



Jul. 23, 2020

United States  
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Agriculture

Office of the  
Assistant  
Secretary  
for Administration

Office of Contracting  
and Procurement

Procurement  
Operations Division

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## ACQUISITION OPERATING PROCEDURE (AOP)

**FROM:** Kelly L. Moore  
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**SUBJECT:** AOP No. 8: Presolicitation and Preaward Review

◆ **PURPOSE:** This Acquisition Operating Procedure (AOP) establishes a pre-solicitation and pre-award review process of the contract file documents. The pre-solicitation and pre-award review process will be conducted for selected contract actions outlined in this procedure to ensure the proposed contract actions, when properly executed, will--

- Comply with established acquisition statutes, regulations, policies and procedures;
- Reflect sound business judgment; and
- Be in the best interests of the Government.

◆ **EFFECTIVE DATE:** This AOP is effective on July 27, 2020.

◆ **REVISIONS:** *Authorities:* added references. *Review of Proposed Contract Actions:* renumbered, added and deleted text in #1, #2 and Table-1, Table-2, #3, #4, #5. *File Documentation:* added and deleted text in #1, #2 and #3. *File Review Process:* added and deleted text in #1 through #8. *Waiver Review Request:* added and deleted text in #2 and #3. *Attachment:* deleted 91D reference.

This AOP replaces AOP No. 8, dated October 9, 2018.

◆ **AUTHORITIES:** FAR 4.801 and USDA Contracting Desk Book Subpart 404.8, Government Contract Files; and USDA Contracting Desk Book 404.602, USDA Federal Procurement Data Quality Plan, 401.602 Responsibilities (Legal Advice), and 401.671-2 Contract Specialist or Contracting Officer.

◆ **REVIEWERS:**

Reviewers may consist of Contract Specialists (CS), Contracting Officers (CO), Procurement Analysts, Competition Advocate, Contracting Branch Chiefs, and the Deputy Chief and Chief/Mission Area Senior Contracting Official (MASCO) of the Procurement Operations Division (POD). External reviewers may be staff from the

Office of the Small and Disadvantaged Business Utilization, General Counsel, Office of Contracting and Procurement/Procurement Policy Division, or other offices as deemed appropriate by the Contracting Branch, Deputy, or Division Chiefs.

◆ **REVIEW OF PROPOSED CONTRACT ACTIONS:**

The Review applies to solicitations, purchase orders, delivery and task orders, blanket purchase agreements (BPA), BPA calls and contracts. All supporting documentation relating to the appropriate tabs on the *Contract File Index* (AOP No. 7) shall be submitted for review. The review thresholds are included in Table-1 and Table-2 below.

*Table-1*

<b>REVIEW THRESHOLDS</b> <i>(Applicable to POD contracting offices)</i>		
<b><i>Contract Value/Threshold</i></b>	<b><i>Review Cycle</i></b>	<b><i>Required Review</i></b>
\$3,000 up to \$5,000,000	Periodically (Randomly Selected)	Contracting Branch Chief's discretion
\$5,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by Contracting Branch Chief, with discretion to additional reviewers.
\$10,000,000 up to \$25,000,000	Daily (100%)	All proposed contract actions reviewed by the Contracting Branch Chief, Procurement Analyst and POD Deputy Chief.
\$25,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by the Contracting Branch Chief, Procurement Analyst, POD Deputy Chief and Chief/MASCO.

Table-2

<b>REVIEW THRESHOLDS</b>		
<i>(Applicable to contracting offices with warrant authority signed by the MASCO of POD)</i>		
<b><i>Contract Value/Threshold</i></b>	<b><i>Review Cycle</i></b>	<b><i>Required Review</i></b>
\$3,000 up to \$1,000,000	Periodically (Randomly Selected)	Contracting Branch Chief's discretion
\$1,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by Contracting Team Lead and Contracting Branch Chief with the discretion to determine additional File Reviewers
\$5,000,000 and greater	Daily (100%)	All proposed contract actions reviewed by the Contracting Team Lead, Contracting Branch Chief, Procurement Analyst; and POD Deputy Chief, and/or Chief/MASCO.

*Note: Contracting personnel in offices with no Contracting Team Leads, Branch Chiefs or Division Chief will provide documents to the appropriate Contracting Branch Chief in POD that supports their customers focus area. (See Organizational Chart at <https://www.dm.usda.gov/oppm/pod/index.htm>).*

1. Requirements to Note:

- a. The program official and CO shall sign all documents where their signatures are required (e.g., acquisition plan (*FAR Subpart 7.1*), if required), prior to routing the file to the Contracting Branch Chief for review.
- b. Performance-Based Contracting shall be utilized for eligible services, whenever possible (*FAR Subparts 11.101 and 37.6*). The acquisition plan, if required, must document the rationale if performance-based acquisition methods will not be used.
- c. If a Federal Business Opportunities notice of intent to sole source results in contractor or vendor responses, the contract file shall include the vendor responses, the CO's draft contractor/vendor reply (ies), and the written memorandum on whether the proposed contract action should remain, as a non-competitive or limited competition action.
- d. Negotiated procurements over threshold as prescribed in *FAR 19.702* shall contain subcontracting plan requirements as part of the proposal evaluation criteria, if applicable.

- e. Procurements issued against General Services Administration Federal Supply Schedules, Government-wide Acquisition Contracts and Set-Aside for a Small Business concerns are excluded from subcontracting requirements.
2. The CS/CO shall follow the instructions for electronic contract filing (see AOP No. 7).

◆ **FILE DOCUMENTATION:**

1. All applicable documents (e.g., acquisition plan, milestone schedule, AD-1205 Small Business Program-Procurement Request Review, clearances, Determinations & Findings, justifications and approvals, waivers, pre/negotiation memoranda, award memorandum) shall be completed and include the CO's and/or program official's signature, as appropriate, and included in the review package at time of submission for review by the Contracting Branch Chief. Otherwise, the review package will be returned to the Contracting Branch Chief and/or CS/CO for correction prior to further review.
2. The CS/CO shall use the appropriate Contract File Index (see AOP No. 7) to submit packages for review. All documents shall be attached to the Contract File Index and named so they are in order sequentially in accordance with the Contract File Index procedures in AOP No. 7.
3. The CS/CO shall submit the File Index with the applicable file documentation, including the File Review Record (attached) to the reviewer(s) identified by the Contracting Branch Chief.

◆ **REVIEW PROCESS:**

1. In order to ensure an efficient review process, the CS/CO must identify, document and resolve contractual problems including legal concerns, and obtain approvals from customers, small businesses information from the POD Small Business Liaison and OSDBU staff, during the early stages of procurement planning prior to routing the review package to the Contracting Branch Chief for review.
2. The Program Official and CO shall sign and date the Justification and Approval for Other Than Full and Open Competition/Brand Name/Limited Sources Justification (see AOP No. 5), when a justification is required, prior to routing the review package to the Contracting Branch Chief for review and approval.

3. Five (5) business days shall be allowed for each reviewer required above the Contracting Branch Chief level. The Contract Specialist should plan the milestone schedule accordingly.
4. The CS/CO shall route the review package to the Contracting Branch Chief, or other senior COs designated by Branch Chief to complete a preliminary review of the package within their branch. Reviewers are responsible to document comments, findings and recommendations on the File Review Record (Attachment) and either return the package for correction, or route to the next level for review.
5. The Contracting Branch Chief will consider the Reviewer's comments, include any additional comments as appropriate, and then provide the File Review Record to the CS/CO for corrective actions, if needed. The Contracting Branch Chief or the Acting serving in the Branch Chief's absence shall ensure all corrective actions and concerns are addressed, and signatures are obtained before routing the review package to the Senior Procurement Analyst.
6. The Senior Procurement Analyst will assign a tracking number, route the file to the Competition Advocate, if applicable, and/or other Analysts to review before sending the file to Deputy Chief or Chief/MASCO of POD for approval. After all required reviews, corrections, if needed, and approvals are completed in POD, the reviewing Procurement Analyst will route the appropriate document(s), e.g., acquisition plan, sole source to the OSDBU and PPD staff for review and approval, if applicable. The reviewing Procurement Analyst will return the review package to the Contracting Branch Chief and CS/CO.
7. The Contracting Branch Chief may request a meeting with the CS/CO and/or Reviewer(s) to discuss the comments, findings and recommendations submitted.
8. File Review Record:
  - a. Initials/Date (*Reviewed/Returned for Action*) – means the reviewer is returning the review package for changes before approval. The Contracting Branch Chief will review any revisions prior to re-submitting the review package to the reviewer to ensure consistency with documentation and guidance within the division.
  - b. Signature/Date – means the reviewer has given approval to proceed. Minor changes, if applicable may be required, that the CO will address and annotate the action taken on the File Review Record.

- c. The File Review Record(s) shall be placed in the applicable tab in the electronic contract file.

◆ **WAIVER REVIEW REQUEST:**

1. In special situations and where authorized, the Contracting Branch Chief, and POD Deputy Chief or POD Chief/MASCO may waive the review for a specific contract action, when it is determined to be in the best interest of the agency.
  - a. Complete the File Review Record.
  - b. Check the “*Waiver*” box on the File Review Record.
  - c. In the “*File Reviewer’s Comments/Findings*” box on the File Review Record, explain the rationale and impacts if the waiver is not granted for the action, and attach any other supporting documentation that may be pertinent.
  - d. Submit the File Review Record to the Contracting Branch Chief. The Contracting Branch will review for those actions within their review threshold; and route the File review Record to the Procurement Analyst for routing and waiver approval by the POD Deputy Chief or Chief/MASCO.
3. The CS/CO shall allow adequate time for a deliberate assessment of all facts by the Contracting Branch Chief, Procurement Analyst, POD Deputy Chief or Chief/MASCO prior to release of the solicitation or award.

◆ **EXPIRATION DATE:** This AOP will remain in effect until canceled.

(END)

**ATTACHMENT:**

File Review Record

## FILE REVIEW RECORD

<b>CONTRACT SPECIALIST/CONTRACTING OFFICER:</b>			<b>SOLICITATION/CONTRACT NO:</b>		
			<b>PROCUREMENT INFORMATION</b>		
<b>Date Submitted:</b> <i>(Allow up to 5 days for each level review)</i>			Pre-Solicitation	Other:	
			Pre-Award	Justification & Approvals	
<b>Est. Award Date:</b>			Pre-Modification	AD1205 SB Program Review	
<b>Corrective Actions Completed:</b>			<b>WAIVER REQUEST</b> <i>(In comments/findings, state reason and attach supporting facts)</i>		
<b>REVIEWER COMMENTS/FINDINGS:</b>			<b>CORRECTIVE ACTIONS TAKEN:</b>		
<b>REVIEWERS</b>					
<b>Senior Contracting Officer/Contracting Team Lead</b>			<b>Chief, Contracting Branch /or Acting Chief</b> <i>Review N/A</i>		
Name:			Name:		
Reviewed/Returned for Action:	Initials		Reviewed/Returned for Action:	Initials	
Signature:			Signature:		
<b>Procurement Analyst, POD</b> <i>Review N/A</i>		<b>Deputy Chief, POD</b> <i>Review N/A</i>		<b>Chief / MASCO, POD</b> <i>Review N/A</i>	
Name:		Name:		Name:	
Reviewed/Returned	Initial/Date	Reviewed/Returned	Initial/Date	Reviewed/Returned:	Initial/Date
Signature:		Signature:		Signature:	

<b>CONTRACT SPECIALIST/CONTRACTING OFFICER:</b>	<b>SOLICITATION/CONTRACT NO:</b>

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