

14 FAM 200 ACQUISITIONS

14 FAM 210 ACQUISITION OF SUPPLIES AND SERVICES

*(CT:LOG-63; 6-16-2009)
(Office of Origin: A/LM)*

14 FAM 211 DEPARTMENT OF STATE ACQUISITION SYSTEM

(CT:LOG-1; 05-27-2005)

The Department of State Acquisition System ensures that the Department obtains the required supplies and services in support of its needs in an effective and efficient manner, with timely delivery and required quality, at reasonable prices, in accordance with the laws and regulations governing Federal acquisition.

14 FAM 212 ACQUISITION MANAGEMENT

(CT:LOG-63; 6-16-2009)

- a. The Office of the Procurement Executive (A/OPE) establishes acquisition policy for the Department of State. A/OPE provides overall policy and Department management procedures for the acquisition system and is responsible for the appointment of contracting officers, acquisition career management, competition advocacy, and review and/or approval of solicitations and contracts.
- b. The head of the contracting activity (HCA) manages the contracting activity, pursuant to Department of State Acquisition Regulation (DOSAR) 601.603-70. The HCA is responsible for many decisions in the acquisition process, as prescribed in the Federal Acquisition Regulation (FAR) and the Department of State Acquisition Regulation (DOSAR).
- c. The Procurement Executive has designated HCAs in the following contracting activities, for the purposes and within the limitations of the

authority stated at DOSAR 601.603-70(a):

- (1) Posts abroad;
 - (2) Office of Acquisitions Management (A/LM/AQM);
 - (3) Foreign Service Institute (FSI);
 - (4) Office of Foreign Missions, Bureau of Diplomatic Security (DS/OFM);
 - (5) U.S. Mission to the United Nations (USUN); and
 - (6) Regional procurement support offices.
- d. In addition, the following offices have been delegated limited acquisition authority as stated in DOSAR 601.603-70(b), although they have not been designated as HCAs:
- (1) Office of Language Services (A/OPR/LS);
 - (2) Office of Overseas Schools (A/OPR/OS);
 - (3) Ralph J. Bunche Library (A/GIS/IPS/LIBR);
 - (4) Office of International Conferences (IO/OIC);
 - (5) Bureau of International Narcotics and Law Enforcement Affairs (INL);
 - (6) Office of Small and Disadvantaged Business Utilization (A/SDBU);
 - (7) Bureau of Administration, Office of Operations (A/OPR);
 - (8) Office of the Inspector General (OIG); and
 - (9) Bureau of Diplomatic Security (DS).

14 FAM 213 ACQUISITION REGULATIONS AND DIRECTIVES

(CT:LOG-49; 11-13-2007)

- a. The following regulations pertain to Department of State acquisitions:
- (1) The Federal Acquisition Regulation (FAR), Code of Federal Regulations (CFR), Title 48, Chapter 1, is the primary regulation for use by all Federal agencies for the acquisition of supplies and services;
 - (2) The Department of State Acquisition Regulation (DOSAR), Code of Federal Regulations, Title 48, Chapter 6, implements and supplements the FAR;
 - (3) The Federal Property Management Regulations, 41 CFR Chapter 101, and the Federal Management Regulation, 41 CFR Chapter 102, regulate many aspects of property management, including public

buildings and space, transportation and motor vehicles, and property utilization and disposal; and

- (4) When contracting abroad, other U.S. Government agencies may prescribe their own acquisition regulations, e.g., the U.S. Agency for International Development Acquisition Regulation (AIDAR), the Department of Agriculture Acquisition Regulation (AGAR), and the Department of Commerce Acquisition Regulation (CAR).
- b. The Department's acquisition directives system consists of the following components:
- (1) The FAR;
 - (2) The DOSAR;
 - (3) Procurement Information Bulletins (PIBs) issued by A/OPE, which provide general information on topics of interest to contracting personnel;
 - (4) The Overseas Contracting and Simplified Acquisition Guidebook (also known as the "Cookbook");
 - (5) The 14 FAH-3, Acquisition Career Management Program Handbook;
 - (6) The Worldwide Purchase Card Program Manual; and
 - (7) The 14 FAH-2, Contracting Officer's Representative (COR) Handbook.
- c. The referenced documents in subparagraphs b(1) through b(7) of this section are available on the Department's Intranet system. Other agencies' acquisition regulations may be accessed on the Internet by clicking on "Acquisition.Gov" on the A/OPE Intranet Home Page.

14 FAM 214 CONTRACTING OFFICER APPOINTMENT

(CT:LOG-49; 11-13-2007)

- a. The contracting officer is appointed in writing by the Procurement Executive pursuant to DOSAR 601.603. The contracting officer is the U.S. Government's authorized agent for soliciting offers, negotiating, awarding, modifying, and terminating contracts.
- b. Only qualified U.S. Government direct-hire employees who are U.S. citizens may be appointed as contracting officers. Appointments are by name only, not position-based, and specify the individual's limits of authority (time, location of office or post, and dollar threshold). Form SF-1402, Certification of Appointment, is commonly referred to as a "warrant."

c. Appointment procedure for posts abroad:

- (1) Posts shall use the Contract Warrant Application System to request new or revised contracting officer warrants. All information requested by the system must be updated before A/OPE may issue a new or revised warrant. The Contract Warrant Application System and a Users Guide may be accessed from A/OPE's Intranet Home Page;
- (2) Employees who have successfully completed the four-week GSO Acquisition Module are normally eligible for warrants limited to \$250,000 (standard warrants). Effective June 1, 2005, obtaining a new warrant at the \$250,000 level requires completion of a minimum of 16 hours or two (2) days of refresher training within the past three (3) years. This means that employees requesting a \$250,000 warrant on or after June 1, 2008 must show completion of refresher training if they graduated from the four-week GSO Acquisition Module more than three (3) years before;
- (3) Employees who wish to qualify for a provisional warrant (up to \$100,000) must complete a simplified acquisition course. The preferred course is PA-229, Simplified Acquisition Procedures. This is a distance learning course offered by FSI. (See 14 FAH-3 H-341). Applicants will need to scan in their certificates of completion and send them to the Director, Evaluation and Assistance Division, A/OPE;
- (4) Each post must ensure that at least two U.S. officers are appointed as contracting officers. This will avoid gaps where no one at post has contracting authority; and
- (5) Posts shall notify their A/OPE Desk Officer via e-mail when a contracting officer resigns, transfers to another post, retires, is no longer serving as a contracting officer, or is terminated. Contracting officer warrants are only valid for the location(s) specified on Form SF-1402, so departure of an employee from a post will automatically render the warrant invalid. A/OPE will update the information in the Contract Warrant Application System. To ensure continuity of procurement operations, post should ensure, to the maximum extent practicable, that there is a warranted contracting officer in place before the primary contracting officer resigns, transfers, retires, or is no longer serving as the primary contracting officer.

d. Appointment procedure for domestic contracting activities:

- (1) Domestic contracting activities must also use the Contract Warrant Application System to request new or revised contracting officer warrants.

- (2) Domestic contracting officers are eligible for a Level I, Level II, or Level III warrant. The limitations and required qualifications for each are discussed in detail in 14 FAH-3, Acquisition Career Management Program Handbook.
- e. All contracting officers must retain and display the original of Form SF-1402, Certification of Appointment, signed by the Procurement Executive.
- f. A contracting officer appointment does not include the authority to sign Federal assistance agreements, i.e., grants and cooperative agreements. A separate Grants Officer warrant must be obtained to sign Federal assistance agreements (see Grants Policy Directive No. 1).

14 FAM 215 UNAUTHORIZED COMMITMENTS

(CT:LOG-49; 11-13-2007)

- a. An unauthorized commitment occurs when a contractual agreement is made that is not binding on the U.S. Government solely because the U.S. Government representative who made the agreement lacked the requisite authority to do so. Acquisition agreements generally may be made only by warranted contracting officers acting within the limits of their warrants or acting upon specific Office of the Procurement Executive (A/OPE) authorization.
- b. Unauthorized commitments may result in personal liability for the individual who made the commitment. Department personnel responsible for unauthorized commitments must provide detailed written explanations of their actions and may be subject to disciplinary action, especially if violations are flagrant and/or continuous.
- c. Contractors who act on unauthorized commitments do so at their own risk. They are not entitled to consideration (money) unless and until the unauthorized commitment is ratified. Payment is therefore substantially delayed or may not be forthcoming at all if the action is not ratified.
- d. Upon learning of an unauthorized commitment, the contracting officer should take immediate action to stop the contractor's work, whenever possible. The contractor should be informed that an unauthorized commitment has been made and that no additional work should occur until ratification is approved.
- e. Ratification is the process whereby designated individuals convert an unauthorized commitment to a legal contract. At the Department, only the HCAs may ratify actions up to \$1,000; actions exceeding \$1,000 must be ratified by the Procurement Executive. The authority to ratify an unauthorized commitment, however, has certain limitations. Ratification may occur only when all of the following conditions are met:

- (1) The supplies or services have been provided to and accepted by the U.S. Government, or the U.S. Government otherwise has obtained or will obtain a benefit;
 - (2) The resulting contract would otherwise have been proper if made by a warranted contracting officer;
 - (3) The price is determined to be fair and reasonable;
 - (4) The contracting officer recommends payment (he or she may request concurrence from the Office of the Legal Adviser (L/BA) if there is a question of propriety or a legal issue);
 - (5) Funds are available and were available at the time the unauthorized commitment was made; and
 - (6) All requirements of Department of State Acquisition Regulation (DOSAR) 601.602-3-70 for documentation and explanation of unauthorized commitments have been met.
- f. Unauthorized commitments by other Federal agencies must be ratified by the Procurement Executives of these agencies. The DOS Procurement Executive will not ratify an unauthorized commitment for another Federal agency.
- g. Financial management officers should assure that unauthorized commitments are ratified before certifying any unauthorized commitments for payment.
- h. See DOSAR 601.602-3 for a complete discussion on unauthorized commitments. Sample documents may be found on the A/OPE Intranet Home Page.

14 FAM 216 THROUGH 219 UNASSIGNED