 3, 2012; 78 FR 37678, June 21, 2013]

#### 4.1202 Solicitation provision and contract clause.

Except for commercial item solicitations issued under FAR part 12, insert in solicitations the provision at 52.204-8, Annual Representations and Certifications. The contracting officer shall check the applicable provisions at 52.204-8(c)(2). When the provision at 52.204-7, System for Award Management, is included in the solicitation, do not include the following representations and certifications:

(a) 52.203-2, Certificate of Independent Price Determination.

(b) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

(c) 52.204-3, Taxpayer Identification.

(d) 52.204-5, Women-Owned Business (Other Than Small Business).

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(e) 52.209–2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

(f) 52.209–5, Certification Regarding Responsibility Matters.

(g) 52.214–14, Place of Performance—Sealed Bidding.

(h) 52.215–6, Place of Performance.

(i) 52.219–1, Small Business Program Representations (Basic & Alternate I).

(j) 52.219–2, Equal Low Bids.

(k) 52.219–22, Small Disadvantaged Business Status (Basic & Alternate I).

(l) 52.222–18, Certification Regarding Knowledge of Child Labor for Listed End Products.

(m) 52.222–22, Previous Contracts and Compliance Reports.

(n) 52.222–25, Affirmative Action Compliance.

(o) 52.222–38, Compliance with Veterans' Employment Reporting Requirements.

(p) 52.222–48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

(q) 52.222–52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.

(r) 52.223–1, Biobased Product Certification.

(s) 52.223–4, Recovered Material Certification.

(t) 52.223–9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Alternate I only).

(u) 52.225–2, Buy American Certificate.

(v) 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate (Basic, Alternates I, II, and III).

(w) 52.225–6, Trade Agreements Certificate.

(x) 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

(y) 52.225–25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.

(z) 52.226–2, Historically Black College or University and Minority Institution Representation.

(aa) 52.227–6, Royalty Information (Basic & Alternate I).

(bb) 52.227–15, Representation of Limited Rights Data and Restricted Computer Software.

[69 FR 76345, Dec. 20, 2004]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting 4.1202, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

EFFECTIVE DATE NOTE: At 79 FR 31190, May 30, 2014, §4.1202 was amended by redesignating paragraphs (e) through (bb) as paragraphs (f) through (cc), respectively; and adding a new paragraph (e) to read as follows: effective Nov. 1, 2014. For the convenience of the user, the added text is set forth as follows:

### 4.1202 Solicitation provision and contract clause.

\* \* \* \* \*

(e) 52.204–17, Ownership or Control of Offeror.

## Subpart 4.13—Personal Identity Verification

SOURCE: 72 FR 46335, Aug. 17, 2007, unless otherwise noted.

### 4.1300 Scope of subpart.

This subpart provides policy and procedures associated with Personal Identity Verification as required by—

(a) Federal Information Processing Standards Publication (FIPS PUB) Number 201, “Personal Identity Verification of Federal Employees and Contractors”; and

(b) Office of Management and Budget (OMB) Guidance M–05–24, dated August 5, 2005, “Implementation of Homeland Security Presidential Directive (HSPD) 12—Policy for a Common Identification Standard for Federal Employees and Contractors.”

### 4.1301 Policy.

(a) Agencies must follow FIPS PUB Number 201 and the associated OMB implementation guidance for personal identity verification for all affected contractor and subcontractor personnel when contract performance requires contractors to have routine

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physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

(b) Agencies must include their implementation of FIPS PUB 201 and OMB Guidance M-05-24 in solicitations and contracts that require the contractor to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

(c) Agencies must designate an official responsible for verifying contractor employee personal identity.

(d)(1) Agency procedures for the return of Personal Identity Verification (PIV) products shall ensure that Government contractors account for all forms of Government-provided identification issued to Government contractor employees under a contract, *i.e.*, the PIV cards or other similar badges, and shall ensure that contractors return such identification to the issuing agency as soon as any of the following occurs, unless otherwise determined by the agency:

(i) When no longer needed for contract performance.

(ii) Upon completion of a contractor employee's employment.

(iii) Upon contract completion or termination.

(2) The contracting officer may delay final payment under a contract if the contractor fails to comply with these requirements.

[72 FR 46335, Aug. 17, 2007, as amended at 75 FR 82576, Dec. 30, 2010]

#### 4.1302 Acquisition of approved products and services for personal identity verification.

(a) In order to comply with FIPS PUB 201, agencies must purchase only approved personal identity verification products and services.

(b) Agencies may acquire the approved products and services from the GSA, Federal Supply Schedule 70, Special Item Number (SIN) 132-62, HSPD-12 Product and Service Components, in accordance with ordering procedures outlined in FAR Subpart 8.4.

(c) When acquiring personal identity verification products and services not using the process in paragraph (b) of this section, agencies must ensure that

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the applicable products and services are approved as compliant with FIPS PUB 201 including—

(1) Certifying the products and services procured meet all applicable Federal standards and requirements;

(2) Ensuring interoperability and conformance to applicable Federal standards for the lifecycle of the components; and

(3) Maintaining a written plan for ensuring ongoing conformance to applicable Federal standards for the lifecycle of the components.

(d) For more information on personal identity verification products and services see <http://www.idmanagement.gov>.

#### 4.1303 Contract clause.

The contracting officer shall insert the clause at 52.204-9, Personal Identity Verification of Contractor Personnel, in solicitations and contracts when contract performance requires contractors to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. The clause shall not be used when contractors require only intermittent access to Federally-controlled facilities.

#### Subpart 4.14—Reporting Executive Compensation and First-Tier Subcontract Awards

SOURCE: 75 FR 39419, July 8, 2010, unless otherwise noted.

#### 4.1400 Scope of subpart.

This subpart implements section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), which requires contractors to report subcontract award data and the total compensation of the five most highly compensated executives of the contractor and subcontractor. The public may view first-tier subcontract award data at <http://usaspending.gov>.

#### 4.1401 Applicability.

(a) This subpart applies to all contracts with a value of \$25,000 or more.

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Nothing in this subpart requires the disclosure of classified information.

(b) Reporting of subcontract information will be limited to the first-tier subcontractor.

[77 FR 44058, July 26, 2012]

### 4.1402 Procedures.

(a) Agencies shall ensure that contractors comply with the reporting requirements of 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards. Agencies shall review contractor reports on a quarterly basis to ensure the information is consistent with contract information. The agency is not required to address data for which the agency would not normally have supporting information, such as the compensation information required of contractors and first-tier subcontractors. However, the agency shall inform the contractor of any inconsistencies with the contract information and require that the contractor correct the report, or provide a reasonable explanation as to why it believes the information is correct. Agencies may review the reports at <http://www.fsrs.gov>.

(b) When contracting officers report the contract action to the Federal Procurement Data System (FPDS) in accordance with FAR subpart 4.6, certain data will then pre-populate from FPDS, to assist contractors in completing and submitting their reports. If data originating from FPDS is found by the contractor to be in error when the contractor completes the subcontract report, the contractor should notify the Government contracting officer, who is responsible for correcting the data in FPDS. Contracts reported using the generic DUNS number allowed at FAR 4.605(c)(2) will interfere with the contractor's ability to comply with this reporting requirement, because the data will not pre-populate from FPDS.

(c) If the contractor fails to comply with the reporting requirements, the contracting officer shall exercise appropriate contractual remedies. In addition, the contracting officer shall make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under Subpart 42.15.

(d) There is a reporting exception in 52.204-10(g) for contractors and subcontractors who had gross income in the previous tax year under \$300,000.

[75 FR 39419, July 8, 2010, as amended at 77 FR 44058, July 26, 2012; 77 FR 69718, Nov. 20, 2012]

### 4.1403 Contract clause.

(a) The contracting officer shall insert the clause at 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, in all solicitations and contracts of \$25,000 or more.

(b) The clause is not prescribed for contracts that are not required to be reported in the Federal Procurement Data System (FPDS) (see subpart 4.6).

[77 FR 44058, July 26, 2012]

## Subpart 4.16—Unique Procurement Instrument Identifiers

SOURCE: 76 FR 39235, July 5, 2011, unless otherwise noted.

### 4.1600 Scope of subpart.

This subpart prescribes policies and procedures for assigning unique Procurement Instrument Identifiers (PIID) for each solicitation, contract, agreement, or order and related procurement instrument.

### 4.1601 Policy.

(a) *Procurement Instrument Identifier (PIID)*. Agencies shall have in place a process that ensures that each PIID used to identify a solicitation or contract action is unique Government-wide, and will remain so for at least 20 years from the date of contract award.

(b) Agencies must submit their proposed identifier format to the General Services Administration's Integrated Award Environment Program Office, which maintains a registry of the agency-unique identifier schemes.

(c) The PIID shall consist of alpha characters in the first positions to indicate the agency, followed by alphanumeric characters according to agency procedures.

(d) The PIID shall be used to identify all solicitation and contract actions. The PIID shall also be used to identify solicitation and contract actions in

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designated support and reporting systems (e.g., Federal Procurement Data System, Past Performance Information Retrieval System), in accordance with regulations, applicable authorities, and agency policies and procedures.

(e) Agencies shall not change the PIID, unless the conditions in paragraph (f) of this section exist.

(f) If continued use of a PIID is not possible or is not in the Government's best interest solely for administrative reasons (e.g., for implementations of new agency contracting systems), the contracting officer may assign a new PIID by issuing a modification. The modification shall clearly identify both the original and the newly assigned PIID.

[76 FR 39235, July 5, 2011, as amended at 79 FR 43590, July 25, 2014]

#### 4.1602 Identifying the PIID and supplementary PIID.

(a) *Identifying the PIID in solicitation and contract award documentation (including forms and electronic generated formats).* Agencies shall include all PIIDs for all related procurement actions as identified in paragraphs (a)(1) through (5) of this section.

(1) *Solicitation.* Identify the PIID for all solicitations. For amendments to solicitations, identify a supplementary PIID, in conjunction with the PIID for the solicitation.

(2) *Contracts and purchase orders.* Identify the PIID for contracts and purchase orders.

(3) *Delivery and task orders.* For delivery and task orders placed by an agency under a contract (e.g., indefinite delivery indefinite quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide acquisition contracts (GWACs), or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and task order and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements.* Identify the PIID for blanket purchase agreements issued in accordance with 13.303, and for basic agreements and basic ordering agreements issued in accordance with subpart 16.7. For blanket purchase agreements issued in accordance with subpart 8.4 under a MAS contract, identify the PIID for the blanket pur-

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chase agreement and the PIID for the MAS contract.

(i) *Orders.* For orders against basic ordering agreements or blanket purchase agreements issued in accordance with 13.303, identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under subpart 8.4.* For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications.* For modifications to actions described in paragraphs (a)(2) through (4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms.* When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section, identify the PIID in accordance with agency procedures.

(c) *Additional agency specific identification information.* If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, identify it in such a manner so as to separate it clearly from the PIID.

#### Subpart 4.17—Service Contracts Inventory

SOURCE: 78 FR 80374, Dec. 31, 2013, unless otherwise noted.

#### 4.1700 Scope of subpart.

This subpart implements section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117), which requires agencies to report annually to the Office of Management and Budget (OMB) on activities performed by service contractors. Section 743(a) applies to executive agencies, other than the Department of Defense (DoD), covered by the Federal Activities Inventory Reform Act (Pub. L. 105-

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270) (FAIR Act). The information reported in the inventory will be publicly accessible.

### 4.1701 Definitions.

As used in this subpart—

*FAIR Act agencies* means the agencies required under the FAIR Act to submit inventories annually of the activities performed by Government personnel.

*First-tier subcontract* means a subcontract awarded directly by the contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

### 4.1702 Applicability.

(a) This subpart applies to—

(1) All FAIR Act agencies, except DoD as specified in 4.1705;

(2) Solicitations, contracts, and orders for services (including construction) that meet or exceed the thresholds at 4.1703; and

(3) Contractors and first-tier subcontractors.

(b) Procedures for compiling and submitting agency service contract inventories are governed by section 743(a)(3) of Division C of Pub. L. 111-117 and Office of Federal Procurement Policy (OFPP) guidance. The guidance is available at the following Web site: <http://www.whitehouse.gov/omb/procurement-service-contract-inventories>.

(c) This subpart addresses requirements for obtaining information from, and reporting by, agency service contractors.

### 4.1703 Reporting requirements.

(a) *Thresholds.* (1) Except as exempted by OFPP guidance, service contractor reporting shall be required for contracts and first-tier subcontracts for services based on type of contract and estimated total value. For indefinite-delivery contracts, reporting shall be determined based on the type and estimated total value of the orders issued under the contract. Indefinite-delivery

contracts include, but are not limited to, contracts such as indefinite-delivery indefinite-quantity (IDIQ) contracts, Federal Supply Schedule contracts (FSSs), Governmentwide acquisition contracts (GWACs), and multi-agency contracts.

(2) Reporting is required according to the following thresholds:

(i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the simplified acquisition threshold.

(ii) All fixed-price service contracts awarded and orders issued according to the following thresholds:

(A) Awarded or issued in Fiscal Year 2014, with an estimated total value of \$2.5 million or greater.

(B) Awarded or issued in Fiscal Year 2015, with an estimated total value of \$1 million or greater.

(C) Awarded or issued in Fiscal Year 2016, and subsequent years, with an estimated total value of \$500,000 or greater.

(3) Reporting is required for all first-tier subcontracts for services as prescribed in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Agency reporting responsibilities.* (1) Agencies shall ensure that contractors comply with the reporting requirements of 52.204-14, Service Contract Reporting Requirements and 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts. Agencies shall review contractor reported information for reasonableness and consistency with available contract information. The agency is not required to address data for which the agency would not normally have supporting information. In the event the agency believes that revisions to the contractor reported information are warranted, the agency shall notify the contractor no later than November 15. By November 30, the contractor shall revise the report, or document its rationale for the agency. Authorized agency officials may review the reports at [www.sam.gov](http://www.sam.gov).

(2) Agencies are required to compile annually an inventory of service contracts performed for, or on behalf of, the agency during the prior fiscal year in order to determine the extent of the

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agency's reliance on service contractors. Agencies shall submit a service contract inventory to OMB by January 15 annually. Then, each agency must post the inventory on its Web site and publish a FEDERAL REGISTER Notice of Availability by February 15 annually.

(3) Most of the required information is already collected in the Federal Procurement Data System (FPDS). Information not collected in FPDS will be provided by the contractor, as specified in 52.204-14, Service Contract Reporting Requirements and 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts.

#### 4.1704 Contracting officer responsibilities.

(a) For other than indefinite-delivery contracts, the contracting officer shall ensure that 52.204-14, Service Reporting Requirement, is included in solicitations, contracts, and orders as prescribed at 4.1705. For indefinite-delivery contracts, the contracting officer who awarded the contract shall ensure that 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, is included in solicitations and contracts as prescribed at 4.1705. The contracting officer at the order level shall verify the clause's inclusion in the contract.

(b) If the contractor fails to submit a report in a timely manner, the contracting officer shall exercise appropriate contractual remedies. In addition, the contracting officer shall make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under subpart 42.15.

#### 4.1705 Contract clauses.

(a) The contracting officer shall insert the clause at 52.204-14, Service Contract Reporting Requirements, in solicitations and contracts for services (including construction) that meet or exceed the thresholds at 4.1703, except for indefinite-delivery contracts. This clause is not required for actions entirely funded by DoD, contracts awarded with a generic DUNS number, or in classified solicitations, contracts, or orders.

(b) The contracting officer shall insert the clause at 52.204-15, Service

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Contract Reporting Requirements for Indefinite-Delivery Contracts, in solicitations and indefinite-delivery contracts for services (including construction) where one or more orders issued thereunder are expected to each meet or exceed the thresholds at 4.1703. This clause is not required for actions entirely funded by DoD, contracts awarded with a generic DUNS number, or in classified solicitations, contracts, or orders.

#### Subpart 4.18—Commercial and Government Entity Code

SOURCE: 79 FR 31190, May 30, 2014, unless otherwise noted.

EFFECTIVE DATE NOTE: At 79 FR 31190, May 30, 2014, subpart 4.18 was added, effective Nov. 1, 2014.

#### 4.1800 Scope of subpart.

(a) This subpart prescribes policies and procedures for identification of commercial and government entities. The Commercial and Government Entity (CAGE) code system may be used, among other things, to—

(1) Exchange data with another contracting activity, including contract administration activities and contract payment activities;

(2) Exchange data with another system that requires the unique identification of a contractor entity; or

(3) Identify when offerors are owned or controlled by another entity.

(b) For information on the Data Universal Numbering System (DUNS) number, which is a different identification number, see 4.605 and the provisions at 52.204-6 and 52.204-7.

#### 4.1801 Definitions.

As used in this part—  
*Commercial and Government Entity (CAGE) code* means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Contractor and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support Agency (NSPA) to entities located

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outside the United States and its outlying areas that the DLA Contractor and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as an NCAGE code.

*Highest-level owner* means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

*Immediate owner* means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

### 4.1802 Policy.

(a) *Commercial and Government Entity code.* (1) Offerors shall provide the contracting officer the Commercial and Government Entity (CAGE) code assigned to that offeror's location prior to the award of a contract action above the micro-purchase threshold, when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation.

(2) The contracting officer shall include the contractor's CAGE code in the contract and in any electronic transmissions of the contract data to other systems when it is provided in accordance with paragraph (a)(1) of this section.

(b) *Ownership or control of offeror.* Offerors, if owned or controlled by another entity, shall provide the con-

tracting officer with the CAGE code and legal name of that entity prior to the award of a contract action above the micro-purchase threshold, when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation.

### 4.1803 Verifying CAGE codes prior to award.

(a) Contracting officers shall verify the offeror's CAGE code by reviewing the entity's registration in the System for Award Management (SAM). Active registrations in SAM have had the associated CAGE codes verified.

(b) For entities not required to be registered in SAM, the contracting officer shall validate the CAGE code using the CAGE code search feature at [http://www.dlis.dla.mil/cage\\_welcome.asp](http://www.dlis.dla.mil/cage_welcome.asp).

### 4.1804 Solicitation provisions and contract clause.

(a) Insert the provision at 52.204-16, Commercial and Government Entity Code Reporting, in all solicitations that include—

(1) 52.204-6, Data Universal Numbering System Number; or

(2) 52.204-7, System for Award Management.

(b) Insert the provision at 52.204-17, Ownership or Control of Offeror, in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.

(c) Insert the clause at 52.204-18, Commercial and Government Entity Code Maintenance, in all solicitations and contracts when the solicitation contains the provision at 52.204-16, Commercial and Government Entity Code Reporting.