



Program Statement

OPI: FPI
NUMBER: 8530.02
DATE: 7/13/2000
SUBJECT: UNICOR Acquisition
Policy

1. **PURPOSE AND SCOPE.** To prescribe policy and implement procedures involving procurement related issues; including, but not limited to, the acquisition of raw materials, supplies, and services to support the operation of Federal Prison Industries (FPI).

2. **SUMMARY OF CHANGES**

- Adds a reference to the Program Statement on Release of Information.
- Revises Subpart 1.1, Purpose, Authority, Issuance.
- Revises Subpart 1.2, Administration.
- Revises Subpart 1.6, Contracting Authority and Responsibilities.
- Revises Subpart 1.602-70, Ratification of Unauthorized Commitments to reflect new approval thresholds.
- Revises Subpart 4.8, Contract Files.
- Adds Subpart 4.9, Taxpayer Identification Number Information.
- Removes Subpart 5.1, Dissemination of Information. Justice and Office of Small and Disadvantaged Business Utilization.
- Removes Subpart 5.4, Release of Information.

- Revises Subpart 6.3, Other Than Full and Open Competition.
- Revises Subpart 6.304, Approval of the Justification to reflect new approval thresholds.
- Removes Subpart 6.5, Competition Advocates.
- Revises Subpart 7.1, Acquisition Plans.
- Removes Subpart 8.4, Ordering from Federal Supply Schedules.
- Removes Subpart 10.
- Adds Subpart 11.5, Liquidated Damages.
- Adds Subpart 12, Acquisition of Commercial Items.
- Revises Subpart 13, Simplified Acquisition Procedures.
- Revises Subpart 15, Contracting By Negotiation.
- Removes Subpart 16.2, Fixed-Price Contracts.
- Revises Subpart 19, Small Business and Small Disadvantaged Business Concerns.
- Revises Subpart 22.1, Basic Labor Policies.
- Removes Subparts 29, 30, 31, 32, and 35.
- Removes Subpart 36.3, Special Aspects of Sealed Bidding in Construction Contracting.
- Removes Subpart 39.
- Adds Subpart 42, Contract Administration.
- Adds Subpart 49.2, Additional Principals for Fixed-Price Contract Terminated for Convenience
- Adds Subpart 49.4, Termination for Default.
- Removes Subpart 52.
- Removes Subpart 53.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. Federal Prison Industries (FPI) acquisitions will be accomplished consistent with the requirements of the Federal Acquisition Regulations (FAR) and the Department of Justice Acquisition Regulations (JAR).

b. Sound procurement policies will be promoted.

c. FPI's mission will be completed on time, at the lowest possible cost, without protest, and with the maximum return on its investment.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 8530.01 UNICOR Acquisition Policy (12/13/93)

b. **Directives Referenced**

PS 1120.18 Delegating Authority in the Absence of the Chief Executive Officer (3/16/99)
PS 1222.06 Forms Management (9/17/97)
PS 1232.05 Personal Computers (11/10/97)
PS 1351.04 Release of Information (12/15/96)
PS 1520.09 Printing, Distribution Management and Electronic Documents (5/21/97)
PS 1600.08 Occupational Safety and Environmental Health Manual (8/16/99)
PS 3000.02 Human Resource Management Manual (11/1/93)
PS 4200.09 Facilities Operations Manual (4/3/96)
PS 8000.01 UNICOR Corporate Policies and Procedures (5/13/81)
PS 8520.02 Capital Expenditures, Authorization for (Budgeting/Planning) (2/9/96)
PS 8582.01 Government-Wide Commercial Credit Cards, FPI (6/29/98)

Federal Acquisition Regulation (FAR)
Justice Acquisition Regulations (JAR)
Federal Information Resources Management Regulation (FIRMR)
Code of Federal Regulations (CFR)
United States Code (U.S.C.)
Federal Property Management Regulations (FPMR)
Justice Property Management Regulations (JPMR)

5. **STANDARDS REFERENCED.** None

6. **ACTION REQUIRED.** UNICOR staff involved in the procurement process including issues related to contracting authority, acquisition procedures, reporting requirements, or other involvement, must follow the procedures established in this Manual.

/s/

Kathleen Hawk Sawyer
Director

PART 1

GENERAL

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SUBPART 1.1 - PURPOSE, AUTHORITY, ISSUANCE

1.101 - Purpose, Authority, Applicability, and Issuance

(a) The UNICOR Acquisition Policy (UAP) is established to provide uniform acquisition policy for factories and offices within Federal Prison Industries, Inc. (FPI), which operates under the name UNICOR. Federal Prison Industries, Inc., is a wholly-owned Government Corporation, within the U.S. Department of Justice, under the Federal Prison System. UNICOR employs inmates of the Federal Prison System to produce goods and services for sale to other Federal Agencies. The UAP supplements the Federal Acquisition Regulation (FAR) and the Department of Justice Acquisition Regulations (JAR). Contracting Officers must consult all three sources to ascertain the total acquisition policy in any area.

(b) The development of the UAP is in accordance with FAR 1.3 and JAR 2801.3. Authority to issue acquisition policy has been delegated to the Director, Bureau of Prisons (BOP). The Material Management Branch (MMB), UNICOR maintains the UAP.

(c) Supplemental reference material is contained in the Procurement Technical Reference Manual (TRM). The TRM numbering system correlates with Chapters of the UAP.

(d) The UAP is subdivided into Parts 1 through 53, which correspond to FAR Parts 1 through 53. The numbering system permits immediate identification of each UAP paragraph with coverage of the same subject matter in the FAR, and JAR.

(e) A provision has been made to permit the inclusion of material intended to supplement FAR coverage (e.g., areas for which there is no FAR coverage, but for which the Department of Justice (DOJ) or UNICOR's requirements dictate the establishment of regulations, policies or instructions). Such supplementary material is identified by a numerical suffix of 70 or higher in the final position of the reference number in both the JAR, and UAP as the examples below illustrate:

FAR 1.602-3 ----- Ratification of Unauthorized Commitments
JAR 2801.602-3 --- Ratification of Unauthorized Commitments
UAP 1.602-70 ----- Ratification of Unauthorized Commitments

(f) The UAP has been developed to promote and encourage compliance with the Federal Acquisition Regulation (FAR) and the Justice Acquisition Regulations (JAR).

The UAP is designed to foster the following basic principles of acquisition:

Competition & Impartiality
Advancement of Socio-Economic Goals
Consistency and Coordination

SUBPART 1.2 - ADMINISTRATION

1.201 - Maintenance of the UAP

The Director approves Change Notices to the UAP as necessary. Factories are encouraged to participate in the UAP's continued enhancement through their ideas and recommendations. Suggestions for revisions must be submitted to the Chief, MMB.

SUBPART 1.4 - DEVIATIONS

1.400 - Scope of Subpart

This Subpart establishes a requirement that deviations (both individual and class) from the UAP must be authorized in writing by the Assistant Director, FPI.

SUBPART 1.6 - CONTRACTING AUTHORITY AND RESPONSIBILITIES

1.601-70 - Restrictions on Procurement Authority

Only warranted Contracting Officers delegated in accordance with UAP 1.603 may initiate the procurement of supplies, services, construction, etc., on behalf of the Government. Exceptions are permitted for Government credit cardholders making micro-purchases via the Government purchase credit card in accordance with UAP Part 13. The only exceptions are Joint Ventures with Private Sector companies where responsibility for raw material purchasing, or incidental items purchasing may be assigned to the private sector venture. Such arrangements must be approved in writing by the Chief or Deputy Chief of MMB.

There are restrictions on procurement transactions which must be observed by Contracting Officers. Before a procurement action is initiated **from any requisitioning source** for products or services, the Contracting Officer must have or obtain the special authority to conduct the applicable procurement and must obtain any necessary pre-procurement approvals under those restrictions.

Exceptions to the restrictions and related expansion of procurement authority are generally granted on a case-by-case basis and must be granted from the administrative level having authority for the transaction.

Anyone who has signature procurement authority that has a collateral duty such as receiving authority or certifying payment authority may not receive or certify the payment of any procurement action they have signed.

1.602-70 - Ratification of Unauthorized Commitments

Only warranted Contracting Officers may authorize the procurement of supplies and services, including construction, on behalf of the government. The government is not bound by agreements or contractual commitments made by persons to whom contracting authority has not been delegated. This also applies to commitments by Contracting Officers for amounts or types of procurements which exceed their warrant authority. Such unauthorized acts violate this policy, federal statutes and regulations, and good acquisition practices in general.

The Associate Warden Industries & Education (AW I&E) or Superintendent of Industries (SOI) must take positive action to prevent the need for ratification actions. It is the AW I&E/SOI's responsibility to ensure that all appropriate documentation is completed and forwarded within 14 days, to initiate the ratification process (See TRM Part 1(a)).

In any instance where suspected irregularities may also involve fraud against the government, or any type of criminal misconduct, the employee's supervisor or the Contracting Officer should immediately report the matter to:

Federal Bureau of Prisons
Office of Internal Affairs
320 First Street NW
HOLC Building, Room 670
Washington DC 20534
Telephone (202) 307-3286

Unauthorized commitments, if determined to be otherwise legal and within the parameters for ratification, may be approved subject to the following:

(a) Ratification requests for \$100,000 or more must be approved by the Assistant Director, FPI.

(b) Ratification requests for less than \$100,000 must be approved by the Chief, MMB.

(c) The individual who entered into the unauthorized commitment must furnish:

- all records and documents concerning the commitment,
- a complete written statement of facts, and
- a plan for corrective action to preclude recurrence.

This information must be routed through the Warden (Deputy Assistant Director for Central Office ratifications) and furnished within 10 days of notification to the Contracting Officer (See TRM Part 1(b)).

(d) The Contracting Officer assigned the ratification action is to ensure that all requirements in FAR 1.602-3(c), JAR 2801.602-3, and procedures addressed in UAP 1.602-70, are addressed in writing using a format similar to the Report of Unauthorized Procurement Memorandum (TRM). This report must be routed through the Contracting Officer, the AW I&E/SOI, and the Warden (Deputy Assistant Director for Central Office ratifications) to the Chief, MMB, UNICOR.

Reports of unauthorized commitment must be accompanied by **all** supporting documentation, i.e., copies of the purchase request(s), invoice(s), memorandum of circumstances/corrective action plan.

(e) All ratification requests must have legal concurrence from the Office of General Counsel or designee. The National Programs and Policy Section, MMB, is to ensure the request receives the appropriate legal concurrence.

(f) Each location must maintain a numerical register of all unauthorized commitments (See TRM Part 1(c)). This register is to be created at the beginning of each fiscal year.

Invoices for unauthorized commitments cannot and may not be paid until the approval for ratification is received and the unauthorized commitment is ratified. If a vendor requests payment before the commitment is ratified, the contractor should be advised, using a format similar to the exhibit located within the TRM Part 1 (d), that the purchase was not authorized by a Contracting Officer and must be ratified before payment can be authorized. The notification is to occur within seven days after the invoice's receipt.

All approved ratification requests will be returned to the Warden for distribution to the AW I&E/SOI. For Central Office, approved ratification requests will be returned to the Deputy Assistant Director for distribution to the Branch Manager. Within seven days of receipt, the Contracting Officer is to issue the necessary contractual documents to effect the Ratification of Unauthorized Procurement (See TRM Part 1 (e)).

If ratification of the unauthorized commitment is not proper for approval, or it appears to be the result of a disregard for proper procurement procedures, the request for ratification may be denied, resulting in potential personal liability for the employee.

Note: Copies of all ratifications (regardless of dollar value) must be forwarded quarterly to the Director, through the Chief, MMB. Copies of all ratifications must also be forwarded to the DOJ Procurement Policy and Review Group (PPRG).

1.602-71 - Management Oversight of Field Procurement Operations

The National Programs and Policy Section, MMB, is responsible for ensuring compliance with the following:

(a) Electronic review of acquisition documents (Requests for Purchase, Request for Quotes, Purchase Orders, Delivery Orders, Requests for Contract Action, and Contracts) from selected factories. The purpose is to ensure that purchases meet applicable statutes, regulations, and agency policies. The reviews are to be substantive and not merely advisory. Evidence of corrective action or documentation must be obtained when significant issues are noted. Generally, documents will be reviewed to determine if purchases are adequately documented with regard to the following:

(1) Adequate competition or documentation for all purchases greater than the micro-purchase level (FAR 13.106).

(i) If competition was requested and only one quote received, price reasonableness must be documented.

(ii) If only one source was sought, adequate documentation must be provided to explain the reason for the absence of competition and price reasonableness.

(2) Mandatory source compliance (FAR 8.001).

(3) Credit Card Program being used as required.

(4) Appropriate approval to include electronic signatures, RSA numbers, mandatory corrective action, etc. (UAP Part 4.803-71).

(5) Ensuring small business set-asides (FAR 13.003(b)(1) are observed or proper documentation to the contrary is provided.

(6) Appropriate FPDS designator codes.

(7) Evidence of unauthorized procurement and, where found, mandatory corrective action (FAR 1.602-3).

(8) Evidence of splitting orders to avoid competition.

(9) Compliance with the Service Contract Act or Davis-Bacon Act (FAR 37.107 and FAR 22.403-1).

(10) Any other indication that requirements are not processed in accordance with applicable statutes, regulations, and departmental and UNICOR policies.

(b) Training needs must be reviewed and identified to maintain or upgrade contracting authority of Contracting Officers within UNICOR (UAP 1.603).

(c) **Reporting Requirements.** The Chief, MMB, or designee, must report in writing to the Warden of the respective location the findings and recommendations of the electronic review of Requests for Purchase, Purchase Orders and Delivery Orders. That report is to identify deficiencies and indicate corrective action.

The AW I&E/SOI is to submit a written response to the review if corrective action is necessary, within 30 days, unless requested sooner. The written response is to be detailed and submitted to the Chief, MMB.

1.603 - Selection, Appointment, and Termination of Appointment

1.603-1 - General

Contracting authority has been delegated by JAR 2801.601(a) to the Director, as Head of the Contracting Activity. This authority has been re-delegated to the Chief, MMB, who makes all further re-delegations in writing, using a Certificate of Appointment (SF-1402). Delegations are at the discretion of the Chief, MMB, and will be consistent with the needs of UNICOR and applicable policy.

Each delegation must state the scope and limitation of contracting authority. All warrants are to be displayed prominently in the Contracting Officer's office.

1.603-2 - Selection

The AW I&E/SOI is responsible for identifying individuals within his or her institution for whom contracting authority is desired. Each location authorized a contracting position may request contracting authority for that individual. Additionally, requests for authority may be submitted for an alternate. The purpose for the alternate is to assist with processing simplified acquisitions and to issue delivery orders against existing Government and UNICOR contracts.

Nominations for Contracting authority appointments for field locations should be submitted by memorandum from the AW I&E/SOI to the Chief, MMB.

Requests for contracting authority should include a completed, signed, and dated SF-171, SF-172, Optional Application for Federal Employment (OF 612), and/or optional resume form to include their current position, education level, and all procurement related experience. Additionally, submit a current training record and/or copies of all procurement related training certifications that document course attendance and receipt of credit hours.

It is the responsibility of the Chief, MMB to review the request to ensure the proposed warrant level is appropriate.

To be determined eligible for a delegation of contracting authority for UNICOR, the individual must meet the criteria established in this section.

(a) **Level I Authority.** Procurement actions up to \$25,000 per transaction and delivery orders against previously competed contracts subject to their terms and conditions. Contracting Officers at this level of authority must receive mandatory procurement training from subject areas listed below during their first six months of appointment, and complete the On-The-Job (OJT) units in the Federal Acquisition Institute (FAI) Contract Specialist Workbook, as specified below. If this training requirement is not met in the time-frame identified, the existing warrant will be rescinded. The Chief, MMB, may waive the eligibility requirements for Level I Authority when appropriate.

(b) **Level II Authority.** Procurement actions not exceeding \$100,000. Prior to obtaining Level II authority, the Contracting Officer must receive additional formal procurement training courses and complete the OJT units in the FAI Contract Specialist Workbook as listed below. They must have been a level I Contracting Officer for no less than six months.

(c) **Level III Authority.** Procurement actions not exceeding \$500,000. Prior to obtaining a Level III authority, the Contracting Officer must receive additional formal procurement training courses and complete the OJT units in the FAI Contract Specialist Workbook as listed below. They must have been a Level II Contracting Officer for no less than 12 months.

(d) **Level IV Authority.** Procurement actions of any dollar amount. Prior to obtaining a Level IV authority, the Contracting Officer must receive additional formal procurement training courses and complete the OJT units in the FAI Contract Specialist Workbook as listed below. They must have been a Level III Contracting Officer for no less than 12 months.

(1) Mandatory formal procurement training courses:

(i) For Central Office Contracting Officers:

Level of Authority	Description
Level I (25,000)	Simplified Acquisition Procedures (40 hours)
Level II (100,000)	Contract Administration (40 hours) Contracting by Sealed Bidding (40 hours) Contract Negotiation (40 hours) Price Analysis (40 hours) Acquisition of Commercial Items (16 hours) Best Value (16 hours)
192 Total Hours	
Level III (500,000)	Government Contract Law (40 hours) Cost Analysis (40 hours) Advanced Contract Administration (40 hours)
120 Total Hours	
Level IV (Unlimited)	Advanced Contract Negotiation (40 hours) Advanced Cost & Price Analysis (40 hours) Termination of Government Contracts (24 hours)
104 Total Hours	

(ii) For Factory Contracting Officers:

Level Of Authority	Description
Level I (25,000)	Simplified Acquisition Procedures (40)
Level II (SAP) (100,000)	Contract Administration (40) Price Analysis (40) Acquisition of Commercial Items (16)
112 Total Hours	Best Value (16)

Note: In addition to the above listed requirements, Contracting Officers must complete at least one continuing education formal contracting course every two years. The primary Contracting Officer must attend the annual Contracting Officers training in order to maintain his or her current level of authority. The Chief, MMB may waive the requirement of attendance at the annual training in writing.

(2) Mandatory Federal Acquisition Institute (FAI) Contract Specialist Workbook; OJT units are listed below, and must also be met for each warrant level.

Level I

OJT Units

1. Purchase Description
2. Procurement Plans
3. Funding
4. Market Research
5. Specifications
6. Services
7. Sources
8. Set-Asides
9. Establishing BPAs
10. Competition Requirements
11. Unsolicited Proposals
12. Lease vs. Purchase
13. Use of Gov't Property
14. Price Related Factors
15. Technical Evaluation Factors
16. Method of Purchases
17. Method of Solicitation
18. Oral Solicitations
19. RFQs
20. Publicizing Proposed Purchases
21. Preaward Inquiries
22. Prequotations Conferences

23. Amend RFQs

OJT Units

24. Canceling RFQs
25. Processing Quotations
26. Delays in Awarding
27. Late Quotations
28. Evaluating Prices
29. Technical Evaluation
30. Need for Discussions
31. Negotiation Strategy
32. Conducting Negotiations
33. Responsibility
34. Selection for Award
35. BPA Calls
37. Delivery Orders
38. Credit Cards
39. Imprest Funds
40. SF44
41. OF347
42. Protests
43. Fraud & Exclusion
44. Post-Award Orientation
45. Monitoring, Inspection, and Acceptance
46. Property
47. Delays
48. Stop Work
49. Remedies
50. Termination for Default
51. Reporting Performance Problems
52. Payment
53. Closeout
54. Contract Modifications
55. Cancellation
56. Termination for Convenience
57. Claims
58. Small Purchase Files

Level II

OJT Units

1. Forecasting Requirements
2. Acquisition Planning
3. Purchasing Requests
4. Funding

5. Market Research
6. Specifications

OJT Units

7. Statements of Work
8. Services
9. Sources
10. Set Asides
11. 8(a) Procurements
12. Competition Requirements
14. Lease vs. Purchase
17. Method of Procurement
18. Procurement Planning
19. Establishing Agreements
23. Need for Bonds
25. Publicizing Proposed Procurements
26. Preaward Inquiries
27. Prebid/Proposal Conferences
44. Negotiation Strategy
45. Conducting Negotiation
47. Responsibility
52. Protests
53. Fraud and Exclusion
54. Contract Administration Planning
55. Postaward Orientation
56. Orders
58. Monitoring
59. Delays
60. Stop Work
61. Remedies
62. Property Administration
63. Reporting Performance Problems
65. Payment
67. Assignment of Claims
69. Progress Payments
74. Closeout
75. Contract Modifications
76. Termination
77. Administering Bonds
78. Claims
79. Orientation

Level III
OJT Units

- 15. Price Related Factors
- 16. Technical Evaluation Factors
- 19.1 Selecting the Contract Type

OJT Units

- 19.2 Soliciting Time & Material/Labor Hour Contracts
- 19.4 Indefinite Del. Contracts
- 19.5 Fixed Price Contracts
- 21. Contract Financing
- 22. Government Property
- 24. Solicitation Preparation
- 28. Amending Solicitations
- 29. Canceling Solicitations
- 30. Processing Bids
- 31. Bid Acceptance Periods
- 32. Late Bids
- 33. Bid Prices
- 34. Responsiveness
- 35. Processing Proposals
- 36. Technical Evaluation
- 37. Price Objectives
- 38. Cost and Pricing Data
- 40. Cost Analysis
- 41. Evaluating Other Terms & Conditions
- 42. Competitive Range
- 43. Factfinding
- 46. Mistakes in Offer
- 49. Preparing Awards
- 50. Award
- 51. Debriefing
- 57. Consent to Subcontracts
- 73. Defective Pricing

Level IV

OJT Units

- 13. Unsolicited Proposals
- 19.6 Cost Reimbursement Contracts
- 20. Letter Contracts
- 39. Audits
- 48. Subcontracting Requirements
- 64. Limitation of Costs
- 66. Unallowable Costs
- 68. Collecting Contractor Debts
- 70. Price and Fee Adjustments
- 71. Accounting and Estimating Systems

72. Cost Accounting Standards

1.603-70 - Reporting Career Management Statistics

The AW I&E/SOI must submit documentation of completed procurement training (copy of course training certificates) to the Assistant Chief, National Programs and Policy Section, MMB, for the individual to receive training credit. This documentation must be forwarded within 10 days after completing the course.

Note: Training records will not be updated without this documentation of course completion.

1.603-4 - Termination of Appointment

Formal revocation of contracting authority must be in writing from the Chief, MMB. Upon termination of contracting authority, the Certificate of Appointment must be returned immediately to the Chief, MMB.

The AW I&E/SOI is to notify the Chief, MMB, of employees who are separated from UNICOR, transferred, or who have been assigned positions which are not consistent with the respective warrant issued. Contracting authority is to cease for employees on the date of their separation or reassignment from UNICOR.

SUBPART 1.70 - CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

1.701-70 - General

A COTR is an individual a Contracting Officer designates to ensure a contractor's performance meets the contract requirements and to protect the government's interests. The COTR is directly responsible for the technical evaluation of a contractor's performance and acts as a liaison between the contractor and the Contracting Officer. A COTR is not authorized to change the conditions or terms of the contract.

1.701-71 - Selection; Appointment; Limitation of Authority

A COTR's appointment, termination, and limitation of authority are to be in accordance with JAR Subpart 2801-70. The AW, I&E/SOI is responsible for identifying and nominating individuals to receive a COTR appointment. Individuals nominated to become a COTR must successfully complete the following standards:

(a) A minimum of 16 hours basic COTR training is required. Completing the COTR self-study course and receive a passing score on the test satisfies this requirement. The field Contracting Officer or Plant Controller is responsible for administering the self-study course test. The participant will take the test in the testing official's presence. The test is to be administered in a controlled setting and is available from the AW I&E/SOI.

After the individual has completed the test, the AW(I&E)/SOI is to submit a memorandum to the Chief, MMB requesting that a certificate of COTR appointment be issued. The memorandum must be accompanied by the original answer sheet and a copy of the memorandum of course completion. The tests will be scored in the MMB on a pass/fail basis. The individual may retain the self-study course for future reference and the testing official is to return the original test to the AW I&E/SOI. The course is currently available from the AW I&E/SOI.

(b) A minimum of three hours Procurement Integrity Training; (refer to UAP 3.104(b)).

When an individual has completed the COTR training course and the Procurement Integrity Training successfully, he or she must contact the institution's Employee Development Manager (EDM) to update his/her individual training record.

Upon verifying the successful completion of all requirements, the Chief, MMB, will issue a COTR Certificate of Appointment, form DOJ-539, to the individual.

Once a Certificate of Appointment has been issued, the individual becomes eligible to be designated in writing by the Contracting Officer to serve as a COTR for a particular contract. The scope and limitations of the COTR's authority as it pertains to each contract must be clearly stated in writing and will become part of the contract file.

Note: Possessing a Certificate of COTR Appointment does not, in and of itself, permit the individual to act as the COTR for any contract. The Contracting Officer must make specific COTR delegations in writing designating the individual as the COTR for specific contract(s).

COTR Certificate of Appointments remain valid until rescinded in writing by the Chief, MMB; or, until the individual is separated or reassigned from UNICOR.

The AW I&E/SOI is to notify the Chief, MMB, in writing, of any employee certified as a COTR who has been separated or reassigned from UNICOR. COTR certification expires on the date of an employee's separation or reassignment from UNICOR.

PART 2

DEFINITIONS OF WORDS AND TERMS

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PART 2. - DEFINITIONS OF WORDS AND TERMS

SUBPART 2.101 - DEFINITIONS

"Bureau" or **"BOP"** means the Bureau of Prisons.

"UNICOR" OR **"FPI"** means Federal Prison Industries

"Department" or **"DOJ"** means the Department of Justice.

"Contracting Activity" means Federal Prison Industries, Material Management Branch.

"Contracting Office" means an institution or office of Federal Prison Industries having a designated Contracting Officer.

"Contract Administration Office" means the same as "Contracting Office" unless a specific Contract Administration Office is designated.

"Head of the Contracting Activity" means the Chief, Material Management Branch, Federal Prison Industries.

"Delivery Order" means an order for supplies or services placed against one of the following types of contracts/agreements:

- (1) a UNICOR contract;
- (2) a Federal Supply Schedule (FSS) contract;
- (3) a Basic Ordering Agreement (BOA); or
- (4) another established government contract under the terms, conditions, and prices contained in a basic contract.

"The Director" means the Director, Bureau of Prisons.

"Request for Contract Action" (RCA) identifies a procurement requiring Central Office procurement action. The requestor must electronically transfer specific requirements including estimated quantities, cost information, and potential vendor sources to the Central Office using the Procurement Action System (PAS).

"Engineering Corporate Item Master" (ECIM) is a listing of numbers which have been approved and assigned by the Product Support Center. All raw material and finished goods items used or produced within the Corporation are assigned numbers and maintained in the ECIM. This is often referred to as the "Item Master Number".

"Consideration" are costs which may be assessed to a contractor when their performance level is less than specified on the contract.

"Liquidated Damages" are costs which may be assessed to a contractor when time of delivery or performance is such an important factor in the award of a contract that the government may reasonably expect to suffer damage if the delivery or performance is delinquent. The stipulated amount of the liquidated damages is set at the time the contract is entered into and is the parties estimate of the extent of loss that one party's breach of the contract would cause to the other.

"Procurement Action System" (PAS) is the software that connects the Central Office Contract software with all field SYMIX systems. This software consists of the Request for Purchase, Request for Quote, Purchase Order, Request for Contract Action, and Contract modules at all field locations. It also includes reports, oversight, and tracking software in Central Office.

"Technical Reference Manual (TRM)" means the same as Procurement Technical Reference Manual, and covers areas where internal technical instructions and implementation guidelines exist that supplement the UAP coverage. The TRM provides consistent and compatible procedures for training and oversight purposes.

PART 3

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PART 3. - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

SUBPART 3.1 - SAFEGUARDS

3.101-3 - Federal Prison Industries Policies

Bureau Standards of Employee Conduct are contained in the Program Statement on Standards of Employee Conduct and Responsibility.

3.104 - Procurement Integrity

In accordance with the instructions contained in the FAR Part 3.104 and JAR Part 2803.104, Federal Prisons Industries (UNICOR) will take the following actions.

(a) **Procurement Officials.** The following classes of employees are (or may become) "Procurement Officials," because of the nature of their duties, and will be required to complete the assigned training:

- (1) Assistant Director, Deputy Assistant Directors, - FPI Counsel, and Senior Management Counsel
- (2) Associate Warden Industries and Education (AW I&E)
- (3) Superintendent of Industries (SOI)
- (4) Factory Managers
- (5) Business Managers/Plant Controllers
- (6) All Marketing/Sales Staff
- (7) UNICOR Program Managers
- (8) Controller and Deputy Controller
- (9) Engineering staff, (when duties include design, specifications, drafting, review of inspections, testing, or other types of similar activities)
- (10) Procurement Analysts
- (11) Competition Advocate & Deputy Competition Advocate
- (12) Quality Assurance Managers

The Warden at each location or the Assistant Director are to determine if any additional persons or classes of persons within UNICOR will serve as Procurement Officials. If any additional persons or class of persons are locally determined to be Procurement Officials, a copy of the determination will be forwarded to the Chief, MMB.

(b) **Procurement Official Training Requirements.** The local AW I&E/SOI (or Branch Chief for Central Office) must ensure that UNICOR employees who meet the criteria as Procurement Officials receive appropriate ethics training. Institution EDMs must assist in the training's design, coordination, and delivery. Ethics training is provided annually to all appropriate employees.

The AW I&E/SOI is to provide each Procurement Official a copy of FAR 3.104 and JAR 2803.1. The aforementioned training and these publications satisfy the minimum three-hour training requirement. To further enhance this program, a training video concerning the Procurement Integrity Act is to be available in the Employee Development Office at each institution.

(c) **Disclosure of Proprietary and Source Selection Information.** Only Contracting Officers, in coordination with the Freedom of Information Office, may release source selection information and proprietary information strictly in accordance with the FAR. The Chief, MMB, is authorized to approve release of such information to individuals as prescribed by the FAR.

(d) **Processing Actual or Possible Violations.** All violations or possible violations must be reported to the Chief, MMB, after any such report. The Contracting Officer may not proceed with an award until the Chief, MMB, authorizes the award in writing.

If the Chief, MMB, determines that a violation did occur, the contract file must be forwarded to the Office of the Procurement Executive (OPE) for pre-award approval. The Contracting Officer must develop a plan of action outlining the recommended course of action and include it in the file submitted to the OPE. Upon the Procurement Executive's written concurrence, the Chief, MMB, is to notify the Contracting Officer in writing to proceed with the contract action.

If a violation or possible violation occurs and the contract action is urgent and compelling; or, it is otherwise in the best interest of the government to proceed with award, the Chief, MMB,

may authorize the Contracting Officer to proceed with award after the Procurement Executive has been consulted. **This approval also must be in writing.**

(e) **Inquiries.** Contracting Officers, Procurement Officials, and UNICOR employees may inquire about the Procurement Integrity Act, post-employment restrictions, gratuities, or ethics by contacting the Ethics Officer, Office of General Counsel, at (202) 514-6165; or the Chief, MMB, at (202) 305-7346.

SUBPART 3.2 - CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

3.203 - Reporting Suspected Violations of the Gratuities Clause

UNICOR personnel are to report suspected violations of the gratuities clause through the Warden to the Chief, MMB, who is to consult with the Office of the General Counsel and the Assistant Director prior to forwarding to the Director.

SUBPART 3.3 - REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

3.303 - Reporting Suspected Antitrust Violations

UNICOR personnel must submit suspected antitrust violations to the Chief, MMB, who is to consult with the Office of General counsel and the Assistant Director prior to forwarding to the Director.

SUBPART 3.4 - CONTINGENT FEES

3.402-70 - Statutory Requirements

The Chief, MMB is to review the Contracting Officer's documentation of the evaluation, conclusion, and any proposed actions. The proposed action must be reviewed and have the Office of General Counsel's written concurrence.

3.405 - Misrepresentations or Violations of the Covenant Against Contingent Fees

UNICOR personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentation of a contingent fee arrangement, or other violation of the Covenant Against Contingent Fees, must report the matter promptly to the Chief, MMB, through the Warden.

SUBPART 3.5 - OTHER IMPROPER BUSINESS PRACTICES

3.502 - Subcontractor Kickbacks

UNICOR personnel must report suspected violations of the Anti-Kickback Act (41 U.S.C. 51-54) through the Warden to the Chief, MMB, for subsequent forwarding to the Office of General Counsel.

**SUBPART 3.6 - CONTRACTS WITH GOVERNMENT EMPLOYEES OR
ORGANIZATIONS OWNED OR CONTROLLED BY THEM**

3.602 - Exceptions

The Director may authorize an exception to the policy in FAR 3.601. Any exception must be in writing, signed by the Director. Requests for exceptions are to be submitted through the Warden to the Chief, MMB.

PART 4

ADMINISTRATIVE MATTERS

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PART 4. - ADMINISTRATIVE MATTERS

SUBPART 4.1 - CONTRACT EXECUTION

4.101-70 - Reviews Prior to Contract Award

All Central Office Contracts exceeding \$100,000 must be reviewed by the Contract Reviewer, as designated by the Chief of MMB, prior to award. For a pre-award review, the complete contract and solicitation file, including original papers, abstract, and unsuccessful bids/proposals, are submitted. All deficiencies noted in the pre-award review must be addressed prior to contract award.

All field SAP contracts must be reviewed prior to award by a Central Office Contracting Officer as designated by the Assistant Chief of MMB. This review is to be completed expeditiously, with a response given to the field location within 24 hours after receiving the complete pre-award package.

4.101-71 - Reviews After Contract Award

The Contract Reviewer may request contracts, individually, to perform post-award reviews. These reviews will verify that all findings noted in the pre-award reviews have been addressed.

4.103 - Contract Clause

The Contracting Officer must insert the clause FAR 52.204-1, Approval of Contract, as an addendum to FAR 52.212-4 by noting in Block 27A of the SF-1449, in solicitations and contracts when any level of approval above the Contracting Officer is required. Consistent with the clause, insert the required approval(s) as an addendum to Block 20 of the SF-1449.

SUBPART 4.2 - CONTRACT DISTRIBUTION

4.202-70 - UNICOR Distribution Requirements

(a) **Pre-award.** When the solicitation is issued, a copy and any amendments is to be sent to the requesting institution, attn: UNICOR Contracting Officer, AW I&E/SOI, Factory Manager, COTR, and to the appropriate Program Manager(s).

(b) **Post-award**

(1) A copy of all contract award documents must be forwarded to the Contracting Officer at the initiating

institution and all other institutions affected by the contract, within two business days of contract award along with the product support center.

(2) The institution Contracting Officer must ensure copies of the contract and all pertinent documents are distributed to the AW I&E/SOI, Factory Manger, and COTR.

(3) Contract line items and pertinent award information are to be downloaded to the factory SYMIX database within two business days of contract award.

SUBPART 4.6 - CONTRACT REPORTING

4.602 - Federal Procurement Data System (FPDS)

Contracting Officers are to be familiar with the FPDS Reporting Manual. Data collection points within UNICOR are as follows:

(a) Each Contracting Officer who awards a contract and/or issues delivery orders is the initial data collection point and is responsible for the collection and reporting of procurement data for their office;

(b) Central Office is the central data collection point responsible for collecting, summarizing, reviewing, and reporting data for all applicable institution procurement actions and Central Office contract actions.

The following are **not** included in the FPDS reporting system:

- af. Orders placed with UNICOR and other Federal Agencies are **not** included in the FPDS reports.
- 33. Micro-purchases made with the Government Purchase Credit Card may **not** be included in the FPDS reports.

See the Attachment in of the TRM Part 4(c) for guidance in completing the FPDS Designation Codes.

4.602-70 - Federal Procurement Data System (FPDS) Reports

(a) **Individual Contract Action Report (ICAR) (SF-279).**
Each procurement of more than \$25,000 must be reported on an SF-279. Any delivery order over \$500, placed against a UNICOR Contract and any Federal Supply Schedule (or other agency Schedule) delivery order exceeding \$25,000 must be reported on an

SF-279. Modifications exceeding \$500 to existing Contracts must also be reported on an SF-279. Detailed instructions for preparing the SF-279 are included in the FPDS Reporting Manual.

All field locations must use the computerized ICAR within the Procurement Action System (PAS). When an SF-279 is needed, the system will automatically print out the completed SF-279. Each Contracting Officer is to ensure the accuracy of contract data in the PAS contract module. SF-279 reports are generated based on this data. Contracting Officers must verify that the report is complete and accurate prior to submission to Central Office.

Contracting Officers are to submit the ICAR (SF-279) Report in the following format: The ICAR report with a copy of the delivery order firmly stapled to it. The SF-279 should always be on top with the delivery order as supporting documentation. The report must be submitted within five business days of issuing the order. Reports should be submitted using U.S. mail, standard delivery, and mailed to the Central Office Commodity Group FPDS Coordinator.

Attn: Material Management Branch, (Electronics, Metals, Furniture, or Textiles) FPDS Coordinator.

(b) **Summary of Procurement Actions of \$25,000 or Less (SF-281).** This report is to include all applicable procurement actions, unless a separate ICAR is required. All locations must use the computerized Procurement Action System (PAS). The Contracting Officer is responsible for entering the correct FPDS code for each Purchase Order. Quarterly reports will be generated by the Central Office FPDS Coordinator based on system data.

The MMB will submit a consolidated Certification of FPDS Data signed by the Assistant Director, FPI, to the Office of the Procurement Executive, Department of Justice.

(c) **Certification of FPDS Reporting Requirements.** The Director or designee must certify, under penalty of making a false statement, the accuracy of FPDS reports. Therefore, it is critical that all UNICOR staff reviewing FPDS data prior to certification be knowledgeable of FPDS requirements.

SUBPART 4.8 - CONTRACT FILES

4.802-70 - Identification of Acquisition Documents

The automated contract system assigns numbers to all acquisition documents. These numbers are used for accountability purposes and should not be manually changed.

4.803-70 - Security and Supervision Requirements for Contracts

All contracts which require security clearances must contain a section covering the security requirement pertaining to that particular service as outlined in the Human Resource Management Manual.

4.803-71 - Request for Special Authorization and Approvals

Capital acquisitions may require a Request for Special Authorization (RSA), FPI Form 27, as identified in the UNICOR Accounting Manual. Requestors should consult current policy to ensure all required approvals are obtained and referenced in the requisition.

Procedures for acquiring or modifying hardware and software within UNICOR are addressed in the Program Statement on Capital Expenditures, Authorization for (Budgeting/Planning).

4.803-72 - Request for Purchase (RP)

An electronic Request for Purchase (RP) must be used to submit requirements for locally procured supplies and services or for items purchased by a delivery order against an existing contract. Federal law **requires** Federal agencies to pay recipients by Electronic Funds Transfer (EFT). UNICOR cannot issue purchase orders or contracts to vendors unless they can receive electronic payments. The contracting officer must verify the vendor has "complete" Automated Clearing House (ACH)/EFT information in the Central Office Vendor Payment Database before issuing the purchase order.

Purchases under the micro-purchase threshold may be purchased using the Governmentwide Commercial Credit Card. Purchases for raw materials under the micro-purchase threshold are to be purchased with the Governmentwide Commercial Credit Card using the PAS system unless the appropriate vendor does not accept the card.

An RP is not required to generate a Request for Contract Action (RCA). The RCA is the equivalent of an RP. A Request for Purchase may not be used to generate a Request for Contract Action for indefinite delivery contracts. Using an RP for these actions will result in the Material Resource Planning (MRP) system incorrectly reporting those quantities are on order. Requests for Contract Actions for indefinite delivery contracts should be completed in the RCA module of the Procurement Action System (PAS), without an RP.

A "C" type Purchase Order is to be created to load a definite quantity, definite delivery contract into the PAS system for receiving and payment purposes. Do not mail these to your vendors. They are for administrative use only.

Local Purchase Orders may be created only from an approved RP. RPs or Credit Card Requests may not be deleted. The current and prior fiscal year requests may not be put into the history status.

(a) The Request for Purchase must be electronically approved by the following persons:

(1) Requisitioner (Factory Manager, Factory Foreman, Business Manager, Program Manager, etc.)

(2) Department Head or designee (Branch Manager for Central Office)

(3) The individual responsible for funds available certification (Business Manager or Financial Management), and

(4) The Quality Assurance Manager for raw materials (not applicable for Central Office).

(b) The AW I&E/SOI is responsible for ensuring an individual is assigned to review each request to determine if the item(s) is available from excess or surplus sources and is in conformance with "Use Standards" as defined by the Federal Property Management Regulations.

(c) The individual responsible for certifying funds availability will certify that funds are available and verify the accuracy of accounting data on the RP. Additional information regarding accounting codes, their functions, and definitions can be found in the FPI Ledgers & Chart of Accounts TRM.

(d) An RP must contain a description of the item or service needed so there is no misunderstanding of exactly what is required. The requirement must be stated in terms of the government's **minimum** needs.

(1) The description may include a Statement of Work. The description or Statement of Work must include all special or regulatory requirements that may apply to the procurement as well as any requirements stated in applicable UNICOR Program Statements.

(2) Items of personal preference may not be requested. If a particular brand name is referenced, it is to be qualified by an "or equal" provision and identify all the salient characteristics of the brand name item. In some extreme or unusual situations, the requestor may be able to justify (in writing) to procurement staff, the necessity of procuring a particular name product.

(3) Requestors must include reasonable cost estimates for each line item. An RP for construction projects must contain or be accompanied by a detailed government estimate consistent with FAR 36.203. This estimate is confidential and is only to be revealed to government personnel whose official duties require knowledge of this estimate.

(4) An RP must state a definite time or date that delivery is required. The lead times must be consistent with the date required by the Material Resource Planning (MRP) module. In the case of an unusual and compelling urgency, the requestor must complete in the RP text justification for expeditions handling.

(i) Delivery times such as **Rush, Urgent, or As Soon As Possible**, etc., are meaningless and may **not** be used. Realistic delivery dates are to be used which allow for adequate procurement time.

(ii) Requests containing documentation that justifies emergency handling should be given top priority, and routine requests should be processed in order of receipt.

(e) The Contracting Officer must locate a source of supply for each requirement. Recommendations of known or previously used sources by the requestor should be considered.

(1) Competition must be obtained to the maximum extent practical. When only one response is received, or the price variance between responses are significant, a statement is to be

included on the RP giving the basis for determination of fair and reasonable pricing. The determination may be based on a comparison of the proposed price with catalogs, previous purchases, or any other reasonable basis.

(2) If only one source is solicited, and the purchase exceeds the micro-purchase level, the requestor must justify why the purchase is other than full and open competition. This can be in the header text of the RP. The Contracting Officer must explain in detail on the RP.

4.803-73- Purchase Order Accuracy

The Associate Warden of Industries (I&E) or Superintendent of Industries (SOI) at each location is to implement procedures to monitor the accuracy level of purchase order data. If necessary, the AW (I&E)/SOI must develop and implement a plan to achieve a 95 percent accuracy level.

The plan must provide for the verification of Purchase Order line items by having the vendor verify the accuracy and resolve any discrepancies.

(a) Testing

(1) The Contracting Officer is responsible for running the Purchase Order Accuracy Statistical Sample Selection report at least monthly. The software statistically selects open purchase order line items for raw materials to be checked for data accuracy (excluding credit card purchases).

(2) The Contracting Officer is to fax a letter (See TRM Part 4(d)) with the report attached to each vendor explaining what feedback is expected. Should the vendor fail to respond to the letter within three working days the Contracting Officer is to telephone to follow up on the request. Errors are indicated when a vendor notes discrepancies in the following areas:

- (i) Line item status
- (ii) Quantity outstanding
- (iii) Item and description
- (iv) Line item due date
- (v) Purchase Order was never received by the vendor

(b) Once the vendor status reports have been returned, the user will input his/her finding and reason codes into a Purchase Order Accuracy Statistical Input worksheet. The worksheet will

display a presumptive "yes" for all findings, so the user will enter only the exceptions. Any discrepancies noted are to be discussed and rectified with the vendor.

(c) **Analysis of the Results**

(1) The measurement formula will be as follows:

$$\frac{\text{Total Number of Correct PO Line Items}}{\text{Total Number of PO Line Items Checked}} = x\%$$

(2) The goal for Purchase Order line item data accuracy is 95 percent. The AW I&E/SOI or designee is to review the available reports to determine whether the goal is being met.

(3) Locations that have 90% or greater PO line item accuracy must perform the test monthly.

(4) Locations that have between 75% and 90% accuracy rates are to perform the test weekly for two to four additional weeks in order to create a statistically significant data sampling. The number of weeks required to establish a statistically significant sample will vary by industry and location. From this data, the AW/SOI or designee is to develop an Action Plan.

(5) Locations that have less than 75% accuracy rates are to take one additional sample the following week. If the average of these two samples is greater than 75%, the instructions in (4) will be followed. If the average of the two samples is less than 75%, the AW/SOI or designee is to develop an Action Plan (see the Procurement TRM Part 4(d)) that requires complete (100%) review and cleanup of PO line items for raw materials.

4.803-74- Request for Contract Action (RCA)

A Request for Contract Action (RCA), must be used to identify requirements to be procured in the Central Office. The RCA is used to identify a requirement, provide an estimate of quantity, cost, and identify potential sources. The RCA is to be submitted electronically to the Central Office. A Request for Contract Action Checklist must be completed electronically for each RCA. This Checklist is to assist requestors to convey special instructions to the Contracting Officer.

The AW I&E/SOI is responsible for the timely submission of a properly prepared RCA to ensure raw materials can be procured, received, and used in manufacturing in sufficient time to meet

the customer delivery date. The Field Contracting Officer must review all RCA packages for accuracy and completeness prior to submission. Acquisitions must be initiated sufficiently in advance of the required delivery to limit avoidable urgent buys, as the latter tend to be higher priced and should be minimized as much as possible.

(a) **Routing of the RCA**

(1) Upon completing an RCA that will result in full and open competition, the CO must transfer the RCA and its attachments electronically using SYMIX and GroupWise to the Commodity Supervisor in the Central Office. Any items such as samples or drawings may be mailed overnight to the Central Office.

The Acquisition Supervisor is to review the RCA package for acceptability within 24 hours of its receipt in the MMB. Failure to submit a complete RCA package may result in its rejection and return to the requestor which will delay the procurement process.

(2) Upon completing an RCA that will result in **other than full and open competition**, the CO must forward the complete RCA package, including a completed "Justification for Other than Full and Open Competition" (J&A), to the MMB. Failure to include the appropriate justification will result in the RCA's rejection and delay the procurement process. After MMB review, the J&A package will be forwarded to the Competition Advocate within 24 hours for approval.

(3) If an incomplete RCA is forwarded to the MMB, a "Notice of Deficient RCA" report will be completed identifying the deficiencies and returned electronically with the RCA to the originator.

Upon correction of noted deficiencies, a **"new"** RCA (containing new signatures and dates) is to be routed to the Central Office. **Procurement action may not proceed until a complete RCA is accepted in the MMB.**

(4) The procurement action lead time (PALT) begins on the date an RCA is accepted in the MMB and ends on the date of contract award.

(i) Complex negotiated procurements may require six to nine months lead-time. This can and should be estimated in advance by consulting with the MMB.

(ii) For proper planning purposes, the PALT must be added to the delivery time for raw materials as defined in the solicitation; and further added to the production time required to produce the items in FPI factories. The aggregate of these three time-frames will reflect the total number of days required to submit an RCA **prior** to the customer delivery date; thereby allowing adequate time for contract award, delivery of raw materials, and manufacturing time.

(b) **Contents of the RCA**

(1) **Requisitioning Office Number.** This is a unique factory identifier to aid the factory in tracking its action through the procurement process. The Procurement Action System (PAS) assigns this number. This number will be reflected on the Procurement Action Tracking Report (PATR) in the "Req No" column. Each RCA **must** contain a unique number.

(2) **Advanced Procurement Plan Number.** Include the APP identifier if the acquisition was included in the APP. If not, include a statement explaining why no APP exists, or why it was not foreseen during APP preparation.

(3) **MMB RCA Number.** The MMB will assign an RCA number upon receiving an RCA package. If the RCA package is deemed complete, it will be accepted and procurement action will begin at this point. If the RCA is not accepted, the RCA number will be reflected as "closed." A new RCA number will be assigned when a new package is submitted because the tracking process begins anew.

The need for clarity, precision, and completeness is critical and has a direct bearing on the ultimate outcome of the contract awarded and the product received. Therefore, extreme care is needed when describing desired products or services. If there is a question as to the specification's accuracy and completeness, the Product Support Center, the respective Program Manager(s), and the MMB are to be consulted prior to submitting an RCA.

(4) **Purchase Description.** A complete description, including the item master number for each item to be procured, must be included. Additionally, the items listed below must be addressed, if applicable. Use the RCA continuation sheet if necessary.

(i) **Unit of Issue.** Unit of measure, by which, the item is purchased, e.g., each, pound, yard.

(ii) **Estimated Cost.** Government cost estimate based on historical data, market survey data, etc. Used by the Contracting Officer for determining price reasonableness, it is never disclosed to prospective bidders.

(iii) **Quantity Desired.** Firm or estimated (Indefinite Delivery Type Contracts) quantities to be solicited. Requirements Contracts (Indefinite Quantity) must state the estimated quantity for the total of the contract term. Both indefinite delivery and indefinite quantity (IDIQ) type contracts must include the maximum and guaranteed minimum quantities for the entire contract term.

(c) **Government Cost Estimate.** This estimate should be formulated in conjunction with the estimated cost for units of issue. Cost estimates derived from vendor quotes should be averaged (three or more) to ensure bid or proposal prices are not measured against low or high quoted prices.

Cost estimates for non-competitive actions should include a detailed cost break-out (e.g. material, labor, G&A, and profit as a minimum) so proposed prices can be evaluated for each cost element. This estimate must be as detailed as if UNICOR were bidding on the contract.

If care is not taken in preparing the government estimate and it differs markedly from bid prices received, the Contracting Officer is to require verification of the government estimate before award can be made. When this occurs, the requestor will be asked to provide the rationale supporting the original government estimate. If the government estimate is not accurate, contract award may be delayed.

(d) **Specifications.** The Government is responsible for writing clear, unambiguous specifications. In sealed bidding, there can be **no** discussions or interpretations to assure mutual understanding after opening bids. **Therefore, the need for clarity is essential.** The factory should communicate with the Product Support Center, if necessary, to establish explicit specifications prior to submitting an RCA.

Any drawings, Military Specifications (MIL-SPEC), Federal Specifications (FED-SPEC), or description of products and materials characterized by function, design, performance, or a combination of these traits should be included in the RCA package. All inclusions **must** be legible for duplication purposes.

Commercial specifications should be used when possible. A commercial item is defined as any item that is **of a type** customarily used for non-governmental purposes and:

(1) That has been sold, leased, licensed or offered for sale, lease or license to the general public.

(2) An item that evolved from a commercial item through advances in technology or performance that will be available in time to satisfy the delivery requirements.

(3) Modifications of a type customarily available in the marketplace.

(4) Minor modifications made to meet Federal Government requirements.

When testing standards will be used to evaluate the performance of the contract, e.g. American National Standard Institute (ANSI), Business and Institutional Furniture Manufacturer's Association (BIFMA), they must be stated clearly in the specification's narrative portion.

If bid samples or descriptive literature are required, refer to FAR 14.202-4 and 14.202-5 for guidance. The appropriate documentation must be submitted with the RCA.

If the material required is on a "Qualified Product List" (QPL), or is to be supplied by a vendor on a "Qualified Bidders List" (QBL), it **must** be annotated in the specifications.

If the NSN identification has a Federal Specification, then identify the Federal Specification Number on the RCA. However, if the NSN does not have a Federal Specification, a complete detailed specification package must accompany the RCA.

Brand name descriptions are the least desirable type of specification. However, if a brand name is used, the words "or equal" must be added. In addition to the "brand name or equal" description, salient characteristics must be included. **Salient characteristics** are traits or functions the item must have to be acceptable, and to qualify as equals. Failure to include the "or equal" terminology will result in a sole source procurement that requires a J&A. **Note that even sole source procurements must be advertised in the Commerce Business Daily (CBD) a minimum of 15 days and the solicitation must remain open for 30 days. Therefore sole source specifications should not be viewed as a short-cut in the procurement process.**

The 12 point J&A is completed at the factory and certified by the AW I&E/SOI. If a J&A is required but not submitted with the RCA, the RCA will be returned until resubmitted with the J&A. (See UAP Part 6.3 for additional information on J&As.)

(e) **DO/DX Rating.** "DO" and "DX" rating symbols are two levels of priority for rated orders established by the Department Priorities and Allocations System (DPAS). DO rated orders have equal priority with each other and take preference over unrated orders. DX rated orders have equal priority with each other and take preference over DO rated and unrated orders. DX ratings are used for special defense programs designated by the President to be of the highest national priority.

A Defense Department order that is "DO" or "DX" rated should be documented in the RCA package by including a copy of the contract signed with the customer to ensure that bidders handle the contracts properly. Rated orders take precedence over unrated orders in manufacturing plants. The tracking number should be included on the RCA.

(f) **Bidders List.** Each RCA should include all known sources and previous suppliers. If the list is lengthy, it must include (at a minimum) the last successful bidder. A sufficient number of bidders, generally a minimum of three, must be included to ensure adequate competition. This list is to be included electronically.

(g) **Detailed Delivery Information.** Each item to be purchased must have a realistic delivery lead time. Delivery information should be expressed in calendar days after award. Realistic delivery requests will result in better bid prices and increase the likelihood that items will be shipped in a timely manner. Normal commercial lead times should be followed to the utmost extent possible to avoid disruption in the vendor's "normal business" practices and possible higher material costs. (See UAP Part 16 for instructions relating to Indefinite Delivery/Indefinite Quantity contract actions.)

4.803-75 Request for Contract Administrative Action

When a field location has an issue regarding a UNICOR Central Office Contract (Delinquent Delivery or Quality not meeting specifications) the Field Contracting Officer must complete a Request for Contract Administrative Action (RCAA). This RCAA is to be e-mailed to the Central Office Contracting Officer and to the Commodity Supervisor. At a minimum the RCAA is to contain:

- (a) Factory submitting request
- (b) Field Contracting Officer's name
- (c) Factory Manager's name
- (d) Central Office Contract Number
- (e) Contractor's name, address, and telephone number
- (f) Delivery Order number and the date it was issued
- (g) Date the Delivery Order was due
- (h) Delivery terms of the contract
- (i) MCS item numbers
- (j) Quantity ordered
- (k) Quantity received and date received
- (l) Narrative of vendor response to any follow-up
- (m) Action requested/Impact of delay (synopsis of problem and possible solution)
- (n) Any other pertinent information

Also see procedures listed in Part 42 Contract Administration.

4.803-76 Electronic Contract Files

Contracts awarded and electronically downloaded by Central Office must be activated and fully used. UNICOR contracts may be loaded locally only if the contract format is such that it cannot be downloaded. Participating locations will be notified in such cases and authorized to load the contracts locally. Contracts with other Government agencies and Federal Supply Schedule contracts may be loaded as required. When loading contracts locally all FPDS data **must** be entered to ensure complete and accurate ICAR (279) reports are generated. Field sites may not use variations of UNICOR contract numbers to avoid using Central Office contracts.

4.804-5 - Procedures for closing out contract files.

Provided below are step-by-step procedures necessary to provide uniformity in processing contract closeouts. These procedures must be followed.

(a) Contract Closeout Register

(1) The MMB Database Manager generates a monthly closeout register for each Central Office Contracting Officer. Registers are to be provided to each supervisor for distribution.

(2) Supervisors are to designate support staff to assist the Contracting Officer with the closeout process. Upon the completion date, all registers are to be updated with

closeout information and returned to the supervisor. Supervisors must submit all closeout data to the Database Manager for register maintenance.

(3) Supervisors are to provide weekly status to management staff on stale closings.

(b) Obtaining Evidence of Physical Completion of Contract

(1) As indicated by the closeout register, the responsible Contracting Officer must retrieve the appropriate file for closeout. The Contracting Officer must ensure the contract closeout dates are correct in accordance with the period of performance and prepare the contract for closeout. This should be done by examining all modifications issued against the contract that may affect the period of performance and any outstanding administration issues.

If the closeout date is incorrect, the revised date must be noted on the closeout register. Then, the contract file is forwarded to the designated support staff for processing.

(2) Verification of completion for all contracts must be obtained. A memorandum is to be sent to the Factory Business Manager requesting the current status of the contract. A letter is to be sent to the contractor requesting their contract status.

(3) A Contractor Performance Evaluation is to be completed on all contracts in excess of \$100,000.

(i) MMB support staff are to coordinate the Contractor Performance Evaluation. The form will be transmitted to the Field Contracting Officer as part of the closeout process.

(ii) The Field Contracting Officer is to complete a Contractor Performance Evaluation. The Evaluation data is obtained by reviewing documentation and input from factory staff such as the COTR, Quality Assurance, Factory Manager, and the AW/SOI. **The Field Contracting Officer is to complete the Contractor Performance Evaluation and return it to MMB within 14 calendar days. If no response is received, a memorandum from the Chief of MMB will be sent to the AW/SOI requesting completion of the report. If no response is received after five days a rating of good will be noted.**

(iii) Contractor Performance Evaluations from each field location will be averaged to obtain the field rating. The final rating will be determined by the MMB Contracting

Officer based on the field input, Request for Contract Administrative Action (RCAA) data, and their knowledge of the contractor's performance.

(iv) The contractor will be allowed to comment on the evaluation. A copy of the final evaluation will be forwarded to the vendor. Should the vendor provide comments disagreeing with their rating, the evaluation must be reviewed by the Assistant Chief. Ratings will be adjusted if appropriate before completing the evaluation. If no response is received from the vendor within 30 days, concurrence will be assumed, and the evaluation will be entered into the SACONS system.

(v) Upon completion of the final evaluation, a copy of the Contractor Performance Evaluation is filed in the contract file. Copies will be forwarded to the Field Contracting Officer for distribution to factory management staff.

(5) A contract may not be closed if:

- (i) the contract is in litigation or under appeal, or
- (ii) in the case of a termination, all termination actions have not been completed.

(6) All contracts are to be closed using SACONS.

(7) The contract closeout must be completed within 60 days in accordance with FAR 4.804. If both the factory and the contractor agree that the contract is closed and the Contractor Performance Evaluation is complete, a memorandum is to be placed in the contract file stating that the contract is closed.

(8) Upon completion of contract closeout an annotated Closeout Register must be disseminated to the supervisor.

(c) **Annotating Changes to the Closeout Register.** Changes to the closeout register will be made under the following conditions:

(1) Contracts terminated for default must reflect the End of Contract (EOC) date of the re-procurement contract.

(2) Contracts with outstanding issues such as administrative actions, or deliveries that have not been received, etc. a projected date must be noted in the EOC date column.

(3) The EOC date is to reflect 90 days for contracts terminated for default and reflect the EOC for reprocurement. This allows 90 days for processing a claim against the terminated contractor and allows sufficient time to close the reprocurement contract and the terminated contract in accordance with FAR 49.402.6.

(d) **Procurement Assistant Responsibilities.** The designated Procurement Assistant must maintain a log of closed contract files containing the following information:

- (1) Date the file was closed
2. Date the file was physically transferred to storage center
- (3) Storage center location

A Contract Closeout checklist located in the TRM (Part 4(e)) is to be used for closing-out any UNICOR Central Office contract.

(e) **Field Closeout Procedures**

(1) **Closeout Procedures for Field Simplified Acquisition Procedures (SAP) Contracts.** After final payment is made to the contractor the Contracting Officer will forward a contract close-out memorandum (TRM Part 4 (a)) to his or her Business Manager. After the Business Manager has signed this memorandum stating that this contract is complete and can be closed out, the contract in the SYMIX contract module should be completed. Also the Delivery Order should also be placed in complete status.

(2) **Closeout Procedures for All Purchase Orders in the SYMIX System.** The Contracting Officer should be reviewing the past due delinquency report in the SYMIX system as per Part 42 of this Manual. No Purchase Orders should be left in ordered status longer than is necessary. The status of the Purchase Order should be placed in filled or complete status when the vendor has delivered the items requested and has been payed for those items.

Note: The closing out of these Purchase Orders is to be completed as per the year end procedures dictate. These procedures will be sent to the field sites before the end of the fiscal year.

4.805 - Disposal of Contract Files

UNICOR purchase order and contract files must be stored so as to be reasonably secure and easily identifiable. All contract documents are to be retained as prescribed by FAR 4.805.

SUBPART 4.9 - TAXPAYER IDENTIFICATION NUMBER INFORMATION

4.903- Reporting Contract Information to the IRS

Field locations must inform vendors to complete all required information on the ACH Vendor/Miscellaneous Payment Enrollment Form. Upon receiving the completed form, field locations are to mail the ACH form to the address listed below to be maintained in the Central Office Database. The ACH Vendor/Miscellaneous Payment Enrollment Form is available for download at the Internet address "www.unicor.gov/procurement/forms/index.html".

Mailing Address:

UNICOR Federal Prison Industries
ATTN: Business Manager
Financial Management Branch, 8th Floor
320 First Street NW
Washington DC 20534

PART 5

PUBLICIZING CONTRACT ACTIONS

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- 5.403 Request from Members of Congress
- 5.404-2 Announcement of long-range acquisition estimates

SUBPART 5.5 - PAID ADVERTISEMENTS

- 5.502 Authority

PART 5. - PUBLICIZING CONTRACT ACTIONS

SUBPART 5.4 - RELEASE OF INFORMATION

5.403 - Requests from Members of Congress

All communications must be channeled through the Warden to the Chief, MMB, in all cases when a Contracting Officer has determined it necessary to refer a reply to the Agency Head.

5.404-2 - Announcement of long-range acquisition estimates

To assist in long-range planning and to locate additional sources of supply, the Chief, MMB must ensure that a notice is posted in the Commerce Business Daily announcing the availability of the UNICOR Advance Procurement Plan to interested parties. This notice is to be posted annually no later than August 31.

SUBPART 5.5 - PAID ADVERTISEMENTS

5.502 - Authority

Publications

(1) The Chief, MMB, is delegated authority to authorize paid advertisements for UNICOR.

(2) The Bureau Personnel Officer (Central Office) has been delegated authority to approve **in writing** (in advance) advertisements for publications concerning personnel actions. (Delegations of Authority Program Statement)

PART 6

COMPETITION REQUIREMENTS

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6.304	Approval of the Justification

SUBPART 6.3 - OTHER THAN FULL AND OPEN COMPETITION

Part 6.- COMPETITION REQUIREMENTS

6.301 Policy

When a Contracting Officer has determined that other than full and open competition procedures are appropriate for procurement of raw materials, supplies or services, the following steps must be followed.

(a) Determine the appropriate method of contracting. This process should consider the viewpoints of Factory Management, Program Management, and Contracting. Contracting Officers should use great care when considering the use of 6.301 procedures.

(1) FAR 6.302-1, Sole Source should be used when there is only one, unique, responsible source available to meet the agencies requirements. A price and technical analysis comparison should be performed to ensure that the criteria described in FAR 6.302-1 is met.

(2) FAR 6.302-2, Unusual and Compelling Urgency should be used for procurement of raw materials, supplies and services required for immediate use. Urgent and Compelling procurements are required as a result of external circumstances beyond Factory Management control.

(b) The SYMIX purchasing module allows the Contracting Officer to submit the 12 point justification for Other than Full and Open Competition electronically via the Procurement Action System. The justifications may be approved by the AW/SOI and Contracting via electronic signature. The SYMIX Manual provided by the Management Information Systems Branch should be consulted for guidance in creating an automated Justification for Other than Full and Open Competition.

6.302 - Circumstances permitting other than full and open competition

(a) All procurements not exceeding \$100,000 must contain, in writing, the nature of the justification and a brief rationale supporting the determination. This justification may be completed in the text field of the electronic purchase request. Justifications must be consistent with the requirements of this section.

(b) All procurements exceeding \$100,000 must be in accordance with FAR 6.303-2.

6.304 - Approval of the Justification

(a) Justifications submitted for use of "Other than Full and Open Competition" must be submitted in accordance with FAR 6.3, Other than Full and Open Competition, and SUBPART 6.5.

(1) The Contracting Officer must approve all procurements not exceeding \$100,000.

(2) All procurements exceeding \$100,000 but less than \$500,000 must be submitted to the Chief, MMB for approval. The request is to have concurrence by the Factory Contracting Officer, Central Office Contracting Officer, AW I&E/SOI and the appropriate Program Manager.

(3) All procurements exceeding \$500,000 but less than \$10,000,000 must be submitted to the UNICOR Competition Advocate for approval through the Chief, MMB. The request is to have all the approvals identified in section 2 and the approval of the Senior Program Manager.

(4) All procurement exceeding \$10,000,000 but less than \$50,000,000 must be approved by the Assistant Director, FPI in addition to all the approvals in section 3.

(5) All procurement exceeding \$50,000,000 are to be forwarded to the Department of Justice Procurement Executive for approval. The request is to have the approvals identified in section 4 and supporting documentation as specified in the JAR.

(b) Each location is to maintain on file all Justifications for Other than Full and Open Competition (J&As). J&As are to be numbered and identify the fiscal year.

PART 7

ACQUISITION PLANNING

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7.102	Policy
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7.104-70	Request for Waiver
7.105-70	Requirements for Special Approvals

SUBPART 7.1 - ACQUISITION PLANS

7.102 - Policy

(a) FPI Program Planning Coordinators (PPCs) are the AW I&E/SOIs and Program Managers. PPCs must devise contract plans which recognize solicitation contract/award lead-times as part of projected business plans. PPCs must ensure, through program planning, that competition goals and initiatives are met or exceeded through the formal contracting process. PPCs are to initiate this process annually.

(b) The UNICOR Chief Contracting Official (CCO) is the Chief, MMB. The CCO implements the APP Program by assuring that competition goals and initiatives are met or exceeded, through facilitating and planning contract actions to support program requirements. The CCO assures that contracting efforts meet the needs of a realistic APP.

7.102-70 - Acquisition Lead Times

To manage the resources available to UNICOR effectively, and ensure adequate funding levels are available to fulfill the statutory mandated mission requirements, an effective and fully functional Advance Procurement Plan (APP) must be developed and maintained. The APP establishes acquisition lead-times for requesting organizations (factory and program groups) to follow and act upon to facilitate timely procurement for all actions.

The minimum adequate time for general types of procurement are listed below. "Minimum days" indicate the required time from receipt of an approved procurement package by the Contracting Officer (includes approval of funds, various justifications, etc.) through the contract award. Small Purchase lead times indicated are an "average" and not the minimum time for a single procurement.

Adequate lead times should be established according to the product line. The lead times do not include time for delivery. Year-end procurement prohibitions apply (where applicable), and are not reflected in this timetable.

ACQUISITION LEAD TIMES (SMALL PURCHASING)

Type of Procurement	Estimated Value	Average Days
Small Purchases	\$2500 - \$25,000	10
Automated Data Processing (ADP)	\$2500 - \$25,000	15

ACQUISITION LEAD TIME MINIMUMS (CONTRACTS)

Type of Procurement	Estimated Value	Days
Acquisition of Commercial Items (Written Solicitation)	\$25,000-\$100,000	45
Acquisition of Commercial Items (Synopsis Solicitation)	\$25,000-\$100,000	30
Sealed Bid/Supplies	Exceeding Simplified Acquisition Threshold (SAT)	66
Sealed Bid/Construction/Services	Exceeding SAT	75
Competitive Negotiations	Exceeding SAT	96
ADP/Telecommunications	Exceeding SAT	210
Architect/Engineering	Any Value	120
Contract Option Renewals	Any Value	45

7.104 - Procedures

The requirement for an annual APP applies to **all** procurement actions which exceed \$500,000 and are not specifically exempted. This applies to all raw material requirements, services, leases, equipment, all option year contracts, and ADP requirements. If no program requirements exist for the entire year, a negative written report to the Chief, MMB, is required.

Federal regulations, DOJ orders, and FPI policy dictate that **requirements may not be split to avoid these planning procedures or other competition requirements.** APPs will be based on orders that can reasonably be expected and historical projections for

the upcoming fiscal year. Program plan information can be obtained from the Program Managers. The CCO or his or her delegated Contracting Officers (CO) determine procurement steps and associated lead-times.

Due Date: Institution and Branch PPCs must submit their consolidated APP to the CCO no later than May 1st each year for the succeeding fiscal year.

(a) **Preparation.** APPs must be prepared in sufficient detail to analyze the requirement to determine the procurement steps necessary to satisfy the delivery requirements. Institution PPCs are to submit their consolidated APP for the factory to the CCO no later than May 1st each year, for the succeeding year.

The CCO consults with the Program Managers to consolidate the institution APPs and compare the data to the work the MMB scheduled. The CCO consolidates Program Management APPs, when appropriate.

The APP is to be submitted by product family on item master number, and should include all quarters of the fiscal year. Submission is to consist of the APP Form (See TRM Part 7(a)).

(b) **Plan Review.** Upon receiving all APPs and supporting documentation, the CCO reviews the plans for accuracy and concurrence. The individual plans will be consolidated into the overall plan for the Corporation. Like-item acquisitions are combined into one requirement for purposes of consolidating the APP.

The MMB CO will review APPs to ensure proper contracting methods are proposed. The CO then completes the "date due in procurement" column. When compiled, the consolidated APP is forwarded to all locations. **All APPs must be completed by June 30th each year.**

(c) **Using the APP.** Upon receipt of the "published" APP, the PPCs and CO must review the APP with each manager to ensure they are cognizant of any alterations to their original submission; e.g., having a request consolidated into a larger contract action. Additionally, PPCs will verify that any consolidation of their individual requirements did not cause the acquisition target date to extend past their original required delivery date.

When more than one location is requesting like-item material, the "published" APP will designate and assign the factory responsible for submitting the consolidated Request for Contract Action (RCA).

If a factory determines that an additional requirement exists that was not included in the APP, the PPC must submit a revised APP to the Central Office MMB using the APP form attached in the TRM Part 7 (a).

(d) **Initiating Contract Actions.** Contract actions cannot begin until an RCA is submitted referencing the published APP number, or an appropriate justification which is consistent with CICA provisions if an APP has not been completed. All requests must be submitted in accordance with the "date due in procurement" column of the APP. The primary purpose of the "published" APP is to serve as a reminder of when to initiate contract requests. The resulting contract file is to contain a copy of the approved APP.

(e) **File Maintenance.** The CCO is to maintain copies of FPI APPs in a central file for review by the Department of Justice, Inspector General's office, and other officials.

(f) **Request for Exemption.** Any requirement which should have been foreseen and submitted on the APP but was not, requires a memorandum explaining the circumstances and reasons why the requirement was not incorporated in the plan and a description as to how and when the requirement materialized.

(g) **Exemptions.** The only procurement transactions exempt from the APP requirement are as follows:

(1) Contract extensions resulting from contractor delinquencies, excusable delays, and government-caused delays.

(2) Terminations,

(3) Pre-priced delivery orders unilaterally placed under indefinite delivery type contracts, and

(4) Intergovernmental agreements.

7.104-70 - Request for Waiver

Whenever a new requirement is identified, or a change to a previously planned requirement occurs, and critical time constraints preclude the use of full and open competition, the PPC may request a waiver for APP revision, preparation, and

approval of the required justification until after award. Approval may be obtained from the CCO, and the request for waiver must be in writing from the institution PPC through the appropriate Program Manager. The waiver request must cite the following:

(a) Circumstances which created the time constraints (e.g., why the slippage occurred or the requirement was not earlier identified).

(b) Description as to how and when the requirement materialized.

Requirements listed in an approved APP are subject to the full and open competition requirements of CICA and any other special approvals required by FPI policies.

7.105-70 - Requirements for Special Approvals

Whether acquired from surplus sources, purchased new or used, or leased, certain items may require advance approval or authorization. Among the reasons to control or monitor certain types of procurement are the need for standardization and compatibility of equipment or the need to obtain approval from higher authority (e.g., motor vehicles, memberships, etc.). Special approval for some items may be granted locally, while others require approval by the Central Office, or higher.

It is the requestor's responsibility to obtain all approvals and authorizations through the AW I&E/SOI or CEO, in accordance with the appropriate Program Statement, prior to forwarding to the Contracting Officer. Once approval has been obtained, the CCM is to submit the authorization with the RFP to the contracting office.

(a) Central Office Approval Required

(1) Approval for acquisition/disposal of motor vehicles is to adhere to the Program Statement, Facilities Operations Manual, Chapter 10. The Bureau form can be found in the Facilities Operations TRM. After approval is given the vehicle can be ordered electronically through the Requisitioning Ordering and Documentation System (ROADS) at the GSA Automotive Division's web page (<http://scnedc.gsa.gov/roads/cgi-bin/index.pl>).

(2) Photo-copying/Duplicating Equipment, whether upgraded, leased, or purchased, must be approved in accordance with DOJ Regulations. The requestor is to complete and route a DOJ Form 450. The form can be found in BOPDOCS.

(b) Local Approval Required

(1) The local Systems Administrator must approve all RFPs for purchase or rental of ADP hardware, software, or services, including personal computers, desktop computers, mini-computers, and mainframes, and Federal Information Processing (FIP) resources by institutions.

(2) Memberships in community or professional organizations require the CEO's approval (see TRM Part 7(b)). It may be appropriate to expend funds to pay agency membership fees in local and professional organizations, upon determining that the expenditure benefits the agency directly or is a necessary expense to further the agency's mission (5 U.S.C. 5946). Examples of memberships that may be approved are: local Chamber of Commerce, American Correctional Association, National Fire Protection Association, etc.

Further clarification includes:

(i) An agency may purchase a membership only in its own name, or in the name of the organizational element of the Bureau (e.g., UNICOR - USP Atlanta, UNICOR - Central Office, etc);

(ii) Only one membership per organization at each respective location is acceptable; and

(iii) Funds may not be used for memberships in an individual employee's name. Even if a membership is job-related, it does not overcome the prohibition against memberships in an individual employee's name (e.g., membership in a state bar association). However, it may be necessary to identify and associate the membership with a specific position (e.g., Associate Warden, Quality Assurance Manager, etc.)

PART 8

REQUIRED SOURCES OF SUPPLIES AND SERVICES

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(UNICOR)**

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8.802-70 Policy

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PART 8. - REQUIRED SOURCES OF SUPPLIES AND SERVICES

SUBPART 8.0 - GENERAL

8.002-70 - Use of Other Government Supply Sources

(a) **Motor Vehicle Acquisition.** Pursuant to FPMR 101-26.501, the Bureau is required to procure motor vehicles from the General Services Administration (GSA).

(1) Before acquiring any new, surplus, or transferred vehicles and equipment, Federal Prison Industries (FPI) personnel must prepare a Vehicle Acquisition Report (VAR) as prescribed in the Facilities Operations TRM before initiating the acquisition. After approval in writing by the Warden (Assistant Director for Central Office), Associate Warden Industries (AWI), or the Superintendent of Industries (SOI) (Branch Chief for Central Office), and the Facility Manager, the request is to be forwarded to FPI Central Office Financial Management Branch for approval. The VAR must be accompanied by a Request for Special Authorization (RSA).

After Central Office approval, the VAR and RSA will be returned to the AWI or SOI for acquisition purposes. A copy of the approved VAR is to be forwarded to the Facility Manager and retained until the vehicle is no longer the submitting FPI facility's property.

After approval is obtained, to order a vehicle, go to GSA's Automotive Division's website at the following Internet address: <http://scnedc.gsa.gov/roads/cgi-bin/index.pl>. Further information regarding this website can be found at: <http://scnedc.gsa.gov/acis/acishelp.html>.

Note: Agency Order No.: refers to Purchase Order No.
Color: always indicate "White"

Requisitioner must always reflect the following address:

Federal Bureau of Prisons
Fleet Operations Office
320 First Street NW
Washington DC 20534

(2) Copies of all approved documents will be returned to the individual requesting the vehicle. The requestor must forward the approved Vehicle Acquisition Form, Request for

Purchase, and the Equipment Justification to the institution Contracting Officer.

(3) The AWI or SOI must provide the Facility Manager with all FPI owned, leased, and tagged vehicle data. Included are operator-driven equipment over 20 horsepower and tagged trailers. Facilities must maintain and report this data as required in the Facilities Operations Manual.

Marketing Centers or other FPI locations not directly associated with an institution are to provide their data and receive tags from the nearest institution's facilities office. Vehicle management for these locations is to be the same as for vehicles owned or leased by FPI at the tag issuing institution.

(4) FPI vehicles must be included as maintenance worthy items in the facility's Total Maintenance System (TMS). Monthly TMS cost totals for the facility provided fuel, administrative time, labor, and repair parts are to be forwarded to FPI for billing purposes.

TMS-generated maintenance schedules must be provided to FPI to ensure the vehicles are available for maintenance at the scheduled intervals. Vehicles missing scheduled maintenance will be assessed for the administrative costs expended for data entry and rescheduling. Minor Work Requests for minor or emergency repairs will be prepared and scheduled as prescribed in the Facilities Operations Manual. All other costs FPI incurs, such as lease or commercial repairs, must be provided to Facilities.

(5) The AWI/SOI or designee at the institutional level, or the Deputy Assistant Director of Operations or designee at the Central Office level, must ensure that accident reports involving FPI vehicles, and any follow up reports when the government owes or is paid monies, are forwarded to the institution Safety Department.

(6) Responses to Department of Justice requests and inquiries are the BOP Fleet Coordinator's responsibility. FPI is to provide assistance upon request.

SUBPART 8.1 - EXCESS PERSONAL PROPERTY

8.102- Policy

(a) **Mandatory Provisions.** Pursuant to FPMR 101-43.3, UNICOR is required to fill its requirements to the maximum extent

possible from excess or surplus sources of supply, as well as from sources within the Bureau.

(b) All requests for transfer of excess personal property from other agencies are to be completed using the Transfer Order, Excess Personal Property (SF-122); FPMR, 101-43.315-5.

(c) See the UNICOR Accounting Manual, for policy and procedures to be followed when acquiring excess personal property.

**SUBPART 8.6 - ACQUISITION FROM FEDERAL PRISON INDUSTRIES, INC.
(UNICOR)**

8.604 - Ordering Procedures

(a) A complete list of products and services available to U.S. Government agencies from FPI is provided in FPI's Schedule of Products which can be obtained by contacting the Customer Service Group at (800) 827-3168. FPI products and services are not limited to its existing product lines.

If a requirement calls for sufficient volume of a product or service similar to that already available, consideration will be given to producing this item. FPI is continuously searching for new product areas to meet its expansion needs.

(b) When raw materials and/or finished goods are purchased from one FPI factory by another, a **purchase order must be completed using vertical integration**. The government credit card **may not** be used to make purchases between FPI factories.

SUBPART 8.8 - ACQUISITION OF PRINTING AND RELATED SUPPLIES

8.802-70 - Policy

(a) Title 44 U.S.C. 111 prohibits the procurement of printing, binding, and blank-book work except from:

- (1) Authorized field printing plants, such as UNICOR; or
- (2) The Government Printing Office.

8.802-71 - Sources of Supply

(a) U.S. Government Bill of Lading (SF-1103): GSA Supply Catalog;

(b) Calendars, wall and desk: GSA Supply Catalog;

(c) Certificate of Release of Motor Vehicle (SF-97): GSA Supply Catalog;

(d) Envelopes - Printed: UNICOR, Graphics Services;

(e) Envelopes - Plain: GSA Supply Catalog, FSS, or GPO. Special-type envelopes known in the trade as either negative preservers or library book pockets may be procured commercially, but not with special printing. If these are pre-printed by the manufacturer and carried as a stock item, procurement is permissible;

(f) Federal Specifications: Complete sets of Federal Specifications and Standards can be obtained from GSA;

(g) Government Publications: Should be procured directly from the Superintendent of Documents.

(h) Paper stock, inks, glues, etc.: May be purchased from the Government Printing Office and/or the GSA Supply Catalog;

(i) Letterhead, Federal Prison Industries: Should be purchased during the annual FPI forms order cycle.

(j) U.S. Government Memorandum (OF-10): May be purchased from the GSA Supply Catalog. Location of institution is to be typed immediately below the pre-printed heading in the upper right on the OF-10;

(k) Two-Way Memo (OF-27) (to be used for informal messages): May be purchased from the GSA Supply Catalog;

(l) U.S. Tax Exemption Certificate (SF-1094): May be purchased from the GSA Supply Catalog;

(m) FPI Forms: Will be ordered according to the Program Statement on Forms Management. If additional FPI procurement forms are required outside the annual ordering cycle, a purchase order may be submitted to the following address:

UNICOR, Federal Prison Industries
3901 Klein Boulevard
Lompoc CA 93436
Attn: Print Plant Manager

PART 9

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SUBPART 9.2 - QUALIFICATION REQUIREMENTS

9.203 - Qualified Bidders List (QBL)

All requests to establish a QBL must be submitted in writing, pursuant to the requirements identified in FAR 9.202, to the Chief, MMB.

SUBPART 9.4 - DEBARMENT, SUSPENSION, AND INELIGIBILITY

9.404 - Parties Excluded from Procurement Programs

The Chief, MMB is to furnish all notices to GSA required by FAR 9.404(c).

9.406-3 - Procedures

(a) Any information which may form the basis for debarment or suspension (FAR 9.406-2) of a contractor must be referred immediately to the Chief, MMB.

(b) The Chief, MMB, will consider recommending debarment or suspension to the Procurement Executive pursuant to JAR 2809.402.

PART 11

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PART 11. - DESCRIBING AGENCY NEEDS

SUBPART 11.5 - LIQUIDATED DAMAGES

11.502 - Policy

Any recommendation for remission of liquidated damages will be fully documented to support a determination that a remission of liquidated damages is just and equitable, and will be forwarded to the Contracting Officer, MMB.

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PART 12. - ACQUISITION OF COMMERCIAL ITEMS

SUBPART 12.1 - ACQUISITION OF COMMERCIAL ITEMS - GENERAL

12.102 - Applicability

Contracting Officers are to use the policies in this part in conjunction with the UNICOR Acquisition policy (UAP) and procedures for solicitation, evaluation and award as prescribed in Simplified Acquisition Procedures, Sealed Bidding, Contracting by Negotiations, as appropriate for the particular acquisition. The preferred acquisition method is the Request for Quote procedure as described in FAR part 13, however, sealed bidding or negotiated procedures may be employed if appropriate for the requirement. When other parts of the UAP are inconsistent with this part, Part 12 is to take precedence.

SUBPART 12.2 - SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

12.202 - Market Research and Description of Agency Need

Solicitations will explain how UNICOR intends to use the product or service in terms of emphasizing performance requirements and/or function of the requirements. Listing essential physical characteristics rather than Government unique design specifications is preferred.

12.204 - Solicitation/Contract Form

For all commercial item acquisitions performed by the Contracting Officers, MMB is to use the SF-1449. The Commodity Supervisor is to conduct a review of the synopsis solicitation prior to issuance. Field Contracting Officers delegated SAP authority may use the automated purchase order.

12.302 - Tailoring of Provisions and Contract Clauses

The acquisition of commercial supplies and services is intended to resemble requirements customarily used in the common marketplace. Therefore, Contracting Officers may include additional provisions and clauses only when necessary (e.g. for the approval of contract, option year renewals, special insurance requirements, or others specified elsewhere in the UAP).

**SUBPART 12.6 - STREAMLINED PROCEDURES FOR EVALUATION AND
SOLICITATION OF COMMERCIAL ITEMS**

12.603 - Combined Synopsis/Solicitation

(a) Streamlined acquisition procedures, which use a combined synopsis/solicitation notice may be used at the Contracting Officer's discretion. However, good procurement practice encourages competition to the maximum extent practicable. The Contracting Officer should use discretion to ensure sufficient time is available to promote competition and procure the materials/supplies in a timely manner. The standard procurement time frame for the synopsis solicitation is 30 days.

(b) All recommended sources will be notified of the requirement when the combined synopsis/ solicitation method is used. The solicitation's response time is to be calculated from the day of publication. An anticipated award date will be identified in the synopsis.

(c) Orders for commercial items are to be issued with the SF-1449. Contractor acceptance for a Request for Quote solicitation is to be obtained by having the contractor accept, sign, and return the SF-1449. Notifications to unsuccessful vendors under Simplified Acquisition Procedures are to be given only if requested.

PART 13

SIMPLIFIED ACQUISITION PROCEDURES

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PART 13. - SIMPLIFIED ACQUISITION PROCEDURES

SUBPART 13.0 - SCOPE OF PART

13.003(b)(1) - Small Business Set-Asides

All acquisitions with an estimated value between \$2,500 and \$100,000 are to be set-aside for small business in accordance with subpart 19.5.

SUBPART 13.1 - PROCEDURES

13.106 - Purchases Exceeding the Micro-Purchase Threshold

(a) **CBD Announcement.** All procurement actions estimated at more than \$25,000 must be published in the Commerce Business Daily (CBD). The Contracting Officer must comply with the requirements of FAR 5.101.

(b) **Solicitation.** Contracting Officers will use procedures that are most suitable and economical. The preferred method is the Request for Quote (RFQ) procedure as described in FAR Part 13; however, sealed bid or negotiated procedures may be employed if appropriate to the requirement. When using procedures other than SAP, the appropriate FAR provisions will be followed. The Contracting Officer may solicit quotations and/or offers using either a written solicitation or a combined synopsis/solicitation. The latter is the preferred method.

All SAP purchases will be processed using the automated purchasing module. Solicitations will be prepared using the applicable clause matrix in the automated purchasing module or as provided by the Central Office. Contracting officers will incorporate best value criteria into the solicitation when feasible.

(1) **Synopsis Solicitation (Preferred Method).** All relevant information, provisions and basis of the award will be included in the notice in order to develop a written quotation or offer. All recommended sources will be notified of the requirement. The procurement time line for the synopsis solicitation is 30 days.

(2) **Written Solicitation.** A written solicitation for quotations may be used when a synopsis solicitation is clearly inappropriate. Quotations will be solicited using a Solicitation/Contract/Order for Commercial Items (SF-1449). The solicitation will be provided to all recommended sources and to

any supplier responding to the CBD announcement. All sources will be entered into the automated purchasing vendor file. The procurement time line for a SAP written solicitation is 45 days.

(c) **Evaluating Offers.** Written quotations may be received until the order is placed or until the deadline date and time, as specified in the CBD announcement. Evaluation of quotations will be conducted in accordance with FAR 13.106-2(b). All quotations will be entered into the automated Purchasing vendor quote system. When using sealed bid or negotiated procedures, evaluation will take place in accordance with the method chosen.

(d) **Award.** Contracting Officers are to issue the award using the SF-1449. Contractor acceptance will be obtained by requiring the contractor to accept, sign and return the contract form. Notification to unsuccessful suppliers will be given only if requested.

(e) **Data to Support Purchases.** The automated contracting system's abstract of offers will be printed and filed in the contract file. If only one response is received, a statement will be included in the file giving the basis of the fair and reasonable price determination. Minimal documentation necessary to support the purchase should be maintained.

(f) **Special Documentation.** Acquisitions conducted under simplified acquisition procedures are exempt from the requirements in FAR part 6. However, for acquisitions of commercial items exceeding the simplified acquisition threshold, Contracting Officers will not conduct sole source acquisitions unless the need to do so is justified in writing.

Justifications will be prepared using a simplified format similar to that specified in FAR Part 6.303-2. For proposed contracts exceeding \$100,000 but not exceeding \$500,000, the concurrence will be by the Competition Advocate.

(g) **Contract File Documentation.** File documentation will include:

1. a brief written description of the procedures used in awarding the contract,
2. the number of offers or quotations received,
3. a simplified explanation of the basis of the award decision, and
4. any required justification.

The contract file will consist of the SF-1449 or the Purchase Order and all pre- and post-award documentation. All documentation will be filed in a combined pre-award/post-award file. The contract file will be organized using the SAP Contract Award File Checklist as listed in the TRM Part 13(a).

13.106-70 - SAP Procedures for the Field

Any contract action that cannot be processed using simplified procedures or if the field location has not been delegated SAP authority must be referred to Central Office with a Request for Contract Action.

SUBPART 13.2 - ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

13.202 - Purchases at or Below the Micro-Purchase Threshold

Purchases with an estimated value of \$2,500 or less may be purchased without competition provided the contracting officer or individual with contracting authority considers the price reasonable. However, purchases should be distributed among available suppliers. Mandatory source requirements **apply** at this level.

SUBPART 13.3 - SIMPLIFIED ACQUISITION METHODS

13.301-70 - GOVERNMENT CREDIT CARD

Refer to the Program Statement on Government-Wide Commercial Credit Cards, FPI concerning credit card policy.

13.302-1 - Purchase Orders, General

Clearances. Whenever a purchase outside a mandatory source of supply (such as UNICOR, GSA store stock, or mandatory FSS) is contemplated, a clearance must be obtained and a reference to it made part of the purchase document. A clearance need not be requested for products made by the blind or UNICOR when purchased from GSA, because those agencies have satisfied applicable regulation requirements.

13.302-70 - Content of Purchase Order Files

Each purchase order file must contain relevant documentation to indicate clearly the circumstances involved regarding each procurement action. Each purchase order file must contain:

- (a) Numerical copy of Purchase Order*

(b) Request for Purchase*

(c) Justification of other than full and open competition*

(d) Request for Quotation (SF-18), if applicable*

(e) RSA, if applicable, the RSA number is to be identified in the authorization number field on the header page of the Purchase Order.

*** Denotes documentation may be filed electronically.**

13.303-2 Establishment of Blanket Purchase Agreements

(a) **Open Market-Due to the Procurement Action System (PAS)** enhancement to the automated procurement process, Blanket Purchase Agreements (BPA's) in SYMIX are unnecessary and may not be used. The use of Accrual Purchase Orders is authorized for services and other recurring expenses that can be estimated annually.

(b) **Federal Supply Schedule (FSS).** The use of FSS Blanket Purchase Agreements is encouraged. The Procurement Action System (PAS) contract module is to be used to load contract line items for delivery orders. Setting up a BPA with a Federal Supply Schedule contractor is a way to fill recurring needs while taking advantage of quantity discounts, saving administrative time, and reducing paperwork. For large BPAs, agencies are empowered and encouraged to seek further price reductions. All BPAs must contain the following information:

(1) Description of the agreement.

(2) Extent of the obligation.

(3) Prices have already been determined fair and reasonable. No further statement is required. Ordering offices may negotiate additional price reductions.

(4) Purchase limitations, there is no limit on individual purchase orders.

(5) Listing of authorized individuals to purchase under the BPA.

(6) Delivery information to include the use of delivery orders.

(7) Invoicing information.

(8) All other terms and conditions are contained in the Federal Supply Schedule contract.

The recommended BPA format is located in the Procurement TRM at 13 (b) and 13 (c).

SUBPART 13.5 - TEST PROGRAM FOR CERTAIN COMMERCIAL ITEMS

13.500 - General

Simplified procedures may be used for acquiring commercial item supplies and services with an estimated value up to \$5,000,000. Contracting Officers should use Simplified Acquisition Procedures (SAP) to the maximum extent practicable.

Note: Contracting Officer may only purchase up to the limit stated on their Warrant Authority.

PART 14

SEALED BIDDING

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14.302	Bid Submission
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14.404-70	Cancellation of Invitations After Opening
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14.407	Mistakes in Bids

PART 14. - SEALED BIDDING

SUBPART 14.2 - SOLICITATION OF BIDS

14.201-70 - Forms for and Preparation of Solicitation

Completion of the Solicitation, Offer, and Award Form (SF-33) is self-explanatory. However, in the interest of uniformity, the following format is prescribed for the preparing solicitations. This is to be completed in the automated contracting system.

(a) Block No. 3 - The automated contracting system will automatically assign solicitation numbers. The "B" identifier must be keyed indicating that the solicitation is a sealed bid.

(b) Block No. 7 - Name and address of issuing office:

UNICOR, Federal Prison Industries, Inc.,
ATTN: Bid Custodian
320 First Street NW
Washington DC 20534-0001

(c) Block No. 8 - Insert "Same as Block No. 7."

If hand carried, Fed Express, or UPS delivery

UNICOR, Federal Prison Industries, Inc.
ATTN: Bid Custodian
400 First Street NW, 7th Floor
Washington DC 20534

14.202-7 - Facsimile Bids

Contracting Officer may authorize facsimile bids. The Contracting Officer must consider these factors:

(a) Bid size and volume

(b) Urgency of requirement

(c) Frequency of Price Changes

(d) Availability, reliability, speed and capacity of the receiving facsimile equipment

14.204 - Records of Invitations for Bids and Records of Bids

14.204-70 - Solicitation Files

For easy reference and uniformity, solicitation and contract files will be maintained in accordance with the format of the checklist located in the TRM Part 14 (a) and (b).

SUBPART 14.3 - SUBMISSION OF BIDS

14.302 - Bid Submission

When authorized by the solicitation, telegraphic bids may be accepted. Telegraphic bids communicated by telephone may be considered under conditions prescribed at FAR 14.302.

SUBPART 14.4 - OPENING OF BIDS AND AWARD OF CONTRACT

14.401 - Receipt and Safeguarding of Bids

14.401-70 - Recording the Receipt of Bids

The bid custodian will use time-date stamps to establish time of receipt. Bid wrappers will be stamped and maintained with the solicitation or contract files as documentary evidence to conclusively establish time of receipt.

Where time-date stamps are not available, receipt must be evidenced by the bid custodian i.e., date and time hand-written above the signature of the bid custodian. This receipt information must be written on the bid wrapper.

14.402 - Opening Of Bids

14.402-70 - Deposits Received with Bids

If bids are accompanied by deposits (checks, drafts, money orders), the deposits are to be listed on the abstract and turned over to Financial Management Branch with receipt. The receipt is to be filed in the pre-award file.

14.404-70 - Cancellation of Invitations After Opening

The Contracting Officer must initiate requests to cancel a solicitation after bid opening. The Contracting Officer is to prepare a Determination and Findings (D&F) for the Chief, MMB, or designee, to the Assistant Director, FPI, for approval.

An Amendment of Solicitation/Modification of Contract (SF-30) will be issued to all bidders upon the Assistant Director's determination that the cancellation is in UNICOR's best interest.

14.404-71 - Notice to Bidders of Rejection of All Bids

When all bids are rejected, the Contracting Officer must notify each bidder in writing, using an SF-30. Notification is to include the reasons for rejection of all bids.

14.405-71 - Failure to Furnish Samples

Ordinarily, the failure of a bidder to furnish a bid sample required by the invitation makes the bid non-responsive and requires its rejection. However, a bidder may be allowed to cure the deficiency, after opening, when all of the following conditions are met:

(a) The sample is required to ensure procurement of an acceptable product because there are certain characteristics which could not be described adequately in the specifications;

(b) The bidder obtains no undue advantage by submitting the sample after bid opening; and,

(c) The bidder submits the sample within a reasonable period after written notification via certified mail from the Contracting Officer.

14.407 - Mistakes in Bids

14.407-70 - General

When a mistake in bid is alleged, the Chief, MMB, must be notified in writing prior to making any changes to the otherwise low bid. Under no circumstances may a bidder be allowed to correct a bid without first obtaining legal concurrence.

When legal concurrence is necessary, information detailing the mistake and the proposed correction or bid withdrawal, must be prepared and forwarded through the Chief, MMB, to the Office of General Counsel, Commercial Law Branch.

PART 15

CONTRACTING BY NEGOTIATION

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15.606 Agency Procedures

PART 15. - CONTRACTING BY NEGOTIATION

SUBPART 15.2 - SOLICITATION OF PROPOSALS

15.204-70 - Solicitation Files

For easy reference and uniformity, solicitation and contract files must be maintained using a format similar to the attachments located within the TRM Part 15(a) and (b). This format may be altered to suit the contract type and circumstances.

SUBPART 15.3 - SOURCE SELECTION

15.303-70 - Proposal Evaluation Panel

(a) An evaluation panel consisting of at least three members will meet to review and score each proposal. The panel is to consist of UNICOR staff who are technically capable of evaluating the proposals. The Chief, MMB, or designee, is to appoint panel members in writing and designate the Chairperson. A copy of the appointments is to be furnished to the Contracting Officer for inclusion in the contract file.

(b) The panel chairperson must furnish to the Contracting Officer a summary of findings for all of the proposals in accordance with FAR 15.303.

(c) Technical evaluation panel members may not see the pricing information prior to evaluating the proposals.

15.304-70 - Evaluation Factors

The office requiring the service or supply will prepare evaluation factors. Contracting Officers must ensure that the factors are not unduly restrictive to obtaining full and open competition.

Contracting Officers have the authority to reject evaluation factors if they appear to be unrealistic or unduly restrictive. The Contracting Officer and the appropriate supervisory staff will review the evaluation factors.

The Chief, MMB, is to resolve any dispute arising between the Contracting Officer and the program staff concerning evaluation factors.

15.305 - Proposal Evaluation

Any request to reject all proposals must be submitted to the Chief, MMB, for presentation to the Assistant Director, FPI. All available information/documentation which shows that the requirements of FAR 15.305 have been met must accompany such a request. When approval for cancellation of a solicitation has been obtained, the Contracting Officer must notify offerors via an SF-30.

15.306 - Exchanges with Offerors After Receipt of Proposals

After proposals have been received, written and/or oral discussions must be between the contractor and the Contracting Officer only. Discussions must be meaningful, documented in writing, and placed in the solicitation file.

15.308-70 - Summary of Negotiations

Upon completing negotiations, the Contracting Officer will prepare a memorandum entitled "Summary of Negotiations" for the file. This summary includes all the pertinent details of discussions held with all offerors, and all of the material facts leading to the selection of the contractor chosen for award.

SUBPART 15.4 - CONTRACT PRICING

15.406-1 - Pre-Negotiation Objectives

The Contracting Officer is to establish pre-negotiation objectives before the negotiation of any pricing action.

SUBPART 15.6 - UNSOLICITED PROPOSALS

15.606 - Agency Procedures

FPI has designated the Chief, MMB, as the point of contact for the receipt and handling of unsolicited proposals (see JAR 2815.606).

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TYPES OF CONTRACTS

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PART 16. - TYPES OF CONTRACTS

SUBPART 16.5 - INDEFINITE DELIVERY CONTRACTS

16.505 - Ordering

UNICOR's Ombudsman is to be designated the Ombudsman for task order and delivery order contracts, in accordance with FAR 16.505 (b)(4).

SUBPART 16.6 - TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

16.603 - Letter Contracts

16.603-3 - Limitations

The Chief, MMB, has been delegated authority to approve Letter Contracts, Time-and-Materials, Labor-Hour, and all related determinations.

The Contracting Officer is to prepare a written determination that no other contract is suitable. The determination is to be forwarded to the Chief, MMB, for approval **prior** to execution of a Letter Contract.

PART 19

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

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19.704 Subcontracting Plan Requirements

19.705-2 Determining the Need for a Subcontracting Plan

SUBPART 19.7 - THE SMALL BUSINESS SUBCONTRACTING PROGRAM

19.704 - Subcontracting Plan Requirements

(a) **Subcontracting Report for Individual Contracts (SF-294).** SF-294s must be submitted semi-annually, or immediately after contract completion, to the MMB by October 1 and April 15 of each year.

(b) **Summary Subcontract Report (SF-295).** SF-295s must be submitted annually or immediately after contract completion, to the MMB by October 1 of each year.

19.705 - Determining the Need for a Subcontracting Plan

The Chief, MMB must make and approve the determination that a particular contract has no subcontracting possibilities in writing.

PART 22

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- 22.1406 Complaint Procedures

PART 22. - APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 22.1 - BASIC LABOR POLICIES

22.101-3 - Reporting Labor Disputes

Contracting Officers must report to the Chief, MMB, any potential or actual disputes that may interfere with the performance of any contract for which they are responsible immediately.

22.101-4 - Removal of Items from Contractor's Facilities Affected by Work Stoppages

Prior to taking any action to remove items from a contractor's facility, Contracting Officers must contact the Chief, MMB, for instructions.

22.103-5- Contract Clauses

The Contracting Officer is to include FAR clause 52.222-1, Notice to the Government of Labor Disputes in all construction contracts.

SUBPART 22.6 - WALSH-HEALEY PUBLIC CONTRACTS ACT

22.604-2 - Regulatory Exemptions

Any disagreements over eligibility determinations made by UNICOR Contracting Officers are to be referred to the Chief, MMB, before taking any action as prescribed by FAR.

22.608 - Procedures

Contracting Officers must contact the Chief, MMB, in writing, for instructions before notifying the Department of Labor (DOL) of any violations of the Act prior to contract termination procedure.

SUBPART 22.8 - EQUAL EMPLOYMENT OPPORTUNITY

22.803 - Responsibilities

Questions concerning the applicability of Executive Order 11246, Nondiscrimination Under Federal Contracts are to be referred to the Chief, MMB.

22.805 - Procedures

Copies of DOL posters entitled, "Equal Opportunity is the Law"

are available upon written request from:

Office of Federal Contract Compliance Programs
Department of Labor
Room C-3325
200 Constitution Ave. NW
Washington DC 20210

22.807 - Exemptions

Requests for exemptions to the requirements of Executive Order 11246 are to be submitted through the Chief, MMB.

22.808 - Complaints

Contracting Officers must notify the Chief, MMB immediately, of any complaints. If appropriate, the complaints will be forwarded to the Office of Federal Contract Compliance Programs by the Chief, MMB.

SUBPART 22.13 - DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

22.1303 - Waivers

All requests for waivers must be submitted through the Chief, MMB.

22.1306 - Complaint Procedures

Contracting Officers must notify the Chief, MMB, immediately of any complaints. If appropriate, the Chief, MMB, is to forward any complaints to DOL.

SUBPART 22.14 - EMPLOYMENT OF WORKERS WITH DISABILITIES

22.1403 - Waivers

Any request for a waiver of the provisions of the Rehabilitation Act of 1973 will be forwarded to the Chief, MMB.

22.1406 - Complaint Procedures

Contracting Officers must notify the Chief, MMB, immediately of any complaints concerning Labor Act violations. If appropriate, the Chief, MMB, must forward any complaints to DOL.

PART 23

**ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY,
AND DRUG-FREE WORKPLACE**

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SAFETY DATA**

23.302	General
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**PART 23. - ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND
DRUG-FREE WORKPLACE**

SUBPART 23.1 - POLLUTION CONTROL AND CLEAN AIR AND WATER

23.104 - Exemptions

Any request for an exemption from the requirements of this part must be forwarded to the Chief, MMB.

23.105-70 - Ozone Depleting Substance

The Contracting Officer must insert the clause at UAP-52.223-70, Ozone Depleting Substance, in all solicitations and contracts.

23.107 - Compliance Responsibilities

Noncompliance with clean air or water standards must be reported, in writing, to the Chief, MMB.

**SUBPART 23.3 - HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL
SAFETY DATA**

23.302 - General

All FPI staff must cooperate and be alert when requesting, handling, or disposing of hazardous materials. However, the ultimate responsibility for handling and monitoring hazardous materials being purchased or disposed of must lie with the original requestor or Factory Manager.

The following procedure must be used for all procurements involving known hazardous materials, including their disposal:

(a) The Factory Manager must alert the Contracting Officer **in writing on the purchase request and prior to routing the purchase request for approvals** that the materials being requested or disposed of are considered hazardous materials.

The Factory Manager must include the following statement on the Request for Purchase:

"The Contractor shall forward Material Safety Data Sheets (MSDS) for all hazardous materials to the attention of the Safety Manager at the destination address indicated on the Purchase Order or contract at least one day prior to delivery."

(b) The Contracting Officer must review all Purchase Requests for the hazardous material notification contained in UAP 23.302 (a). If the RFP contains the hazardous material notification, the Contracting Officer is to take the following actions:

(1) For requirements exceeding the Simplified Acquisition Threshold (SAT), include the clause contained in the FAR 52.223-3, Hazardous Material Identification and Material Safety Data, in the solicitation and resulting contract.

(2) For Purchase Orders less than or equal to the SAT the Contracting Officer must include the hazardous material notification in the text of the Purchase Request in the resulting Purchase Order.

(3) Terms of the Contract or Purchase Order are to accompany each shipment.

(c) For Purchase Orders or Contracts involving the disposal of hazardous waste, the Factory Manager must prepare and submit to the appropriate Contracting Officer (local or headquarters), a Statement of Work that includes a detailed description of tasks to be performed, and all requirements listed in the Occupational Safety and Environmental Health Manual.

(d) Receiving staff are to be alert for hazardous material contained in incoming deliveries, and follow the procedures outlined in the Occupational Safety and Environmental Health Manual. However, it is the receiving Factory Manager's responsibility to notify the Safety Manager and ensure that all MSDSs are on file in the Safety Office and available at the work site.

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PART 24. - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 24.2 - FREEDOM OF INFORMATION ACT

24.203 - Policy

In accordance with the Program Statement on Release of Information, all Freedom of Information requests, along with copies of requested documents, are to be forwarded to the Office of General Counsel, Central Office.

PART 25

FOREIGN ACQUISITION

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SUBPART 25. 1 - BUY AMERICAN ACT - SUPPLIES

25.105 - Evaluating Offers

Requests for decisions required by FAR 25.105(c) must be submitted to the Chief, MMB.

SUBPART 25.7 - RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

25.703 - Exceptions

Requests for exceptions to the requirements of this Subpart, which the Director must approve, are to be submitted through the Chief, MMB and Assistant Director, FPI.

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BONDS AND INSURANCE

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PART 28. - BONDS AND INSURANCE

SUBPART 28.1 - BONDS AND OTHER FINANCIAL PROTECTIONS

28.101 - Bid Guarantees

The requirement to obtain a bid guarantee for construction contracts is waived when performance and payment bonds are required under the following conditions:

(a) The construction contract has been set aside for the Small Business Administration's 8(a) Program; and

(b) The Contracting Officer has determined a bid guarantee is not in the Government's best interest.

28.105 - Other Types of Bonds

Requests for approval to use other types of bonds allowed by FAR 28.105 are to be forwarded to the Chief, MMB.

28.106-2 - Substitution of Surety Bonds

Request for approval to substitute a new surety bond for a bond previously approved are to be forwarded to the Chief, MMB.

28.106-6 - Furnishing Information

Authority to take actions prescribed by FAR 28.106-6(c) is hereby delegated to the Chief, MMB.

SUBPART 28.2 - SURETIES AND OTHER SECURITY FOR BONDS

28.204-70 - Alternatives in Lieu of Corporate or Individual Sureties

When a contractor elects to deposit any of the types of security listed in FAR 28.204 instead of furnishing corporate or individual sureties on payment and performance bonds, the Contracting Officer must notify the Chief, MMB, in writing describing fully the proposed security. No award may be made until the Contracting Officer has received approval from the Chief, MMB.

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The Chief, MMB must approve any decision to require property damage liability insurance in advance.

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PART 33. - PROTESTS, DISPUTES, AND APPEALS

SUBPART 33.1 - PROTESTS

33.103-70 - Agency Protests

(a) Protests Before Award

(1) When an agency protest is filed prior to award, the Contracting Officer will notify the Chief, MMB immediately, and follow up with a written summary of the circumstances of the protest. An award may not be made without written approval from the Chief, MMB.

(2) A copy of the Contracting Officer's decision will be forwarded, to the Chief, MMB for concurrence within 14 days after receiving the protest. The CO's decision will be sent to the protestor within 30 days after receiving the protest. Notification will be made by certified mail with return receipt requested showing the date the notification was delivered to the protestor.

(b) Protests After Award

(1) Protests received after award are to be referred to the Chief, MMB immediately and followed up with a written summary of the circumstances of the protest.

(2) A copy of the Contracting Officer's decision will be forwarded, to the Chief, MMB for concurrence within 14 days after receiving the protest. The CO's decision will be sent to the protestor within 30 days after receipt of the protest. Notification will be made by certified mail with return receipt requested showing the date the notification was delivered to the protestor.

33.104 - GAO Protests

(a) General

(1) Immediately upon receiving the protest notification, Contracting Officers must notify the Chief, MMB. The Chief, MMB, will notify the Office of General Counsel, Commercial Law Branch immediately, and will coordinate the protest response with the Commercial Law Branch.

(2) All responses to GAO regarding protests will be routed through the Chief, MMB, at least 10 days prior to the due date.

(3) Except for the response to GAO, all other documents submitted to GAO will be copies and not the originals, because GAO will retain these submittals.

(b) Protests Before Award

(1) When a contracting activity receives notice from GAO of a protest filed directly with GAO a contract may not be awarded unless authorized by the Director, upon a written finding in accordance with FAR 33.104(b).

(2) A contract award **will not** be authorized until UNICOR has notified GAO of the above finding.

(c) Protests After Award

(1) Notwithstanding the protest, the Chief, MMB may authorize contract performance upon a written finding, prepared by the Contracting Officer responsible for the procurement action, in accordance with FAR 33.104(c).

(2) Contract performance will not be authorized until UNICOR has notified GAO of the above finding.

(3) When the Contracting Officer decides to suspend performance or to terminate the awarded contract, the Contracting Officer must contact the Chief, MMB first, to request guidance in negotiating a mutual agreement on a no-cost basis. The Chief, MMB, may request guidance from the Office of General Counsel.

(d) Findings and Notice. If the decision is to proceed with contract award, or to continue contract performance under (b) or (c) above, the Contracting Officer must include the written findings (and other required documentation in the file) and provide a copy to the Chief, MMB.

The Contracting Officer also will give written notice of the decision to the protestor and other interested parties.

(e) Notice to GAO. If UNICOR has decided not to comply with the GAO recommendation, the Contracting Officer responsible for the solicitation, proposed award, or contract award, must prepare a report for the Director's signature to the Comptroller General within 60 days of receiving GAO's recommendation. The report will explain the reasons why the contracting activity will

not follow GAO's recommendation. This report will be sent through the Chief, MMB, to the Director.

(f) **Award of Protest Costs**

(1) GAO may recommend that UNICOR pay interested party protest costs including costs of filing and pursuing the protest, reasonable attorneys' fees, and bid and proposal preparation.

(2) Before paying a recommended award of protest costs, documentation is to be forwarded to the Chief, MMB, for consultation with the Office of General Counsel.

33.106 - Solicitation Provision and Contract Clause

The Contracting Officer will complete the Service of Protest clause (FAR 52.233-2) by inserting the following information in the space provided in Subpart a):

Chief, Material Management Branch
UNICOR/Federal Prison Industries
400 First Street NW
Washington DC 20534

SUBPART 33.2 - DISPUTES AND APPEALS

33.211 - Contracting Officer's Decision

(a) In addition to the requirements stipulated in the FAR 33.211(a)(4)(v), the Contracting Officer is to incorporate that this decision may be appealed to the:

Department of Transportation Board of Contract Appeals
(DOTBCA)
Nassif Building
400 Seventh Street SW
Washington DC.

(b) The Contracting Officer's proposed decision must be forwarded through the Chief, MMB, to the Commercial Law Branch, Office of General Counsel. If approved, the decision will be returned to the Contracting Officer for issuance.

33.212 - Contracting Officer's Duties Upon Appeal

If the Contracting Officer's decision is appealed, the Contracting Officer must:

- (a) Immediately notify the Chief, MMB.
- (b) Prepare and forward a draft copy of the Agency Report through the Chief, MMB, to the Office of General Counsel, Commercial Law Branch, 15 days prior to the response due date.
- (c) Provide data, documentation, information, and support as the Chief, MMB may require, for use on a pending appeal as a result of the Contracting Officer's decision.

PART 36

CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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Part 36. - CONSTRUCTION AND ARCHITECT-ENGINEER (A&E) CONTRACT

SUBPART 36.1 - GENERAL

36.101 - Applicability

Construction and A&E contracts are also subject to the requirements in other parts of this Program Statement. Also they are subject to Bureau regulations and should be forwarded immediately to the Facilities Department.

36.103 - Methods of Contracting

(a) Construction Contracts

(1) For all construction projects procured under Simplified Acquisition Procedures, the solicitation response time must be sufficient for all interested parties to have sufficient time to review the requirements and submit a quote, offer, or bid. A minimum of 10 working days is to be allowed for submitting any quote, offer, or bid. The Contracting Officer must justify in writing or complete a J&A (if required under UAP and FAR part 6) if the solicitation due date is less than 10 days after issuance.

(2) All construction requirements exceeding \$2,000, but less than the simplified acquisition threshold, must be solicited using the Request for Quotations (SF-18) or SF-1449.

(3) For awards made using Simplified Acquisition Procedures, a construction contract file may become very voluminous. A duplicate file is to be established containing the same documentation as the purchase order file and any additional construction-related documentation such as the Davis Bacon Act wage rates, COTR reports, and other submissions.

(b) A&E Contracts. A&E services will be acquired in accordance with applicable laws and FAR 36.6. The procurement authority for A&E services will not be delegated below the Chief of National Contract Acquisitions, MMB, UNICOR, unless the Chief, MMB authorizes it specifically both in advance and in writing. The selection of firms for A&E contract negotiations must be in accordance with the Brooks Act, (See Public Law 92-582, as amended).

SUBPART 36.2 - SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

36.201-70 - Evaluation of Contractor Performance

(a) The Contracting Officer's Technical Representative (COTR) is to prepare the contractor performance evaluation reports in accordance with FAR 36.201.

(b) After a report has been prepared, the COTR forwards the original and two copies to the Chief, MMB, who reviews each to ensure its completeness and accuracy. The report is then forwarded to the Contracting Officer with comments. The Contracting Officer must assign a final rating and submit a copy to the Chief, MMB, and to the COTR. If the contractor receives an unsatisfactory report, the procedures at FAR 36.201(a)(3) must be followed.

(c) Any correspondence received from the evaluated contractor should be forwarded to the Chief, MMB, and a copy retained with the original evaluation.

36.202-70 - Specifications

(a) Prior to issuing a solicitation or request for quotation for construction, the Contracting Officer must have written documentation certifying all specifications and drawings have been approved by the Facilities Management and/or Product Support Center as appropriate. This certification is to be included in the pre-award file.

(b) The Contracting Officer will review the specifications to ensure no ambiguous language exists and that specifications will not unduly restrict competition to include Brand Name or Equal Provisions referenced in the JAR.

(c) Specifications in A&E contracts must comply with FAR Part 11, and are to promote full and open competition.

36.203-70 - Government Estimate of Construction Costs

(a) The institution Factory Manager or designee is responsible for providing the Contracting Officer with an independent government cost estimate. The estimate must be prepared in accordance with FAR 36.203, and furnished to the Contracting Officer prior to initiating the acquisition.

(b) The independent government cost estimate (IGCE) must be treated as confidential and is to be disclosed only to FPI personnel on a "need to know" basis. Before releasing the

Government cost estimate, the Contracting Officer must consult with his or her immediate supervisor. Anyone having access to the IGCE is to be considered a Procurement Official.

36.206 - Liquidated Damages

(a) Contracting Officers will be guided by the provisions of FAR 11.5 in establishing liquidated damages.

(b) When the contract provides for liquidated damages and the contractor does not complete the work within the specified time, including any extensions of contract time because of stop-work orders, modifications, etc., the amount assessed for liquidated damages is to be deducted from the final payment and the contractor so advised.

36.206-70 - Liquidated Damages Justification

Before including liquidated damages in a construction contract, the amount must be justified in writing to the Chief, MMB. The Chief, MMB makes the final determination of the liquidated damages amount to include in the solicitation.

36.209 - Construction Contracts with Architect-Engineer (A&E) Firms

Prior approval will be obtained before awarding a construction contract to the A&E firm, or its subsidiaries or affiliates, that designed the project. Request for approval will be by memorandum to the Chief, MMB.

36.210-70 - Inspection of Site and Examination of Data

(a) In addition to the requirements of FAR 36.210, the Contracting Officer will make available the requirements for security and investigative procedures that apply under the contract (Human Resource Management Manual).

(b) Contracting Officers should hold a pre-bid conference to brief prospective bidders on complicated specifications, institution security requirements, and to allow them an opportunity to examine data and inspect the construction site (see FAR 14.207). Pre-bid conferences should not be used as a substitute to amend defective or ambiguous specifications. However, the conference may result in the discovery of defective specifications that must be corrected by an amendment to the solicitation.

Since all interested parties may not attend the conference,

it is essential that conference minutes be recorded and distributed to all interested parties to the solicitation. A cover letter is to be issued with the minutes which are to state the purpose of providing the minutes is for informational - purposes only and not intended to change any specifications, terms, or conditions of the solicitation. Any changes to the solicitation will be issued in subsequent amendments.

36.212 - Preconstruction Orientation

Prior to the start of construction, the Contracting Officer will call a conference with the contractor, subcontractor(s), AW I&E/SOI, Business Manager, Safety Manager, Architect-Engineer, Project Representative, Captain, and other interested personnel to discuss:

- ! statutory labor standards,
- ! prevailing wage requirements,
- ! submission of contractor payrolls,
- ! sub-contractors' responsibilities,
- ! institution work schedules,
- ! local policies,
- ! contraband, and
- ! parking and storage of vehicles and equipment, etc.

Minutes of the conference will be kept, listing the names and titles of all in attendance and the subject matter of all items covered. At least the contractor and the Contracting Officer are to sign the minutes, and a signed copy filed with the contract.

36.213-1 - General

(a) **Payroll Investigations.** The prime contractor is responsible for submitting to the Contracting Officer weekly payrolls on all work performed under the contract as required by the Department of Labor's Labor Standards for Contracts involving Construction. The Contracting Officer is responsible for ascertaining that the contractor has posted a completely legible

copy of the prevailing Wage Determination and posters entitled, "Equal Employment is the Law," in an area where workers can see them.

Throughout a construction project, the Contracting Officer or an authorized representative, will interview randomly selected employees as representative of various classifications and trades currently employed on the projects to assure compliance with the contract's labor provisions. Data obtained in these interviews will be used to examine the certified payrolls the contractor submits.

A memorandum of the interviews showing project number and name, date, employer, employee, classification or trade, period of apprenticeship (if applicable), hourly rate of pay, and comments, will be attached to the applicable payroll. Interviews should not be held in the presence of the employer or a representative, and the purpose and need for the interview should be explained to the employee being interviewed.

Projects of short duration (six months or less) will be investigated before the work is accepted, if feasible. For contracts which extend over a long period of time, the investigation will be made with such frequency as may be necessary to assure compliance with statutory labor standards, procedures, and prevailing wage requirements.

(b) **Chronological Record of Progress.** For each construction project, the institution COTR or Project Representative monitors the operations and maintains a complete record of progress under the contract. This record of progress is to become a part of the official contract file. A record sheet will be established to show the essential progress information in chronological order under the following:

- ! contract number,
- ! name and address of contractor,
- ! brief description of the project,
- ! contract price,
- ! date of contract,
- ! time required for completion,
- ! time contractor received notice to proceed, and
- ! dates and durations of stop-work orders, if any, issued by the government.

The record should be so complete that no question should be left in doubt if the contractor claims an extension of contract time, or remission of liquidated damages, etc. It is expected that the COTR or Project Representative monitoring the contractor's work will report to the Contracting Officer whenever:

(1) The work is not proceeding on schedule. Then, the contractor should be put on notice in writing by the Contracting Officer with copies to the Chief, MMB, the surety providing bonds, and the contract file;

(2) It appears that a modification to the contract may be required, e.g., change orders, stop-work order, time extension, etc; or

(3) It appears that the contract work is not being accomplished according to specifications. Then, the contractor should be put on notice in writing with copies furnished to the Contracting Officer, the Chief, MMB, the surety providing the bonds, and the contract file.

36.213-3 Invitation for bids

(a) **Wage Determinations.** One of the prerequisites to prepare a construction invitation anticipated to exceed \$2,000 is to obtain wage determinations from the Department of Labor at least 30 calendar days before they are required for use in advertising.

Due to the urgency of some projects, it may be necessary to issue a construction invitation before the wage determination can be obtained from the Department of Labor. Then, a notice must be included in the schedule that minimum wage rates will be issued as an amendment to the invitation.

Modifications. Any wage determination modification published in the Federal Register, or received by the agency less than 10 calendar days before the opening of bids, may be disregarded unless it is determined that such a modification reasonably can be furnished to bidders through an amendment in time to be considered while preparing their bids.

SUBPART 36.6 - ARCHITECT-ENGINEER SERVICES

36.602 - Selection of Firms for Architect-Engineer Contracts

36.602-1 - Selection Criteria

UNICOR will evaluate each potential architect-engineer (A&E) firm in accordance with the selection criteria outlined in FAR 36.602-1.

36.602-2 - Evaluation Boards

The Chief, MMB, will appoint evaluation board members for Architect-Engineer (A&E) services that consist only of members who, collectively, have experience in only architecture, engineering, construction, and related acquisition matters. The evaluation board should consist of a minimum of three members, one of whom is the Chief of National Contract Acquisitions, MMB, who will act as chairperson.

36.604 - Performance Evaluation

The Project Representative is to prepare the Architect-Engineer performance evaluation report in accordance with procedures outline in FAR 36.604. The report will be prepared at the time of final acceptance of the work, or at the time of contract termination.

Performance evaluation reports will be prepared for each Architect-Engineer contract of more than \$25,000 and for all contracts when the performance is unsatisfactory.

After the report has been prepared, a copy will be retained with the A&E's SF-254/25 (Architect-Engineer and Related Services Questionnaire), and the original Performance Evaluation-Architect-Engineer (SF-1421) is forwarded to the Chief of National Contract Acquisitions, who forwards it to the Contracting Officer for filing with the original contract.

Once the report has been approved, the Contracting Officer must forward a copy to both the Chief, MMB, and the Chief of National Contract Acquisitions.

PART 37

SERVICE CONTRACTING

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PART 37. - SERVICE CONTRACTING

SUBPART 37.1 - SERVICE CONTRACTS - GENERAL

37.102 - Policy

Applicable statutes and government-wide regulations provide that requirements for personal services will generally be satisfied only by appointing individuals in accordance with Office of Personnel Management (OPM) regulations. These statutes and regulations may not be circumvented by contracting for personal services. However, contracts for professional non-personal services, properly written and administered, represent an approved means for accomplishing UNICOR programs and objectives.

Advertising in the Commerce Business Daily for non-personal services contracts may not generate sufficient competition, particularly in small communities. Therefore, Contracting Officers are encouraged to use the local advertising media to further enhance competition, in accordance with FAR Part 5.1 and UAP 5.5.

37.103 - Contracting Officer Responsibility

(a) The Contracting Officer is responsible for ensuring a proposed contract for services is proper. The Contracting Officer must:

(1) Obtain from the Requisitioner a completed Justification for a Part-Time and Fee Contract (Located within the TRM Part 37(a));

(2) Determine whether the proposed service is for a Personal or Non-personal Services contract using the definitions in FAR 37.101 and the guidelines in FAR 37.104; and

(3) Submit all Non-personal Service requirements which exceed 30 hours per week to the Chief, MMB, for approval.

(b) Prior to award, the Contracting Officer will obtain from the Personnel Officer or the appropriate Requisitioner, written assurance that investigative procedures have been accomplished pursuant to the Human Resource Management Manual. The Contracting Officer will ensure each prospective contractor is advised that a urinalysis test is required (for detection of

drug or marijuana usage) before the contract is awarded. If the test is positive, the contractor will be disqualified from being awarded the contract.

(c) Security requirements outlined in the Human Resource Management Manual apply to all services performed inside the institution, and certain other services performed outside the institution when covered under other Program Statements. The Contracting Officer will ensure prospective contractors agree to investigative procedures by incorporating the following requirements into the solicitation/proposal package:

- (1) NCIC (National Crime Information Center) check;
- (2) DOJ-99 (name check);
- (3) FD-258 (fingerprint check);
- (4) Law Enforcement Agency checks;
- (5) Vouchering of Employers over past five years;
- (6) Resume/Personal Qualifications;
- (7) OPM-329-A (Authority for Release of Information);
- (8) NACI check (if applicable)

(d) To maintain its Non-personal status, the statement of work or contract should contain such provisions as:

- (1) It is a contractual arrangement and not a personnel appointment;
- (2) Payment is based on the provision of an end product or the accomplishment of a specific result;
- (3) Contractor will not be subject to government supervision, except for security-related matters. However, Contractor performance must be monitored closely; and
- (4) The service does not constitute an employer/employee relationship.

(e) It is the Contracting Officer's responsibility to ensure each contract file contains documentation of actions taken with respect to each contract, including final disposition. To ensure contractors comply, the Contracting Officer is to monitor contracts. The COTR may be appointed in accordance with JAR 2801.70. The recommended clause to delineate COTR responsibility and authority is found in JAR 2852.201-70.

37.103-70 - Requisitioner Responsibility

The Requisitioner is responsible for the following:

(a) **Determination of Need.** Within the acquisition lead times established in Part 7, the requisitioner must submit to the Contracting Officer an RFP (for requirements of less than \$25,000), or an RCA (for requirements exceeding the small purchase limitation), and a completed Determination of Need (See TRM Part 37(a)). The request must address the following:

(1) **Purpose of Contract;**

(2) **Identification of Suggested Resources.** The requisitioner must identify potential contract resources. Suggested contract resources may be located by checking local telephone directories or soliciting universities, trade schools, and current contractors.

(3) **Description of Services/SOW.** The requisitioner must prepare an SOW. The SOW will provide, as a minimum, a specific description of the tasks to be performed, by what methods, and when. The SOW must not be so narrow as to restrict competition unduly, or to restrict the contractor's efforts; nor so broad as to permit the contractor to stray into peripheral areas in performing the required work.

(4) **Evaluation Selection Criteria.** When a contract for services is to be acquired through procedures other than Sealed Bidding or lowest price, the requestor must provide evaluation selection criteria as outlined in FAR Part 15.

(5) Reasons why services cannot be accomplished by OPM positions already assigned;

(6) Academic, experience, and/or special qualifications required;

(7) Management, consultant, advisory, evaluative, or analytical services to be provided;

(8) Reasons for determining that services to be provided are to be unsupervised and non-personal in nature;

(9) **Cost Estimate.** Cost information for an existing contract is usually based upon the prior year's experience, if any, e.g., cost of operating the previous year plus any economic or requirements adjustments. With no prior year's experience, the requisitioner will estimate the cost based upon experience

with established contractors and an estimate of required work;

(10) A determination made by the requestor that the proposed service is proper for a non-personal services contract using the definitions in FAR 37.101 and the guidelines in FAR 37.104.

(b) The requisitioner who receives the contractor's services is responsible for conducting the appropriate vouchering and coordinating law enforcement checks as well as ensuring that the appropriate fingerprinting and urinalysis testing is completed in accordance with the Human Resource Management Manual to include:

- (1) NCIC (National Crime Information Center) check;
- (2) DOJ-99 (name check);
- (3) FD-258 (fingerprint check);
- (4) Law enforcement agency checks;
- (5) Vouchering of employers over past five years;
- (6) Resume/Personal Qualifications;
- (7) OPM-329-A (Authority for Release of Information);
- (8) NACI - (if applicable)

37.112-70 - Government Use of Private Sector Temporaries

"Temporary Private Sector Services" are defined as temporary help acquired from temporary help service firms meeting short term temporary work needs (5 CFR Part 300).

(a) **Allowable Services.** Temporary services may be contracted through the private sector to replace temporarily any service provided by a Civil Service position assigned at the contracting office location or its satellite operations. Positions classified as managerial, supervisory, and/or consultants may not be filled by temporaries.

(b) Criteria Requirements

(1) One or more of the following short-term situations must exist:

(i) Unforeseen personal need (including illness, parental, or family responsibilities);

(ii) Mandatory jury duty;

(iii) Permanent change of duty for the benefit of the government;

(iv) Work critical to the operation which, in the judgement of the agency, cannot be delayed; or

(v) The need cannot be met with current staff or "appointment" of temporary employees.

(2) The services **are not**:

(i) In lieu of regular recruitment and hiring procedures under Civil Service Law;

(ii) To displace a federal employee;

(iii) To supplement current staffing above authorized position guidelines; or

(iv) Creating an employer-employee relationship or appearance of such relationship.

(c) **Contract Period**

(1) Time limit on use of temporary help service firm. A location may use a temporary help service firm(s) in a single situation, as defined in 5 CFR 300.503, initially for no more than 120 workdays. Provided the situation continues to exist beyond the initial 120 workdays, the location may extend its use of temporary help services up to the maximum limit of 240 workdays. The extension must be approved by the Chief, MMB.

(2) Time limit on use of individual employee of a temporary help service firm.

(i) An individual employee of any temporary help firm may work at a major organizational element headquarters or field of an agency for up to 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment.

(ii) An agency may make an exception for an individual to work up to a maximum of 240 workdays only when the agency has determined that using the services of the same individual for the same situation will prevent significant delay. The Chief, MMB, must approve any extension.

(d) Acceptable Service Provider (firm)

(1) A "Temporary Help Service Provider" is an entity that can provide clients or customers specific services for brief or intermittent periods by its employees. The "provider" must be the employer legally responsible for recruiting, testing, hiring, training, assigning, paying (including benefits, leave, payroll deductions, taxes), disciplining, and providing unemployment insurance, worker's compensation, liability insurance, and bonding.

(2) A "Temporary Help Service Provider" **is not** an individual person.

(e) Administrative Clearances Required

(1) The initial 120 work day contract period is to be in the form of a memorandum from the AW I&E/SOI to the Chief, MMB, for approval. Approval to authorize such temporary services must be in writing from the Chief, MMB.

(2) Extension periods (not to exceed 120 workdays) must be submitted in the form of a memorandum from the AW I&E/SOI to the Chief, MMB.

(f) Justification requirements. A "Justification for Private Sector Temporary Service", is to accompany all requests for approval of temporary services (See TRM Part 37(b)).

SUBPART 37.2 - Advisory and Assistance Services

37.200-70 - Policy

Advisory and Assistance Services are to be acquired in accordance with the FAR 37.2. Advisory and Assistance is to be obtained from organizations and persons outside the Federal Government only when these services or special abilities are necessary and are not available from DOJ or other Federal Agencies.

37.200-71 - Management Controls

The Director must approve procurement actions for Advisory and

Assistance contracts, regardless of value, in advance of issuance of the solicitation. All requests for approval must have the concurrence of the CEO (Deputy Assistant Director for Central Office), and be forwarded to the Chief, MMB.

Former government or Bureau/UNICOR employees will not be given preference in Advisory and Assistance Services arrangements.

37.202 - Exclusions

UNICOR has determined administratively the following services are not considered Advisory and Assistance Services:

- (a) Intergovernmental and Interagency Agreements
- (b) Educational or Vocational Services (e.g. V.T. Instructors)
- (c) ADP Services

37.204-70 - Requesting Activity Responsibilities

Requisitioners having a requirement for Advisory and Assistance Services contracts must submit all documents listed in this section to the Contracting Officer.

- (a) A statement certifying the requirement is for Advisory and Assistance Services;
- (b) Written justification of need and certification that such services do not duplicate any previously performed work or services unnecessarily. The Assistant Director, FPI signs the certification.
- (c) Complete Statement of Work and evaluation criteria;
- (d) Justification for Other than Full and Open Competition (if required);
- (e) The name of a contract monitor who will ensure the following:
 - (1) The services were used as intended;
 - (2) The services met original objectives;
 - (3) The costs were in accordance with initial estimates; and

(4) Purchase Request, Advance Procurement Plan and funds availability.

(f) Written approval of the Director

Use of Attachments:

(a) Attachment 1-A, Justification for a Part-Time & Fee, must be used for all Service Contracts, excluding Temporary Private Sector Services. Located in the TRM Part 37(a).

(b) Attachment 2-A, Justification for Private Sector Temporary Service, must be used for temporary help services provided by a private firm for a short-term period of time. Located in the TRM Part 37(b).

PART 42

CONTRACT ADMINISTRATION

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PART 42 - CONTRACT ADMINISTRATION

SUBPART 42.3 - CONTRACT ADMINISTRATION FUNCTIONS

The procedures listed below provide for the effective administration of purchase/delivery orders for acquiring raw materials and supplies required to support factory operations. These procedures do not waive UNICOR's right to perform any other available administrative remedies under a contract.

(a) The Chief, MMB, has direct overall responsibility for administration of all UNICOR contracts. The AW/SOI has direct overall responsibility for the administration of purchase orders placed at their respective factory(s). Each AW/SOI is to delegate specified duties to ensure that an effective administration process is in place to ensure vendor performance.

(b) Consideration may be taken only by a warranted Contracting Officer. Factory Contracting Officers may take consideration on purchase orders they issue. Consideration on delivery orders is to be taken by the Central Office Contracting Officer in response to a Request for Contract Administrative Action (RCAA).

(c) A written notification (See TRM Part 42(a)) must be sent to the vendor with each purchase/delivery order that has a delivery lead time in excess of 14 days. The vendor's acknowledgment response, via facsimile or mail, must include signature, date, and a statement indicating unconditional acceptance of the order.

Using log records, Contracting Officers are to identify and contact vendors failing to reply within five days to verify order receipt and acceptance. Vendor acknowledgments are to be filed in the purchase order file.

(d) A report indicating purchase/delivery order due dates within the next 30 days may be generated. As deemed appropriate, vendors identified on the report may be issued a written reminder (See TRM Part 42(b)) of their specific delivery requirements.

Upon receiving the reminder, the vendor is expected to provide written notification to the Contracting Officer if a late delivery is anticipated. Prompt administrative action is to be taken if the vendor cannot meet the terms and conditions of the

order. Any correspondence received from a vendor in regards to this notice is to be documented on the initial log (See TRM Part 42(e)).

(e) A Past-Due Purchase Order Report is to be generated at least weekly to identify vendors with delinquent orders. A notification letter, sent via facsimile and requiring immediate response, must be sent to any vendor with a delinquent order (See TRM Part 42(c)). The vendor is required to provide specific reasons for noncompliance with the terms and conditions of the order.

If a reply is not received from the vendor within two days after issuance of notice, the Contracting Officer is to contact the vendor verbally and record the results of the conversation. The record of conversation is to be inserted in the purchase order file.

(f) Unless there is an excusable delay, the Contracting Officer must decide what action is necessary to ensure an acceptable delivery of supplies. The Contracting Officer must decide if taking consideration is warranted. Evaluation factors the Factory Contracting Officer uses to determine the amount and method of consideration should include, but are not limited to:

- ! severity of the delinquency,
- ! frequency of previous delinquent orders, and
- ! actual damages from the delinquency such as liquidated damages from UNICOR customers.

Prior to taking consideration for a late order, bilateral negotiations must commence with the vendor to reach agreement for the amount of consideration (See TRM Part 42(d)). If a bilateral settlement cannot be reached, the Factory Contracting Officer is to make a unilateral, fair, and reasonable determination as to the nature and amount of consideration to be taken. A brief summary of the negotiations is to be included in the purchase order file.

The purchase order is to be modified to reflect any consideration taken. The amount of consideration is to be set-off prior to making payment to the vendor.

(g) For delivery orders, the same follow-up system is to be used to obtain the status of the order. After the vendor responds to the past-due delivery order notification and additional administrative action is appropriate, the Factory Contracting Officer must submit a Request for Contract Administrative Activity (RCAA) immediately to the Central Office

Commodity Supervisor with a copy to their respective Contracting Officer via electronic mail.

The RCAA is to state the specific contract, vendor, delivery order, and specific vendor problems to include any communication or written correspondence with the vendor. As part of the RCAA submittal, the Factory Contracting Officer must also recommend the type and amount of consideration to be taken. The Central Office Contracting Officer must advise the Factory Contracting Officer by electronic mail within three working days as to the nature of any administrative action contemplated and projected completion date.

The Deliver Order must be modified to reflect and consideration taken. The amount of consideration is to be set-off prior to the making of payment to the vendor.

SUBPART 42.15 - CONTRACTOR PERFORMANCE INFORMATION

42.1501 - General

Contractor performance reports are mandatory for contracts exceeding \$100,000.

(a) The Central Office Contracting Officer is responsible for initiating the Contractor Performance Report. He or she must review data field locations submit and prepare the final Contractor Performance Report using the automated contracting system.

(b) The AW/SOI has direct overall responsibility to ensure that information related to contractor past performance on UNICOR contracts at their factory(ies) is compiled effectively and submitted within the time frames specified.

(c) The Field Contracting Officer coordinates the gathering of field level information. He or she is to document incidents relevant to contractor performance on individual orders, either in the purchasing file or electronically in the PAS system.

When notified by the Central Office Contracting Officer that a Contractor Performance Report is required, he or she must prepare and submit the report using available documentation as the basis for the contractor ratings and comments.

(d) A Contractor Performance Report is to be prepared when the work under each contract is completed. The report is to be completed as part of the closeout process. Contractor evaluations are to be completed using the Contractor Performance Evaluation in the SACONS contracting system.

(e) Reports are to be initiated by the Central Office Contracting Officer and completed prior to final closeout.

(f) The Central Office Contracting Officer is to request input from the field by notifying the Contracting Officer at each field location using the contract. This report is required from each Field Contracting Officer at each location using the contract. The Field Contracting Officer must obtain input from Factory staff, Quality Assurance, the COTR, and the AW/SOI and complete the report consistent with the rating guidelines (See TRM Part 42(f) and (g)). Comments summarizing the contractor's performance during the contract term must support the ratings. The completed ratings must be transmitted via E-mail or fax, to the Central Office Contracting Officer within 10 calendar days of receipt.

(g) The Central Office Contracting Officer is to review the reports each field location submits and complete a single Contractor Performance Report based on the data submitted by the field and his or her own rating of the contractor. The report is to be completed within 10 calendar days of receiving the field data.

This report is to be submitted to the contractor requiring their comments in the form of a letter. Contractors are to be required to return the reports within 10 calendar days of receipt. After receiving the contractor's comment, the Contracting Officer is to re-assess the original rating and enter the final rating. The contractor's comments must be attached to the report and filed in the contract file.

(h) If the Contractor disagrees with the rating given, the Commodity Supervisor is to review the report and comments. Documentation supporting field report data is to be requested if

the Commodity Supervisor determines it to be necessary. If the contractor does not respond with comments within the allotted time it is to be noted on the final report.

(i) Past performance is to be used as an evaluation criteria to the fullest extent possible for contracts estimated above \$500,000. If the Contracting Officer determines that past performance does not apply to the requirement, the contract file is to be documented with a Determination and Finding approved by the Chief, MMB, Deputy Chief or MMB Chief of Operations.

(j) When evaluating contractors prior to award, the Contracting Officer must consider:

- ! contractor ratings from the Contractor Performance Report database,
- ! contractor history with other agencies, and
- ! interviews with factory staff having knowledge of the contractor.

PART 43

CONTRACT MODIFICATIONS

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PART 43 - CONTRACT MODIFICATIONS

SUBPART 43.2 - CHANGE ORDERS

43.204-70 - Administration

The following procedures are to be followed when documenting Change Orders, Supplemental Agreements and Modifications to contracts:

(a) Contract modifications may be issued by a Contracting Officer with the signatory and contractual authority for the dollar value of the modification.

(b) If the Contracting Officer determines that it is necessary to issue a Change Order and the estimated price of the work cannot be determined, the Contracting Officer must include a "Not to Exceed Price" and a detailed schedule on the Change Order. This type of contract modification is to be used only if agreement cannot be reached at the time of the modification's execution. Availability of funds for the "Not to Exceed Price" must be certified for the modification.

(c) After issuing a Change Order, as described in (c) above, the Contracting Officer is to negotiate a fixed price as soon as it is possible to determine the costs involved. Upon concluding negotiations, the Contracting Officer is to issue a Bilateral Modification to establish a definitive agreement.

(d) Should the Contracting Officer be unable to negotiate an equitable adjustment to determine the price of a Change Order, the Contracting Officer may issue a Unilateral Modification to the contract to add cost and/or time considered to be fair and reasonable compensation for the supplies received or services performed. If the contractor does not agree with this settlement, the procedures outlined in UAP Part 33 should be followed.

(e) All modifications are to be numbered consecutively without regard to whether the modification is unilateral or bilateral.

(f) All modifications the MMB executes are to be processed in the automated contracting system.

PART 49

TERMINATION OF CONTRACTS

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PART 49. - TERMINATION OF CONTRACTS

SUBPART 49.1 - GENERAL PRINCIPLES

49.101-70 - Authorities and Responsibilities

(a) **Authority to Terminate.** Only the administrative Contracting Officer listed in the contract may terminate a UNICOR contract. Ordinarily, termination of a contract will be made as a last resort. The Contracting Officer is to attempt to effect a no-cost settlement if circumstances are appropriate.

(b) **Written Concurrence Required.** All contract terminations, whether for default or convenience, and all contract settlement agreements must receive **prior written** concurrence as follows:

Central Office Contracts. The termination or settlement of a Central Office contract may only be made with the concurrence of the Chief, MMB, and the Office of General Counsel.

49.106-70 - Fraud or Other Criminal Conduct

Suspected fraud or other criminal conduct related to the settlement of a terminated contract must be reported to the Chief, MMB.

SUBPART 49.2 - ADDITIONAL PRINCIPALS FOR FIXED-PRICE CONTRACT TERMINATED FOR CONVENIENCE

49.201-70 - Terminations for the Convenience of the Government

Procedures for terminations for convenience are:

(a) Terminations for Convenience for awards for Commercial Items under Clause 52.212-4(1) and under FAR Subpart 12.403(d):

(1) Commercial Items contracts will be paid a percentage of the work performed prior to termination.

(2) Any charges the contractor can demonstrate using its record keeping system, not necessarily complying with the Cost Accounting Standards Board. Note that the Government does not have the right to audit.

(b) All other terminations for convenience for all other contracts are contained under FAR Subparts 49.1, 2, and 3. The notice of termination for convenience must state, per FAR 49.102:

- (1) The contract is being terminated
- (2) The effective date
- (3) Extent of termination
- (4) Any special instructions

(5) The steps the contractor should take to minimize the impact on personnel if the termination, together with all other outstanding terminations, will result in a significant reduction in the contractor's work force.

(c) The notice must be sent by certified mail with receipt. Following the notice, these steps (as applicable) will be taken:

- (1) Initial conference with the contractor regarding the settlement
- (2) Preparation and submission of inventory schedules by contractor
- (3) Disposal of termination inventory
- (4) Submission of a settlement proposal: Inventory Basis or Total Cost Basis
- (5) Final settlement will be submitted not-later-than one year following notice of termination.
- (6) An audit report (contracts more than \$100,000)
- (7) Settlement negotiation
- (8) Settlement agreement
- (9) Settlement negotiation memorandum

Note that terminations for cost reimbursement, educational, and nonprofit organizations are generally the same as termination for convenience for supply contracts (see 49.3 and 49.403 for cost contracts).

SUBPART 49.4 - TERMINATION FOR DEFAULT

49.402-70 - Terminations for Default

(a) **Procedures for Termination for Default or Cause.** For those contracts not awarded under Commercial Item Purchasing, Termination for Default is appropriate. For those contracts awarded under Commercial Item Purchasing, Termination for Cause is appropriate.

(b) **Terminations under Simplified Acquisition Procedures (SAP)**

(1) Purchase Orders (PO) may be canceled in writing under FAR Subpart 13.302-4. If the PO has not been accepted or if the contractor does not claim costs, no further action is required. If the contractor does claim costs, the Contracting Officer (CO) is to process this action as prescribed in Part 49.

(2) Termination for Cause is appropriate for awards made for Commercial Items. Subpart 12.403 requires a written notification that:

- (i) Contract is terminated
- (ii) Reasons for termination
- (iii) Remedies intended by the Government
- (iv) Notice that this is a final decision

(3) Legal counsel should be consulted prior to issuing the termination notice. Note that a Cure Notice must be sent for any reason besides failed delivery(ies). FAR Clause 52.212-4 specifies the Government's right to terminate Commercial Items.

(c) **Termination for Default.** This procedure is to be used for all other awards **not** made under SAP or Commercial Item purchases.

(1) Subpart 49.4 specifies the procedures that either must be taken or may be taken. If the situation does not involve failed deliveries (i.e., not furnishing a bond) the CO must issue

a cure notice (see the format at 49.607). For those situations involving failed deliveries, the CO **may** issue a cure notice when it may appear that the Government is waiving its rights.

(2) When a termination for default is determined appropriate, the CO must send a Show Cause Notice (see 49.607). When a small business is involved, a copy of the cure or show cause notice will be sent to the Small Business Regional Office and the agency's (UNICOR) small business specialist (Richard Broadwater, Chief of Acquisitions).

(3) In accordance with 49.402-3(g) the notice of termination must include:

1. contract number and date,
2. acts or omissions,
3. contractor's right to proceed is terminated,
4. supplies may be purchased against the contractor's account and held liable for any excess costs, and
5. the right to appeal under the Disputes Clause.

Note that the distribution of the termination notice is the same as the contract's. Terminating construction contracts will be reviewed to determine if the materials and appliances on the site are needed.

(d) In all termination situations a memo to the file is to be prepared explaining the reasons for this action. The proposed terminations for default or cause will be reviewed by the commodity group supervisor and routed for review as required.