

Table of Contents

INTRODUCTION TO CONTRACTS WITH THE FEDERAL GOVERNMENT

- I The FAR vision and the reasons for government contracting
- III-I —Revolutionary FAR Overhaul [*New*]

PART I. GENERAL

CHAPTER 1. FEDERAL ACQUISITION REGULATIONS SYSTEM

A. REGULATIONS ISSUED UNDER THE BASIC STATUTES

- § 1.1 In general
- § 1.2 The Federal Acquisition Regulation
- § 1.4 The force of procurement regulations—The *Christian* doctrine
- § 1.9 Deviations

B. CONTRACTING AUTHORITY AND RESPONSIBILITIES

- § 1.21 Who is authorized to represent the United States—The contracting officer
- § 1.22 Authority of government agents and the inadequacy of apparent authority
- § 1.23 Apparent authority, vs. actual authority, estoppel and ratification
- § 1.24 Illegal contracts

CHAPTER 2. DEFINITIONS OF WORDS AND TERMS

- § 2.1 In general

CHAPTER 3. IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

- § 3.1 Ethics in contracting
- § 3.2 Contractor gratuities to government personnel
- § 3.6 Conflicts of interest of government employees or companies they control
- § 3.7 Conflicts with former government employees

- § 3.10 Limits on payment to influence federal transactions
- § 3.11 Fraud, whistleblowers, and the False Claims Act
- § 3.13 Contractor code of ethics and conduct *[New]*
- § 3.14 Preventing personal conflicts of interest for contractor employees performing acquisition functions *[New]*

CHAPTER 4. ADMINISTRATIVE MATTERS

- § 4.2 Signatures of contracting officer and contractor, duplicates
- § 4.3 Safeguarding classified information
- § 4.4 Contract reporting, record retention and closeout
- § 4.6 System for Award Management *[New]*
- § 4.7 American Recovery and Reinvestment Act reporting requirements *[New]*
- § 4.8 Prohibition on contracting for hardware, software, and services developed or provided by Kaspersky Lab *[New]*
- § 4.9 Prohibition on contracting for certain telecommunications and video surveillance services or equipment *[New]*
- § 4.10 Prohibition on a ByteDance covered application *[New]*
- § 4.11 Federal Acquisition Security Council *[New]*

CHAPTER 5. PUBLICIZING CONTRACT ACTIONS

- § 5.1 Dissemination of information

CHAPTER 6. COMPETITION REQUIREMENTS

- § 6.2 Full and open competition after exclusion of sources
- § 6.3 Other statutes providing for contracting without full and open competition

PART II. ACQUISITION PLANNING

CHAPTER 7. ACQUISITION PLANS—MAKE OR BUY

- § 7.1 Acquisition plans
- § 7.2 Make or buy considerations—OMB Circular A-76
- § 7.3 Equipment acquisition *[Retitled]*
- § 7.4 Inherently governmental functions

CHAPTER 8. GOVERNMENT AND OTHER REQUIRED SOURCES OF SUPPLIES AND SERVICES

- § 8.1 In general
- § 8.2 Excess personal property
- § 8.4 Ordering from Federal Supply Schedules
- § 8.5 Acquisition from the blind and other severely disabled

TABLE OF CONTENTS

**CHAPTER 9. CONTRACTOR
QUALIFICATIONS**

A. RESPONSIBLE PROSPECTIVE CONTRACTORS

- § 9.1 Standards
- § 9.6 Experience requirements

**B. QUALIFIED PRODUCTS—FIRST ARTICLE
APPROVAL**

- § 9.21 Qualified products

**C. DEBARMENT, SUSPENSION, AND
INELIGIBILITY**

- § 9.31 Determination of nonresponsibility distinguished;
nonprocurement suspension and debarment
- § 9.32 Debarment and suspension as discretionary acts
- § 9.33 List of parties excluded from federal procurement and
nonprocurement programs

**D. PROCEDURES FOR DEBARMENT AND
SUSPENSION**

- § 9.45 Suspension

E. ORGANIZATIONAL CONFLICTS OF INTEREST

- § 9.61 In general

CHAPTER 10. MARKET RESEARCH

- § 10.1 Market research

CHAPTER 11. DESCRIBING AGENCY NEEDS

- § 11.1 In general
- § 11.2 Selecting specifications or descriptions
- § 11.6 Priorities, allocations, and allotments
- § 11.7 Variations in quantity

**CHAPTER 12. ACQUISITION OF
COMMERCIAL ITEMS**

- § 12.1 In general
- § 12.2 Special requirements for commercial items
- § 12.3 Solicitation provisions and contract clauses
- § 12.4 Applicability of certain laws to purchases of commercial items

PART III. CONTRACTING METHODS AND CONTRACT TYPES

CHAPTER 13. SIMPLIFIED ACQUISITION PROCEDURES

- § 13.1 Procedures for simplified acquisitions, and small business set
asides
- § 13.2 Blanket Purchase Agreements (BPAs) and indefinite delivery
orders
- § 13.6 Micro-purchases
- § 13.7 Test program for certain commercial items

CHAPTER 14. CONTRACTING WITH SEALED BIDDING

B. REQUIREMENTS OF SEALED BIDDING

- § 14.14 Unbalanced bids

C. OPENING OF BIDS AND AWARD OF CONTRACT

- § 14.32 Rejection of bids
- § 14.36 Necessity of authority to waive requirements

CHAPTER 15. CONTRACTING BY NEGOTIATION

A. GENERAL REQUIREMENTS FOR NEGOTIATIONS

- § 15.4 Examination of records by the comptroller general, the
procuring agency, and by the DCAA
- § 15.5 1997 amendments to FAR Part 15

B. REQUESTS FOR PROPOSALS AND REQUESTS FOR QUOTATIONS

- § 15.11 In general
- § 15.13 Late proposals and modifications
- § 15.14 Disclosure and use of information before award—Restrictions
on disclosure

C. UNSOLICITED PROPOSALS

- § 15.21 Agency procedures

D. SOURCE SELECTION

- § 15.32 Disclosure of mistakes before award
- § 15.33 Proposal evaluation and competitive range

TABLE OF CONTENTS

- § 15.34 Point scores
- § 15.35 Written and oral discussion
- § 15.36 Final proposal revisions
- § 15.37 Debriefing of offerors on awards based upon competitive proposals

F. PRICE NEGOTIATION

- § 15.61 Cost or pricing data—Generally
- § 15.62 Exemptions from or waiver of submission of cost or pricing data
- § 15.63 Defective cost or pricing data
- § 15.64 Factual and judgmental data distinguished

H. OTHER REQUIREMENTS

- § 15.82 Unbalanced offers
- § 15.85 Pre-award and post-award notification; protests

CHAPTER 16. TYPES OF CONTRACTS

A. INTRODUCTION

- § 16.1 Selecting contract types

B. COST-REIMBURSEMENT CONTRACTS

- § 16.11 In general

C. INCENTIVE CONTRACTS

- § 16.31 In general

D. INDEFINITE-DELIVERY CONTRACTS

- § 16.41 In general

E. TIME-AND-MATERIALS, LABOR-HOUR CONTRACTS AND LETTER CONTRACTS

- § 16.51 Time-and-Materials (T & M) and Labor-Hour (LH) contracts

CHAPTER 17. SPECIAL CONTRACTING METHODS

- § 17.2 Options
- § 17.4 Interagency acquisitions under the Economy Act
- § 17.6 Reverse Auctions *[New]*

CHAPTER 18. EMERGENCY ACQUISITIONS *[Retitled]*

- § 18.1 In general *[New]*

PART IV. SOCIO-ECONOMIC PROGRAMS

CHAPTER 19. SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

- § 19.1 Small business policies
- § 19.2 Size standards
- § 19.3 Set-asides for small business
- § 19.4 Certificates of competency and determinations of eligibility
- § 19.5 Subcontracting with small business, small disadvantaged business, and women-owned small business concerns
- § 19.6 Contracting with the small business administration—The “8(a)” program
- § 19.7 Very small business pilot program

CHAPTER 22. APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

- § 22.1 Basic labor policies
- § 22.2 Overtime
- § 22.3 Convict Labor, Work-Hours Standards Act and Davis-Bacon Act
- § 22.5 Equal employment opportunity—Generally
- § 22.8 Professional employee compensation
- § 22.9 Service Contract Act
- § 22.10 Special disabled and Vietnam-era veterans
- § 22.14 Trafficking in persons *[New]*
- § 22.15 Employment of unauthorized or illegal aliens or use of foreign labor *[New]*

CHAPTER 23. ENVIRONMENT, CONSERVATION AND OCCUPATIONAL SAFETY

- § 23.1 In general, clean air, clean water, energy conservation, recycling, etc
- § 23.2 Liability and reimbursement for environmental damage
- § 23.3 Drug-free workplace
- § 23.4 Environmentally preferable products—Toxic chemical release and ozone depletion

CHAPTER 24. PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

- § 24.2 The Freedom of Information Act (FOIA)

CHAPTER 25. FOREIGN ACQUISITION

- § 25.1 Buy American Act—Supplies
- § 25.3 The Trade Agreements Act of 1979 and NAFTA

TABLE OF CONTENTS

- § 25.5 Foreign Military Sales (FMS)
- § 25.11 Contractors performing private security functions outside the United States *[New]*

CHAPTER 26. OTHER SOCIO-ECONOMIC PROGRAMS

- § 26.3 Disaster or emergency assistance activities

PART V. GENERAL CONTRACTING REQUIREMENTS

CHAPTER 27. PATENTS, DATA, AND COPYRIGHTS

A. PATENTS

- § 27.1 In general
- § 27.2 Authorization, consent, and patent indemnity

B. PATENT RIGHTS UNDER GOVERNMENT CONTRACTS

- § 27.11 In general
- § 27.13 Subcontracts

C. RIGHTS IN DATA AND COPYRIGHTS

- § 27.21 In general
- § 27.24 Acquisition of data

CHAPTER 28. BONDS AND INSURANCE

A. BONDS

- § 28.2 The bid bond
- § 28.3 Payment and performance bonds for construction contracts
- § 28.5 Sureties

C. GOVERNMENT CONTRACTORS AND LIABILITY FOR THEIR PRODUCT

- § 28.22 The so-called “government contractor defense”

CHAPTER 29. TAXES

- § 29.1 Necessity to consult with counsel on taxes
- § 29.2 Federal excise taxes
- § 29.9 State of New Mexico gross receipts and compensating tax

CHAPTER 30. COST ACCOUNTING STANDARDS (CAS)

- § 30.1 Necessity of accounting by contractors and governments

- § 30.2 The standards and the original and new Cost Accounting Standards Board (CASB)
- § 30.3 CAS contract requirement
- § 30.4 Requirement of disclosure

CHAPTER 31. CONTRACT COST PRINCIPLES

A. THE DEVELOPMENT OF CONTRACT COST PRINCIPLES

- § 31.1 In general
- § 31.3 Current contract cost principles

B. ALLOWABILITY OF SELECTED COSTS IN CONTRACTS WITH COMMERCIAL ORGANIZATIONS

- § 31.10 “Open Guidance” *[New]*
- § 31.12 Compensation for personal services
- § 31.13 Backpay and pension costs
- § 31.20 Independent Research and Development (IR&D) and Bid and Proposal Costs (B&P)
- § 31.22 Lobbying costs
- § 31.24 Precontract costs
- § 31.25 Professional and consultant service costs
- § 31.26 Costs related to legal and other proceedings
- § 31.28 Material costs
- § 31.29 Taxes
- § 31.33 Travel costs
- § 31.34 Asset valuations resulting from business combinations

CHAPTER 32. CONTRACT FINANCING

A. INTRODUCTION

- § 32.1 In general
- § 32.2 Commercial item purchase financing
- § 32.3 Prompt payment
- § 32.6 Performance-based payments

C. CONTRACT DEBTS

- § 32.21 In general
- § 32.23 Interest and setoff

D. CONTRACT FUNDING

- § 32.31 The appropriation process

E. ASSIGNMENT OF CLAIMS

- § 32.51 In general

TABLE OF CONTENTS

CHAPTER 33. PROTESTS, DISPUTES, AND APPEALS

A. PROTESTS

- § 33.3 Protests to General Accounting Office (GAO)
- § 33.6 Protest jurisdiction of the U.S. Court of Federal Claims and U.S. District Courts

B. DISPUTES AND APPEALS

- § 33.21 In general
- § 33.23 Contract claims
- § 33.24 Certification requirements
- § 33.25 Certification of subcontractor claims
- § 33.27 Contracting officer's conference, decision, and ADR
- § 33.28 Appeals to boards of contract appeal
- § 33.29 Appeals to the Court of Federal Claims (COFC)
- § 33.30 Court of Appeals for the Federal Circuit (CAFC)
- § 33.32 Attorney's fees and the Equal Access to Justice Act (EAJA)

PART VI. SPECIAL CATEGORIES OF CONTRACTING

CHAPTER 34. MAJOR SYSTEM ACQUISITION

- § 34.3 Earned value management system *[New]*

CHAPTER 35. RESEARCH AND DEVELOPMENT CONTRACTING

- § 35.3 Scientific and technical reports—Delivery of technical data
- § 35.4 Government and private laboratories, FFRDC's "skunk works," lead users, and "other transactions"

CHAPTER 36. CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

A. TYPES OF CONSTRUCTION CONTRACTS

- § 36.3 Evaluation reports and the determination of responsibility

B. SPECIAL ASPECTS OF USE OF SEALED BIDDING PROCEDURES IN CONSTRUCTION CONTRACTS

- § 36.12 Presolicitation notices

C. PRICE NEGOTIATION OF CONSTRUCTION CONTRACTS

- § 36.22 Two-phase design-build selection procedures

D. CONSTRUCTION CONTRACT CLAUSES

§ 36.35 Project labor agreements

E. ARCHITECT-ENGINEER SERVICES

§ 36.51 In general

§ 36.53 Negotiations for A-E services

CHAPTER 37. SERVICE CONTRACTING

§ 37.1 Service contracts—In general

§ 37.2 The Service Contract Act

§ 37.4 Advisory and assistance services (consulting services)

§ 37.7 Performance-based acquisition [*New*]

**CHAPTER 38. FEDERAL SUPPLY
SCHEDULE CONTRACTING**

§ 38.2 New item introductory schedule

**CHAPTER 39. MANAGEMENT,
ACQUISITION, AND USE OF
INFORMATION RESOURCES**

§ 39.1 In general

§ 39.2 Electronic and information technology

**CHAPTER 40. INFORMATION SECURITY
AND SUPPLY CHAIN SECURITY [*New*]**

§ 40.1 In general [*New*]

**CHAPTER 41. ACQUISITION OF UTILITY
SERVICES**

§ 41.1 In general

PART VII. CONTRACT MANAGEMENT

**CHAPTER 42. CONTRACT
ADMINISTRATION**

§ 42.1 In general

§ 42.4 Indirect cost rates

§ 42.7 Suspension of work

§ 42.8 Delays in construction projects

§ 42.9 Contractor past performance information

CHAPTER 43. CONTRACT MODIFICATIONS

A. AUTHORITY TO MODIFY CONTRACTS

§ 43.2 “Changed” contracts

TABLE OF CONTENTS

B. CHANGE ORDERS—MODIFICATIONS WHICH ARE ORDERED PURSUANT TO A CLAUSE IN THE ORIGINAL AGREEMENT OF THE PARTIES

- § 43.12 Negotiation of equitable adjustment
- § 43.16 “Constructive changes” doctrine and its elimination in certain current clauses
- § 43.18 The changes clause in construction contracts

CHAPTER 44. SUBCONTRACTING

- § 44.1 Subcontractors
- § 44.6 Subcontractor claims
- § 44.7 The law governing subcontracts; federal law or state law

CHAPTER 45. GOVERNMENT PROPERTY

- § 45.1 General responsibility and liability for government property
- § 45.3 Government property furnished to contractors

CHAPTER 46. QUALITY ASSURANCE

- § 46.1 Contract quality requirements

CHAPTER 48. VALUE ENGINEERING

- § 48.1 In general

CHAPTER 49. TERMINATION OF GOVERNMENT CONTRACTS

A. INTRODUCTION

- § 49.1 Authority to terminate contracts and types of terminations

B. TERMINATION FOR DEFAULT

- § 49.11 In general
- § 49.12 Notice to show cause
- § 49.16 Necessity (or lack thereof) to appeal the termination for default if appeal is taken from the determination of excess costs—The *Fulford* Doctrine
- § 49.19 Default for failure to make progress, or to prosecute the work with diligence

C. THE POWER TO SETTLE CONTRACTS AND TO TERMINATE THEM FOR THE CONVENIENCE OF THE GOVERNMENT

- § 49.32 The bases for a termination for convenience
- § 49.33 Allowability of costs claimed following termination

CHAPTER 50. EXTRAORDINARY CONTRACTUAL ACTIONS

- § 50.1 Authority and policy

§ 50.2 Limitations on authority under Pub.L. 85-804

§ 50.3 Contract adjustments

**CHAPTER 51. USE OF GOVERNMENT
SOURCES BY CONTRACTORS**

§ 51.1 Contractor use of government supply sources

PART VIII. CLAUSES AND FORMS

**CHAPTER 52. SOLICITATION PROVISIONS
AND CONTRACT CLAUSES**

§ 52.2 The use and abuse of the doctrine of contra proferentem in
negotiated procurements

Table of Laws and Rules

Table of Cases

Index