

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 21-90

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Title: Batch# 11 AMS Guidance

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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:

Updated guidance with administrative changes and substantive changes to correspond with the changes made in the procurement forms, templates, samples, and tools and resources documents.

Reason for Change:

Ensure compliance with documents in the procurement forms, templates, samples, and tools and resources sections of FAST and existing AMS policy/guidance to provide for efficient and effective guidance for the use by the AAQ community.

Development, Review, and Concurrence: AAP-110, AAP-100, AAQ, ACG

Target Audience: Acquisition workforce

Briefing Planned: No.

ASAG Responsibilities: None.

Section / Text Location:

Procurement Guidance/T3.13.1

FAST Version 9/2021

CR 21-90

p. 1

Procurement Guidance/T3.14.1
Procurement Guidance/T3.16

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/docs/procurementGuidance/guidanceT3.13.1.pdf>
<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.14.1.pdf>
<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.16.pdf>

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s):

Section Revised: T3.13.1 – Other Administrative Procedures

Procurement Guidance - (~~7/2021~~9/2021)

T3.13.1 Other Administrative Procedures Revised 1/2009

A Administrative Matters

- 1 Numbering System for Procurement Instruments Revised 9/2020
- 2 Contract Format for Products, Services, and Construction Revised 9/2020
- 3 Congressional Affairs Notification Revised ~~9/2020~~9/2021
- 4 Press Release and Public Announcement of Award Revised 7/2021
- 5 Federal Procurement Data System (FPDS) and FPDS Data Quality Revised 9/2020
- 6 Record Requirements Revised 9/2020
- 7 Records Retention Revised 7/2021
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- 10 Contractor Attendance at FAA-Sponsored and Other Government Training Revised ~~4/2017~~9/2021
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- 13 Procurement System Record Cancellation Added 7/2021

B Clauses

- C Procurement Forms Revised 9/2021
- D ~~Appendix~~ Procurement Samples Revised 9/2021
- E Procurement Templates Added 9/2021
- F Procurement Tools and Resources Added 9/2021
- G Appendix Added 9/2021

- [1 Appendix - Annual Procurement Forecast](#) Added 9/2020
 - [2 Appendix - Major Procurement Program Goals \(MPPG\)](#) Added 9/2020
 - [3 Appendix - Pre-AMS MPPG \(Actuals\) Report](#) Added 9/2020
 - [4 Appendix - Post AMS MPPG \(Actuals\) Report](#) Added 9/2020
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T3.13.1 Other Administrative Procedures Revised 1/2009

A Administrative Matters

1 Numbering System for Procurement Instruments Revised 9/2020

a. A uniform numbering system allows FAA to identify, control, and track each procurement action, from procurement request through award and close-out. This numbering system is applied through FAA's automated procurement system. Use of the FAA's procurement numbering system is required for all procurement requests and procurement instruments, including written screening information requests, purchase orders, delivery orders, task orders, agreements, leases, contracts, and all forms of awards, regardless of monetary consideration.

b. The Procurement Instrument Identification Number (PIIN) must consist of 14 alphanumeric characters:

(1) *Positions One and Two.* A two-digit numeric code identifying the procuring agency. This code must always be "69" which is the identifier for the Department of Transportation.

(2) *Positions Three, Four, Five and Six.* A four-digit alphanumeric code identifying the Activity Address Code (AAC) as the unique identifier for Federal Aviation Administration contracting offices.as follows:

Acquisition		Real Estate	
Office	AAC	Office	AAC
AAQ-200	3KA7	AAQ-900 (ES)	435Z
AAQ-300	3KA8	AAQ- 900 (CS)	7DCM
AAQ-400	3KA9	AAQ-900 (WS)	0EG4
AAQ-500	7DCK		
AAQ-600	2M15		

AAQ-700	73GH		
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***NOTE:** Starting for all FY 2018 awards. DT (Dept. of Transportation), WA (Headquarters), AC (Aeronautical Center) and CT (Technical Center) are changed to the new unique Activity Area Codes (AAC) above.

(3) *Positions Seven and Eight.* A two-digit numeric code that is the last two digits of the fiscal year in which the PIIN is assigned.

(4) *Position Nine.* A one-digit alphabetic code identifying the type of procurement instrument (i.e., agreement, contract, etc.) as follows:

A – *Blanket Purchase Agreement (BPA).* Use for Blanket Purchasing Agreement (BPA).

C - *Contract.* Use for all contracts, including letter contracts. Does not apply to real property transactions.

D - *Indefinite-Delivery Contract.* Use for indefinite quantity, definite quantity, and requirements contracts.

F – *Delivery/Task Order, Blanket Purchase Agreement (BPA) Call and Blanket Ordering Agreement (BOA) Orders.* Use when placing orders directly against DOT or FAA contracts and against contracts administered by another agency, i.e., Federal Supply Schedules, Government-Wide Action Contracts (GWACS). Does not apply to real property transactions.

G – *Blanket Ordering Agreement (BOA).* Use for Blanket Ordering Agreement (BOA).

H - *Agreement.* Excludes Blanket Purchase Agreements, Basic Ordering Agreements and Leases. Does not apply to real property transactions.

K - *Land Purchase and Condemnation.* Use for acquisition of permanent real estate interests (fee simple) by purchase or condemnation. Does not include leasehold interests (land or space) or easements in real property.

L - *Lease Agreement.* Use for leasing real and personal property, and products or equipment. Also, includes instruments for both land and space where the Government obtains real estate rights, and all easements including aerial easements for a limited period of time, and may or may not be monetary in consideration. Does NOT include Interagency Agreements. This PIIN will also be used for Multiple Payees.

M - *Utilities.* Use for contracts for electric, telephone, water, natural gas, and other utilities, including delivery/task orders against external contracts. Includes FAA

delivery orders against GSA area-wide and GSA commodity contracts for utilities.

N – *Inter-agency Agreement and Intra-agency*. Use when obtaining products or services from or through another Federal agency when that servicing agency may be in a position or equipped to supply, render, or obtain by contract. Does not apply to real property transactions.

N - *Reimbursable Agreement*. Use when FAA enters into an agreement to *provide* products or services and receives payment for the products or services rendered and not covered otherwise.

P - *Purchase Order*. Use for all Commercial-Off-The-Shelf (C O T S) purchase orders and NIB/UNICOR. Also, appraisals, surveys, title, closing, and other work related to leasing or acquiring real estate rights. Use for Non-COTS awards less than \$100,000.

Q - *Request for Quote*. Use when soliciting contracts by request for quote.

R - *Request for Offer*. Use when soliciting contracts by screening information request (SIR) for qualifications, information, or offer.

S - *Sales Contract (Account Receivable)*. Use for sales and other disposal of real and personal property.

T – *Other Transaction Agreement (OTA)*. Use when placing all other types of agreements.

The letters not listed above are reserved. The reserved letters may not be used to identify an FAA procurement instrument in lieu of the above designated codes assigned to the type of instrument.

(6) *Positions Ten through Fourteen*. At the discretion of the Chief of the Contracting Office, these characters may be numeric or alphanumeric. A separate set of serial numbers may be used for any type of procurement instrument.

c. *Illustration of the PIIN*. An example of a PIIN is as follows: 6973GH-18-R-00001 identifies an RFO issued by the Department of Transportation, Federal Aviation Administration, Aeronautical Center, Oklahoma City, OK in fiscal year 18.

d. *Supplementary PIINs*. A supplementary number must be used with the basic PIIN to identify the following:

(1) *Amendments to Screening Information Request (SIR)*. Amendments must be assigned a four position numeric serial number, sequentially beginning with 0001. A sample amendment number would be 69DCK-18-R-00001-0001.

(2) *Modifications to Contracts, Agreements, and Orders*. Modifications to contracts,

agreements, and orders must be numbered sequentially with a six-position alphanumeric serial number beginning with P00001.

e. *Contract Line Item Number (CLIN)*. CLINs are numbered consecutively beginning with 001, according to the functionality of the procurement system.

f. *Procurement Request (PR) Requisition Number*. -Requisitioning Office PRs will continue to be numbered according to the following convention, beginning with the FAA Identifier code for the requisitioning office two character designator (see below), followed by the last two digits of the budget year for which the obligation is intended (corresponding with the budget year in the project and accounting codes of the request), then a five digit sequential number assigned by the procurement system, and finally a two or three character suffix, if required.

Identifier Codes:

WA – FAA Headquarters	ES - Eastern Service Area	CS - Central Service Area
AC - Aeronautical Center	ES – Real Estate CO Eastern Service Area	WS - Western Service Area
CT - Technical Center	CS – Real Estate CO Central Service Area	WS – Real Estate CO Western Service Area
WA – RECO FAA Headquarters	TPC – Purchase Card (all areas)	

Examples of requisition numbering are: CS-18-00001, indicates a standard PR issued by the Central Service Area intended for award in FY17. A PR with the number WS-18-00001RE indicates that it originated in the Western Service Area, intended for award in FY18, and is specially designated for Real Estate.

2 Contract Format for Products, Services, and Construction Revised 9/2020

Each request for offer or contract should be tailored to include only those elements required, at an appropriate level of detail, to make the contract a binding and enforceable document. For uniformity, the format of each request for offer or contract may be structured according to the following outline:

Part I - The Schedule.

Section A - Contract

Section B - Supplies or Services and Prices/Costs Section C

- Description/Specifications/Work Statement Section D -

Packaging and Marking

Section E - Inspection and Acceptance

Section F - Deliveries or Performance

Section G - Contract Administration Data Section H -

Special Contract Requirements

Part II - Contract Clauses.

Section I - Contract Clauses

Part III - List of Documents, Exhibits, and Attachments.

Section J - List of Documents, Exhibits, and Attachments

Part IV - Representations and Instructions.

Section K - Representations, Certifications, and Other Statements of Offerors

Section L - Instructions, Conditions, and Notices to Offerors

Section M - Evaluation Factors for Award

3 Congressional Affairs Notification Revised 9/2020/2021

a. The following require official notification to Congress *before* releasing an award and distributing the contractual instrument:

(1) *New Awards.* Congress must be notified at least 48 hours, excluding Federal holidays and weekends, before awarding any contract or other agreement of \$3.5 million or more (total value including all options or ceilings), excluding interagency agreements. The DOT Assistant Secretary for Government Affairs (I-1) or designee notifies Congress, and advises the Contracting Officer (CO) that the contract or agreement may be released. The CO may sign the contract or agreement, but information about the award must not be released outside of DOT until completing the Congressional notification procedures in this section.

(2) *Modifications and Delivery/Task Orders.* Notification is not required for modifications and delivery/task orders of \$3.5 million or more if Congress was notified about the initial award; otherwise, Congressional notification is required.

b. Notification must be made via form DOT F 4220.41, "Contract Award Notification." A

Congressional Affairs Notification template of the language to use in the notification email sent to the DOT Assistant Secretary for Government Affairs (I-1) can be found on the FAST ~~website~~ templates/samples under ~~“Congressional Affairs Notification Template.”~~Procurement Templates. The “Contract Award Notification” form DOT F ~~4224220~~.41 is to be sent to the DOT Assistant Secretary for Government Affairs (I-1), with concurrent courtesy copies to:

(1) FAA Office of Government and Industry Affairs (AGI-1);

(2) FAA Acquisition Executive (ACQ-1);

(3) Chief Operating Officer (if ATO is the requiring organization) or Associate/Assistant Administrator (if other than ATO is the requiring organization), through the CO’s management; and

(4) The Office of Communications (AOC-1).

c. The CO must complete all blocks of form DOT F 4220.41 and send it to the Assistant Secretary for Government Affairs (I-1), via email or fax at (202) 366-7346. Block 9 of the form may be revised to show an applicable AMS procurement method. The CO is responsible for documenting the date I-1 received the form; to confirm receipt, the CO may call (202) 366-4573.

d. Unless I-1 or designee requests the CO or other designated official not to proceed with award, awards may be announced on the **third** working day following I-1’s receipt of DOT F 4220.41.

e. The official contract file must include a copy of form DOT F 4220.41 and documentation of I-1’s receipt of the form.

f. Real property awards do not require Congressional notification, unless Member(s) of Congress specifically request notification of award, in which case, the CO must provide award notifications.

4 Press Release and Public Announcement of Award Revised 7/2021

a. Congressional notification procedures, if applicable, must be completed before the CO or other designated official issues a press release or public announcement.

b. *Press Release.* A press release may be appropriate for awards of interest to the general public. The determination of what is or is not newsworthy must consider factors such as dollar amount of the action, uniqueness, or public interest associated with the requirement. The CO should contact the Office of Public Affairs (AOC-300) for advice, and help with preparing a press release; Service Area, Region and Center personnel should coordinate a press release with their local public affairs office. The CO should request a press release approximately four weeks before planned award.

c. *Public Announcement.* Although AMS policy does not require public announcement for all awards, the CO should consider announcing an award involving large funding amounts,

subcontracting opportunities, or high public visibility. Award information should be announced promptly and via Contract Opportunities located at <https://SAM.gov>, the Internet, trade magazines, or local newspapers. Award announcements are for informational purposes only and should include:

- (1) Contract number;
- (2) Contractor name and address;
- (3) Brief description of the requirement;
- (4) Total value;
- (5) Award date; and
- (6) Contracting Officer's name, email, and telephone.

5 Federal Procurement Data System (FPDS) and FPDS Data Quality Revised 9/2020

- a. *Use for Data.* The FAA uses the Federal Procurement Data System (FPDS) module within the procurement system as the means for collecting, maintaining, and reporting procurement award data to Congress, the Executive Branch, FAA management, audit and evaluation organizations, and the private sector. These groups use the data to measure and assess the impact of FAA procurement on the U.S. economy, the extent to which small business and small disadvantaged business firms share in FAA awards, the impact of competition on the procurement process, and for other policy and management purposes.
- b. *FPDS User Guide.* The procurement system FPDS User Guide provides full instructions and a complete list and description of the data reporting fields and options within fields, and when to appropriately use the options. The [FPDS User Guide](#) (FAA only) is on the National procurement system website under Training.
- c. *Public Access.* The Federal Funding Accountability Transparency Act requires FAA to make procurement award data publicly available. Government-wide award data is sent through FPDS- NG to the public website USASpending.gov. The FAA submits its award data to FPDS-NG by using the General Services Administration's Business Services. This process allows FAA to automatically send daily batch files to FPDS-NG, bypassing FPDS-NG's front-end edit checks, once an award passes the FAA's own edit checks.
- d. *System for Award Management.* The CO must ensure that the awardee is registered in the System for Award Management (SAM) System before award is made.
- e. *Annual Certification.* After the close of each fiscal year, the FAA Acquisition Executive certifies to the percentage of FPDS data that is accurate, timely, and complete. To support of this annual certification, the CO must enter all FPDS data for awards when the award is approved in procurement system. The CO must enter complete and accurate information for each data field in FPDS. The PRISM FPDS User Guide provides an explanation of each data element to be entered.

f. *File Documentation.* The procurement system FPDS User Guide requires the CO to print and place a copy of the completed FPDS form in the contract file. If subsequent FPDS award exception reports require corrections to FPDS entries, the CO must correct the entries and print another form with changes and place it in the contract file.

g. *Reviewing Exception Reports.* At least quarterly, the CO's branch manager or team lead must review the procurement system award exception report to ensure all procurement actions have been entered and the data is accurate and complete. The branch manager or team lead must ensure that corrections are made within 30 days of the date of the report.

6 Record Requirements Revised 9/2020

a. The Procurement System Federal Procurement Data System (FPDS) module includes the index of unclassified records of all procurements exceeding \$3,500 by fiscal year.

b. For procurements under AMS, FAA will be able to access, as a minimum, the following information:

- (1) The date of contract award.
- (2) Information identifying the source to which the contract was awarded.
- (3) The property or services obtained by the Government under the procurement.
- (4) The total cost of the procurement.
- (5) Single source procurements.
- (6) The identity of the organization or activity that conducted the procurement.
- (7) Awards to small disadvantaged businesses using either set-asides or unrestricted competition.
- (8) Awards to business concerns owned and controlled by women.
- (9) The number of offers received in response to a screening information request.
- (10) Task or delivery order contracts.

7 Records Retention Revised 7/2021

The [Federal Records Act \(44 U.S.C. 31\)](#) and other statutes require all federal agencies to create records that document Agency activities, file records for safe storage and efficient retrieval, and dispose of records according to Agency schedules. The FAA Records Management program is responsible for

implementing and enforcing all applicable Federal, DOT, and FAA laws, directives, and policies regarding the disposition of official government records. FAA Order 1350.14B prescribes the requirements and responsibilities for conducting the agency's Records Management Program and covers all records, regardless of physical form or characteristics, made or received by FAA under Federal law.

For Financial Management and Report records maintained by the FAA, the following record disposition instructions apply:

- (a) All records pertaining to procuring goods and services, paying bills, collecting debts, and accounting shall be disposed 6 years after final payment or cancellation, but longer retention is authorized if required for business use.
- (b) All records necessary for documenting the existence, acquisition, ownership, cost, valuation, depreciation, and/or classification of fixed assets such as real property, capitalized personal property, internal use software, equipment, and other assets and liabilities reported on an Agency's annual financial statements shall be destroyed 2 years after asset is disposed of and/or removed from the Agency's financial statement, but longer retention is authorized if required for business use.

For more information on the disposition of records created by the FAA in carrying out the work of financial management please refer to the National Archives and Records Administration (NARA) General Records Schedule 1.1: Financial Management and Reporting Records located at <https://www.archives.gov/files/records-mgmt/grs/grs01-1.pdf>.

8 Annual Procurement Forecast Revised 7/2021

a. In order to provide the small business community with reasonable procurement opportunities and to comply with the President's desire to expand procurement opportunities for small businesses, it is the policy of the FAA to make its Annual Procurement Forecast available to interested business owners. The forecast is for informational and marketing purposes only and does not constitute a specific offer or commitment by the FAA to fund any of the procurements listed.

b. Whether on the Internet or in hard copy, this document must be provided to the public and to the FAA Small Business Program (AAP-20), not later than October 1, of each fiscal year.

c. Information should include as a minimum:

- (1) All planned new procurement actions scheduled for award during the current fiscal year excluding interagency agreements, federal supply schedules and credit card purchases;
- (2) A brief description of the anticipated procurement;

- (3) The estimated dollar amount of the procurement in a range, e.g. \$500,000-\$1,000,000;
- (4) A name and phone number of a person knowledgeable about the procurement;
- (5) The anticipated fiscal year quarter of the screening information request release and contract award;
- (6) The method of procurement (i.e. set-aside, single source unrestricted).

9 Reports Revised 7/2020

a. *Requirements.* The FAA remains subject to certain statutory, regulatory, and policy requirements and must continue to report the following:

- (1) *Report of Proposed Federal Construction.* Construction programs estimated to exceed \$500,000 are subject to Davis-Bacon Act regulations at 29 CFR 1.4. This CFR section requires the FAA to furnish the Department of Labor a general outline of its proposed construction programs for the upcoming fiscal year. The report must identify the estimated number of projects that will require wage determinations, the anticipated types of construction, and the locations of construction. Due Annually; March 20.
- (2) *Resource Conservation and Recovery Act Report (RCRA) and Executive Order(EO) 12873 Annual Report.* Section 6002 of RCRA requires Office of the Federal Procurement Policy (OFPP) to report to Congress on the actions taken by agencies to implement this statute. EO 12873 reinforces affirmative procurement, waste minimization, and recycling efforts and requires Federal agencies to report on their efforts to the Office of the Federal Environmental Executive (OFEE). To simplify the reporting process and reduce the reporting burden placed on agencies, the OFPP and the OFEE have merged the reporting requirements of section 6002 of RCRA, and EO 12873 into a single annual report. The report is divided into the Agency Summary Report and the Supply Center Summary Report. The report covers commercial purchases of items contained in the Comprehensive Procurement Guidelines, as well as affirmative procurement, waste minimization and recycling efforts. Due Annually; February 26 (see AMS Procurement Forms).
- (3) *Semiannual Labor Compliance Report.* Davis-Bacon Act regulations at 29 CFR 5.7 require data on compliance with and enforcement of the construction labor standards requirements of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act. The report will identify enforcement actions taken by the contracting offices. Due Semi-Annually; October 20 & April 20 (see AMS Procurement Forms).
- (4) *Lobbying Disclosure Report.* Public Law 101-121 requires contractors to disclose any lobbying activities. The Lobbying Disclosure Act of 1995 eliminated the

requirement to forward a copy of each disclosure form, SF LLL to Congress semiannually. Therefore, this report is no longer required. The original SF LLL should continue to be retained in the contract file.

(5) *Major Procurement Program Goals (MPPG)*. Pursuant to Executive Order 12928 of 9/16/94, the FAA Administrator will report to the Administrator of the Small Business Administration through the Secretary of the Department of Transportation on the extent of achievements against the MPPG established. Three reports that include the number and dollar obligation of all procurements for each MPPG, excluding interagency agreements, are required by AAP-20.

b. Responsibilities.

(1) The Chief of the Contracting Office (COCO) must collect, compile and submit for their respective organizations the reports outlined below. Reports must be received by Procurement Information and Services Branch (AAP-400), or other designated recipient, prior to the stated due dates. The COCO must also provide negative responses when there is no data to report for a particular report during the reporting period.

(2) The Procurement Information and Services Branch (AAP-400) will consolidate the reports that are required to be submitted to AAP-400 into a single agency-wide report for submission to the various requesters prior to their prescribed due dates. All other reports will be submitted by the Logistics Service Areas, Centers, and Headquarters, directly to the requester.

c. Specifics about each report are as follows:

<u>Title of Report</u>	<u>Format</u>	<u>Reporting Period</u>	<u>Due Date to AAP-400</u>
Report of Proposed Federal Construction	FAA Form 4474-5	Annually; prospective activity for the next fiscal year.	March 20
Resource Conservation and Recovery Act Report	OFPP and OFEE prescribed format. Negative responses required.	Annually; for the prior calendar year.	February 26
Semiannual Labor Compliance Report	No prescribed format; an original and one copy is required.	Semi-annually; for the prior 6 month period.	October 20; April 20
Lobbying Disclosure Report	No longer required.	Not applicable.	Not applicable.
Major Procurement Program Goals (Projection)	Format prescribed by AAP-20; Report directly to AAP-20 by	Annual, prior to October 1 of each fiscal year. (See AMS	N/A

	Memorandum from the ATO Vice Presidents, FAA Associate and Assistant Administrators, Regional Administrators and Center Directors. (See Appendix 2)	Section 3.6.1.3)	
Pre-AMS Major Procurement Program Goals (Actuals)	Format prescribed by AAP-20; Report directly to AAP-20 in writing from the FAA Headquarters Director of Acquisition and Contracting, Regional Administrators and Center Directors. (See Appendix 3)	Quarterly, by the 15 th of the month following the reporting period. (See AMS Section 3.6.1.2)	N/A
Post AMS Major Procurement Program Goals (Actuals)	Format prescribed by AAP-20; Report directly to AAP-20 in writing from the FAA Headquarters Director of Acquisition and Contracting, Regional Administrators and Center Directors. (See Appendix 4)	Quarterly, by the 15 th of the month following the reporting period. (See AMS Section 3.6.1.2)	N/A

10 Contractor Attendance at FAA-Sponsored and Other Government Training Revised 4/2017/2021

a. *FAA Sponsored Training.*

- (1) *General.* Prior to attending classroom FAA-sponsored training, all support contractors are required to submit the "Support Contractor Attendance at FAA Sponsored and Other Government Training Authorization "~~form~~Form " (see Procurement Forms) to the appropriate Contracting Officer. Support contractors are not required to submit the "Support Contractor Attendance at FAA Sponsored and Other Government Training Authorization"~~form~~ Form " when taking online FAA-sponsored training; unless the support contractor will take the online FAA-sponsored training on contractual billable hours. The Contracting Officers may

authorize support contractors to participate in FAA-sponsored training, if training is authorized in the support contract and the training hours may be billed as direct hours to the contract. When training is NOT specifically authorized in the provisions of the contract FAA will NOT pay direct hourly charges associated with the number of hours spent in training. The following conditions apply when training is not specifically authorized in the provisions of the FAA contract.

(a) *Unique Content*. Support contractors may be allowed to attend FAA sponsored training related to Agency-unique subject areas (such as the AMS), on a space-available basis. However, FAA will only pay direct hourly charges associated with the training if the conditions listed in a. (1) are met.

(b) *Non-unique Content*. In principle, when training is NOT covered under the support contract there is a presumption that the contractor is obligated to provide contractor personnel with the requisite expertise and training. Therefore, if the FAA provides training in an area that is not Agency-unique, the contract price should be reduced accordingly.

(c) *Unauthorized Actions*. If training is authorized by anyone other than the Contracting Officer, and the contract provisions do not provide for the training, the action is unauthorized and must be processed as an unauthorized commitment. (See T3.1.4 Delegations)

(d) *Contractor Required Training*. Courses identified as mandatory at the FAA, and placed in the eLMS Contractor Course catalog may be taken at will by FAA contractors and the training hours may be billed as direct hours to the contract. Courses may only be entered into the catalog with the approval of the manager of AAP-100.

(2) *Responsibilities*.

(a) *Contracting Officer*. The Contracting Officer may include language in contracts regarding the inclusion of contractors in FAA sponsored training and make the final determination whether or not a course is FAA-unique. The Contracting Officer is the only person with authority to approve Government training for a contractor, since it involves the expenditure of government funds. The Contracting Officer should provide a copy of the signed authorization to the Course Manager and retain the original in the contract file.

(b) *Contractors*. Prior to attending FAA-sponsored training, a support contractor must submit a "Support Contractor Authorization" form to the appropriate Contracting Officer. The form should be approved by both the requestor's Contracting Officer's Representative and the Contracting Officer and provided to the Course Manager on or before the first day of class.

(c) *Course Instructor*. The Course Instructor is not authorized to admit support contractor employees to a course without the Contracting Officer's authorization on the approval form. Any issues regarding attendance of support contractors are to be referred to the Course Manager.

(d) *FAA Course Manager*. The Course Manager should provide guidance to support contractors regarding the requirement for "Support Contractor Authorization" form and manage any issues referred by the Course Instructor pertaining to the support contractor's authorization to attend the training. Additionally, the Course Manager should retain copies of signed forms with the training roster and ensure that a signed authorization is on file for all support contractors attending FAA sponsored training. The class roster should indicate the support contractor's company name and include the following legend: *"Failure to correctly indicate that you are an employee of a support contractor will be a material misrepresentation under the terms of the contract."*

b. *Other Government Training*.

FAA contractors may be eligible to take free-of-charge training through other Government sources such as the Federal Acquisition Institute (FAI) or Defense Acquisition University (DAU). Contractor eligibility to take a course will be determined by the Government entity sponsoring the training. Contractors must follow the Government sponsor's eligibility, registration and approval procedures.

If required by the other Government entity, FAA approval of the training will be provided by the FAA Contracting Officer or the Contracting Officer's designee. The contractor must request FAA approval using the support contractor training authorization form in the FAST. FAA will consider whether the training is necessary for the contractor's performance under the contractor's FAA contract, or whether the training would be beneficial to the FAA.

11 Plain Language Added 7/2006

When the statement of work for a contract requires the contractor to deliver any document that will be published, either electronically or in hard copy, for dissemination outside the FAA, or for broad dissemination within the FAA, the document must comply with FAA Order 1000.36, "FAA Writing Standards." Typical documents covered by this requirement include scientific reports, study or survey results, newsletters, regulations, advisory circulars, orders, manuals, ATO Leaders Report, Reports to Congress, and FAA Today. This requirement does not apply to technical documents arising from contract administration, such as earned value management system reports, design review data packages, test plans, or integrated logistics support plans.

There is an equivalent contract clause implementing the above requirement.

12 Reserved Revised 7/2020

13 Procurement System Record Cancellation Added 7/2021

The Procurement System will automatically discard all approved records that have been cancelled by the procurement system administrator or Contracting Officer after a period of 180 days. The record will officially be marked as "cancelled" and the system will discard of the record. Examples of

approved records that qualify for cancellation in the procurement system are as follows:

- (a) No funds have been obligated against the system generated record;
- (b) No performance or services have been executed against the system generated record; and
- (c) No acceptance of goods or services have been applied against the system generated record.

Once the record is cancelled by the procurement systems administrator or Contracting Officer, the record is non-recoverable. Any cancelled records can be re-created within the Procurement System at the discretion of the CO.

B Clauses

[view contract clauses](#)

C Procurement Forms Revised 9/2021

[view procurement forms](#)

~~D Appendix~~ Revised 1/2009

Document Name
Contract Award Notification (DOT-4220.41)
Resource Conservation and Recovery Act Report
Semiannual Labor Compliance Report
Support Contractor Attendance at FAA Sponsored and Other Government Training Authorization Form

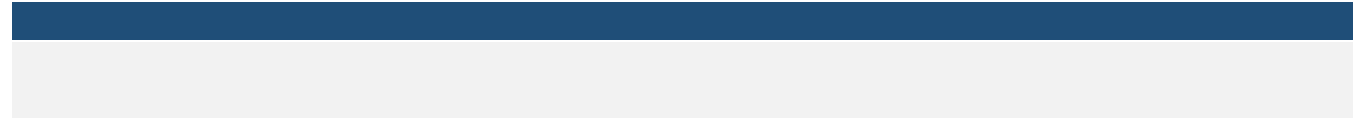
D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Congressional Affairs Notification Template

F Procurement Tools and Resources *Added 9/2021*



G Appendix *Added 9/2021*

APPENDIX 1 – Annual Procurement Forecast *Added 9/2020*

ANNUAL PROCUREMENT FORECAST FORMAT

Program Office & Point of Contact	Description of Procurement Planning Procurement Information	Incumbent Contractor & Current Contract Number (if available)
(Include Office Title, Release Routing Symbol, Method Telephone Number whether with Area Code)	(Include Brief Description, SIC Code Estimated Value, Performance Location indicating City & State)	(Include Estimated SIR Date, Estimated Award Date, of Procurement, indicate Set-Aside or not)

* Do Not Include Modifications to Existing Procurements

Method of Procurement: (i.e., set-aside, single Source unrestricted)

APPENDIX 2 – Major Procurement Program Goals (MPPG) *Added 9/2020*

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

**MAJOR PROCUREMENT PROGRAM GOALS (PROJECTION)
FISCAL YEAR**

(DOLLARS IN MILLIONS)

REPORTING OFFICE: _____

Fiscal Year % of No. of

\$ Goal Goal Actions

- (1) Total Procurements..... _____ N/A
- (2) Awards to Small Businesses..... _____ % (% of 1) _____
- (3) Awards to SEDB (8(a))..... _____ % (% of 1) _____
- (4) Awards to Small Disadvantaged Businesses..... _____ % (% of 1) _____
- (5) Awards to Small Businesses Owned and Controlled by Women..... _____ % (% of 1) _____
- (6) Total Subcontracts Awarded by Prime Contractors..... _____ N/A _____
- (7) Subcontracts Awarded to Small Businesses..... _____ % (% of 6) _____
- (8) Subcontracts Awarded to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals..... _____ % (% of 6) _____
- (9) Subcontracts Awarded to Small Businesses
Owned and Controlled by Women..... _____ % (% of 6) _____

APPENDIX 3 – Pre-AMS MPPG (Actuals) Report Added 9/2020

PRE-ACQUISITION MANAGEMENT SYSTEM (AMS)

**MAJOR PROCUREMENT PROGRAM GOALS (ACTUALS) REPORT (MPPGR)
DATA ITEM DESCRIPTIONS (2/98)**

Pre-AMS reports are to be generated containing the following data elements:

Pre-AMS Procurement Obligations, as used in the MPPGR, is the sum of all procurement obligations that are **not** awarded pursuant to the AMS (excludes interagency agreements).

Total Awards (Item 1) are all pre-AMS procurement obligations awarded to large and small businesses excluding all interagency agreements. Item 1 must be equal to or greater than the sum of Items 2 - 5.

Awards to Small Business Concerns (Item 2) are all pre-AMS procurement obligations awarded to small business concerns (i.e. 8(a) businesses, small business concerns owned and controlled by socially and economically disadvantaged individuals, small businesses owned and controlled by

women and all other small businesses). Item 2 must be equal to the sum of Items 3 - 5.

Awards to 8(a) Concerns (Item 3) are all pre-AMS procurement obligations awarded to 8(a) firms via FSS, 8(a) competitive set-asides and/or 8(a) non-competitive set-asides only. Do not count in Item 3 if counted in Items 4 or 5.

Awards to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged (SDB) Individuals (Item 4) are all pre-AMS procurement obligations awarded to SDBs excluding awards to 8(a) firms via 8(a) competitive set-asides and/or 8(a) non- competitive set-asides. Do not count these awards in Item 4 if counted in Items 3 or 5.

Awards to Small Business Concerns Owned and Controlled by Women (WOB) (Item 5) are all pre-AMS procurement obligations awarded to WOBs excluding awards to 8(a) firms via 8(a) competitive set-asides and/or 8(a) non-competitive set-asides. Do not count these awards in Item 5 if counted in Items 3 or 4.

Total Subcontracts Awarded by Prime Contractors (Item 6) are all pre-AMS subcontract obligations awarded to large and small businesses. Item 6 must be equal to or greater than the sum of Items 7 - 9.

Subcontracts Awarded to Small Business Concerns (Item 7) are all pre-AMS subcontract obligations awarded to small businesses. Item 7 must be equal to or greater than the sum of Items 8 and 9.

Subcontracts Awarded to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (Item 8) are all pre-AMS subcontract obligations awarded to SDBs. Do not count these awards in Item 8 if counted in Item 9.

Subcontracts Awarded to Small Business Concerns Owned and Controlled by Women (Item 9) are all pre-AMS subcontract obligations awarded to WOBs. Do not count these awards in Item 9 if counted in Item 8.

Actual This Period (Column 3) are all pre-AMS procurement obligations awarded during the current reporting period.

Cumulative Actual to Date (Column 4) are all pre-AMS procurement obligations awarded from October 1 of the current fiscal year through end of the current reporting period.

Number of Actions (Column 5) are the number of pre-AMS procurement actions that correlate to the "Actual This Period" procurement obligations (Column 3) or the "Cumulative Actual to Date" (Column 4).

SAMPLE 3 – (cont'd.)

FEDERAL AVIATION ADMINISTRATION PRE-ACQUISITION MANAGEMENT SYSTEM

MAJOR PROCUREMENT PROGRAM GOALS (ACTUAL) REPORT*

REPORTING OFFICE/DATE OF REPORT _____

FISCAL YEAR _____

(Dollars in)

Column 1	Column 2	Column 3	Column 4	Column 5
		Actual This Period	Cumulative Actual to Date	Number of Actions
1.	Total Awards	\$	\$	
2.	Awards to small Business Concerns (Include Items 3, 4, and 5 below)	\$	\$	
3.	Awards to 8(a) Concerns	\$	\$	
4.	Awards to Small Business Concerns owned and Controlled by Socially and Economically Disadvantaged Individuals (Exclude Item 3)	\$	\$	
5.	Awards to Small business Concerns Owned and Controlled by Women (Exclude Item 3)	\$	\$	
6.	Total Subcontracts Awarded by Prime Contractors	\$	\$	
7.	Subcontracts Awarded to Small Business Concerns	\$	\$	
8.	Subcontracts Awarded to Small business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals	\$	\$	

9.	Subcontracts Awarded to Small Business Concerns Owned and Controlled by Women	\$	\$	
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* INCLUDE ALL PRE-AMS PROCUREMENT ACTIONS ON THIS REPORT EXCEPT INTERAGENCY AGREEMENTS.

APPENDIX 4 – Post AMS MPPG (Actuals) Report Added 9/2020

POST-ACQUISITION MANAGEMENT SYSTEM (AMS)

MAJOR PROCUREMENT PROGRAM GOALS (ACTUALS) REPORT (MPPGR) DATA ITEM DESCRIPTIONS (2/98)

Post-AMS reports are to be generated containing the following data elements:

Post-AMS Procurement Obligations, as used in the MPPGR, are all procurement obligations that are awarded pursuant to the AMS only (excludes interagency agreements).

Total Awards (Item 1) are all post-AMS procurement obligations awarded to large and small businesses excluding all interagency agreements. Item 1 must be equal to or greater than the sum of Items 2 - 5.

Awards to Small Business Concerns (Item 2) are all post-AMS procurement obligations awarded to small business concerns (i.e. very small businesses, 8(a) businesses, small business concerns owned and controlled by socially and economically disadvantaged individuals, small businesses owned and controlled by women and all other small businesses). Item 2 must be equal to the sum of Items 2.1 - 5.

Very Small Business Set-Asides (Item 2.1) are all post-AMS procurement obligations awarded to very small businesses via FSS and/or very small business set-asides only. Do not include awards to very small businesses if the award was not made as a result of a FSS and/or very small business set-aside. Do not count very small business set-aside awards in Items 3, 4, or 5. Do not count in Item 2.1 if counted in Items 3, 4, or 5.

SEDB Set-Asides (8(a) (Item 3)) are all post-AMS procurement obligations awarded to 8(a) firms via FSS and/or SEDB set-asides only. Do not include awards to 8(a) firms if the award was not made as a result of a FSS and/or SEDB set-aside (8(a)). Do not count in Item 3 if counted in Items 2.1, 4, or 5.

Awards to Small Business Concerns Owned and Controlled by Socially and Economically

Disadvantaged (SDB) Individuals (Item 4) are all post-AMS procurement obligations awarded to SDBs excluding awards to 8(a) firms via SEDB 8(a) set-asides (Item 3). Do not count these awards in Item 4 if counted in Items 2.1, 3, or 5.

Awards to Small Business Concerns Owned and Controlled by Women (WOB) (Item 5) are all post-AMS procurement obligations awarded to WOBs excluding awards to 8(a) firms via SEDB 8(a) set-asides. Do not count these awards in Item 5 if counted in Items 2.1, 3, or 4.

Total Subcontracts Awarded by Prime Contractors (Item 6) are all post-AMS subcontract obligations awarded to large and small businesses. Item 6 must be equal to or greater than the sum of Items 7 - 9.

Subcontracts Awarded to Small Business Concerns (Item 7) are all post-AMS subcontract obligations awarded to small businesses. Item 7 must be equal to or greater than the sum of Items 8 and 9.

Subcontracts Awarded to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (Item 8) are all post-AMS subcontract obligations awarded to SDBs. Do not count these awards in Item 8 if counted in Item 9.

Subcontracts Awarded to Small Business Concerns Owned and Controlled by Women (Item 9) are all post-AMS subcontract obligations awarded to WOBs. Do not count these awards in Item 9 if counted in Item 8.

Fiscal Year Goal (Column 3) are the agency-wide fiscal year goals established for each post-AMS MPPGR category (Column 2).

Actual This Period (Column 4) are all post-AMS procurement obligations awarded during the current reporting period.

Cumulative Actual to Date (Column 5) are all post-AMS procurement obligations awarded from October 1 of the current fiscal year through the end of the current reporting period.

Number of Actions (Column 6) are the number of post-AMS procurement actions that correlate to the "Actual This Period" procurement obligations (Column 3) or the "Cumulative Actual to Date" (Column 4).

SAMPLE 4 – (cont'd.)

FEDERAL AVIATION ADMINISTRATION POST-ACQUISITION MANAGEMENT SYSTEM

MAJOR PROCUREMENT PROGRAM GOALS (ACTUAL) REPORT*

REPORTING OFFICE/DATE OF REPORT _____

FISCAL YEAR _____

(Dollars in)

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
		Fiscal Year \$ Goal	Actual This Period	Cumulative Actual to Date	Number of Actions
1.	Total Awards	\$	\$		
2.	Awards to small Business Concerns (Includes Items 2.1, 3, 4, and 5 below)	\$	\$		
2.1	Very Small Business Set- Asides				
3.	SEDB (8(a)) Set-Asides	\$	\$		
4.	Awards to Small Business Concerns owned and Controlled by Socially and Economically Disadvantaged Individuals (Exclude Item 3)	\$	\$		
5.	Awards to Small business Concerns Owned and Controlled by Women (Exclude Item 3)	\$	\$		
6.	Total Subcontracts Awarded by Prime Contractors	\$	\$		
7.	Subcontracts Awarded to	\$	\$		

	Small Business Concerns				
8.	Subcontracts Awarded to Small business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals	\$	\$		
9.	Subcontracts Awarded to Small Business Concerns Owned and Controlled by Women	\$	\$		

*EXCLUDE INTERAGENCY AGREEMENTS AND AWARDS NOT MADE UNDER THE ACQUISITION MANAGEMENT SYSTEM ONLY.

(NOTE: PROVIDE THE DETAIL FOR ITEMS 2, 3, 4, AND 5 ON A SEPARATE SHEET. DETAIL THE INDIVIDUAL AWARDS (EXCEPT FOR SIMPLIFIED PURCHASES) THAT EQUATE TO THE TOTAL "ACTUAL THIS PERIOD" REPORTED. INCLUDE NAME OF CONTRACTOR, AWARD AMOUNT, APPLICABLE STANDARD INDUSTRIAL CLASSIFICATION AND ETHNIC GROUP.)

Section Revised: T3.14.1 – Security

Procurement Guidance - (~~7/2021~~9/2021)

T3.14.1 Security Revised 1/2009

A Security

1 Facility/Security Revised 1/2019

2 Information Security and Privacy Revised 1/2019

3 Personnel Security Revised ~~7/2021~~9/2021

4 Foreign Nationals Revised ~~1/2019~~9/2021

5 Related Security Guidance and Tools Revised 10/2018

6 Sensitive Unclassified Information Revised 7/2021

7 Defensive Counterintelligence Program (DCIP) ~~Added 7/2021~~Revised 9/2021

B Clauses Revised 1/2009

~~C Forms~~ Revised 10/2017

~~D Appendix – Contractor Staffing Access Questionnaire~~ Added 4/2021

C Procurement Forms ~~Revised 10/2017~~Added 9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T3.14.1 Security Revised 1/2009

A Security

1 Facility/Security Revised 1/2019

FAA Facility (per Order 1600.69C, FAA Facility Security Management Program, Appendix 1,#29) is defined as any building, structure, warehouse, appendage, storage area, utilities, and component, which, when related by function and location form an operating entity owned, operated or controlled by the FAA.

2 Information Security and Privacy Revised 1/2019

All systems and applications must undergo a Security Authorization as specified in FAA Order 1370.121 FAA Information Security and Privacy Program & Policy, as amended, and required by Office of Management and Budget (OMB) Circular A-130, Managing Information as a Strategic Resource (2016), and the Federal Information Modernization Security Act (FISMA) 2014. FAA Order 1370.121 as amended requires the use of the FAA Security Authorization Handbook, current version. The FAA Security Authorization Handbook provides the required guidance, process, and templates for conducting a Security Authorization and is based on the most current versions of the National Institute of Standards and Technology (NIST) Publications and Standards, Department of Transportation (DOT) Compendium and FAA Policies.

The Office of Information Security and Privacy (IS&P), Compliance Division, Assessment Branch(AIS-230) provides Security Authorization services to Office of Finance and Management (AFN) organizations and Lines of Businesses (LOBs) that have requested and funded these services.

FAA will further use the Information Security Continuous Monitoring (ISCM) objective to protect High Value Assets (HVAs) and information. FAA and Contractor responsibilities are further defined in AMS clause 3.14-9 “Information Security Continuous Monitoring (ISCM) and Forensics on Contractor Systems”.

Privacy. The Privacy Act provides safeguards for individual privacy when the FAA contracts for the design, development and/or operation of a system of records on individuals on behalf of the FAA to accomplish a program function. The Act requires that the contractor follow all of the rules on privacy that apply to the FAA.

An FAA employee may be criminally and/or civilly liable for violations of the Act. When the contract provides for operation of a system of records on individuals, contractors and their employees are considered employees of the FAA for purposes of the criminal penalties of the Act.

The Contracting Officer must review requirements to determine whether a contract will involve the design, development and/or operation of a system of records on individuals. If one or more of these tasks

will be required, the Contracting Officer must insure that the contract specifically identifies the system of records on individuals and the design, development and/or operation work to be performed. The statement of work must identify the FAA rules and regulations implementing the Privacy Act.

Privacy and Information Technology. Agencies must ensure that contracts for information technology address protection of privacy in accordance with the Privacy Act (5 U.S.C. 552a) and Part 24. In addition, each agency shall ensure that contracts for the design, development, and/or operation of a system of records using commercial information technology services or information technology support services include the following:

- (a) Agency rules of conduct that the contractor and the contractor's employees shall be required to follow.
- (b) A list of the anticipated threats and hazards that the contractor must guard against.
- (c) A description of the safeguards that the contractor must specifically provide.
- (d) Requirements for a program of FAA inspection during performance of the contract that will ensure the continued efficacy and efficiency of safeguards and the discovery and countering of new threats and hazards.

The Department of Transportation's implementing rules and regulations for the Privacy Act are contained at 49 CFR Part 10.

3 Personnel Security Revised ~~7/2021~~9/2021

a. Definitions.

(1) *Access.* The ability to physically enter or pass through an FAA area or a facility; or having the physical ability or authority to obtain FAA sensitive information, materials, or resources; or the ability to obtain FAA sensitive information by technical means including the ability to read or write information or data electronically stored or processed in a digital format such as on a computer, modem, the Internet, or a local-or wide area network (LAN or WAN). When used in conjunction with classified information, access is the ability, authority, or opportunity to obtain knowledge of such information, materials, or resources, in accordance with the provisions of Executive Order (EO)12968, Access to Classified Information.

(2) *Classified Acquisition.* An acquisition in which offerors must access- classified information (Confidential, Secret, or Top Secret) to properly submit an offer or quotation, to understand the performance requirements, -or to perform the contract.

(3) *Classified Contract.* Any contract, purchase order, consulting agreement, lease agreement, interagency agreement, memorandum of agreement, or any other agreement between FAA and another party or parties that requires the release or disclosure of classified information to the

contractor and/or contractor employees in order for them to perform under the contract or provide the services or supplies contracted for.

(4) *Classified National Security Information (CNSI)* or “classified information” is information that has been determined pursuant to Executive Order 13526 Classified National Security Information or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(5) *Contractor Employee*. A person employed as or by a contractor, subcontractor, or consultant supporting FAA or any non-FAA person who performs work or services for FAA within FAA facilities.

(6) *Electronic Questionnaires for Investigations Processing (eQIP)*. Government system used to electronically process initial and subsequent background investigation requests.

(7) *FAA facility*. Any staffed or unstaffed building structure, warehouse, appendage, storage area, utilities and components, which when related by function and location form an operating entity owned, operated or controlled by FAA.

(8) *Foreign National*. Any citizen or national of a country other than the United States who has not immigrated to the United States and is not a Legal Permanent Resident (LPR) of the United States.

(9) *Immigrant Alien*. Any person not a citizen or national of the United States who has been lawfully admitted for permanent residence to the United States by the U.S. Citizen and Immigration Service (USCIS). (Refer to the Immigration and Nationality Act (INA)(8 United States Code 1101), Sections 101(a)(3) and (20).

(10) *Non-Immigrant Alien*. Any person not a citizen or national of the United States who has been authorized to work in the United States by the USCIS, but who has not been lawfully admitted for permanent residence. (Refer to the INA, Sections 101(a)(3) and (20).

(11) *Operating Office*. An FAA line of business, an office or service in FAA headquarters or an FAA division-level organization in a region or center, or any FAA activity or organization that utilizes the services and/or work of a contractor.

(12) *Quality Assurance Program*. A system that provides a means of continuous review and oversight of a program/process to ensure (1) compliance with applicable laws and regulations; (2) the products and services are dependable and reliable.

(13) *Resources*. FAA physical plant, sensitive equipment, information databases including hardware, software and manual records pertaining to agency mission or personnel.

(14) *Sensitive Information*. Any information which if subject to unauthorized access, modification, loss, or misuse could adversely affect the national interest, the conduct of Federal programs or the privacy to which individuals are entitled under Section 552a of Title 5, United

States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an EO or an Act of Congress to be kept secret in the interest of national defense or foreign policy. Sensitive data includes propriety data.

(15) *Sensitive Unclassified Information (SUI)*. SUI is unclassified information— *in any form including print, electronic, visual, or aural forms* - that must be protected from uncontrolled release to persons outside the FAA and indiscriminate dissemination within the FAA. It includes aviation security, homeland security, and protected critical infrastructure information. SUI may include information that may qualify for withholding from the public under the Freedom of Information Act (FOIA).

(16) *Servicing Security Element (SSE)*. The FAA headquarters, region, or center organizational element responsible for providing security services to a particular activity. Note: This term no longer applies to personnel security where the AXP organizational designation is now used instead. The term still applies to information and facility security.

(17) *Vendor Applicant Process (VAP)*. FAA system utilized to process and manage personnel security information for contractor personnel.

b. The National Industrial Security Program (NISP) was established by EO 12829, January 6, 1993, to ensure that cleared industry safeguards the classified information in their possession while performing work on contracts, programs, bids or research and development efforts. The NISP Operating Manual (NISPOM) prescribes the requirements, restrictions, and other safeguards necessary to prevent unauthorized disclosure of classified information and to control authorized disclosure of classified information released by the U.S. Government. Effective February 24, 2021, the NISPOM was codified in 32 CFR Part 117.32 CFR Part 117 is available online on govinfo at <https://www.govinfo.gov/content/pkg/FR-2020-12-21/pdf/2020-27698.pdf> .

c. AMS Policy Section 3.5, Patents, Data, and Copyrights, contains policy for safeguarding classified information in patent applications and patents.

d. *Classified Information-Responsibilities of the Contracting Officer (CO)*.

(1) Ensure that the Screening Information Request (SIR) and contract clearly identify the security, access, storage, and safeguarding requirements for contractor access to any Classified National Security Information (CNSI) as well as the highest level of access required. Additionally ensure that the contract documentation and processes comply with current NISP requirements.

(2) The CO must contact the Information Safeguards Division, AXF-200 and the responsible Office of Personnel Security (AXP) Division regarding FAA procedures and requirements for any contracting activity requiring contractor -access to classified information, whether that information is owned by another agency or FAA. The responsible security organizations include the following:

(a) Headquarters – ASH Office of Infrastructure Protection, Information Safeguards Division, AXF-200

(b) ASH Office of Personnel Security (National Capital, AXP-300; East, AXP-400; Central, AXP-500 and West, AXP-600). The William J. Hughes Technical Center (WJHTC) is under the security cognizance of AXP-400 for classified contracting processes.

(c) Mike Monroney Aeronautical Center (MMAC) – is under the security cognizance of AXP-500 for classified contracting processes.

(3) *Prescreening Information Request Phase*. COs should review all proposed Screening Information Requests (SIRs) to determine whether access to classified information may be required by offerors, or by a contractor during contract performance. If access to classified information is required, the CO must comply with subparagraph d.(1) and d.(2) above.

(4) *SIR Phase*. COs must:

(a) Ensure the classified acquisition is conducted in accordance with the requirements of d.(1) and d.(2) above;

(b) Include appropriate security requirements and clauses in SIRs (see AMS Clause 3.14-1, Security Requirements – Classified Contracts, and its alternates); and as appropriate in SIRs and contracts when the contractor requires access to classified information. Requirements for security safeguards in addition to those provided in AMS Clause 3.14-1, Security Requirements – Classified Contracts, might be necessary in some instances; and

(c) Ensure the use of Contract Security Classification Specification, DD Form 254 when classified contracts are employed. The DD 254 will be part of the contract. Instructions for DD 254 may be found at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0254-Inst.pdf>.

Types of DD Form 254s are as follows:

- (i) Original –issued as part of a solicitation for a classified contract, upon the award of a classified contract, or upon the award of a classified subcontract;
- (ii) Revised – issued when there is a change to the security requirements or classification guidance The revised DD 254 will be incorporated into the contract by a contract modification; and
- (iii) Final – a final DD 254 is only used to authorize retention of classified material by the contractor beyond the two-year period automatically authorized by NISPOM at the end of the contract. The Contracting Officer must send an Authorization to Retain Classified Material Letter Template to the contractor authorizing this additional retention of

classified material.

For consistency in the application of security requirements and classification guidance, the Information Safeguards Division (AXF-200) drafts all DD 254s.

e. *Employment Suitability and Security Clearances for Contractor Personnel.* FAA's policy on personnel security for contractor employees, including those working on a FAA contract employed at contractor facilities, requires that procurement personnel take appropriate actions to protect the Government's interest where it appears that contractor employees, subcontractors, or consultants may have access to FAA facilities, classified information, sensitive information, and/or resources. Additional details of the agency's contractor and industrial security program are provided in FAA Order 1600.72A.

(1) *Security Clearances for Contractor Employees.*

(a) FAA Orders 1600.2F and 1600.72A provide that contracts requiring contractor employees to have access to classified information must be prepared and processed according to the procedures contained in the National Industrial Security Program Operating Manual (NISPOM)

(b) In the case of a contract or agreement where the FAA requires persons not employed by the U.S. Government to have access to classified information, a statement to that effect should be included in the SIR and the requirements of FAA Order 1600.72A.

(2) *Employment Suitability of Contractor Employees.*

(a) FAA Order 1600.72A provides specific policy for determining suitability of FAA contractor employees for access to FAA facilities, classified information, Sensitive Unclassified Information (SUI), and/or network information systems. It outlines risk levels and associated investigations requirements, and identified additional specific requirements and exemptions from investigative requirements.

(b) As it pertains to suitability determinations, at a minimum, the following actions are required:

(i) The CO- with input from the Operating Office (e.g., Contracting Officer's Representative (COR)), have the responsibility to make an initial determination as to whether the contract will require contractor employees to have access and be subject to, the order in any given SIR and/or contract. An assessment will be made up-front as to whether any positions contained in the staffing plan will require access to FAA facilities, classified information, sensitive unclassified information, and/or resources. If the CO determines that the order does not apply to a given SIR/contract, this will be documented in a memorandum to file, indicating the matter was given due consideration, addressed adequately, and said determination made. The CO may consult the responsible personnel security office for assistance in making the determination, if needed.

(ii) The Operating Office, in coordination with the COR, has the responsibility to make initial position risk/sensitivity level designations based on the initial list of positions and

the Statement of Work (SOW). —The Office of Personnel Management’s (OPM) website contains information on the Position Designation System. The Position Designation Automated Tool at <https://pdt.nbis.mil> was created to ensure positions are designated uniformly and consistently. It is to be used by the Operating Office or COR to document position designations. All OPM Position Designation Records must be submitted along with the SOW to AXP for review and approval during the solicitation phase.

(iii) For modifications to existing contracts that change the security posture of the contract, new Position Designation Records must be completed and sent to the appropriate AXP office for review and approval. Modifications that do not affect the security posture do not require completion of new Position Designation Records prior to the execution of the modification. For new contracts, the same process would be followed for determining risk/sensitivity level designations, using information required by way of a provision in the SIR.

(iv) *Contractor Staffing Access Questionnaire*. For all contracts subject to the requirements of FAA Order 1600.72A, the Contracting Officer must issue the Contractor Staffing Access Questionnaire (~~see Appendix D~~or the Leased Space Unescorted Access Questionnaire) as part of the solicitation. The Questionnaire from the successful offeror will be used by AXP for planning purposes in reference to contractor access needs under the contract. The solicitation must include the Questionnaire and direct the contractor to fill it out and submit it with their proposal. The contractor’s responses to the questionnaire will not be considered as part of the proposal evaluation. The CO will forward the Questionnaire received from the successful offeror in response to a solicitation to 9-ASH-Security-Contract-Customer-Service@faa.gov immediately after contract award.

(v) AMS Clause 3.14-2 (or Real Property Clause 6.9.3 for Leased Space) will require the contractor to submit the completed documentation for each employee in a stated position, as necessary to permit the Office of Personnel Security to make an employment suitability determination. This documentation must be submitted through applicable systems or directly to the appropriate AXP office (for Privacy Act reasons) for approval, or denial of access, using the process described in FAA Order 1600.72A.

(vi) For new contracts, contractor employees must be required to submit the required documentation prior to performing or providing services or supplies under any FAA contract actions. Depending upon the nature and extent of access required, after an initial review of the documentation submitted by the contractor or contractor employee, AXP may grant interim suitability for the contractor employee to commence performing or providing services or supplies under the contract pending completion of the check and/or investigation and final suitability determination.

(vii) For modifications to existing contracts, contractor employees may continue working under the contract pending submission of the necessary documentation, if any, and completion of a background investigation by AXP, if required. Note there is a period of 30 days that cannot be exceeded in which contractors must submit the forms after the

positions and designated risk levels have been identified via contract modification. AXP may establish conditions governing such access pending completion of suitability investigation.

(viii) Notification of termination of employees performing within a stated position under a contract must be provided via the VAP to the FAA by the contractor within one (1) day.

(ix) COs will notify the appropriate AXP office whenever a contract is awarded. (For large contract awards, COs should invite AXP to the kick-off meeting or post-award conference). The CO will advise the AXP office of the awarded vendor, contract number, and the approved position designations for each labor category. In addition, the CO will notify the appropriate AXP office when the status of a contract changes (i.e., replaced, defaulted, terminated, etc.). Prior coordination of new contracts should have occurred between the Operating Office, the CO, and AXP.

(c) Procedures for Processing Security Investigations.

(i) Upon contract award, the CO or contractor will communicate to the personnel security specialist (PSS) a point of contact (POC) who will enter data into the Vendor Applicant Process (VAP) (vap.faa.gov). This POC should be a representative designated by the contractor, and each contract may have a maximum of 5 POCs per contract. The VAP administrator will provide a Web ID, password to each POC and instructions how to operate the VAP system.

(ii) The VAP POC will enter into the VAP system basic identifying information for each contractor and subcontractor employee, requiring an investigation.

(iii) The PSS will examine the information in VAP and check for prior investigations and clearance information.

(AA) If a prior investigation exists that meets the investigative requirements of the position, there has not been a 2-year break in service, and there is no new derogatory information known, the PSS will notify the vendor and CO/COR that no investigation is required and that final suitability is approved.

(BB) If no previous investigation exists, the PSS will send the applicant an e-mail containing instructions for completing investigative requirements.

(iv) The applicant must complete the eQIP form and submit other applicable material within 15 days of receiving the e-mail from the PSS.

(v) If the eQIP form requires additional information, it will be rejected to the applicant with the reason for the rejection.

(vi) The PSS will notify the applicant and CO/COR of any interim suitability determinations.

(d) *Removal of Contractor Employees.* The VAP POC must notify AXP when a contractor employee is terminated, resigns, or if otherwise removed from a contract by submitting a Removal record in VAP, within twenty-four (24) hours of the removal. CO/CORs have a responsibility to ensure that the vendor complies with this requirement. If a vendor fails to submit a removal record, the CO/COR must notify AXP of the removal as soon as practicable.

(e) *Reports.* The POCs, COs, and CORs have the ability to retrieve current roster reports from VAP for all contracts and contractor employees. The POC must run this report on a quarterly basis to ensure the roster is accurate, and immediately correct any discrepancies with the responsible AXP office.

f. *Costs of Investigations.* To pay for investigations, allotments of funds are made to regions, centers, and headquarters. Unless there has been a specific allotment to AXP to pay for all contractor employee investigations for operating officers that AXP services, each operating office must arrange to pay the costs for investigations on those employees working under contracts for which it is responsible. Security screenings, including fingerprint checks on contractor employees are funded through operational funds by each office or division. The operating office responsible for payment must provide AXP with the accounting code information necessary to have the cost charged appropriately.

g. *Contractor Off-Boarding Requirements.* Contractor employees departing from a FAA contract who have access to FAA facilities and/or Information Technology systems must each complete the FAA Contractor Employee Off-Boarding [ChecklistForm](#) (see Procurement Forms). This does not apply to contractor employees who have been employed on the contract for less than six (6) months and have not been issued a yellow ID card.

The contractor employee's FAA sponsor is responsible for ensuring that the employee completes the Checklist. This responsibility may be delegated to the COR under a given contract. Contractor responsibilities are as indicated in AMS Clause 3.14-4 "Access to FAA Facilities, Systems, Government Property, and Sensitive Information" (or [Real Property Clause 6.9.4 for Leased Space](#)).

4 Foreign Nationals Revised 1/2019/2021

Foreign nationals employed or hired by the contractor to perform services for the FAA must have resided within the United States for three (3) years of the last five (5) years unless a waiver of this requirement has been granted by AXP in accordance with FAA regulations (see AMS Clause 3.14-3 [or Real Property Clause 6.9.2](#), Foreign Nationals as Contractor Employees).

5 Related Security Guidance and Tools Revised 10/2018

The following sections refer to areas within the AMS Guidance that contain security issues to be considered during contract formulation.

T3.1.6 Nondisclosure of Information

T3.2.1 Procurement Planning

T3.2.2.5 Commercial and Simplified Purchase Method

T3.2.2.6 Unsolicited Proposals

T3.2.2.7 Contractor Qualifications

T3.3.1 Contract Funding, Financing & Payment

T3.5 Patents, Rights in Data, and Copyrights

T3.6.4 Foreign Acquisitions

6 Sensitive Unclassified Information Revised 7/2021

a. *General.*

(1) FAA Order 1600.75, "Protecting Sensitive Unclassified Information (SUI)," outlines policy and guidance on protecting sensitive unclassified information (SUI).

(2) When a contract, order, lease, or agreement requires a contractor or offeror to have access to SUI, the Contracting Officer (CO) must incorporate appropriate security clauses into the solicitation or contract. These include clauses on safeguarding standards, personnel security suitability, and non-disclosure agreements.

(3) SUI may include information such as Personally Identifiable Information (PII), sensitive NAS data, construction drawings, or equipment specifications. Prospective FAA vendors may need access to this information to ensure they can accurately propose and perform the work that FAA requires.

(4) When a screening information request (SIR) includes information determined to be SUI, the CO (and anyone else granted access to the SUI) must take reasonable care disseminating the SUI documents and ensure the recipient has a *need-to-know* and is *authorized* to receive it.

b. *FOUO and SSI.* There are over 50 types of SUI; however the two types generally handled within FAA are:

(1) *For Official Use Only (FOUO).* FOUO is the primary designation given to SUI by FAA, and consists of information that could adversely affect the national interest, the conduct of Federal programs, or a person's privacy if released to unauthorized individuals. Uncontrolled issuance of FOUO may allow someone to:

(a) Circumvent agency laws, regulations, legal standards, or security measures;
or

(b) Obtain unauthorized access to an information system.

(2) *Sensitive Security Information (SSI)*. SSI is a designation unique to the FAA, DOT, and the Department of Homeland Security (DHS) Transportation Security Administration (TSA), and applied to information meeting the criteria of 49 CFR Part 15, Part 1520 and Subpart A. SSI is information obtained or developed while conducting security activities, including research and development. Unauthorized disclosure of SSI can:

(a) Constitute an unwarranted invasion of privacy;

(b) Reveal trade secrets or privileged or confidential information; or

(c) Be detrimental to transportation safety or security.

c. *Distribution of SUI Information*. When distributing SUI information, the CO (and anyone else granted access to the SUI, including prime contractors, subcontractors, suppliers, etc.) must ensure the persons receiving the information are *authorized* to receive the SUI and have a *need- to-know*. Methods of pre-award SUI dissemination utilized in FAA include SAM.gov and other electronic transfer and dissemination.

d. *The System for Award Management (SAM.gov)*. SAM.gov is an E-Gov initiative that provides a secure environment for distributing sensitive acquisition information (to include SUI) to vendors during the solicitation phase of procurement. This system electronically disseminates information or data to the vendor community while still protecting SUI from unauthorized distribution. Data that can be uploaded into SAM.gov includes construction plans, equipment specifications, security plans, and SIRs. As FAA utilizes the FAA Contract Opportunities page located on SAM.gov to announce procurement opportunities, COs will utilize the Controlled Attachment functionality in SAM.gov when electronically distributing SUI.

(1) SAM.gov provides several security measures to include:

(a) During processing of a vendor's access request to SAM.gov, the vendor's profile is retrieved from the System for Award Management (SAM) using the Data Universal Numbering System (DUNS) number;

(b) *Marketing Partner Identification Number (MPIN)*. A number required by SAM.gov to access SUI. This number is unique to each vendor, and chosen by the vendor when each vendor registers with SAM;

(c) Vendors receive an e-mail after registration to confirm the validity of their identity and contact information;

(d) The access level of the data in SAM.gov can be adjusted; the CO can specifically allow access to only certain vendors, or if a vendor requests access to the data and they are not specifically authorized, the system will verify with the CO if access should be granted (termed "Explicit Access Request"); and

(e) The system tracks which Government users and vendors access the data through SAM.gov.

(2) Use of SAM.gov requires the CO to adhere to the following process:

(a) Upload SUI files into the SAM.gov website (<https://sam.gov/SAM/>) by the procurement request (PR) and solicitation numbers. Note that the problems may arise when uploading attachments greater than 250 mb.

(b) "Release" the solicitation: Prior to it being made available to anyone through SAM.gov, the CO must determine the scope of vendors allowed to access the data and release the data for authorized viewing.

(c) Once established in SAM.gov, the system provides the CO a web address to provide to vendors that will link authorized persons directly into the applicable data. The CO can email this link to individual vendors when access has been restricted, or can place it on a public announcement via the internet so, if properly registered, all interested parties may view the data.

(3) Web-based training and user guides are available to both FAA users and contractors at <https://sam.gov/SAM/>.

e. *Registration with SAM.gov.* For registration instructions, please refer to the SAM.gov website.

f. *Other Electronic Transfer and Dissemination.* Transfer and dissemination of SUI information beyond the intranet (internet or extranet, modem, DSL, wireless, etc.) must use at least 128 bit symmetric key encryption following NIST Special Publication 800-21 *Guideline For Implementing Cryptography in the Federal Government*. All transfers must use standard commercial products (such as PGP and Secret Agent) with encryption algorithms that are at least 128 bit symmetric (3DES, AES, RC4, IDEA, etc.), and follow the instructions outlined in this order. Authorized users that use project extranets for electronic project management during or after contract award to transfer SUI information are responsible for verifying and certifying to the CO that project extranets meet applicable physical and technical security requirements as determined by the Chief Information Officer. Access to the sites must be password protected and access must be granted only on a need-to-know basis. A record of those individuals who have had electronic access must be maintained by the CO or other disseminator in accordance with the system of keeping long-term records.

g. *Record Keeping*— Records of the signed forms must be maintained by the disseminator and destroyed 2 years after final disposition of the related SUI material (FAA Order 1350.14B and GRS 18 Item 1). At the completion of work, secondary and other disseminators must turn over their dissemination records to FAA, to be kept with the permanent files. The only records that the CO

must keep for those vendors that utilize SAM.gov to request SUI are the request forms for hardcopy documentation and any documentation detailing subsequent dissemination by the vendor and their subcontractors or suppliers. Records of those who accessed SUI information via SAM.gov and their associated SUI policy certifications are stored in SAM.gov itself.

h. *Retaining and Destroying Documents.* The requirements above must continue throughout the entire term of contract and for whatever specific time thereafter as may be necessary. Necessary record copies for legal purposes (such as those retained by the architect, engineer, or contractor) must be safeguarded against unauthorized use for the term of retention. Documents no longer needed must be destroyed (such as after contract award, after completion of any appeals process, or completion of the work). Destruction must be by burning or shredding hardcopy, and physically destroying CDs, deleting and removing files from electronic recycling bins, and removing material from computer hard drives using a permanent erase utility or similar software.

i. *Notice of Disposal.* For all contracts using SUI, the contractor must notify the CO that it and its subcontractors have properly disposed of the SUI documents, except the contractor's record copy, at the time of Release of Claims to obtain final payment.

j. *State and Local Governments.* To comply with local regulations, FAA must provide localities with documents to issue building permits and to approve code requirements. Public safety entities such as fire departments and utility departments require unlimited access on a need-to-know basis. These authorities must be informed at the time they receive the documents that the information requires restricted access from the general public. When these documents are retired to local archives, they should be stored in restricted access areas. This will not preclude the dissemination of information to those public safety entities.

7 Defensive Counterintelligence Program (DCIP) ~~Added 7/2021~~ Revised 9/2021

- a. The Defensive Counterintelligence Program (DCIP) detects, deters, and denies illicit human and technical intelligence collection activities by a foreign power or agents of a foreign power as defined in 50 U.S.C. § 1801. This Program is implemented by FAA Order 1600.84 “FAA Defensive Counterintelligence Program” found at https://employees.faa.gov/documentLibrary/media/Order/FAA_Order_1600.84_Final.pdf (FAA only).
- b. This Order applies to all contractors where contractor employees-
 - (1) Are authorized unescorted access to non-public areas of FAA facilities;
 - (2) Have access to non-public portions of FAA equipment, networks, or information systems; or
 - (3) Have access to classified national security information (CNSI), sensitive unclassified information (SUI), or otherwise protected information in the possession of the FAA.

Contractor responsibilities under applicable contracts are specified in Clause 3.14-14 “Cooperation with Defensive Counterintelligence Program (DCIP) Requirements” (or Real Property Clause 6.9.6 for Leased Space or Land).

- c. Responsibilities of COs and CORs under contracts where FAA Order 1600.84 applies are the following:
- (1) Familiarize themselves with their responsibilities and contractors’ responsibilities as described in this Order, including without limitation cooperating with authorized DCIP inquiries and CI investigations.
 - (2) COs should include the appropriate contract clauses and provisions in relevant contract(s) as necessary to ensure contractors are required to meet all of their responsibilities as described in this Order.
 - (3) Ensure that contractors are aware of their responsibilities, as described in this Order and the relevant contract(s).
 - (4) If there will be foreign travel by contractors under the contract, ensure contractors are aware of the international travel security briefing and foreign contact reporting requirements contained in FAA Order 1600.61C, *International Travel Security Program* at <https://my.faa.gov/org/linebusiness/ash/programs/ITSP.html#official> (FAA only), as well as the international travel security briefing and foreign contact reporting requirements of Security Executive Agent Directive-3 (SEAD-3) implemented by the FAA at <https://my.faa.gov/org/linebusiness/ash/programs/ITSP.html> (FAA only).
 - (5) When requested by the DCIP and when necessary to protect CNSI, SUI, or otherwise protected information, an employee, as defined in FAA Order 1600.84, must sign a Defensive Counterintelligence Program Non-Disclosure Agreement (found in AMS Procurement Forms) prior to being briefed on any information pertaining to a DCIP inquiry, a CI investigation, or any other matter related to the DCIP.
 - (6) COs or CORs may contact AXI-1, AXI-300, or AXI-310 directly with questions about their responsibilities, and employees’ responsibilities, for cooperating with a DCIP inquiry or CI investigation.

B Clauses Revised 1/2009

[view contract clauses](#)

C Procurement Forms Revised 10/2017/2021

[view procurement forms](#)

The following security forms apply to FAA procurement:

- ☐ ~~DD Form 254—Contract Security Classification Specification: For use by FAA personnel when classified contracts are employed.~~

D. Appendix

Contractor Staffing Access Questionnaire

Purpose: The purpose of this questionnaire is to identify the access needs of a potential contractor's employees so the FAA may determine the appropriate investigation requirements and badging needs for the contractor in the event of contract award.

Instructions: Please complete and return...

- What is the estimated number of employees (both full and part-time including subcontractor personnel) anticipated to support this contract throughout the life of the contract? ____
 - If available, attach a list of personnel proposed to work on the contract.
- Please provide the following information for each labor category anticipated on this contract. Where the labor categories are specified in advance by the FAA, these labor categories must be used. Where the labor categories are not specified in advance, use contractor labor categories:

Labor Category 1

- Position Title(s) _____
- Estimated number of employees in this category _____
- Will employees in this category require routine (defined as more than (1) day per week), access to an FAA facility for more than 180 days? _____ YES ☐ NO ☐
- Will employees in this category require access to FAA computer systems or FAA networks (i.e. computer access, etc.)? YES ☐ NO ☐
- Will employees in the category require access to FAA Sensitive Unclassified Information (SUI) (e.g.; building or land designs, drawings, research and development material, operations plans, etc.)? YES ☐ NO ☐

Labor Category 2

- Position Title(s) _____
- Estimated number of employees in this category _____
- Will employees in this category require routine (defined as more than (1) day per week), access to an FAA facility for more than 180 days? _____ YES ☐ NO ☐

- ~~Will employees in this category require access to FAA computer systems or FAA networks (i.e. computer access, etc.)?~~
YES ☐ NO ☐
- ~~Will employees in the category require access to FAA Sensitive Unclassified Information (SUI) (e.g., building or land designs, drawings, research and development material, operations plans, etc.)?~~
YES ☐ NO ☐

~~Labor Category 3~~

- ~~Position Title(s) _____~~
- ~~Estimated number of employees in this category _____~~
- ~~Will employees in this category require routine (defined as more than (1) day per week), access to an FAA facility for more than 180 days? — YES ☐ NO ☐~~
- ~~Will employees in this category require access to FAA computer systems or FAA networks (i.e. computer access, etc.)?~~
YES ☐ NO ☐
- ~~Will employees in the category require access to FAA Sensitive Unclassified Information (e.g., building or land designs, drawings, research and development material, operations plans, etc.)?~~
YES ☐ NO ☐

(Add additional labor categories as needed)

<u>Document Name</u>
<u>Contract Security Classification Specification (DD 254)</u>
<u>Contractor Access Staffing Questionnaire</u>
<u>Contractor Employee Off-Boarding Form</u>

D Procurement Samples Added 9/2021

<u>Document Name</u>

E Procurement Templates Added 9/2021

<u>Document Name</u>

F Procurement Tools and Resources Added 9/2021

Document Name

Section Revised: T3.16 – Commercial Licensing Agreement

Procurement Guidance - (~~7/2021~~9/2021)

T3.16 Commercial Licensing Agreement	Added 4/2006
A Commercial Licensing Agreement	Revised 1/2016 <u>9/2021</u>
B Clauses	Added 4/2006
C Forms	Added 4/2006
D Appendix	
C Procurement Forms	Revised 9/2021
D Procurement Samples	Added 9/2021
E Procurement Templates	Added 9/2021
F Procurement Tools and Resources	Added 9/2021
G Appendix	Revised 1/2016 <u>9/2021</u>

T3.16 Commercial Licensing Agreement Added 4/2006

A Commercial Licensing Agreement Revised ~~1/2016~~9/2021

1. Commercial Licensing Agreements (agreements) provide terms and conditions for the FAA to use various commercial software programs that the Government does not own. Often there are embedded terms in the agreements that could create legal problems for the FAA or the agreements may provide terms that conflict with other contract provisions. These conflicts also have potential to create legal problems, and both issues could cause unexpected liabilities.
2. The Contracting Officer (CO) should use the attached Appendix G "Checklist For Review of Commercial Form Contracts" (software licenses, etc.) to examine pertinent clauses and agreement requirements to prevent unfavorable terms or conflict with FAA contracts.
3. Only the CO is authorized to enter into Commercial Licensing Agreements.
4. The CO must consult with legal counsel to ensure that agreement terms and conditions minimize FAA's liability, and strike a balance between the FAA's requirements needs and the contractor's proprietary interest.

B Clauses Added 4/2006

[view contract clauses](#)

C Procurement Forms ~~Added 4/2006~~Revised 9/2021

[view procurement forms](#)

D

Document Name

D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Document Name

F Procurement Tools and Resources Added 9/2021

Document Name

G Appendix Revised 1/2016/2021

Checklist for Review of Commercial Form Contracts (Software licenses, etc.)

1. Review AMS clause 3.5-18, “Commercial Computer Software-Restricted Rights,” which either is, or should be added into, the basic contract. Delete all clauses and terms inconsistent with AMS, e.g., “breach,” “payment,” “termination,” “binding arbitration.”
2. Delete any “Governing Law” provision unless it specifies Federal law; e.g., “This agreement must be subject to the laws of the state of Michigan.”
3. Scrutinize the document for any attempts to impose additional license fees, i.e., if the software is to be used by anyone in the FAA not specifically identified in the agreement or contract.
4. Check for clauses that attempt to restrict use of the software to specific machines or networks in specific locations. Delete as necessary.
5. Delete any and all indemnity or attorney’s fees provisions in contractor’s favor. See Anti-Deficiency and Equal Access to Justice Acts, respectively.
6. Delete integration or merger clauses; the FAA contract will govern the rights and responsibilities of the parties, not a stand-alone license agreement.
7. Avoid open items (e.g., form blanks not filled in); these items must be negotiated and recorded prior to execution.
8. No incorporation of future prices, terms, etc. (For example, software licenses cannot automatically renew each year if the FAA will become obligated to pay a yearly licensing fee.)
9. Delete any interest-for-late-payment terms varying from the Prompt Payment Act.
10. Eliminate extensive warranty disclaimers, particularly disclaimers for defects in “third party products,” where a subcontractor or supplier provides input into the final contract deliverable.

11. Watch for and delete clauses that give the contractor exclusive control over infringement litigation. The Department of Justice would represent FAA in any such litigation, and expect a certain amount of control.

12. Delete damages and/or liability clauses which are inconsistent with FAA clauses.

13. Delete injunctive release terms that could arbitrarily stop performance.

14. Ensure that the FAA use of copyrighted material will not be considered an infringement of the copyright.