

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 21-75

Date Received: 21 June 21

Title: Economically Disadvantaged Women-Owned Small Business (EDWOSB) Set-Asides - Policy

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Policy and Guidance: (check all that apply)

- ☒ Policy
- ☐ Guidance
- ☐ Procurement Forms, Templates and Samples
- ☐ Real Property Templates and Samples
- ☐ Procurement Clauses
- ☐ Real Property Clauses
- ☐ Other FAST Tools and Resources

Summary of Change: Incorporation of language providing for possible Economically Disadvantaged Women-Owned Small Business (EDWOSB) set-asides.

Reason for Change: Expand the FAA's acquisition strategy options as well as increase the FAA's ability to meet its socioeconomic small business goals.

Development, Review, and Concurrence: AAP-20/AGC-500/AAQ/AAP-110

Target Audience: Program offices and contracting personnel

Briefing Planned: 6/24/21 ASAG & AEB Awareness.

ASAG Responsibilities: None.

Section / Text Location: 3.2 and 3.6

The redline version must be a comparison with the current published FAST version.

☒ I confirm I used the latest published version to create this change / redline

or

☐ This is new content

Links: https://fast.faa.gov/AMS_Policy.cfm

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s):

Section Revised: 3.2 – Contracting

Acquisition Management Policy - (~~4/2021~~/7/2021)

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3.2 Contracting

3.2.1 Procurement Planning

3.2.1.1 Applicability Revised 4/2021

Written procurement plans are required for all FAA procurements except purchase card transactions and transactions less than \$25,000. The specific content of a procurement plan may vary depending on the complexity of the procurement. The procurement planning templates in AMS must be used. For procurements of services, supplies, construction and real property related services, Template A must be used for all simplified and commercial procurements. Template B must be used for all procurements other than simplified acquisitions. Template C must be used for all complex real property procurements.

3.2.1.2 Policy Revised 11/2009

Procurement planning is an indispensable component of the total acquisition process. Service organizations are expected to use procurement planning as an opportunity to evaluate/review the entire procurement process, so that sound judgments and decision-making will facilitate the success of the overall program. For procurements not covered by an implementation strategy and planning document, procurement planning should be appropriate and proportionate to the complexity and dollar value of the requirement.

3.2.1.2.1 Market Analysis Revised 9/2020

The purpose of market analysis is to initiate industry involvement, develop and refine the procurement strategy, identify potential sources that are able to meet FAA's requirements, obtain price information, determine whether commercial items exist, determine the level of competition, identify market practices, or obtain comments on requirements. The magnitude and degree of formality of the market analysis should be proportionate to the contemplated procurement. The market analysis may be as simple as a telephone call or as formal as a market survey, advertisement, or real property site visit to learn of industry or market capabilities. All market analyses, formal or informal, should be appropriately documented.

3.2.1.2.2 Procurement Plan Revised 4/2013

A plan for each contemplated procurement or class of procurements should address the significant considerations of the procurement action. A procurement plan may cover more than one contract. The procurement plan represents the service organization agreement for conducting the procurement. See paragraph 3.2.1.1 for documentation requirements.

3.2.1.2.3 Consideration of Agency Wide Contracts Revised 9/2020

Agency Wide Contracts must be used to the maximum extent possible for products, construction, or

services. The procurement plan must document which agency wide contracts were considered. If an applicable agency wide contract is available for utilization and is not utilized; the procurement plan must include the rationale for not utilizing the existing agency wide contract.

3.2.1.2.4 Independent Government Cost Estimate Revised 9/2020

An Independent Government Cost Estimate (IGCE) is required for any anticipated procurement action (to include modifications) whose total estimated value is \$150,000 or more, except for:

- (a) Modifications exercising priced options or providing incremental funding;
- (b) Delivery orders for priced services or supplies under an indefinite-delivery contract; or
- (c) Supplies or services with prices set by law or regulation.

The Contracting Officer (CO) may require an IGCE for procurement actions (to include modifications) anticipated to be less than \$150,000.

3.2.1.3 Guidance and Principles Revised 11/2009

For procurements not covered in a program with an implementation strategy and planning document, the following elements should be considered in planning for procurements.

3.2.1.3.1 Development

Preference should be given to using commercial and previously developed items whenever possible. Development of a product, and its associated costs and risks, should be avoided unless necessary to meet FAA needs. If developmental items are required, the need should be documented in the procurement plan.

3.2.1.3.2 Scope of Procurement Revised 9/2020

The scope of a procurement in terms of complexity, period of performance, dollar value, risk, and other factors should be considered in planning a procurement. As the scope of a procurement increases, the risk of unsuccessful management of the procurement also increases. Appropriate trade-offs should consider elements such as: managing a large complex procurement versus several smaller phased procurements; the systems integration role; total systems responsibility; timing of benefits; technological obsolescence; and other related factors.

3.2.1.3.3 Budget Allocation Release

Consideration should be given to releasing contract-related budget information to industry in situations where the procurement involves development or multiple-year funding and is likely to be

conducted competitively. If the service organization decides to release the information, the decision should be identified in the procurement plan.

3.2.1.3.4 Quality Assurance Revised 9/2020

For complex systems or hardware acquisition, the service organization should coordinate with representatives of the Quality Assurance (QA) office as soon as procurement requirements are defined, to establish quality assurance requirements for the proposed procurement.

3.2.1.3.5 Labor Relations

When planning procurements, the service organization should comply with applicable FAA labor relations directives.

3.2.1.3.6 Maintaining Competition Revised 4/2021

Consideration should be given to methods of maintaining competition of any product, real property, construction, or service contract. Methods to be considered may include dual sourcing, obtaining re-procurement data and data rights, open system designs, and any other appropriate methods. For competitive and non-competitive major acquisitions, allow adequate time to conduct appropriate acquisition planning for follow on contracts and re-competition in the event exercise of an option is not determined to be the best value to the government.

3.2.1.3.7 Single-Source Approval Revised 9/2020

In accordance with AMS 3.2.2.4, below, the service organization determines whether the procurement should be conducted on a competitive or single source basis. The decision to contract with a single-source may be made as part of overall program planning. The rational basis must be documented and approved as part of program planning in the Implementation Strategy and Planning Document (ISPD), procurement plan, or as a separate single source justification document. Approval of the ISPD or procurement plan constitutes approval of a single-source procurement. Any rational basis for a single-source award must obtain a review for legal sufficiency per Section 3.2.2.4.

3.2.1.3.8 Pre-Release of Documents Revised 9/2020

Early release of program documents can be an important part of communication with industry. Releasing draft functional requirements, draft specifications, or a draft Screening Information Request (SIR) can be beneficial to industry, as well as the FAA. Early and more complete releases of the SIR and feedback from industry should be part of the procurement planning strategy.

3.2.1.3.9 Reserved

3.2.1.3.10 Reserved

3.2.1.3.11 Public Announcements Revised 6/2006

3.2.1.3.11.1 General Revised 1/2021/7/2021

All procurements anticipated to exceed \$150,000 must be publicly announced on the Internet or through other means. This requirement does not apply to noncompetitive awards to Socially and Economically Disadvantaged Business (SEDB) (8(a)) firms, Service-Disabled Veteran Owned Small Business (SDVOSB) firms, ~~Woman~~Economically Disadvantaged Women-Owned Small Business (EDWOSB) firms, Women-Owned Small Business (WOSB) firms, and Historically Underutilized Business Zone (HUBZone) small business firms; emergency single source actions, purchases from an established Qualified Vendor List (QVL) or Federal Supply Schedule (FSS), exercise of options, or changes. For actions not anticipated to exceed \$150,000, a public announcement is optional if it is not required by 3.2.1.3.11.2.

3.2.1.3.11.2 Procurements Involving Products from Federal Prison Industries Revised 7/2008

All procurements of products available from Federal Prison Industries (FPI) anticipated to exceed \$10,000 must be publicly announced on the Internet or through other means, including procurements where FPI products are determined not to be the best value to FAA at the market survey stage. This requirement does not apply to a procurement that satisfies an exception in AMS Policy 3.8.4.2 (concerning procurement of FPI products).

3.2.1.3.12 OMB Circular A-76, Performance of Commercial Activities.

OMB Circular A-76 (Revised), "Performance of Commercial Activities," establishes Federal policy for the competition of commercial activities. Inherently governmental activities are to be performed with Government personnel, but activities identified as not inherently governmental in nature are to be subjected to competition to determine if such activities should continue to be performed by Government personnel. The FAA will follow the policies of the Circular to the extent that such policies are consistent with FAA's statutory authority.

3.2.1.4 Chief Financial Officer Requirements Revised 1/2011

3.2.1.4.1 Reporting of FAA Assets Revised 9/2020

The Chief Financial Officer Act of 1990 requires FAA to furnish annual financial statements reflecting the assets of the agency to the Office of Management and Budget. To generate information needed for accurate financial statements, service organizations must establish appropriate contract line item structure and billing mechanisms for contracts so the agency can accurately state the value of its assets, and assure related accounting classifications are included on financial documents.

3.2.1.4.2 Chief Financial Officer Approval Added 1/2011

The Chief Financial Officer has approval authority over all proposed procurement actions of \$10 million or more.

3.2.1.5 Disaster or Emergency Preparedness and Response Revised 7/2007

3.2.1.5.1 Local Area Set-Asides for Disaster or Emergency Added 7/2007

The Contracting Officer may set-aside procurements for competition among only offerors residing or doing business primarily in a geographic area where the President has declared a major disaster or emergency.

3.2.1.5.2 Continuity of Services-Mission Critical Contracts Added 7/2007

FAA may designate mission critical contracts that require continued contractor performance during times of National Emergency or Incidents of National Significance, such as pandemic influenza. These contracts must include provisions and contractor plans detailing how essential services or supplies will still be adequately delivered.

3.2.1.5.3 Health Related Emergency Janitorial Services Added 9/2020

When a health-related emergency occurs and is declared by the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) or other authorized Federal, state or local government official, the Contracting Officer is authorized to acquire additional and/or higher level cleaning supplies or services in FAA owned or leased facilities. For FAA facilities leased through the General Services Administration (GSA), the CO must coordinate with GSA's CO to acquire additional cleaning supplies or services as a result of a health related emergency.

3.2.1.6 Review by Chief Information Officer Added 1/2021

The Chief Information Officer must review and approve proposed procurement actions for information technology and service resources that are estimated to exceed \$250,000. For additional information, see AMS Procurement Guidance T3.2.1A.3.

3.2.2 Source Selection

3.2.2.1 Applicability Revised 9/2020

Source selection policy and guidance apply to acquisitions for products, services, construction, and real property. The FAA utilizes various competitive procurement methods reflected in AMS procurement guidance for obtaining products, services, construction, and real property.

The first method is described under Complex Source Selection and is used for complex, large dollar,

developmental, noncommercial items and services, or complex real property acquisitions. This method is typically used for investments approved by the Joint Resources Council and Real Property Council.

The second method is described under Commercial and Simplified Purchases and, is typically used for commercial items or real property related services that are less complex, smaller in dollar value, and shorter term.

3.2.2.2 Policy Revised ~~1/2021~~/7/2021

The FAA procures products, services, construction, and real property from sources offering the best value to satisfy FAA's mission needs. Considering complexity, dollar value, and availability of products and services in the marketplace, the FAA has flexibility to use any procurement method deemed appropriate to satisfy FAA's mission.

The FAA provides reasonable access to competition for vendors interested in doing business with FAA. Competition among two or more sources is the preferred method of procurement. When competition is not feasible, procurements may be on a single source basis if there is a documented rationale for the decision; documentation for this decision is not required for procurements with a total estimated value of \$10,000 or less.

Except for real property and purchase card acquisitions, or those acquisitions subject to AMS 3.8.4.2, acquisitions with a total estimated value exceeding \$10,000 but not over \$250,000 are reserved exclusively for competition among Socially and Economically Disadvantaged Business (SEDB (8(a))) vendors, Service-Disabled, Veteran-Owned Small Businesses (SDVOSBs), ~~Woman~~Economically Disadvantaged Women-Owned Small Business (EDWOSB) vendors, Women-Owned Small Business (WOSB) vendors and/or Historically Underutilized Business Zone (HUBZone) small business vendors, pursuant to AMS policy 3.6.1.3.4. If the CO determines that an SEDB/(8(a)) or SDVOSB set-aside is not in FAA's best interest due to quality, market prices, or delivery, then the decision must be documented.

For procurements with a total estimated potential value equal to or greater than \$150,000, the CO must issue a public announcement informing industry of FAA's procurement strategy before, or concurrent with, releasing an initial SIR. Each SIR must contain specific evaluation criteria that the FAA will use to evaluate offeror's submittals. When using complex source selection methods for products, services or construction, the FAA must include past performance as an evaluation factor. For real property acquisitions, past performance will be considered as part of vendor responsibility determination. If appropriate, the FAA may use the vendors' process capability of suppliers as an evaluation factor according to established criteria. Cost or price considerations must be an evaluation factor in all final selection decisions. Any Request for Offer (RFO) or Solicitation for Offer (SFO) must include a requirement for a formal cost or price proposal. The source evaluation team must document the findings of the evaluation. The Source Selection Official (SSO) must base all selection or screening decisions on evaluation criteria established in each SIR. The CO must conduct debriefings with all offerors that request them.

It is the FAA's policy to award to responsible contractors. To be determined responsible in a procurement for products, services or construction, a prospective contractor must meet the following criteria:

- (a) Has or can obtain adequate financial resources to perform a contract;
- (b) Has the ability to meet any required or proposed delivery schedules;
- (c) Has a satisfactory performance history;
- (d) Has a satisfactory record of integrity and proper business ethics;
- (e) Has appropriate accounting and operational controls that may include, but are not limited to: production control, property control systems, quality assurance programs, and appropriate safety programs; and
- (f) Is qualified and eligible to receive an award under applicable laws or regulations.

For real property contract awards, to be determined responsible, a prospective vendor or owner must meet the following criteria:

- (a) Has proper ownership of the property (deed, property/tax records, declaration of taking, etc.);
- (b) Has evidence of authority to enter into contract on behalf of vendor/property owner;
- (c) Has a satisfactory performance history, as applicable;
- (d) Has a satisfactory record of integrity and proper business ethics; and
- (e) If applicable, has affirmed that they can meet the set date for occupancy or completion of work (e.g., tenant improvements/alterations/code compliance).

The CO's signing of the contract constitutes a determination that the prospective contractor/vendor/or owner is responsible with respect to that contract. When an offer is rejected because the prospective contractor/vendor/or owner is non-responsible, the CO must document a determination of non-responsibility in the contract file. The CO has broad discretion in making this determination.

3.2.2.3 Complex Source Selection Revised 9/2020

This section establishes the FAA's policy for evaluating and selecting sources for the award of complex competitive contracts. This process consists of up to five (5) distinct phases, with the screening phase being the cornerstone. The five phases are:

- (a) Planning;
- (b) Screening;
- (c) Selection;
- (d) Debriefing (as requested); and
- (e) Lessons learned.

3.2.2.3.1 Selection Phases

3.2.2.3.1.1 Planning

Refer to the procurement planning section for further guidance.

3.2.2.3.1.2 Screening

Screening is the process by which the FAA will determine which offeror provides the best value to the FAA. The process is flexible and allows selection and award after one screening request. This process allows the FAA to make an award considering only price and the price-related factors included in the SIR. The number of distinct screening steps for a particular procurement will vary, based on the complexity of the procurement. Provided below is guidance associated with the screening phase.

3.2.2.3.1.2.1 Screening Information Request Revised 9/2020

The purpose of the SIR is to obtain information, which will ultimately allow the FAA to identify the offeror that provides the best value, make a selection decision, and award the contract to conclude the competitive process. A SIR is a request by the FAA for documentation, information, presentations, proposals, or binding offers. Three categories of SIRs (see below) may be used according to the procurement strategy adopted by the service organization. Once the public announcement has been released, the SIR may be released to start the competitive process. The service organization will determine the type(s) of SIR(s) that are appropriate for each procurement.

For a given procurement, the FAA may make a selection decision after one SIR, or the FAA may have a series of SIRs (with a screening decision after each one) to arrive at the selection decision. This will depend on the types of products, services, construction, and real property to be acquired and the specific source selection approach chosen by the service organization. When it is desired to make a selection decision after one SIR, that SIR should be a request for offer (see below). In general when multiple SIRs are contemplated, the initial SIR should request general information, and future SIRs should request successively more specific information.

Initial SIRs need not state firm requirements, thus allowing the FAA to convey its needs to offerors in the form of desired features, or other appropriate means. However, firm requirements ultimately will be established in all contracts.

Each SIR should contain the following information:

- (a) Paper Reduction Act number OMB No. 2120-0595 on the cover page.
- (b) A statement identifying the purpose of the SIR (request for information, request for offer, establishment of a QVL and screening).
- (c) A definition of need,
- (d) A request for specific information (with specific page and time limitations, if applicable),
- (e) A closing date stating when submittals must be received in order to be considered or evaluated,
- (f) Evaluation criteria (and relative importance, if applicable),
- (g) A statement informing offerors how communications with them will be conducted during the screening, and
- (h) An evaluation/procurement schedule (including revisions, as required).

The evaluation/procurement schedule should be realistic and should alert the offerors to the fact that the FAA plans to adhere to its schedule and that offerors interested in award will be expected to adhere to this schedule.

There are three categories of SIRs: qualification information, screening information, and request for offers. Each category of SIR is discussed in detail below.

Qualification Information

Qualification information, used to qualify vendors and establish Qualified Vendor Lists (QVLs), should be requested only if it is intended that the resultant QVL will be used for multiple FAA procurements.

Qualification information screens for those vendors that meet the FAA's stated minimum capabilities/requirements to be qualified to provide a given product or service. All vendors that meet the FAA's qualification requirements will be listed on the appropriate QVL for the stated products or services.

Requested qualification information (including equipment/products) should be tailored to solicit the information that will allow the FAA to determine which of the vendors meet the FAA's minimum qualification requirements for the required products or services. For products, the information required to make such a determination might be equipment/products for FAA testing, vendor testing, testing data, product documentation, and production capability. For services, the information required to make such a determination might be a capabilities statement and performance experience. For software-intensive products or services, the information required to make such a determination might include descriptions about the offeror's software development and maintenance processes, in addition to other general information suggested above for products or services.

Once qualification information is requested, received, and evaluated in accordance with the evaluation plan, a QVL will be established for the given product/service. Once such a list is established, only qualified vendors may compete for the products or services. Where a product available from Federal Prison Industries (FPI) is to be acquired via a QVL, any such acquisition must include FPI and follow the procedures set forth at T 3.8.4.A.4 unless the acquisition satisfies an exception in AMS 3.8.4.2. Public announcement is not required once the QVL is established. This list can be updated at the FAA's discretion. Each list should be reviewed regularly to determine whether it should be updated.

Screening Information

Screening information allows the FAA to determine which offeror(s) are most likely to receive the award, and ultimately which offeror(s) will provide the FAA with the best value. The screening information requested in the SIR should focus on information that directly relates to the key discriminators for the procurement.

The following are examples of the types of information that may form the basis of a screening

request:

- (a) Equipment/products for FAA testing,
- (b) Vendor testing,
- (c) Testing data,
- (d) Technical documentation (commercial, if available/practicable),
- (e) Capability statements,
- (f) Quality assurance information,
- (g) Performance experience,
- (h) Sample problems,
- (i) Draft/model contracts,
- (j) Technical proposals (including oral presentations, if appropriate/practicable),
- (k) Commercial pricing information,
- (l) Financial condition information,
- (m) Cost or price information,
- (n) Cost or price proposals; and
- (o) Land or Space requirements.

Request for Offer/Solicitation for Offer

A Request for Offer (RFO)/Solicitation for Offer (SFO) is a request for an offeror to formally commit to provide the products, services, construction or real property required by the acquisition under stated terms and conditions. The response to the RFO/SFO is a *binding offer*, which is intended to become a binding contract if/when it is signed by the CO. The RFO/SFO may take the form of a SIR, a proposed contract, or a purchase order.

3.2.2.3.1.2.2 Communications with Offerors

Communications with all potential offerors should take place throughout the source selection process. During the screening, selection, and debriefing phases of source selection, communications are coordinated with the CO. Communications may start in the planning phase and continue through contract award. All SIRs should clearly inform offerors how communications will be handled during the initial screening phase.

The purpose of communications is to ensure there are mutual understandings between the FAA and the offerors about all aspects of the procurement, including the offerors' submittals/ proposals. Information disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal(s).

To ensure that offerors fully understand the intent of the SIR (and the FAA's needs stated therein), the FAA may hold a pre-submittal conference and/or one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required, at the discretion of the service organization. Communications with one offeror do not necessitate communications with other offerors, since communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the CO should ensure that such communications do not afford any offeror an unfair competitive advantage. During these and future communications, as

applicable, the FAA should encourage offerors to provide suggestions about all aspects of the procurement.

Communications may necessitate changes in the FAA's requirements or screening information request and such changes should be processed consistent with Section 3.2.2.3.1.2.4. Where communications do not result in any changes in the FAA's requirements, the FAA is not required to request or accept offeror revisions. The use of technical transfusion is always prohibited. Technical leveling and auctioning techniques are prohibited, except in the use of commercial competition techniques as described in Section 3.2.2.5.3.

3.2.2.3.1.2.3 Receipt/Evaluation of Submittals Revised 9/2020

Once offerors have submitted responses to a SIR, the service organization will evaluate the submittals in accordance with the evaluation criteria stated therein and the evaluation plan. To be considered for an award, an offeror must submit a response to the initial SIR, within the time specified in the SIR.

Evaluation Criteria

The evaluation criteria form the basis on which each offeror's submissions are to be evaluated. Once the criteria have been established and disclosed to offerors, criteria should not be modified without first notifying offerors competing at that stage of the process and allowing such offerors to revise their submissions accordingly. Each SIR must contain the specific evaluation criteria to be used to evaluate offeror submittals for that specific SIR. Evaluation criteria should be tailored to the characteristics of a particular requirement and should be limited to only the key discriminators in the ultimate selection decision. The criteria should avoid, whenever possible, the inclusion of detailed sub-criteria (or sub-criteria in general). Further, efforts should be made to ensure that there are no overlapping criteria. Initial SIRs do not require cost or price proposals but should require submission of more generalized cost or price estimates. Cost or price considerations must be an evaluation factor in all selection decision(s). For software acquisitions the criteria should include, whenever appropriate, an evaluation of the maturity of the offeror's software acquisition, development and maintenance processes that are relevant to the procurement. Such evaluations should be performed using standardized instruments such as a Capability-Maturity-Model-based Evaluation.

Evaluation Plan

An evaluation plan must be prepared by the service organization and approved by the SSO for all procurements accomplished under this section. Evaluation plans should be concise and tailored to the specific needs of the procurement. The evaluation plan should include the name of the SSO and the names of the service organization members and evaluators, the evaluation criteria, the evaluation methods and processes, the schedule, and any other information related to the source selection. The evaluation plan should be completed and approved prior to the receipt of responses to any SIR requesting screening or qualification information.

Evaluation Method

The evaluation methodology should be set up to allow for maximum flexibility in selecting the offeror(s) providing the best value. To facilitate such flexibility, the following should be considered in setting up evaluations:

- (a) Relative importance between criteria is not required (when relative importance is used, the relative order of importance between criteria should be disclosed).
- (b) Each SIR may incorporate separate and/or distinct criteria that relate to the specific SIR discriminators.
- (c) The use of either adjectival or numerical ratings is acceptable.
- (d) Comparative evaluations between offerors' proposals/products are acceptable.
- (e) The service organization should be selective/inventive concerning the screening requirements for document submissions (e.g., oral presentations, sample tests, plant visits, site/space visits, etc.).
- (f) Communications with offerors during the evaluation may help clarify submittals, allow a fuller understanding of the offeror submittals, and provide a more comprehensive evaluation.
- (g) Testing of products is encouraged to the maximum extent practical ("try before you buy").
- (h) Award based on initial offers to other than the low cost or price offer is allowed.

Evaluation Process

The evaluation will be conducted by the service organization, in accordance with the stated evaluation criteria and evaluation plan. The service organization (including any additional required evaluators and/or advisors) should be limited in size and dedicated through the completion of the acquisition. The service organization is expected to apply sound judgment in determining appropriate variations and adaptations necessary for individual situations, provided that these do not constitute a departure from the basic concepts and intent of the evaluation plan and SIR(s).

Communications may be considered in the evaluation of an offeror's submittal(s). Verifiable information from outside sources may be considered in the evaluation and should be disclosed to the offeror during the communication process. Any such findings should be noted in the evaluation report.

Evaluation Report

The service organization must document the results of the evaluation, including recommendations, if applicable.

3.2.2.3.1.2.4 Changes in Requirements

If, after release of a SIR, it is determined that there has been a change in the FAA's requirement(s), all offerors competing at that stage should be advised of the change(s) and afforded an opportunity to update their submittals accordingly.

The SSO has authority to waive a requirement at any time after release of a SIR, without notifying other offerors where the SIR states that offeror specific waiver requests will be considered, and the

waiver does not affect a significant requirement that changes the essential character or conditions of the procurement.

All determinations relating to changes in requirements, including waivers, will be documented in the evaluation report.

3.2.2.3.1.2.5 SSO Decision

Based on a review of the service organization's evaluation report, the SSO may either:

- (a) Make a selection decision (see the selection phase below);
- (b) Make a screening decision by screening those offerors determined to be most likely to receive award, thus continuing the screening phase;
- (c) Amend and re-open to initial offerors; or
- (d) Cancel the procurement.

To ensure the integrity of the FAA competitive source selection process, all SSO decisions should be based on the evaluation criteria established in the SIR and have a rational basis. All offerors who are eliminated from the competition based on any screening decision should be provided with the basis for their elimination within five (5) working days after the screening decision and should be informed that they may request a debriefing after contract award. During the screening process, the SSO may decide to eliminate an offeror from further consideration without considering the cost or pricing information that was submitted in the response to the SIR. However, the final selection decision must consider the cost or price information that was submitted as part of the proposal.

If a screening decision, rather than a selection decision, is made, the service organization should issue another SIR (and repeat the screening process stated above) in order to make a selection decision (or another screening decision) among the remaining offerors. The screening process, starting at the issuance of the SIR, may be repeated until a selection decision is made or the procurement is canceled. In some circumstances it may be appropriate to down-select to one offeror for negotiation. However, if the FAA and the selected offeror cannot come to an agreement, the FAA may select another competing offeror for communications/award without issuance of further SIRs.

3.2.2.3.1.3 Selection Revised 10/2012

The selection decision must be based on the stated evaluation criteria including cost or price considerations to identify the best value.

The service organization must brief the SSO on their evaluation findings. The selection of the offeror who is expected to provide the best value solution is a matter committed to the discretion of the SSO. The SSO applies sound business judgment to the evaluation of the offeror's proposed solution against the stated evaluation criteria. In each case, the SSO should provide a rational basis for the screening or selection decision. The SSO should document the selection decision in the SSO decision memorandum (in cases where the CO and the Contracting Officer's Representative are the only service organization

members, the evaluation report and the SSO decision memorandum may be one report). In making the selection decision, the SSO may accept or reject the service organization's recommendations provided there is a rational basis.

Based on the SSO's decision, the CO will transmit a proposed contract to the selected offeror. The selected offeror will return a properly executed contract. Upon the CO's signature, the proposed contract becomes a binding contract.

3.2.2.3.1.4 Debriefing

Once an award has been made, all offerors who participated in the competitive process will be notified of the award and given three working days from receipt of the award notification to request a debriefing. Debriefings are intended to provide meaningful feedback to offerors on their submission. The purpose of the debriefing is to improve the offeror's ability to successfully compete for future FAA business by discussing the strengths and weaknesses of the offeror's submissions. The debriefing should provide the offeror with the following information:

- (a) SSO's Selection Decision;
- (b) Offeror's evaluated standings relative to the successful offeror(s); and
- (c) Summary of the evaluation findings (excerpts from evaluation summary documentation relating to the specific offeror).

The CO should request detailed questions from the unsuccessful offeror so the FAA can provide meaningful information during the debriefing. Debriefings should be conducted, as soon as practicable, with all offerors that request them.

3.2.2.3.1.5 Lessons Learned

A lessons learned memorandum is a valuable tool in which the service organization can relay its procurement experiences to other FAA acquisition personnel. Once an award has been made, the service organization should communicate its learning experiences. The communication should highlight those issues/processes that had significant impact on their procurement. Further, the service organization should discuss changes that could be made to ensure a more comprehensive evaluation and/or timelier award.

3.2.2.3.2 Reserved

3.2.2.3.2.1 Reserved

3.2.2.3.2.2 Reserved

3.2.2.3.2.3 Reserved

3.2.2.3.2.4 Reserved

3.2.2.3.2.5 Reserved

3.2.2.3.2.6 Reserved

3.2.2.4 Single-Source Selection **Revised 1/2021/7/2021**

The FAA may contract with a single-source when in FAA's best interest and the rational basis for the decision is documented. This rational basis may be based on actions necessary and important to support FAA's mission, such as emergencies, standardization, and only source available to satisfy a requirement within the time required.

The following types of procurements are exempt from Section 3.2.2.4 requirements:

- (a) Procurements not anticipated to exceed \$10,000 (requirements must not be split to meet this exception);
- (b) Noncompetitive awards made to Socially and Economically Disadvantaged Businesses (SEDB) (8(a)), service-disabled veteran owned small businesses (SDVOSB), ~~Woman~~Economically Disadvantaged Women-Owned Small Businesses (EDWOSB), ~~Women~~-Owned Small Businesses (WOSB) or Historically Underutilized Business Zone (HUBZone) small businesses - all of which are governed under AMS policy 3.6;
- (c) Procurements conducted either in accordance with the Javits-Wagner-O'Day Act (AbilityOne Program) or the Randolph-Sheppard Act per AMS 3.8.4.2; and
- (d) Procurements for a site-specific requirement for land or antenna/equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA; or for operational facilities that house equipment and/or personnel that provide Air Traffic Control services to aircraft operating in the NAS. The head of the Technical Operations service organization, or designee, will provide an annual determination identifying equipment and facilities subject to this subsection (d) exemption.

The decision to contract with a single-source may be made as part of overall program planning. The rational basis must be documented and approved as a part of program planning in the Implementation Strategy and Planning Document (ISPD), a procurement plan, or as a separate document. If the rational basis is documented in the ISPD or procurement plan, the rational basis must be reviewed by Legal for sufficiency. If a separate single-source justification document is used, the justification must be reviewed by Legal for sufficiency, approved by the Service Organization Official, and concurred with by Contracts or, for purchase card transactions, the Purchase Cardholder.

Market analysis must be conducted to support each single-source decision, except for emergencies. The method and extent of the analysis depends on the requirement.

The service organization must provide the CO or the purchase cardholder with supporting documentation that justifies the proposed single source strategy decision. Examples of information that might be documented include results of market analysis, cost or price data, unique qualifications or

performance capability, and past performance. Mere conclusions, without adequate objective supporting data, are insufficient.

After the decision to contract with a single source has been approved, a public announcement must be made for any action over \$150,000, except in emergencies. The purpose of the announcement is to inform industry about the basis for the decision to contract with the single source.

For supplies, services, construction, or real property, a basic contract may be modified to exercise an option, or to satisfy a follow-on procurement for more of the same products, services, or real property needs without seeking additional competition when, based on market analysis, there is a rational basis not to compete the requirement and the rational basis is documented and approved as discussed in this Section.

The Contracting Officer must justify and document in accordance with this Section any increase in ceiling price of a time-and-materials or labor-hour contract.

3.2.2.4.1 Single-Source Procurement Process

The single-source procurement process includes planning, communications, award, and lessons learned. The actions for an individual phase within the process may vary depending on the particular circumstances.

3.2.2.4.1.1 Emergencies Revised 1/2020

An emergency situation, including but not limited to a threat to loss of life or property, national security, restoration of an air traffic control facility or to repair critical facility systems to prevent loss of air traffic capability, may require immediate contracting with a single source. In these instances, once funds are committed, the CO may verbally authorize a contractor to proceed and may combine single source phases or complete activities after the fact. As a minimum and as soon as practical, the CO should:

- (a) Obtain funding certification;
- (b) Document the single source decision; and
- (c) Confirm authorization with written notification.

3.2.2.4.1.2 Non-emergencies Revised 1/2017

For single-source non-emergency procurements, planning may include:

- (a) Analyzing the market to determine potential sources;
- (b) Developing an independent FAA cost estimate for any anticipated procurement action (to include modifications) whose total estimated value is \$150,000 or more, if not exempted by AMS 3.2.1.2.4;
- (c) Obtaining funding certification;

- (d) Obtaining approval of rationale for single source, except for follow-on or exercise of options; and
- (e) Issuing public announcement, if in excess of \$150,000.

3.2.2.4.1.3 Lessons Learned

Communicating lessons learned is encouraged.

3.2.2.5 Commercial and Simplified Purchase Method Revised 9/2020

The FAA may acquire commercial products, services, and real property related services from the competitive market place by using the simplified purchase method described herein and best commercial practices. Commercial and simplified purchases are used for commercial items or for products, services, or real property related services that have been sold at established catalog or market prices and are generally purchased on a fixed-price basis. However, procurement of products available for purchase from Federal Prison Industries is governed by AMS 3.8.4.2.

3.2.2.5.1 Planning Revised 9/2020

Procurement planning should be accomplished for all simplified and commercial purchases. The level of planning and announcement should be dictated by the nature and complexity of the requirement, commercial availability, dollar value, urgency of the requirement, and degree of previous procurement history.

The purpose of procurement planning is to:

- (a) Determine whether commercial items meet the FAA's needs;
- (b) Identify potential commercial sources; and
- (c) Publicly announce requirements in excess of \$150,000.

Market analysis should be simple and straightforward, and may include information based on personal knowledge of the market, historical purchase information, qualified vendors list, commercial catalogs or databases, trade journals, newspapers, other professional publications or local telephone directories.

Contracting mechanisms are at the discretion of the CO. Purchases may also be made using the following mechanisms:

- (a) Purchase card;
- (b) Purchase card checks;
- (c) Purchase order;
- (d) Contract;
- (e) Orally (only in emergency situations) with proper documents processed as soon as possible following the oral order; and

(f) Other methods, including interagency agreements, when deemed appropriate and properly documented.

3.2.2.5.2 Sourcing Determination Revised 9/2020

The CO should solicit an appropriate number of vendors to ensure quality products, services, and real property related services are delivered in a timely manner at a fair and reasonable price. Requirements should be stated in commercial terms generally understood and accepted in the industry.

3.2.2.5.3 Screening

The CO should determine the appropriate screening approach and format for vendor's responses (e.g., electronic, written, oral, use of standard commercial or FAA forms). The CO may also conduct communications with individual offerors, as appropriate, to address offeror understanding of the requirement, performance capability, prices, and other terms and conditions. For commercially available products, the CO is encouraged to use "commercial competition techniques" such as continuing market research throughout the process by using vendor proposals as the source of prices and commercially available capabilities and sharing that information with other vendors.

3.2.2.5.4 Selection Decision and Award Revised 9/2020

The CO's selection decision must be based on the FAA's stated evaluation criteria. The selection decision for commercial or simplified purchases should be based on the best value to the FAA including, but not limited to, factors such as price, functional specifications, delivery capability, warranty, and payment terms. This may be accomplished through establishing specific evaluation criteria with an accompanying evaluation plan as described under Complex, Source Selection, and making the selection based on the stated criterion. It may also be based on the most favorable solution available in the commercial market, as determined by the FAA, as described under Commercial and Simplified Purchase Method, or through a combination of methods depending on complexity, risk, dollar value, and urgency of the requirement.

3.2.2.5.4.1 Documentation Revised 9/2020

The method of selection and rationale for awards, and a determination that the price is fair and reasonable must be documented. The extent of the documentation depends on the complexity and dollar value of the procurement action.

3.2.2.5.5 Micro-Purchase Threshold Revised 9/2020

Simplified purchases with a Total Estimated Potential Value (TEPV) under the micro-purchase threshold

must be performed using the purchase card. The micro-purchase threshold is \$10,000 for commercial supplies, construction, services, and real property related services.

3.2.2.6 Unsolicited Proposals

3.2.2.6.1 Policy Added 10/2008

The FAA may consider and accept unsolicited proposals when in the best interest of FAA. Unsolicited proposals are a valuable means for FAA to obtain innovative or unique methods or approaches to accomplishing its mission from sources outside FAA. Advertising material, commercial item offers, contributions, or technical correspondence are not considered to be unsolicited proposals. A valid unsolicited proposal must:

- (a) Be innovative and unique;
- (b) Be independently originated and developed by the offeror;
- (c) Be prepared without FAA supervision;
- (d) Include sufficient detail to permit a determination that the proposed work could benefit FAA's research and development, or other mission responsibilities; and
- (e) Not be an advance proposal for a known FAA requirement that can be acquired by competitive methods.

3.2.2.6.2 Receipt and Initial Review Revised 10/2008

Unsolicited proposals should be addressed to:

Federal Aviation Administration
Acquisition Policy and Oversight
Acquisition Policy Group (AAP-100)
Attn.: Unsolicited Proposal Coordinator
800 Independence Avenue SW, Room 439W
Washington, DC 20591

Once received, the FAA unsolicited proposal coordinator will review and determine if the document(s) meets the requirements of an unsolicited proposal.

3.2.2.6.3 Prohibitions Added 10/2008

FAA personnel should not use any data, concept, idea, or other part of an unsolicited proposal as the basis, or part of the basis, for a SIR or in communications with any other firm unless the offeror is notified of and agrees to the intended use. However, this prohibition does not preclude using any data, concept, or idea available to FAA from other sources without restrictions.

FAA personnel must not disclose restrictively marked information included in an unsolicited

proposal. The disclosure of such information concerning trade secrets, processes, operations, style of work, apparatus, and other matters, except as authorized by law, may result in criminal penalties under 18 U.S.C. § 1905.

3.2.2.7 Contractor Qualifications

3.2.2.7.1 Applicability

This section applies to all contracts and to all proposed contracts with any prospective contractor that is located in the United States, its possessions, or Puerto Rico; or elsewhere, unless application would be inconsistent with the laws or customs where the contractor is located.

3.2.2.7.2 Contractor Responsibility

The CO must ensure that contracts are awarded only to responsible contractors (see Section 3.2.2.2). No award may be made unless the CO makes an affirmative determination of responsibility.

3.2.2.7.3 Contractor Team Arrangements

FAA will recognize the validity of contractor team arrangements, provided, the arrangements and company relationships are fully disclosed in an offer, or for arrangements entered into after submission of an offer, before the arrangement becomes effective.

3.2.2.7.4 Suspension and Debarment

FAA may suspend or debar contractors for cause. FAA will honor suspension, debarment, and ineligibility decisions of other agencies unless FAA has a compelling need to obtain the requirement from that contractor.

3.2.2.8 Describing FAA Needs

3.2.2.8.1 Applicability Revised 9/2020

The requirements herein apply to all FAA procurements and agreements.

3.2.2.8.2 Policy

The FAA will describe its needs clearly and generally in writing, absent special or emergency circumstances. Service organizations may describe needs as minimum requirements, goals, or in

another form well suited to the contemplated procurement.

3.2.2.9 Rehabilitation Act

The FAA must comply with Section 508 of the Rehabilitation Act of 1973 in developing, procuring, maintaining or using electronic and information technology. Section 508 of the Rehabilitation Act of 1973 applies to all new procurements after June 21, 2001.

3.2.3 Pricing Methodology, Principles and Standards Revised 10/2011

3.2.3.1 Cost and Price Analysis Revised 9/2020

3.2.3.1.1 Applicability Added 9/2020

This section applies to cost and price analysis for contracts, subcontracts, orders, and modifications for products, services, construction, and real property.

3.2.3.1.2 Policy Added 9/2020

The CO must make a determination that prices are fair and reasonable based on price analysis and, if necessary, cost analysis. Price analysis is the review of price without evaluating separate cost elements and profit/fee, and is required for all pricing actions. Cost analysis is the review of the individual cost elements and profit. Price analysis is the preferred method for evaluating competitive proposals. If the CO determines price competition is not adequate to support a determination of price reasonableness, the CO must require offerors to submit either certified cost or pricing data or information other than certified cost or pricing data. When the CO determines adequate price competition exists, certified cost or pricing data must not be requested. In situations with established catalog or market prices, prices set by law or regulation, or commercial items, price analysis is sufficient and the CO must not request cost data.

3.2.3.2 Pre- and Post-Award Audits Revised 9/2020

3.2.3.2.1 Applicability Added 9/2020

This section applies to pre- and post-award audits for contracts, subcontracts, orders, and modifications for products, services, and construction.

3.2.3.2.2 Policy Added 9/2020

The CO must request pre-award and post-award audits on all cost reimbursement Contracts (for products or services) exceeding \$100 million. In addition, FAA will request pre-award and post-award audits on at least 15% of all cost reimbursement contracts not anticipated to exceed \$100 million. For other contract types, the CO may use any method of cost or price analysis to determine fair and reasonable

prices.

Pre-award audits and post-award incurred cost audits are the preferred mechanism to assist the CO in ensuring valid indirect and direct costs are billed under cost reimbursement contracts. The CO is responsible for ensuring indirect and direct costs under a cost reimbursement contract are allowable. In situations where an incurred cost audit is not obtained, the CO will still ensure that only allowable costs are paid.

The sponsoring service organization will fund required pre- and post- award audits and must include an estimate of the cost of audits in the acquisition program baseline or execution plan; the implementation strategy and planning document will describe the approach, responsible organizations, and activities for obtaining audits.

3.2.3.3 FAA Cost Principles Revised 9/2020

3.2.3.3.1 Applicability Added 9/2020

This section applies to FAA Cost Principles for contracts, subcontracts, orders, and modifications for products, services, and construction.

3.2.3.3.2 Policy Added 9/2020

The FAA contract cost principles, as described in AMS Procurement Guidance, must be used to price contracts, subcontracts, orders, and modifications whenever cost analysis is performed. Cost principles must also be used for determining, negotiating, or allowing costs when required by a contract clause.

The CO must incorporate FAA cost principles in contracts with commercial organizations as the basis for:

- (a) Determining reimbursable costs under (a) cost-reimbursement contracts and cost-reimbursement subcontracts under these contracts performed by commercial organizations and (b) the cost-reimbursement portion of time-and-materials contracts except when material is priced on a basis other than at cost;
- (b) Negotiating indirect cost rates, when FAA has division or corporate contract administration responsibilities, quick close-out procedures are used, or indirect rate caps are negotiated in the contract;
- (c) Proposing, negotiating, or determining costs under terminated contracts;
- (d) Price revision of fixed-price incentive contracts;
- (e) Price re-determination of price re-determination contracts; and
- (f) Pricing changes and other contract modifications.

When another Government agency has division or corporate contract administration responsibilities, FAA may agree to cost principles of the administering agency to determine or negotiate indirect rates not covered by (a) or (b) above.

3.2.3.4 Cost Accounting Standards Revised 9/2020

3.2.3.4.1 Applicability Added 9/2020

This section applies to Cost Accounting Standards (CAS) for contracts, subcontracts, orders, and modifications for products, services, and construction.

3.2.3.4.2 Policy Added 9/2020

All contractors and subcontractors must use Cost Accounting Standards (CAS) according to 48 CFR Part 99 for estimating, accumulating, and reporting costs in connection with pricing, administering, and settling disputes concerning all negotiated prime and subcontract procurements \$2,000,000 or more, except for contracts or subcontracts exempted by these regulations. The following categories of contracts and subcontracts are exempt from all CAS requirements:

- (a) Negotiated contracts and subcontracts less than \$2,000,000. For purposes of this paragraph, an order issued by one segment to another segment must be treated as a subcontract;
- (b) Contracts and subcontracts with small businesses;
- (c) Contracts and subcontracts with foreign governments or their agents or instrumentalities or (insofar as the requirements of CAS other than 9904.401 and 99.402 are concerned) any contract or subcontract awarded to a foreign concern;
- (d) Contracts and subcontracts in which the price is set by law or regulation;
- (e) Firm fixed-priced and fixed-price with economic price adjustment (provided that price adjustment is not based on actual costs incurred), time-and-materials and labor-hour contracts and subcontracts for acquisition of commercial items;
- (f) Contracts or subcontracts of less than \$7.5 million, provided that, at the time of award, the business unit of the contractor or subcontractor is not currently performing any CAS- covered contracts or subcontracts valued at \$7.5 million or greater;
- (g) Contracts and subcontracts to be executed and performed entirely outside the United States, its territories, and possessions; and
- (h) Firm fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data.

3.2.4 Types of Contracts

3.2.4.1 Applicability Revised 9/2020

This section is applicable to contracts for procurement of all products, services, construction and real property.

3.2.4.2 Policy

Contracts may be of any type or combination of types except for cost plus a percentage of cost contracts, which are prohibited. The use of fixed-price contracts is strongly encouraged whenever appropriate. Development contracts may be incrementally phased fixed-price contracts. All

contracts, except those issued in emergency situations, must be in writing.

3.2.4.3 Guidance and Principles Revised 10/2018

The types of contracts that may be used for FAA procurements are addressed in AMS guidance. Types of contracts other than those specified in the guidance may be used when approval has been obtained from an official one level above the CO within the contracting organization.

Contracting officers should clearly identify the type of contract(s) at the front of each contract and in SIRs, when appropriate. Where multiple types of contracts are used in one contract, performance requirements, terms and conditions, and prices (or estimated cost and fee) for each type of contract should be clearly separated and partitioned.

The multi-year contract may be used for the acquisition of products and services in accordance with any applicable restrictions and appropriate appropriations acts.

3.2.5 Contractor Ethical Guidelines

3.2.5.1 Applicability

This policy is applicable to all contracts.

3.2.5.2 Policy

FAA business must be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.

3.2.6 Purchase Card Program Added 1/2009

3.2.6.1 Applicability Added 1/2009

Purchase card policy and corresponding guidance apply only to actions conducted through the FAA purchase card program.

3.2.6.2 Policy Added 1/2009

All procurements using an FAA purchase card must be conducted according to applicable laws, regulations, and FAA policy. AMS procurement guidance for purchase cards establishes standards for competition and source selection that supersedes other applicable AMS policy and guidance.

3.2.7 Anti-Counterfeit Management Added 4/2014

3.2.7.1 Applicability Revised 9/2020

Anti-Counterfeit policy and non-conforming parts requirements are applicable to (1) products and services contracts over \$50M; (2) construction contracts for NAS applications over \$2M; and (3) office equipment and/or supplies for NAS applications over \$2M.

3.2.7.2 Suspected Counterfeit and Non-Conforming Parts Added 4/2014

Anti-Counterfeit policy, guidance and procedures apply to securing the FAA equipment supply chain from counterfeit and non-conforming parts.

The CO must ensure that instruction to contractors result in the most efficient and economical way to mitigate the entry of suspected counterfeit and non-conforming parts in the FAA supply chain by:

- ☐ Not knowingly procuring suspected counterfeit and non-conforming parts.
- ☐ Documenting all occurrences of suspected and confirmed counterfeit parts in the appropriate reporting system, including the Government-Industry Data Exchange Program (GIDEP).
- ☐ Making information about counterfeiting accessible at all levels of the FAA supply chain as a method to prevent further counterfeiting.
- ☐ Notifying the appropriate FAA investigative organization, or US Government intelligence authorities, and those who use the suspected and confirmed counterfeit parts, of incidents at the earliest opportunity

Section Revised: 3.6 – Socio-Economic and Other Policies and Programs

Acquisition Management Policy - (~~4/2021~~/7/2021)

3.6 Socio-Economic and Other Policies and Programs

3.6.1 Small Business Program Revised 7/2020

3.6.1.1 Applicability Revised 9/2020

3.6.1.2 Policy Revised 7/2020

3.6.1.3 Principles for the Small Business Program Revised 7/2006

3.6.1.3.1 Program Goals Revised 7/2020

3.6.1.3.2 Prime Contracting with Small Businesses Revised 1/2017

3.6.1.3.3 Reserved Revised 1/2017

3.6.1.3.4 Set-Asides to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (8(a) Certified), Service-Disabled Veterans, Historically Underutilized Business Zones, ~~and~~ Women Owned Small Business, and Economically Disadvantaged Women-Owned Small Business Revised ~~4/2021~~ 7/2021

3.6.1.3.5 Noncompetitive Awards to SEDB (8(a)) Vendors Revised 1/2021

3.6.1.3.6 Set-Asides to Service-Disabled Veteran Owned Small Businesses Revised 10/2008

3.6.1.3.7 Set-Asides to Historically Underutilized Business Zone (HUBZone) Small Businesses Added 1/2021

3.6.1.3.8 Set-Asides to Women Owned Small Businesses Added 1/2021

3.6.1.3.9 Set-Asides to Economically Disadvantaged Women-Owned Small Businesses Added 7/2021

3.6.1.3.10 Subcontracting with Small Businesses and Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals Revised ~~4/2021~~ 7/2021

3.6.2 Labor Laws Revised 1/2020

3.6.2.1 Applicability Revised 10/2020

3.6.2.2 Policy Revised 9/2020

3.6.3 Environment, Conservation, Occupational Safety, and Drug-Free Workplace Revised 4/2009

3.6.3.1 Applicability Revised 4/2009

3.6.3.2 Policy Revised 9/2020

3.6.3.3 Environmental Performance and Sustainability Factors Revised 10/2016

3.6.3.3.1 Recycled-Content Products Revised 9/2020

3.6.3.3.2 Energy Conservation and Efficiency Revised 9/2020

3.6.3.3.3 BioPreferred and Biobased Designated Products Revised 1/2020

3.6.3.3.4 Alternatives to Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons Revised 1/2020

3.6.3.3.5 Water Conservation and Efficiency Revised 1/2020

3.6.3.3.6 Chemicals Management Revised 1/2020

3.6.3.4 Environmental Review Added 9/2020

[3.6.3.5 Environmental Due Diligence and Real Property](#) Added 9/2020
[3.6.3.6 Delivery of Electronic and Paper Documents](#) Revised 9/2020
[3.6.3.7 Drug-Free Workplace](#) Revised 9/2009
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1970, as amended \(49 CFR Part 24\)](#) Added 9/2020

3.6 Socio-Economic and Other Policies and Programs

3.6.1 Small Business Program Revised 7/2020

3.6.1.1 Applicability Revised 9/2020

The policies in this Section apply to FAA procurements for products, construction, and services but exclude those procurements using purchase cards, purchase card checks, electric utilities, real property, grants, memoranda of understanding, non-appropriated funds, contracts to be awarded and performed entirely outside of the United States, contracts with foreign governments or international organizations, agreements, and required sources of products/services and use of Government sources including products available from Federal Prison Industries (FPI) (refer to AMS Small Business Program Guidance).

3.6.1.2 Policy Revised 7/2020

The FAA must comply with Presidential directives, constitutional standards, public laws, and DOT Secretary Policy Statements to promote, expand, aggressively provide procurement opportunities as prime contractors and as subcontractors for small businesses, small businesses owned by socially and economically disadvantaged individuals, women-owned small businesses and service-disabled veteran owned small businesses. The FAA's Small Business Program (AAP-20) staff currently has and will continue to have responsibility for:

- ☐ FAA's policy and program on the utilization of small business and small businesses owned and controlled by socially and economically disadvantaged individuals;
- ☐ Establishing mechanisms for monitoring and evaluating the effectiveness of the small business program; and
- ☐ Ensuring FAA-wide implementation and accomplishment of the small business program objectives.

Key features of the small business program will include:

- ☐ Competitive/noncompetitive set-asides;
- ☐ Establishment of eligibility criteria and measurable prime contracting and subcontracting goals;
- ☐ Vigorous outreach efforts;
- ☐ Mentor-Protégé Program; and

- Small business forums.

3.6.1.3 Principles for the Small Business Program Revised 7/2020

3.6.1.3.1 Program Goals Revised 7/2020

Prior to the end of each fiscal year, measurable annual FAA wide major procurement program goals (including subcontracting goals) will be established to provide attainable and reasonable opportunities for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals to participate in contracts awarded by the FAA for the next fiscal year.

To ensure attainment of the program goals, senior management will be held responsible and goal achievement will be monitored at all levels in the agency. Additionally, the AAP-20 Staff will conduct vigorous outreach efforts that may include participating in Small Business Conferences, Small Business forums, etc.

3.6.1.3.2 Prime Contracting with Small Businesses Revised 1/2017

When appropriate, individual procurements may be set aside for competitive award among small businesses. Individual procurements may also be set-aside for small businesses two categories (combined set-asides).

3.6.1.3.3 Reserved Revised 1/2017

3.6.1.3.4 Set-Asides to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (8(a) Certified), Service-Disabled Veterans, Historically Underutilized Business Zones, ~~and Women Owned Small Business~~, and Economically Disadvantaged Women-Owned Small Business Revised 4/2021/7/2021

Except for those acquisitions being purchased using the agency purchase card, or those acquisitions subject to AMS 3.8.4.2, each acquisition of supplies or services having an anticipated dollar value exceeding \$10,000, but not over \$250,000, is automatically reserved exclusively for Socially and Economically Disadvantaged Business (SEDB) vendors that are 8(a) certified, Service-Disabled Veteran-Owned Small Businesses (SDVOSBs), Historically Underutilized Business Zone (HUBZone) small businesses, ~~and/or Women-Owned Small Business (WOSB)~~ and/or Economically Disadvantaged Women-Owned Small Business (EDWOSB) vendors unless the Contracting Officer determines there is not a reasonable expectation of obtaining offers from responsible SEDB (8(a)), SDVOSB, HUBZone, ~~or WOSB~~, or EDWOSB concerns that are competitive in terms of market prices, quality and delivery. The Contracting Officer must submit the Small Business Set-Aside Determination and Coordination Form if not setting aside for either

SEDB (8(a)), SDVOSB, WOSB, EDWOSB, HUBZone or small business firms for acquisitions exceeding \$10,000 but not over \$250,000 (see also AMS Small Business Program Guidance for use of this form). **These procurements may be either competitive or noncompetitive.**

In addition, other individual procurements outside the above specified range may be set-aside for competitive award among SEDBs that are 8(a) certified, SDVOSB, HUBZone, ~~or~~ WOSB, or EDWOSB firms, when appropriate.

3.6.1.3.5 Noncompetitive Awards to SEDB (8(a)) Vendors Revised 1/2021

Individual procurements may be noncompetitively awarded to SEDB (8(a)) vendors when the anticipated total value of the procurement (including all options) is \$7.5 million or below for procurements assigned manufacturing North American Industry Classification System codes and \$4.5 million or below for all other procurements. Where a procurement exceeds the noncompetitive threshold, the procurement may be awarded on a noncompetitive basis to SEDB (8(a)) vendors if: (1) there is not a reasonable expectation that at least two or more SEDB (8(a)) sources will submit offers that are in the Government's best interest in terms of quality, price and/or delivery; or (2) the award will be made to a concern owned by an Indian tribe or an Alaska Native Corporation. Noncompetitive awards above \$25 million to SEDB 8(a) vendors must be justified and documented as indicated in AMS Small Business Program Procurement Guidance.

3.6.1.3.6 Set-Asides to Service-Disabled Veteran Owned Small Businesses Revised 10/2008

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among service-disabled veteran owned small businesses.

3.6.1.3.7 Set-Asides to Historically Underutilized Business Zone (HUBZone) Small Businesses Added 1/2021

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among Historically Underutilized Business Zone (HUBZone) small businesses. Noncompetitive awards may only be made when the anticipated total value of the procurement (including all options) is \$7.5 million or below for procurements assigned manufacturing North American Industry Classification System codes and \$4.5 million or below for all other procurements.

3.6.1.3.8 Set-Asides to Women Owned Small Businesses Added 1/2021

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among Women-Owned Small Business (WOSB) eligible under the WOSB Program. Noncompetitive awards may only be made when the anticipated total value of the procurement (including all options) is \$7 million or below for procurements assigned

eligible manufacturing NAICS codes and \$4.5 million or below for all other eligible procurements.

3.6.1.3.9 Set-Asides to Economically Disadvantaged Women-Owned Small Businesses Added 7/2021

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) eligible under the WOSB Program. Noncompetitive awards may only be made when the anticipated total value of the procurement (including all options) is \$7 million or below for procurements assigned eligible manufacturing NAICS codes and \$4.5 million or below for all other eligible procurements.

3.6.1.3.9¹⁰ Subcontracting with Small Businesses and Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals Revised 1/2021/7/2021

When appropriate, subcontracting opportunities will be encouraged.

3.6.2 Labor Laws

3.6.2.1 Applicability Revised 10/2020

The Davis-Bacon Act (40 U.S.C. § 276a), Convict Labor (18 U.S.C. § 4082-(c)(2)), Copeland Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), Walsh-Healey Public Contracts Act (41 U.S.C. §§ 6501-6511), Equal Employment Opportunity (Executive Order 11,141, 29 FR 2477), Service Contract Labor Standards (41 U.S.C. §§ 6701-6707), and other labor laws and regulations will apply to acquisitions for products, services, construction, and real property.

3.6.2.2 Policy Revised 9/2020

The FAA will comply with labor laws when acquiring products, services, construction, and real property consistent with the thresholds established herein the Acquisition Management System.

3.6.3 Environment, Conservation, Occupational Safety, and Drug-Free Workplace Revised 4/2009

3.6.3.1 Applicability Revised 4/2009

This section applies to all FAA Screening Information Requests (SIRs) and contracts performed in the United States.

3.6.3.2 Policy Revised 9/2020

It is the policy of FAA to contract with entities that are in compliance with applicable environmental, energy, safety, and drug-free workplace laws, orders, and regulations.

FAA will ensure that all contract actions and purchases comply with statutory requirements. FAA should prioritize products, services, or real property interests that meet more than one of the applicable requirements and is encouraged to procure products, services, or real property in a cost-effective manner that advance achievement of energy and environmental performance goals. FAA will use Category Management solutions for products or services to the maximum extent practicable, which can help meet sustainability goals and better leverage the government's buying power.

FAA will give purchasing preference to products that:

- (a) Meet minimum requirements for recycled content as identified by EPA's Comprehensive Procurement Guideline (CPG) Program;
- (b) Are designated as biobased or BioPreferred by USDA; and
- (c) Are certified by ENERGY STAR® or designated by the Federal Energy Management Program (FEMP) as energy efficient products.

FAA will maximize substitution of alternatives to ozone-depleting substances in its procurements, as identified under EPA's Significant New Alternatives Policy (SNAP) program.

FAA should also seek sustainable products and services identified by other EPA programs, including WaterSense®, Safer Choice®, and SmartWay® as well as non-federal specifications, standards or labels that meet or exceed those recommended by EPA or meet criteria developed or adopted by consensus standards bodies.

3.6.3.3 Environmental Performance and Sustainability Factors Revised 10/2016

3.6.3.3.1 Recycled-Content Products Revised 9/2020

In order to meet the objectives of Executive Order (EO) 13834, FAA will procure products composed of recycled content, which are produced with waste materials and byproducts recovered or diverted from solid waste. Recycled-content products are designated in EPA's Comprehensive Procurement Guidelines (CPG) and FAA will purchase these products at the highest percentage of recovered content practicable. FAA should purchase uncoated paper (including office products or support services that include the supply of written documents) containing at least 50 percent post-consumer recycled content whenever practicable, but if not practicable, FAA will purchase uncoated printing and writing paper containing at least thirty percent (30 %) post-consumer recycled content or higher. These considerations will be identified in procurement planning and SIR/contract documents. The

decision not to procure such items will be based on a determination that such procurement items:

- (a) Are not reasonably available within a reasonable period of time;
- (b) Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or
- (c) Are only available at an unreasonable price.

3.6.3.3.2 Energy Conservation and Efficiency Revised 9/2020

In order to meet the objectives of EO 13834, the Energy Policy Act of 2005 (EPA 2005), the Energy Independence and Security Act of 2007 (EISA 2007), and FAA Order 1053.1B (or the latest version), FAA will procure ENERGY STAR® -labeled and FEMP-designated products, and ENERGY STAR buildings, unless the space requirement is exempted by EISA.

FAA will also promote electronics stewardship throughout the acquisition life cycle and ensure a procurement preference for environmentally sustainable electronic products in accordance with statutory mandates such as Electronic Products Assessment Tool (EPEAT)-registered products. These considerations will be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA energy consumption. The decision not to procure such items will be based on a determination that such procurement items:

- 1. Are not reasonably available within a reasonable period of time;
- 2. Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or
- 3. Are only available at an unreasonable price.

Executive Order (EO) 13834, Efficient Federal Operations, sets goals for federal agencies to make their building inventories compliant with the February 2016, Guiding Principles for High Performance and Sustainable Buildings (Guiding Principles). The Guiding Principles establish building standards for: integrated design, energy performance, water conservation, indoor environmental quality, environmental impact of materials, and climate resilience.

3.6.3.3.3 BioPreferred and Biobased Designated Products Revised 1/2020

In order to meet the objectives of EO 13834, the Farm Security and Rural Investment Act of 2002, the Food Conservation and Energy Act of 2008, and the Agricultural Act of 2014, FAA will purchase and use USDA BioPreferred and biobased designated products, which are products derived from plants and other renewable agricultural, marine, and forestry materials and provide an alternative to conventional petroleum derived products. FAA will give preference to products composed of the highest percentage of biobased material practicable. These considerations will be identified in procurement planning, SIR/contract documents. The decision not to procure such items will be based on a determination that such products within a product category:

- 1. Are not reasonably available within a reasonable period of time;

2. Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or
3. Are only available at an unreasonable price.

3.6.3.3.4 Alternatives to Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons Revised 1/2020

In order to meet the objectives of EO 13834 and the Clean Air Act, FAA will procure Significant New Alternative Policy (SNAP) chemicals or other alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons, where feasible, as identified by SNAP. FAA will ensure that the product complies with statutory mandates (e.g., biobased) if applicable to the product category. These considerations will be identified in the procurement planning and SIR/contract documents.

3.6.3.3.5 Water Conservation and Efficiency Revised 1/2020

In order to meet the objectives of EO 13834 and FAA Order 1053.1C (or the latest version), FAA should purchase WaterSense certified products and services. These considerations will be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA water consumption.

3.6.3.3.6 Chemicals Management Revised 1/2020

In order to meet the objectives of EO 13834, FAA should purchase Safer Choice labeled products to reduce the overall quantity of chemicals and toxic materials acquired, used, and disposed of. FAA will ensure that the product complies with the statutory mandates (e.g., biobased) if applicable to the product category. These considerations will be identified in the procurement planning and SIR/contract documents.

Additionally, FAA will implement EPA's Integrated Pest Management Principles and Water Efficient Landscaping practices to reduce and eliminate the use of toxic and hazardous chemicals and materials.

3.6.3.4 Environmental Review Added 9/2020

The National Environmental Policy Act (NEPA) requires agencies to consider the environmental impact of major federal actions, including certain procurement actions. FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, provides policies and procedures to ensure agency compliance with NEPA (42 United States Code [U.S.C.] §§ 4321-4335), the requirements set forth in the Council on Environmental Quality (CEQ), Title 40, Code of Federal Regulations (CFR), parts 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (CEQ Regulations), and Department of Transportation (DOT) Order 5610.1C, Procedures for Considering Environmental Impacts. The FAA uses the NEPA process to conduct environmental review required by other statutes, such as the Endangered Species Act and the National Historic Preservation Act.

3.6.3.5 Environmental Due Diligence and Real Property Added 9/2020

FAA real property transactions are subject to the requirements of FAA order 1050.19C, Environmental Due Diligence in the conduct of FAA Real Property Transactions and Paragraph 2-7 of Order 1050.1F, in order to identify and minimize potential environmental liabilities associated with the condition of the property and past activities at the site. Environmental due diligence requirements must be completed prior to executing contracts for the initial acquisition or disposal of real property, including the conveyance, sale or transfer of any FAA land, buildings, and structures.

3.6.3.6 Delivery of Electronic and Paper Documents Revised 9/2020

Contractors must submit acquisition-related documents electronically, to the maximum extent practicable. When paper documents are submitted to the FAA, they must be printed or copied double-sided. Refer to the Recycled-Content Products Policy above for additional requirements for delivery of paper documents.

3.6.3.7 Drug-Free Workplace Revised 9/2020

The FAA must deem any offer unqualified and ineligible for award unless the offeror has certified that it is a drug free workplace. After contract award, if there is adequate evidence to suspect that the contractor submitted a false certification or failed to comply with the certification, the FAA may suspend payments, terminate the contract for default, debar or suspend the contractor, or take other appropriate action to obtain quality performance by a lawfully operating contractor.

3.6.3.8 Hazardous and Radioactive Materials Revised 9/2020

3.6.3.8.1 Hazardous Material Identification and Safety Data Revised 9/2020

It is FAA policy to comply with Occupational Safety and Health Administration (OSHA) regulations on hazardous materials, conditions and precautions. To comply with these regulations, FAA must obtain information from contractors when hazardous materials are provided to FAA. Contractors are required to identify any hazardous materials delivered under a contract, as defined in Federal Standard 313; and must provide Safety Data Sheets for all identified hazardous materials.

3.6.3.8.2 Notice of Radioactive Material Revised 9/2020

The contractor is required to notify the FAA, prior to delivery, of radioactive material that requires specific licensing under the Atomic Energy Act of 1954; or material with a specific activity that is greater than 0.002 microcuries per gram, or a specific activity per item exceeds 0.01 microcuries.

3.6.3.9 Waste Management Revised 9/2020

In order to meet the objectives of EO 13834, FAA will demonstrate incremental improvement on reducing the tons of non-hazardous solid waste generated and reducing the percentage of non-hazardous solid waste sent to treatment and disposal facilities. FAA will also demonstrate incremental improvement on reducing the tons of non-hazardous construction and demolition (C&D) materials and debris generated and reducing the percentage of non-hazardous C&D materials and debris sent to treatment and disposal facilities. Contractors must comply with the waste reduction and reporting requirements set forth by FAA with regard to the diversion of non-hazardous solid waste and C&D debris. Waste management will further be accomplished through employing source reduction strategies (such as purchasing items that require less packaging materials during shipping) and reducing printing paper use. Waste management factors must be considered, to the maximum extent practicable, in acquisitions where their application would be meaningful and consistent with meeting FAA requirements. These factors must be identified in the procurement planning and SIR/ contract documents.

3.6.3.10 Seismic Safety Added 9/2020

Buildings, or space, acquired for the FAA or constructed on FAA property must meet current seismic safety requirements as provided in E.O. 12699, E.O. 12941 & P.L. 101-614. It is FAA's policy to mitigate seismic hazards in FAA occupied buildings in order to ensure the safety of its employees. Every effort should be made in the space acquisition process to ensure that FAA employees are housed in seismically safe buildings. New or succeeding leases are to be for space in buildings that comply with seismic standards as described in National Institute of Standards and Technology (NIST) RP-8, Standards for Seismic Safety for Existing Federally Owned or Leased Buildings, December 2011.

3.6.4 Foreign Acquisition Revised 4/2014

3.6.4.1 Buy American Act Revised 9/2020

The FAA will comply with the tenets of the Buy-American Act to maximize the use of the products and construction materials produced in the United States (41 U.S.C. §§ 8301-8305) as well as the obligation set forth by the Act to use only steel and manufactured goods produced in the United States (49 U.S.C. § 50101) as part of the agency's best value determination during the contractor selection process.

3.6.4.2 Export Control Added 4/2014

The FAA will comply with all U. S. Export Control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130 and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 774.

3.6.5 Indian Incentive Program

The FAA is subject to the requirements of paragraph 1544 of 25 U.S.C. that establishes an incentive payment for contractors of Federal agencies that subcontract with or use suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to 5 percent of the amount paid, or to be paid, to a qualifying subcontractor or

supplier that is an Indian organization or Indian-Owned economic enterprise.

3.6.6 Fastener Quality Act

The FAA must comply with Pub. L. 101-592, as amended by Pub. L. 104-113 in equipment and construction applications which require the use of high-strength fasteners.

3.6.7 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) Added 9/2020

To the extent that it is applicable to FAA real property transactions, Cos must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (promulgated in 49 CFR Part 24). Provisions of the Uniform Act are mandatory and are applicable to each Federal agency that administers programs or provides financial assistance for projects, which involve land acquisition or relocation assistance. The FAA must (1) provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects; (2) ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement; (3) ensure that no individual or family is displaced unless decent, safe and sanitary housing is available within the displaced person's financial mean; (4) help improve the housing conditions of displaced persons living in substandard housing; and (5) encourage and expedite acquisition by agreement and without coercion.