



AUG 28 2009

GSA Office of Governmentwide Policy

MEMORANDUM FOR FAS HEADS OF CONTRACTING ACTIVITIES

FROM: DAVID A. DRABKIN (MV) 
DEPUTY ASSOCIATE ADMINISTRATOR AND SENIOR
PROCUREMENT EXECUTIVE

SUBJECT: Upcoming Inspector General (IG) Reviews – Compliance Issues
and Other Matters

PURPOSE: This memorandum addresses current guidance on issues that arose in recent Office of the Inspector General (OIG) meetings concerning the forthcoming joint review conducted by the IG of the Department of Defense (DoD) and U.S. General Services Administration. This memorandum is not intended to create or replace any existing policy, it is provided as a source to assist the contracting officer's (CO) preparation for the upcoming audit.

BACKGROUND: Section 801 of the Acquisition Improvement and Accountability Act of 2007 (which included in Title VIII of the National Defense Authorization Act for Fiscal Year 2008) Public Law 110-181 enacted January 28, 2008 requires the Inspectors General of the U.S. Department of Defense (DoD) and the U.S. General Services Administration (GSA) to jointly review procurements policies, procedures, and internal controls – as well as the administration of such policies, procedures, and internal controls - that are applicable to the procurement of property and services on behalf of the DoD. The reviews are projected to begin in fiscal year (FY) 2010. This memorandum supersedes the previous memorandum dated May 5, 2005.

Issues in Upcoming IG Audits: The joint DoD/GSA OIG will examine whether the administration of GSA's Assisted Acquisition Services(AAS) Client Support Centers' (CSC) policies, procedures and services on behalf of DoD are adequate. The audit will examine GSA's compliance with the requirements of laws and regulations that apply to procurements of properties and services made on behalf of DoD. Additionally, the teams will evaluate GSA's compliance with the Federal Acquisition Regulation (FAR), the DoD Federal Acquisition Regulation Supplement (DFARS) and any relevant DoD requirements.

The joint DoD/GSA OIG reviews will determine on a center-by-center basis whether each AAS CSC is or is not compliant with defense procurement requirements. Each CSC will be rated as either "Compliant" or "Not Compliant." The DoD OIG identified 12 compliance/problem areas representative of deficiencies found in earlier audits, which will be used in the upcoming Joint DoD/GSA IG review of GSA's AAS CSCs. In addition, GSA's OIG has outlined other issues to be included in the reviews. The issues addressed by the OIGs include.

Pre-Award

- DoD/GSA Memorandum of Agreement (MOA)
- Bona fide need and proper obligations
- Interagency Agreements (IA)
- Risk Management
- Fiscal Year Cut-Off Dates
- Severable Services
- Non-Severable Services
- Military Interdepartmental Purchase Request (MIPR) and other documents submitted by DoD
- Parking of Funds
- Acquisitions Plans
- Scope of Work

Award

- DoD and GSA compliance with FAR and DFARS
- Determination and Findings (D&F) and Time and Materials (T&M)
- Legal/technical and business clearance reviews
- Section 803 Compliance
- Noncompetitive Justifications and Approvals (J&A)
- Competition and Price Reductions
- Proposal Evaluations
- Best Value Determination
- Determining Fair and Reasonable Prices Where Only One Bid is Received

Post Award "Contract Administration"

- Quality Assurance Surveillance Plan
- Contracting Officer Representative (COR) designation

The Office of Acquisition Policy (MV) has coordinated the explanation of the issues with the OIG and they are in general agreement with our account of the problem areas. We have also coordinated this memo with the Office of General Counsel, the Office of the Chief Financial Officer (OCFO) and FAS.

There was another area of great concern to GSA's management and the OIG that was listed in the OIG briefing concerning the results of its audits. The OIG stated the parking of funds would be an automatic failure. We have also addressed this issue within the memorandum.

OIG Compliance Issues

The following is a more detailed description of the identified issues that need to be addressed during the procurement process.

DoD/GSA Memorandum of Agreement (MOA):

In 2006, GSA and DoD signed a Memorandum of Agreement (MOA) which created an action plan to distinguish the roles and responsibilities for both DoD and GSA. The MOA can be found on the GSA Homepage at the following address:

http://www.gsa.gov/graphics/fas/DoD_GSA_MOA.doc

To view the process and the status of the action items of the MOA, please view the following web-link on the GSA Homepage:

http://www.gsa.gov/graphics/admin/StatusOfActionItems_071608.doc

Proper and Valid Interagency Agreement “also referred to as reimbursable agreements”:

GSA provides comprehensive guidance on IAs and the acceptance/obligations of funds. To outline some of the considerations as necessary, Acquisition Letter (AL) V-09-06 addresses: bona fide need, severable services, cut-off dates, steps for accepting funds, and time restrictions. In acceptance of an IA you may consider the following information. To conduct business between GSA and another Federal agency, FAS uses interagency agreements. Interagency agreements are the primary means by which FAS receives requests from Federal agencies for acquisition services. The interagency agreement is a written statement from another Federal agency or other non-Federal source, when authorized by statute, requesting FAS to procure supplies and/or services on their behalf. A properly executed reimbursable agreement provides written documentation to ensure there is a formal offer and acceptance between the federal agency and FAS. The interagency agreement must include a clear, concise statement identifying the requesting agency's specific need, that this requirement is a "**bona fide need**" of the Requiring Agency during the fiscal year the funds were obligated. Sometimes Interagency agreements are referred to as reimbursable agreements. Reimbursable agreements and customer funding documents shall not be accepted from the customer agency until they are modified to meet the requirements.

In FAS, a reimbursable agreement is formalized in a number of ways such as an Interagency Agreement (IA), a Memorandum of Agreement (MOA), or a Memorandum of Understanding (MOU) with an accompanying customer funding document and FAS acceptance. FAS acceptance is required on all funding documents such as Military Interdepartmental Purchase Request (MIPR) and MIPR Acceptance.

**Quoted parts below are from the GAO's Principles of Federal Appropriations Law, often referred to as the "Red Book." Emphasis has been added.*

"The **bona fide needs** rule is one of the fundamental principles of appropriations law: A fiscal-year appropriation may be obligated only to meet a legitimate, or *bona fide*, need arising in, or in some cases arising prior to but continuing to exist in, the fiscal year for which the appropriation was made." (Red Book, p. 5-11). The bona fide needs rule is statutory, 31 U.S.C. 1502. Because obligation occurs when GSA accepts a customer's funds, there has to be a documented bona fide need assessment at time of IA acceptance. In practice, this means there must be, at a minimum, a "**specific, definite, and concise**" description of the requirements associated with the funds at the time of IA acceptance (see "Non-Economy Act Acquisition Package Checklist" attached to DoD Comptroller 10/16/2006 Memorandum). It is important to note that, while further development of the Statement of Work (or PWS/SOO) may occur later, a sufficiently

detailed requirements description must be documented in the IA to satisfy the bona fide needs rule to accept the IA and for the customer to record an obligation.

Even after the acceptance of funds, the bona fide needs established at the time of initial obligation may be questioned if GSA takes too much time executing the funds. Excessive and unreasonable delay or inaction by GSA may be viewed as an indication that there may not be a true bona fide need or that the obligation was an attempt to "park" the funds. To avoid this, GSA and the customer agency must proceed reasonably and diligently to complete the contract action once the funds are accepted.

The reimbursable agreement should clearly establish the financial arrangements between the requesting agency and FAS. The acceptance of a reimbursable agreement within FAS must be based on an intention to commence work under the agreement within a reasonable time after acceptance. The signed and dated IA must be part of the contract file. The reimbursable agreement must also provide financial and other supporting data such as billing information relative to the reimbursable order. A reimbursable order should include at a minimum:

- (1) A description of the supplies or services required;
- (2) Delivery requirements;
- (3) A funds citation; and,
- (4) A payment provision.

Risk Management: One of the key services GSA is known for is its ability to manage risk appropriately when providing services to our federal customers. Managing risk continues to be an important feature of the service GSA provides. Part of managing risk includes the speed with which our customer's requirements are satisfied, the competition generated to satisfy the requirement, and the value received from our customer in return for their procurement dollars. Additionally, in continuing to govern risk, it is also important that our contract files and negotiation documentation are thorough and complete in terms of explaining our rationale for the decisions that were made. MV has discussed these issues with the OIG and we are in agreement that where the file reflects that the CO considered a particular matter and then documented their decisions along with a justification that was consistent with current guidance, laws, and regulations, the CO will not be penalized if there is a disagreement over which alternative was chosen.

Evidence of disregarding of the laws and regulations will cause a "not compliant" rating for the AAS CSCs. Examples of these kinds of actions include: splitting procurements to get under a specific dollar threshold; issuing a RFQ or RFP for millions of dollars worth of services and requiring proposals in a couple of days (unless you have an appropriate J&A); work that is clearly outside the scope of the underlying contract; and, failure to comply with the Section 803 requirements of getting competition for DoD requirements. However, the OIG is not going to score an AAS CSC as "not compliant" because of minor mistakes, such as not signing a checklist or not dating a price reasonableness determination. We should endeavor to make sure our contract/order files are complete and that all requirements are met. It is recognized that occasionally administrative errors do occur, however, this should not result in a "noncompliant" evaluation.

Where you have questions about which course of action to follow, you have several avenues available to you for getting advice. First, you may consult with your Office of General Counsel representative. In appropriate cases you can also consult with Federal Acquisition Service (FAS) Office of the Assisted Acquisition Services, FAS' Acquisition Management, OCFO, or MV. This process does not require long periods of time and, when timely answers are not received, you should feel free to raise the issue to the next level for review. In the end, the file should demonstrate that you asked the questions, received advice, and made a decision that was consistent with current laws and regulations. If you have performed all these steps and documented your rationale for the decisions that were made, you have done your job. On the other hand, a normal day does not require this level of effort and you should exercise discretion based upon the delegation of your authority.

Fiscal Year Cut-Off Dates: Acquisition Letter V-09-06 entitled Interagency Agreements – Acceptance and Obligations of Funds (formerly “the cut-off memo”) was issued on June 16, 2009. A Supplement #1 was issued on June 29, 2009 to cover guidance on Intra-Agency funds. The contracting officers are advised to review AL V-09-06 and its supplement.

Severable Services: Severable services are a recurring requirement for the same type of service that is furnished and paid for on an incremental basis such as help-desk support, maintenance, or janitorial services. Services are considered severable if they can be separated into elements that independently provide value to meet an agency's needs. The services must be obligated with the appropriate funding available within the same fiscal year that the initial contract, task/delivery order, or option was awarded. Severable services can begin in one fiscal year and end in the next fiscal year if the contract period does not exceed one year. IAs for severable services should include a statement that the funds are available for services for a period not to exceed one year from the date of obligation and acceptance of the order.

Non-severable services involve work that results in a final product or end-item and for which benefit is received only when the entire project is complete, such as systems design, building construction, or environmental study.

Military Interdepartmental Purchase Request: The DD Form 448-2 is used to accept the MIPR. The Defense Federal Acquisition Regulation Supplemental 253.208-1 requires a realistic time of delivery or performance for each MIPR. If the requirement is for *information technology*, then the authority is the Clinger-Cohen Act. If the requirement is other than information technology, then the authority is the Property Act, 40 USC 501 (for executive agencies) or 40 USC 502 (other federal agencies and eligible entities). GSA operates under the Clinger-Cohen Act and the Property Act, as such; our COs should never accept reimbursable agreement citing the Economy Act, 31 USC 1535. The GSA Modernization Act established a single GSA fund (Acquisition Services Fund) for IT and Professional Services to streamline acquisitions for GSA customers.

There are three basic types of purposes for which the funds can be used as part of a reimbursable agreement:

- **Operations and Maintenance (O&M):** O&M funds are typically available for obligation for one year and typically apply to operations and maintenance. Modernization efforts or expenses under \$250,000 may also be funded with O&M funds.
- **Research, Development, Test, and Evaluation (RDT&E):** RDT&E funds are typically available for obligation for two years.
- **Procurement:** Procurement funds are available for obligation for three years. Acquisition or modernization of systems costing more than \$250,000 is considered an *investment* and should be funded from procurement funds.

The MIPR or Reimbursable Work Authorization (RWA) has to contain a statement of the purpose for the purpose of identifying the funds which will be used. This purpose should be *clear, definite, and specific and the* requirement can be met utilizing the following methods:

- A Bill of Materials (BOM) or Statement of Work (SOW) is attached to the MIPR or RWA.
- Using ITSS, reference the task order for which a BOM or SOW is incorporated in the MIPR or RWA.
- A clear, definite and specific statement of purpose (or required equipment or supplies) appears in the appropriate block of the MIPR or RWA.

Parking of Funds: “Parking of Funds” is used to describe a transfer of funds to a revolving fund through an IA in an attempt to keep funds available for new work after the period of availability for those funds expires. Use of these expired funds violates the bona fide needs rule. An IA must be based upon a legitimate, specific, and adequately documented requirement representing a bona fide need of the year in which the order is made.

Acquisition Plans: An acquisition plan is required in accordance with FAR 7.102 and GSAM 507.1 for every acquisition. Acquisition Letter (AL) V-09-03 was issued on May 18, 2009 to the acquisition workforce and Supplement #1 was issued June 29, 2009. The AL implemented new dollar thresholds and eliminated the distinction between limited and comprehensive acquisition plans. AL-V09-03 supersedes GSAM Part 507 and the OGP letter 2800.1 only for the areas that the AL addresses (those areas not covered by the AL, the order and GSAM 507 still apply. Not later than 7 calendar days after the acquisition plan is approved, if not completed in the Acquisition Planning Wizard (APW), an electronic copy shall be forwarded to Acquisitionplans@gsa.gov

Scope of Work: In some situations it is not readily obvious whether a particular item is available under a vendor's contract. In those cases where one cannot determine whether an order is within scope, call the CO. You can find the name, address, telephone number and e-mail address for the CO on each contract at:

<http://www.gsaelibrary.gsa.gov>. If after consultation with the GSA

CO, it is determined that the order is within scope, that conclusion and the rationale for it must be documented in the file.

DoD & GSA Compliance with FAR and GSAR:

GSA COs are reminded that purchases on behalf of other agencies particularly for DoD should be in accordance with AL V-05-06, Purchases on Behalf of Other Agencies (supplement 3).

Time & Materials (T&M) contracts, determinations and findings and ceiling price:

T&M contracts are used to procure equipment repair, maintenance, and support services, when it is not possible to anticipate costs in addition to estimating the duration of the work. The ordering CO shall request to the maximum extent practicable that contractors submit firm fixed prices to perform the service identified in the statement of work or the statement of objectives. When using T&M, remember that it is the least preferable method for pricing services and if you decide to use it, the acquisition plan should reflect why this method was chosen. In accordance with FAR 16.601(d), it is required that a D&F which documents the rationale for selecting this contract type is signed by the CO. The explanation does not have to be encyclopedic; it should identify your reasons. Please ensure that the contract includes a ceiling price and identifies the labor mix to protect the Government's interests. The D&F has to be approved by the Head of Contracting Activity prior to the execution of the base period (if the base plus option period exceeds three years). Finally, when using T&M, measures should be in place to ensure that the customer and Contracting Officer (CO) have a method to manage hours and dollars (burn rate). This measure should come right out of the acquisition plan.

Here is a summary of the following elements that the D&F must address:

- Name of agency and contracting activity;
- Description of action to be approved;
- Applicable statute or regulation upon which the D&F is based;
- Findings detailing the particular circumstances, facts or reasoning essential to support the determination from technical personnel;
- Determination based on findings that the proposed action is justified under the applicable statute or regulation; and
- Signature of the CO.

In addition, DFARS 216.601(d) includes the following elements when executing a T&M contract.

216.601 Time-and-materials contracts.

(d) Limitations.

(i) The determination and findings shall contain sufficient facts and rationale to justify that no other contract type is suitable. At a minimum, the determination and findings shall—

(A) Include a description of the market research conducted;

(B) Establish that it is not possible at the time of placing the contract or order to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of certainty;

(C) Establish that the requirement has been structured to minimize the use of time-and-materials requirements (e.g., limiting the value or length of the time-and-materials portion of the contract or order; establishing fixed prices for portions of the requirement); and

(D) Describe the actions planned to minimize the use of time-and-materials contracts on future acquisitions for the same requirements

Legal Review: An insufficient legal review arises where all pertinent documents are not provided to the reviewing attorney. Legal reviews shall be conducted in accordance with ADM 5000.4A, Legal Services. Additionally, AAS should follow the Legal review guidelines outlined in the July 31, 2006 Memorandum, Pre-Award Reviews for Assisted Acquisition Services and Special Order Program, from the FAS Commissioner and the General Counsel. Legal review must be conducted for:

- New Contract Awards over \$5,000,000 (excluding task orders); Submissions for legal review must be made at both the pre-solicitation and pre-award phases of the acquisition. COs are ultimately responsible for ensuring compliance with all applicable regulations and ensuring that the Government's interests are protected. If there is deviation from advice given from counsel, the rationale must be thoroughly discussed with counsel and management and documented in the file.
- Actions resulting in the award of BPAs against the FSS MAS regardless of dollar value ;
- Actions resulting in the issuance of a task/delivery orders containing leasing provisions, regardless of dollar value; and
- Actions resulting in the issuance of a task/delivery order under an existing vehicle (e.g., Government-Wide Acquisition Contracts (GWACs), Multiple Award Indefinite Delivery Indefinite Quantity (MAIDIQs), GSA Schedules) in excess of \$5,000,000.

In addition, some have asked what constitutes a complete contract file. The contents of a contract file are spelled out at FAR 4.803. Additional guidance within GSA is located at GSAM 504.8.

Section 803 compliance: Section 803 of the National Defense Authorization Act of 2002 directed DoD when using GSA's Multiple Award Schedule (MAS) program to do one of three things: solicit all holders of the schedule program; receive three offers; or prepare a determination explaining why greater competition could not be achieved. This section also permits COs to use the exceptions to fair opportunity found in FAR Part 16

for the MAS program. Ordering activities should also refer to DFARS 208.405-70 when placing orders on behalf of DoD.

- For purposes of compliance with this section, using E-Buy satisfies the requirement to solicit all holders of the schedule. The receipt of one offer after using E-Buy is not evidence of non-compliance. It should, however, give rise to a review of why only one offer was provided so that the future acquisition of similar goods or services will be more competitive.

Section 803 also applies to the use of other contract vehicles. For GWACs, MACs and MAIDIQ, the requirements of Section 803 are the same as those under "Fair Opportunity" found at FAR 16.505(b)(1). Complying with the "Fair Opportunity" rules satisfies Section 803 requirements. See DFARS 216.505-70 for additional guidance.

Noncompetitive Justifications and Approvals: Section 844 of the National Defense Authorization Act for Fiscal Year 2008 (Act) mandates that all J&A documents are made publicly available 14 days (30 days after award if citing "Unusual and Compelling Urgency") after award, except for information exempt from public disclosure.

FAR case 2008-003 (Interim rule), published in the Federal Register at 74 FR 2731 on January 15, 2009 with an effective date of February 17, 2009, implemented the requirements of the Act (see FAR 5.301, 5.406, 6.305, and 24.203).

GSA Acquisition letter V-09-02, dated May 8, 2009, supplements the FAR requirements and establishes GSA's internal policy and procedures for making certain J&A documents. The J&A(s) relate to the use of noncompetitive procedures in contracting and additional information can be found on GSA's website and FedBizOpps.

Section 844 did not require limited sources J&A documents under FAR 8.405-6 to be made publicly available. However, under GSA's authority of Title 40 to administer the Schedules program, it decided to apply the requirements of the Act in posting J&A documents under FAR 8.405-6 to the stipulations of the AL V-09-02. This determination was coordinated between FAS and PBS.

Furthermore, the Act also did not require J&A documents under FAR 13.501 to be made publicly available; but GSA decided to apply the requirements of the Act in posting J&A documents under FAR 13.501 to the stipulations of AL V-09-02.

Additional Instructions/Procedures are added to read as follows:

- a. For information regarding exceptions to Fair Opportunity under GWACS, see FAR 16.505 (b) (2). In addition, DFARS 216.505.70 provides additional guidance concerning exceptions to fair opportunity for orders under multiple award contracts. For information that is required to execute a T&M contracts, see 16.601 (d) Limitations.

- b. For task orders issued against GWACs that cite exception to Fair Opportunity, (FAR 16.505 (b) (2)), the CO must document the file accordingly. However, neither a formal J&A nor a notice to fedbizopps is required.
- c. For any contracts or task orders (issued against a GWAC, MAC, or MAS) utilizing a T&M contract type, the CO must prepare a D&F pursuant to FAR 16.601 (d) or FAR 12.207 (b) & (c), as applicable.

Competition and Price Reductions for Blanket Purchase Agreements (BPAs):

Request for discounts for Purchases Above Maximum Order Threshold. It is not enough when asking for further discounts to ask for them in the solicitation. FAR 8.405 1 (d) (2) provides that "Based upon the initial evaluation, seek price reductions from the schedule contractor(s) considered to offer best value." Additionally, the file should contain documentation of the effort made to obtain the price reductions.

Proposal Evaluations: In this area it is important to document in the contract file that *you* have done your evaluation in accordance with the stated evaluation criteria. Again, this does not need to be encyclopedic however, it does need to convey that each of the factors and the proposal overall were rated in accordance with the evaluation criteria stated in the solicitation. You should also document that as a result of your evaluation, you have determined that the price awarded is fair and reasonable. Fair and reasonable price determinations can be supported by a variety of methods, for example: similar services provided previously; prices offered by competitors; market surveys; and, advertised prices for similar products or services. Where time and materials is being used as the pricing mechanism, be sure to review the labor mix and determine whether the labor mix represents the best value.

Best Value Determination: Regardless of the contract type, best value should always be attained. Make sure that the evaluation criteria are identified in the solicitation and that you evaluate in accordance with the evaluation criteria and the contract file reflects your evaluation. Evaluation Criteria should be tailored to the characteristics of the requirement and should include only those significant aspects expected to have an impact on the ultimate selection decision. The choice of evaluation areas, factors, subfactors, and elements should be tailored to that which is essential to the selection of the best value offeror. The solicitation shall indicate the relative importance among cost (price) criterion, specific evaluation criteria (including areas, factors and any significant subfactors), and general considerations. Additionally, the solicitation shall state whether all evaluation factors other than cost or price, when combined, are significantly more important than cost or price, approximately equal to cost or price, or significantly less important than cost or price. Additionally, all documentation concerning the evaluation results and the best value determination must be retained in the contract/order file. In documenting the best value determination, the Source Selection Authority (SSA) should compare the relative strengths and weaknesses of the proposals eligible for award and consider price. Remember that in most orders and contracts, the CO serves as the SSA. Where the solicitation allows for a price/technical tradeoff, the SSA retains discretion to select a higher-priced, but higher technically-rated submission if doing so is reasonably found to be in the government's best interest and is consistent with the solicitation's stated evaluation scheme. You must reasonably document any determination that a technically superior proposal merits a price premium over a lower-

priced, lower technically rated proposal and vice versa. An important reminder, tailor your source selection methods to the requirement. For Commercial Off-The-Shelf (COTS) requirements, the methodology should be simple and streamlined. For more complex requirements the method should be more thorough. The method for source selection should be spelled out in the Acquisition Plan and the contract/order file should reflect compliance with the method and the rationale for the selection.

Determining Fair and Reasonable Prices Where Only One Bid is Received: The OIG has expressed concern that our contract files do not reflect how a fair and reasonableness price determination was made when there is only one bid. For schedule purchases, the requirements for determining price reasonableness are set forth at FAR 8.405-1 and FAR 8.405-2. It is also recommended that you look at the FAR 13.106-3, Award and Documentation which provides in part:

"If only one response is received, include a statement of price reasonableness in the contract file. The CO may base the statement on: (i) Market research; (ii) Comparison of the proposed price with prices found reasonable on previous purchases; (iii) Current price lists, catalogs, or advertisements. However, inclusion of a price in a price list, catalog, or advertisement does not, in and of itself, establish fairness and reasonableness of the price; (iv) A comparison with similar items in a related industry; (v) The CO's personal knowledge of the item being purchased; (vi) Comparison to an independent Government estimate; or (vii) Any other reasonable basis."

The OIG may not challenge the fair and reasonable price determination made by the CO ; however the prevailing issues they are concerned with is when the file does not contain the fair and reasonable determination and the corresponding justification

Quality Assurance Surveillance Plan (QASP): The CO should document procedures that will be used for performing Government surveillance. The QASP may be prepared by the Government and submitted with the pre-award package. As prescribed in GSA AL V-05-07, when a performance based statement of work (PBSOW) is used, the QASP may be included as a deliverable in the solicitation requiring offerors to prepare and submit it as part of the offeror's technical proposal. In this case, the QASP must be reviewed and modified, as necessary, to ensure it is appropriate for the requirement. The QASP should be specifically identified in the verbiage of the award document. If you are awarding a performance *based contract* you should identify the QASP as one of the first deliverables. Once received it should be reviewed, negotiated where necessary and made a part of the contract file. The QASP should contain a measurable inspection and acceptance criterion that is consistent to the performance standards contained within the statement of work. Preparing the QASP in advance may result in sending an unintended message to the contractor in terms of the solution the Government desires. If you are awarded a service based contract, it is preferred that the QASP indicates the methodology utilized in monitoring the work.

Contracting Officer's Representative Designation: After contract or task/delivery order award, all parties should have a copy of the contract document and fully

understand the requirements. Technical administration is essential to ensuring the Government receives the goods and services contracted for in a timely manner and at the agreed-to price. The CO must issue Contracting Officer's Representative (COR) appointment letters. Due to the importance of this role, only qualified and competent personnel should be appointed as CORs. The COR should be an individual with GSA or the client agency who is appointed in writing to oversee the contractor's technical performance and review contractor invoices to ensure they are consistent with the applicable order. The COR appointment letter should be specific as to what functions are delegated and which are not, and the COR should acknowledge receipt of the letter by signing and dating it and returning a copy to the CO. FAR 42.302(a) provides an expansive list of delegated functions and 42.302(b) provides a list of functions that are usually not delegated to a COR.

The following are the minimum requirements for a letter of appointment. DFAR requirements are included.

- Must be in writing and signed by the CO.
- Must state the duration of the appointment.
- Must state the extent (technical and administrative, if applicable) of the COR's authority to act on behalf of the CO
- Must identify the limitations of the delegation
- Must state the authority may not be delegated by the COR
- Must state the COR may be personally liable for unauthorized acts

On November 26, 2007, the Office of Federal Procurement Policy (OFPP) issued a Memorandum for the Chief Acquisition Officers, The Federal Acquisition Certification for Contracting Officer Technical Representative (COTR) which provides additional guidance on the duties and responsibilities of COTR.

Exercise of Option: The guidance on properly exercising an option can be found at FAR 17.207 and GSAM 517.207. Basically, before exercising an option the CO must do a review, check the market to see if circumstances have changed impacting price, quality, etc. and document the determination that exercise of the option is the most advantageous method of fulfilling the Government's need, price and other factors considered. If it is a GSA Schedule buy, the Ordering Contracting Officer should confirm that the prices on GSA contract are current, accurate, and complete. This can be accomplished by reviewing GSA Advantage. Where a T&M contract was awarded such determination must reaffirm the determination that at the time of the option exercise that it is not possible to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. It is important to note that options are a valuable tool in our acquisition toolbox and that where appropriate we should exercise the option. In some cases exercising the option will not be in the government's best interest and a new acquisition commenced. In most situations exercising an option will be the right thing to do, as long as the decision is supported by documentation in the file.

Contract Tab Advisory Guide: It is important that our files are tabbed in accordance with the Contract Tab Advisory Guide located in Electronic Centralized Acquisition Tool

(ECAT). In the past audits, the OIG obtained a lot of the contracting and funding documentation through downloading from GSA's Information Technology Solutions Shop (ITSS). Let us ensure that all our MIPRs, GSA acceptances, statements of work, acquisition plans, task orders, cost proposals, surveillance plans, invoices, sole source justifications, contract award documents, disbursement reports, payment histories, and other important miscellaneous documentation are readily identifiable to be found by the IG.

ATTACHMENT:

Peer Review Checklist (this checklist is provided to assist contracting officers in the documentation of their files)

cc: Tamela L. Riggs, Deputy Assistant Commissioner

**General Services Administration
Federal Acquisition Service
DoD/IG Peer Review**

GSA REGION -

Peer Reviewer

Date:

Order Number	
Action Type	
Contract/Task Order Type	
Modification Type	
Contract Type	
Contract Vehicle	
Industry Partner	
Value of Action Reviewed	
Customer Agency	
Period of Performance	
Description of Service	

Peer Review Check List

	Order Number:	Award <input type="checkbox"/>	Mod <input checked="" type="checkbox"/>	BPA <input type="checkbox"/>
		BPA Call <input type="checkbox"/>		
1	Interagency Agreement in File			
a	Purpose and Scope			
b	Bona-Fide Need			
2	MIPR in File			
a	Bona-Fide Need			
b	DoD Review of Non Economy Act orders for actions over \$500K			
c	MIPR adequately documented			
d	Funds Certification			
e	Severable vs. Non-Severable			
f	Funding Document Accepted			
3	IGCE in File			
a	Detailed			
4	SOW Document in File			
a	PWS - Performance Based			
b	Performance Requirement Summary			
c	QASP			
d	Incentives			

e	Functional SOW	
f	Clearly Defined Deliverables	
g	QASP	
h	Evaluation of ODCs	
4 Acquisition Plan in File		
a	Comprehensive	
b	Limited	
c	Acquisition Planning Wizard	
d	Bona-Fide Need	
e	Delivery Schedule	
f	Market Research Completed & Documented	
g	Cost Basis	
h	Best Interest Determination	
i	Performance Based Discussion	
j	Contract Type Supported (Especially T&M)	
k	Section 803 Compliance	
5 Reviews in File		
a	Legal Review Comments	
b	CRP Comments	
6 D&F for T&M in File		
a	Base + 3 Option Years - signed by HCA	
b	Ceiling prices for T&M	
7 J&A - Other than full and Open Competition in File		
a	Evaluation IAW Evaluation Plan	
8 Proposal Evaluations in File		
a	Fair and Reasonable Price	
b	Stand Alone Document Detailing Subcontracting Plans	
c	EPLS (post receipt of proposals and prior to award)	
d	Request for Discounts for MAS orders > max order threshold	
e	PNM	
f	3 Years including options	
9 COTR Designated in File		
a	Signed Delegation Letter	
b	Proof of Training - Certificate	
b	Training Current?	

10	Invoices Paid Promptly	
11	Modifications are Within Scope	
12	Option Exercised on This Order	-- Select --
a	CO Determination	-- Select --
b	Market Research	-- Select --
13	FPDS-NG Entry Verification	-- Select --
14	EPLS – Documented Verification	-- Select --
15	CCRS for non ITSS Contracts	-- Select --
16	ADA Violations	-- Select --