



March 2, 2021

United States  
Department of  
Agriculture

Office of the  
Assistant  
Secretary  
for Administration

Office of  
Contracting and  
Procurement

Procurement  
Operations Division

301 S. Howes  
Street, Suite 321  
Fort Collins, CO  
80524

## ACQUISITION OPERATING PROCEDURE (AOP)

**FROM:** Richard R. Jiron  
Mission Area Senior Contracting Official

**SUBJECT:** AOP No. 8: Presolicitation and Preaward Review

**RICHARD  
JIRON**

Digitally signed by RICHARD  
JIRON  
Date: 2021.03.02 10:43:31  
-07'00'

◆ **PURPOSE:** Establishes a presolicitation and preaward review process of the contract file documents. The presolicitation and preaward 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 March 2, 2021.

◆ **REVISIONS:** *This AOP is revised in its entirety.* This replaces AOP No. 8, dated July 27, 2020.

◆ **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), POD's Small Business Liaison, Procurement Analysts, Contracting Branch Chiefs contracting personnel, 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

REVIEW THRESHOLDS		
<i>Contract Value/Threshold</i>	<i>Review Cycle</i>	<i>Required Review</i>
\$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 \$25,0000,000	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.

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.
- f. Five (5) business days shall be allowed for each reviewer required above the Contracting Branch Chief level to complete their review. **The CS/CO will plan the milestone schedule accordingly.** (Hereafter, CS/CO will be referred to as CO to follow the process, where required).

◆ **FILE DOCUMENTATION:**

1. All applicable documents (e.g., acquisition plan, 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 program official's signatures, as appropriate, and included in the review package when it is routed for review to the Contracting Branch Chief. Otherwise, the review package will be returned to the Contracting Branch Chief and/or CO for correction prior to further review.
2. The 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 in order sequentially in accordance with the Contract File Index procedures in AOP No. 7.
3. The CO shall submit the File Index with the applicable file documentation, including the File Review Record (Attachment 1) to the reviewer(s) identified by the Contracting Branch Chief.

◆ **REVIEW PROCESS:**

1. In order to ensure an efficient review process, the 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 (SBL) and OSDDBU staff, during the early stages of procurement planning prior to routing the review package to the Contracting Branch Chief for review.

2. When a Justification and Approval for Other Than Full and Open Competition/Brand Name/Limited Sources Justification is required:
  - a) The CO shall work with the program official to obtain all required information to fully document and support the justification for a limited source acquisition. The CO shall consider the justification information along with the results of market research to establish the most suitable method of contracting. **It is recommended the CO coordinate with POD's Small Business Liaison (SBL) during the early stages of procurement planning prior to establishing the method of contracting, completing the J&A and routing the J&A and/or AD-1205, USDA Small Business Program - Procurement Request Review (see Departmental Regulation (DR) 5090-001, USDA Small Business Programs, Full Small Business Participation & Clearance Process for Contracts Not Set-aside or Reserved for Small Business Participation) for approvals, if required, above the CO** to facilitate a more efficient review process and to ensure the action is fully supported.
  - b) The SBL will use the File Review Record to record any comments/recommendations for changes required to the J&A and/or AD-1205. The SBL will forward the File Review Record to the CO.
  - c) Once the method of contracting has been established, the CO will transcribe the information received on the limited source justification template (see AOP No. 19, Requirement Package) onto the appropriate justification and approval (J&A) template at <https://www.dm.usda.gov/procurement/policy/index.htm> (PPD's website), and include any additional information the SBL determined to be necessary to support the justification.
  - d) The CO will convert the J&A template to a PDF document and send it to the program official for signature. Program official will return the signed J&A to the CO.
  - e) The CO will conduct a final J&A and/or AD1205 review, send the J&A and/or AD-1205, and a completed File Review Record to the SBL for a final review/approval. The SBL will return the J&A and/or signed AD-1205 with the signed File Review Record back to the CO for the CO to approve.
    - i. If the review is for a "standalone" J&A (estimated value greater than \$750K) and **no** presolicitation review is required in accordance with Table-1, the CO shall forward only the J&A and/or AD-1205 for review (see DR 5090-1 supporting documentation at <https://www.dm.usda.gov/procurement/policy/index.htm>).
    - ii. If the review is for a "standalone" AD-1205," **no** J&A and **no** presolicitation review is required in accordance with Table-1, the CO shall forward only the AD-1205 for review (see DR 5090-1 supporting documentation at <https://www.dm.usda.gov/procurement/policy/index.htm>).

3. The CO shall route the review package to the senior CO designated by the Contracting Branch Chief to complete a preliminary review of the package within their branch, and/or route the package to the Contracting Branch Chief or designated Acting for review (*Acting will follow the Branch Chief process*). The Contracting Branch Chief is responsible for reviewing all acquisition documents and shall complete a thorough review to ensure all documents are completed and all elements required by regulation are addressed as required by regulation. If changes are needed, the Contracting Branch Chief will return the entire package back to the CO for correction. All Reviewers are responsible to record comments and corrections on the File Review Record (Attachment 1).
4. Once the Contracting Branch Chief confirms no further corrections are required, the Contracting Branch Chief will sign all applicable documents including the File Review Record and forward the review package to the Supervisory Procurement Analyst or designated Acting (*Acting will follow the Supervisory Procurement Analyst process*).
5. The Supervisory Procurement Analyst will log and assign a control number and assign the package to a Procurement Analyst for review.
6. The Procurement Analyst shall complete a thorough review to ensure all documents are completed and address all elements required by regulation. If changes are needed, the Procurement Analyst will record comments or corrections on the File Review Record (Attachment 1) and return the entire package back to the CO and Branch Chief. The Contracting Branch Chief will ensure corrections are completed before returning the entire review package (including corrected/revised documents, older version documents removed, etc.) back to the Procurement Analyst that is performing the review.
7. The Procurement Analyst will update the log, as needed, to show the review status. Once the Procurement Analyst confirms the corrections and no further changes are needed, the Procurement Analyst will sign the File Review Record and send the package to the Supervisory Procurement Analyst.
8. The Supervisory Procurement Analyst will do a cursory review, record any additional comments on the File Review Record (Attachment 1), send the review package to the POD Deputy Chief, and update the log, as needed, to show the review status through any additional higher level approvers that will review package.
9. The POD Deputy Chief will review and approve all applicable documents or record comments on the File Review Record (Attachment 1) and return the package back to the Supervisory Procurement Analyst.

10. The Supervisory Procurement Analyst, if corrections are required, will return the entire review package back to the CO and Contracting Branch Chief. The CO and/or Contracting Branch Chief will return the entire package (including corrected/revised documents, older version documents removed, etc.) back to the Supervisory Procurement Analyst. Once the Supervisory Procurement Analyst confirms the corrections and obtains the POD Deputy Chief's approval, the Supervisory Procurement Analyst will send the review package to the POD Chief/MASCO for review.
11. The POD Chief/MASCO will review and approve all applicable documents or record comments on the File Review Record and return the package back to the Supervisory Procurement Analyst.
12. The Supervisory Procurement Analyst will send the appropriate documents (J&A, Acquisition Plan, AD-1205, etc.) that require higher level approvals to PPD/HCA/SPE at [Procurement.Policy@usda.gov](mailto:Procurement.Policy@usda.gov), and/or OSDDBU at [Roxanne.Lane@usda.gov](mailto:Roxanne.Lane@usda.gov); and as the approvals are received, will forward to the CO and Contracting Branch Chief.
13. The approver may request additional information or clarification and discussion directly with the CO and/or Branch Chief.

◆ **FILE REVIEW RECORD:**

1. 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.
2. 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.
3. 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.
2. The CO shall:
  - 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 (Attachment 1) 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 POD Chief/MASCO.
3. The CO shall allow adequate time for a deliberate assessment of all facts by the Contracting Branch Chief, Procurement Analyst, Supervisory Procurement Analyst, POD Deputy Chief or POD Chief/MASCO prior to release of the solicitation or award.

◆ **REVIEW PROCESS ROUTING CHART:**

The Review Process Routing Chart (Attachment 2) may be a useful guide that may be used to help understand the review process and identifies the steps through the review process.

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

(END)

AOP No. 8: Attachments – The following documents are attached separately:

Attachment 1 – File Review Record

Attachment 2 – Review Process Routing Chart