Part 4 - Administrative and Information Matters

4.000 Scope of part.

4.001 Definitions.

Subpart 4.1 - Contract Execution

4.101 Contracting officer’s signature.

4.102 Contractor’s signature.

4.103 Contract clause.

Subpart 4.2 - Contract Distribution

4.201 Procedures.

4.202 Agency distribution requirements.

4.203 Taxpayer identification information.

Subpart 4.3 - Paper Documents

4.300 Scope of subpart.

4.301 Definition.

4.302 Policy.

4.303 Contract clause.

Subpart 4.4 - Safeguarding Classified Information Within Industry

4.401 [Reserved]

4.402 General.

4.403 Responsibilities of contracting officers.

4.404 Contract clause.

Subpart 4.5 - Electronic Commerce in Contracting

4.500 Scope of subpart.

4.501 [Reserved]

4.502 Policy.

Subpart 4.6 - Contract Reporting

4.600 Scope of subpart.

4.601 Definitions.

4.602 General.

4.603 Policy.

4.604 Responsibilities.

4.605 Procedures.

4.606 Reporting Data.

4.607 Solicitation provisions and contract clause.

Subpart 4.7 - Contractor Records Retention

4.700 Scope of subpart.

4.701 Purpose.

4.702 Applicability.

4.703 Policy.

4.704 Calculation of retention periods.

4.705 Specific retention periods.

4.705-1 Financial and cost accounting records.

4.705-2 Pay administration records.

4.705-3 Acquisition and supply records.

Subpart 4.8 - Government Contract Files

4.800 Scope of subpart.

4.801 General.

4.802 Contract files.

4.803 Contents of contract files.

4.804 Closeout of contract files.

4.804-1 Closeout by the office administering the contract.

4.804-2 Closeout of the contracting office files if another office administers the contract.

4.804-3 Closeout of paying office contract files.

4.804-4 Physically completed contracts.

4.804-5 Procedures for closing out contract files.

4.805 Storage, handling, and contract files.

Subpart 4.9 - Taxpayer Identification Number Information

4.900 Scope of subpart.

4.901 Definition.

4.902 General.

4.903 Reporting contract information to the IRS.

4.904 Reporting payment information to the IRS.

4.905 Solicitation provision.

Subpart 4.10 - Uniform Use of Line Items

4.1000 Scope.

4.1001 Policy.

4.1002 Applicability.

4.1003 Establishing line items.

4.1004 Establishing subline items.

4.1005 Data elements for line items and subline items.

4.1005-1 Required data elements.

4.1005-2 Exceptions.

4.1006 Modifications.

4.1007 Solicitation alternative line item proposal.

4.1008 Solicitation provision.

Subpart 4.11 - System for Award Management

4.1100 Scope.

4.1101 Definition.

4.1102 Policy.

4.1103 Procedures.

4.1104 Disaster Response Registry.

4.1105 Solicitation provision and contract clauses.

Subpart 4.12 - Representations and Certifications

4.1200 Scope.

4.1201 Policy.

4.1202 Solicitation provision and contract clause.

Subpart 4.13 - Personal Identity Verification

4.1300 Scope of subpart.

4.1301 Policy.

4.1302 Acquisition of approved products and services for personal identity verification.

4.1303 Contract clause.

Subpart 4.14 - Reporting Executive Compensation and First-Tier Subcontract Awards

4.1400 Scope of subpart.

4.1401 Applicability.

4.1402 Procedures.

4.1403 Contract clause.

Subpart 4.15 - [Reserved]

4.1500 [Reserved]

4.1501 [Reserved]

4.1502 [Reserved]

Subpart 4.16 - Unique Procurement Instrument Identifiers

4.1600 Scope of subpart.

4.1601 Policy.

4.1602 Identifying the PIID and supplementary PIID.

4.1603 Procedures.

Subpart 4.17 - Service Contracts Inventory

4.1700 Scope of subpart.

4.1701 Definitions.

4.1702 Applicability.

4.1703 Reporting requirements.

4.1704 Contracting officer responsibilities.

4.1705 Contract clauses.

Subpart 4.18 - Commercial and Government Entity Code

4.1800 Scope of subpart.

4.1801 Definitions.

4.1802 Policy.

4.1803 Verifying CAGE codes prior to award.

4.1804 Solicitation provisions and contract clause.

Subpart 4.19 - Basic Safeguarding of Covered Contractor Information Systems

4.1901 Definitions.

4.1902 Applicability.

4.1903 Contract clause.

Subpart 4.20 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab

4.2001 Definitions.

4.2002 Prohibition.

4.2003 Notification.

4.2004 Contract clause.

Subpart 4.21 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

4.2100 Scope of part.

4.2101 Definitions.

4.2102 Prohibition.

4.2103 Procedures.

4.2104 Waivers.

4.2105 Solicitation provisions and contract clause.

Subpart 4.22 Prohibition on a ByteDance Covered Application.

4.2201 Definitions.

4.2202 Prohibition.

4.2203 Contract clause.

Subpart 4.23 Federal Acquisition Security Council.

4.2300 Scope of subpart.

4.2301 Definitions.

4.2302 Sharing supply chain risk information.

4.2303 FASCSA orders.

4.2304 Procedures.

4.2305 Waivers.

4.2306 Solicitation provision and contract clauses.

Parent topic: Federal Acquisition Regulation

4.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files.

4.001 Definitions.

As used in this part-

Procurement Instrument Identifier (PIID) means the Government-unique identifier for each *solicitation*, contract, agreement, or order. For example, an agency *may* use as its PIID for *procurement* actions, such as delivery and *task orders* or basic ordering agreements, the order or agreement number in conjunction with the contract number (see 4.1602).

Supplementary procurement instrument identifier means the non-unique identifier for a *procurement* action that is used in conjunction with the Government-unique identifier. For example, an agency *may* use as its PIID for an amended *solicitation*, the Government-unique identifier for a *solicitation* number (*e.g.*, N0002309R0009) in conjunction with a non-unique amendment number (*e.g.*, 0001). The non-unique amendment number represents the supplementary PIID.

Subpart 4.1 - Contract Execution

4.101 Contracting officer’s signature.

Only *contracting officers shall* sign contracts on behalf of the *United States*. The *contracting officer*’s name and official title *shall* be typed, stamped, or printed on the contract. The *contracting officer* normally signs the contract after it has been signed by the contractor. The *contracting officer*

shall ensure that the signer(s) have authority to bind the contractor (see specific requirements in 4.102 of this subpart).

4.102 Contractor’s signature.

(a) *Individuals*. A contract with an individual *shall* be signed by that individual. A contract with an individual doing business as a firm *shall* be signed by that individual, and the *signature shall* be followed by the individual’s typed, stamped, or printed name and the words ", an individual doing business as _____" [*insert name of firm*].

(b) *Partnerships*. A contract with a partnership *shall* be signed in the partnership name. Before signing for the Government, the *contracting officer shall* obtain a list of all partners and ensure that the individual(s) signing for the partnership have authority to bind the partnership.

(c) *Corporations*. A contract with a corporation *shall* be signed in the corporate name, followed by the word "by" and the *signature* and title of the person authorized to sign. The *contracting officer shall* ensure that the person signing for the corporation has authority to bind the corporation.

(d) *Joint venturers*. A contract with joint venturers *may* involve any combination of individuals, partnerships, or corporations. The contract *shall* be signed by each participant in the joint venture in the manner prescribed in paragraphs (a) through (c) of this section for each type of participant. When a corporation is participating, the *contracting officer shall* verify that the corporation is authorized to participate in the joint venture.

(e) *Agents*. When an agent is to sign the contract, other than as stated in paragraphs (a) through (d) of this section, the agent’s authorization to bind the principal *must* be established by evidence satisfactory to the *contracting officer*.

4.103 Contract clause.

The *contracting officer shall* insert the clause at 52.204-1 Approval of Contract, in *solicitations* and contracts if required by agency procedures.

Subpart 4.2 - Contract Distribution

4.201 Procedures.

Contracting officers shall distribute copies of contracts or modifications within 10 working days after execution by all parties. As a minimum, the *contracting officer shall*-

(a) Distribute simultaneously one signed copy or reproduction of the signed contract to the contractor and the paying office;

(b) When a contract is assigned to another office for contract administration (see subpart 42.2), provide to that office-

(1) One copy or reproduction of the signed contract and of each modification; and

(2) A copy of the contract distribution list, showing those offices that *should* receive copies of modifications, and any changes to the list as they occur;

(c) Distribute one copy to each accounting and finance office (funding office) whose funds are cited in the contract;

(d) When the contract is not assigned for administration but contains a Cost Accounting Standards clause, provide one copy of the contract to the cognizant administrative *contracting officer* and mark the copy "*For Cost Accounting Standards Administration Only*" (see 30.601(b));

(e) Provide one copy of each contract or modification that requires audit service to the appropriate field audit office listed in the "*Directory of Federal Contract Audit Offices*" (see 42.103); and

(f) Provide copies of contracts and modifications to those organizations required to perform contract administration support functions (*e.g.,* when manufacturing is performed at multiple sites, the *contract administration office* cognizant of each location).

4.202 Agency distribution requirements.

Agencies *shall* limit additional distribution requirements to the minimum necessary for proper performance of essential functions. When contracts are assigned for administration to a *contract administration office* located in an agency different from that of the *contracting office* (see part 42), the two agencies *shall* agree on any necessary distribution in addition to that prescribed in 4.201.

4.203 Taxpayer identification information.

(a) If the contractor has furnished a *Taxpayer Identification Number (TIN*) when completing the *solicitation* provision at 52.204-3, Taxpayer Identification, or paragraph (l) of the *solicitation* provision at 52.212-3, *Offeror* Representations and Certifications-*Commercial Products* and *Commercial Services*, the *contracting officer shall*, unless otherwise provided in agency procedures, attach a copy of the completed *solicitation* provision as the last page of the copy of the contract sent to the payment office.

(b) If the TIN or type of organization is derived from a source other than the provision at 52.204-3 or 52.212-3(l), the *contracting officer shall* annotate the last page of the contract or order forwarded to the payment office to state the contractor’s TIN and type of organization, unless this information is otherwise provided to the payment office in accordance with agency procedures.

(c) If the contractor provides its TIN or type of organization to the *contracting officer* after award, the *contracting officer shall* forward the information to the payment office within 7 days of its receipt.

(d) *Federal Supply Schedule contracts.* Each *contracting officer* that places an order under a Federal Supply Schedule contract (see subpart 8.4) *shall* provide the TIN and type of organization information to the payment office in accordance with paragraph (b) of this section.

(e) Basic ordering agreements and indefinite-delivery contracts (other than Federal Supply Schedule contracts).

(1) Each *contracting officer* that issues a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) *shall* provide to *contracting officers* placing orders under the agreement or contract (if the contractor is not required to provide this information to the *System for Award Management*)-

(i) A copy of the agreement or contract with a copy of the completed *solicitation* provision at 52.204-3 or 52.212-3(l) as the last page of the agreement or contract; or

(ii) The contractor's TIN and type of organization information.

(2) Each *contracting officer* that places an order under a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) *shall* provide the TIN and type of organization information to the payment office in accordance with paragraph (a) or (b) of this section.

Subpart 4.3 - Paper Documents

4.300 Scope of subpart.

This subpart provides policies and procedures on contractor-submitted paper documents.

4.301 Definition.

Printed or copied double-sided, as used in this subpart, means printing or reproducing a document so that information is on both sides of a sheet of paper.

4.302 Policy.

(a) Section 3(a) of E.O. 13423, Strengthening Federal Environmental, Energy, and Transportation Management, directs agencies to implement waste prevention. In addition, section 2(e) of E.O. 13514, Federal Leadership in Environmental, Energy, and Economic Performance, directs agencies to eliminate waste. *Electronic commerce* methods (see 4.502) and double-sided printing and copying are best practices for waste prevention.

(b) When *electronic commerce* methods (see 4.502) are not used, agencies *shall* require contractors to submit paper documents to the Government relating to an *acquisition printed or copied double-sided* on at least 30 percent postconsumer fiber paper whenever practicable. If the contractor cannot print or copy double-sided, it *shall* print or copy single-sided on at least 30 percent postconsumer fiber paper.

4.303 Contract clause.

Insert the clause at 52.204-4, *Printed or Copied Double-Sided* on Recycled Paper, in *solicitations* and contracts that exceed the *simplified acquisition threshold*.

Subpart 4.4 - Safeguarding Classified Information Within Industry

4.401 [Reserved]

4.402 General.

(a) Executive Order12829, January 6, 1993 (58 FR3479, January 8, 1993), entitled "National Industrial Security Program" (NISP), establishes a program to safeguard Federal Government *classified information* that is released to contractors, licensees, and grantees of the *United States* Government. Executive Order 12829 amends Executive Order 10865, February 20, 1960 (25 FR1583, February 25, 1960), entitled "Safeguarding *Classified Information* Within Industry," as amended by Executive Order 10909, January 17, 1961 (26 FR508, January 20, 1961).

(b) The National Industrial Security Program Operating Manual (NISPOM) incorporates the requirements of these Executive orders. The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, the Director of National Intelligence, and the Secretary of Homeland Security, is responsible for issuance and maintenance of this Manual. The following publications implement the program:

(1) National Industrial Security Program Operating Manual (NISPOM) (32 CFR part 117).

(2) DoD Manual 5220.22, Volume 2, National Industrial Security Program: Industrial Security Procedures for Government Activities.

(c) Procedures for the protection of information relating to foreign *classified contracts* awarded to U.S. industry, and instructions for the protection of U.S. information relating to *classified contracts* awarded to foreign firms, are prescribed in 32 CFR 117.19.

(d) Nondefense agencies that have industrial security services agreements with DoD, and DoD *components*, *shall* use the DD Form 254, Contract Security Classification Specification, to provide security classification guidance to U.S. contractors, and subcontractors as applicable, requiring access to information classified as "Confidential", "Secret", or "Top Secret".

(1) Provided that the data submittal is unclassified, the DD Form 254 *shall* be completed electronically in the NISP Contract Classification System (NCCS), which is accessible at https://www.dcsa.mil/is/nccs/ . Nondefense agencies with an existing DD Form 254 information system *may* use that system.

(2)

(i) A contractor, or subcontractor (if applicable), requiring access to *classified information* under a contract *shall* be identified with a *Commercial and Government Entity (CAGE) code* on the DD Form 254 (see subpart 4.18 for information on obtaining and validating CAGE codes).

(ii) Each location of contractor or subcontractor performance listed on the DD Form 254 is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in which case the agency location code *shall* be used. Each

subcontractor location requiring access to *classified information must* be listed on the DD Form 254.

(iii) Contractor and subcontractor performance locations listed on the DD Form 254 are not required to be separately *registered in the System for Award Management (SAM*) solely for the purposes of a DD Form 254 (see subpart 4.11 for information on registering in SAM).

(e) Part 27, Patents, Data, and Copyrights, contains policy and procedures for safeguarding *classified information* in patent applications and patents.

4.403 Responsibilities of contracting officers.

(a) *Presolicitation phase*. *Contracting officers shall* review all proposed *solicitations* to determine whether access to *classified information may* be required by *offerors*, or by a contractor during contract performance.

(1) If access to *classified information* of another agency *may* be required, the *contracting officer shall-*

(i) Determine if the agency is covered by the NISP; and

(ii) Follow that agency's procedures for determining the security clearances of firms to be solicited.

(2) If the *classified information* required is from the *contracting officer*'s agency, the *contracting officer shall* follow agency procedures.

(b) *Solicitation phase*. *Contracting officers shall-*

(1) Ensure that the *classified acquisition* is conducted as required by the NISP or agency procedures, as appropriate; and

(2) Include-

(i) An appropriate Security Requirements clause in the *solicitation* (see 4.404); and

(ii) As appropriate, in *solicitations* and contracts when the contract *may* require access to *classified information*, a requirement for security safeguards in addition to those provided in the clause (52.204-2, Security Requirements).

(c) *Award phase*. *Contracting officers shall* inform contractors and subcontractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and *components* of the *classified contract* as identified in the requirement documentation as follows:

(1) Nondefense agencies that have industrial security services agreements with DoD, and DoD *components*, *shall* use the Contract Security Classification Specification, DD Form 254. The *contracting officer*, or authorized agency representative, is the approving official for the DD Form 254 associated with the prime contract and *shall* ensure the DD Form 254 is properly prepared, distributed by and coordinated with requirements and security personnel in accordance with agency procedures, see 4.402(d)(1).

(2) *Contracting officers* in agencies not covered by the NISP *shall* follow agency procedures.

4.404 Contract clause.

(a) The *contracting officer shall* insert the clause at 52.204-2, Security Requirements, in *solicitations* and contracts when the contract *may* require access to *classified information*, unless the conditions specified in paragraph (d) of this section apply.

(b) If a cost contract (see 16.302) for research and development with an educational institution is contemplated, the *contracting officer shall* use the clause with its *Alternate* I.

(c) If a *construction* or architect-engineer contract where employee identification is required for security reasons is contemplated, the *contracting officer shall* use the clause with its *Alternate* II.

(d) If the *contracting* agency is not covered by the NISP and has prescribed a clause and *alternates* that are substantially the same as those at 52.204-2, the *contracting officer shall* use the agency-prescribed clause as required by agency procedures.

Subpart 4.5 - Electronic Commerce in Contracting

4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of *electronic commerce* in Federal *acquisition* as required by 41 U.S.C. 2301.

4.501 [Reserved]

4.502 Policy.

(a) The Federal Government *shall* use *electronic commerce* whenever practicable or cost-effective. The use of terms commonly associated with paper transactions (*e.g.,*"copy," "document," "page," "printed," "sealed envelope," and "stamped") *shall* not be interpreted to restrict the use of *electronic commerce*. *Contracting officers may* supplement electronic transactions by using other media to meet the requirements of any contract action governed by the FAR (*e.g.,* transmit hard copy of drawings).

(b) Agencies *may* exercise broad discretion in selecting the hardware and software that will be used in conducting *electronic commerce*. However, as required by 41 U.S.C. 2301, the head of each agency, after consulting with the Administrator of OFPP, *shall* ensure that systems, technologies, procedures, and processes used by the agency to conduct *electronic commerce*-

(1) Are implemented uniformly throughout the agency, to the maximum extent practicable;

(2) Are implemented only after considering the full or partial use of existing infrastructures;

(3) Facilitate access to Government *acquisition* opportunities by small business concerns, *small disadvantaged business concerns*, women-owned, veteran-owned, *HUBZone*, and service-disabled veteran-owned small business concerns;

(4) Include a single means of providing widespread public notice of *acquisition* opportunities through the *Governmentwide point of entry* and a means of responding to notices or *solicitations* electronically; and

(5) Comply with nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information, such as standards established by the National Institute of Standards and Technology.

(c) Before using *electronic commerce*, the *agency head shall* ensure that the agency systems are capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information.

(d) Agencies *may* accept electronic *signatures* and records in connection with Government contracts.

Subpart 4.6 - Contract Reporting

4.600 Scope of subpart.

This subpart prescribes uniform reporting requirements for the Federal *Procurement* Data System (FPDS).

4.601 Definitions.

As used in this subpart—

Contract action means any oral or written action that results in the purchase, rent, or lease of *supplies* or equipment, services, or *construction* using appropriated dollars over the *micro-purchase threshold*, or modifications to these actions regardless of dollar value. *Contract action* does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

Contract action report (CAR) means *contract action* data required to be entered into the Federal *Procurement* Data System (FPDS).

Definitive contract means any contract that *must* be reported to FPDS other than an *indefinite delivery vehicle*. This definition is only for FPDS, and is not intended to apply to part 16.

Entitlement program means a Federal program that guarantees a certain level of benefits to persons or other entities who meet requirements set by law, such as Social Security, farm price supports, or unemployment benefits.

Generic entity identifier means a number or other identifier assigned to a category of vendors and not specific to any individual or entity.

Indefinite delivery vehicle (IDV) means an indefinite delivery contract or agreement that has one or more of the following clauses:

(1) 52.216-18, Ordering.

(2) 52.216-19, Order Limitations.

(3) 52.216-20, Definite Quantity.

(4) 52.216-21, Requirements.

(5) 52.216-22, Indefinite Quantity.

(6) Any other clause allowing ordering.

4.602 General.

(a) The FPDS provides a comprehensive web-based tool for agencies to report *contract actions*. The resulting data provides-

(1) A basis for recurring and special reports to the President, the Congress, the Government Accountability Office, Federal *executive agencies*, and the general public;

(2) A means of measuring and assessing the effect of Federal *contracting* on the Nation's economy and the extent to which small, veteran-owned small, service-disabled veteran-owned small, *HUBZone* small, small disadvantaged, *women-owned small business concerns*, and AbilityOne nonprofit agencies operating under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, are sharing in Federal contracts;

(3) A means of measuring and assessing the effect of Federal *contracting* for promoting sustainable technologies, materials, *products*, and high-performance sustainable buildings. This is accomplished by collecting and reporting agency data on *sustainable acquisition*, including types of *products* purchased, the purchase costs, and the exceptions used for other than *sustainable acquisition*; and

(4) A means of measuring and assessing the effect of other policy and management initiatives (*e.g.*, performance based *acquisitions* and competition).

(b) FPDS does not provide reports for certain *acquisition* information used in the award of a *contract action* (*e.g.*, subcontracting data, funding data, or accounting data).

(c) The FPDS Web site, https://www.fpds.gov, provides instructions for submitting data. It also provides-

(1) A complete list of departments, agencies, and other entities that submit data to the FPDS;

(2) Technical and end-user guidance;

(3) A computer-based tutorial; and

(4) Information concerning reports not generated in FPDS.

4.603 Policy.

(a) In accordance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), all unclassified Federal award data *must* be publicly accessible.

(b) *Executive agencies shall* use FPDS to maintain publicly available information about all unclassified *contract actions* exceeding the *micro-purchase threshold*, and any modifications to those actions that change previously reported *contract action report* data, regardless of dollar value.

(c) Agencies awarding *assisted acquisitions* or *direct acquisitions must* report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the *contract action*. For *assisted acquisitions*, the *requesting agency* will receive socioeconomic credit for meeting agency small business goals, where applicable. *Requesting agencies shall* provide the appropriate agency/bureau *component* code as part of the written interagency agreement between the requesting and *servicing agencies* (see 17.502-1(a)(1)).

(d) Agencies awarding *contract actions* with a mix of appropriated and non-appropriated funding *shall* only report the full appropriated portion of the *contract action* in FPDS.

4.604 Responsibilities.

(a) The *Senior Procurement Executive* in coordination with the *head of the contracting activity* is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS.

(b)

(1) The responsibility for the completion and accuracy of the individual *contract action report (CAR*) resides with the *contracting officer* who awarded the *contract action*. CARs in a draft or error status in FPDS are not considered complete.

(2) The CAR *must* be confirmed for accuracy by the *contracting officer* prior to release of the contract award. The CAR *must* then be completed in FPDS within three business days after contract award.

(3) For any action awarded in accordance with FAR 6.302-2 or pursuant to any of the authorities listed at subpart 18.2, the CAR *must* be completed in FPDS within 30 days after contract award.

(4) When the *contracting office* receives written notification that a contractor has changed its size status in accordance with the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, the *contracting officer shall* update the size status in FPDS within 30 days after receipt of contractor’s notification of rerepresentation.

(5) If after award of a contract, the *contracting officer* receives written notification of SBA’s final decision on a protest concerning a size determination, the *contracting officer shall* update FPDS to reflect the final decision.

(c) The *chief acquisition officer* of each agency required to report its *contract actions must* submit to the General Services Administration (GSA), in accordance with FPDS guidance, within 120 days after the end of each fiscal year, an annual certification of whether, and to what degree, agency CAR data for the preceding fiscal year is complete and accurate.

4.605 Procedures.

(a) *Procurement Instrument Identifier (PIID)*. Agencies *shall* have in place a process that ensures that each PIID reported to FPDS is unique Governmentwide, for all *solicitations*, contracts, blanket purchase agreements, basic agreements, basic ordering agreements, or orders in accordance with 4.1601 to 4.1603, and will remain so for at least 20 years from the date of contract award. Other pertinent PIID instructions for FPDS reporting can be found at https://www.fpds.gov.

(b) *Unique entity identifier*. The *contracting officer shall* identify and report a *unique entity identifier* for the successful *offeror* on a *contract action*. The *unique entity identifier shall* correspond to the successful *offeror*'s name and address as stated in the *offer* and resultant contract, and as *registered in the System for Award Management* in accordance with the provision at 52.204-7, *System for Award Management*. The *contracting officer shall* ask the *offeror* to provide its *unique entity identifier* by using either the provision at 52.204-6, *Unique Entity Identifier*, the provision at 52.204-7, *System for Award Management*, or the provision at 52.212-1, Instructions to *Offerors-Commercial Products* and *Commercial Services*. (For a discussion of the *Commercial and Government Entity (CAGE) Code*, which is a different identifier, see subpart 4.18.)

(c) *Generic entity identifier*.

(1) The use of a *generic entity identifier should* be limited, and only used in the situations described in paragraph (c)(2) of this section. Use of a *generic entity identifier* does not supersede the requirements of provisions 52.204-6, *Unique Entity Identifier* or 52.204-7 *System for Award Management* (if present in the *solicitation*) for the contractor to have a *unique entity identifier* assigned.

(2) Authorized *generic entity identifiers*, maintained by the Integrated Award Environment (IAE) program office (http://www.gsa.gov/portal/content/105036), *may* be used to report contracts in lieu of the contractor's actual *unique entity identifier* only for—

(i) *Contract actions* valued at or below $30,000 that are awarded to a contractor that is-

(A) A student;

(B) A dependent of either a veteran, foreign service officer, or military member assigned outside the *United States* and its *outlying areas* (as defined in 2.101); or

(C) Located outside the *United States* and its *outlying areas* for work to be performed outside the *United States* and its *outlying areas* and the contractor does not otherwise have a *unique entity identifier*;

(ii) Contracts valued above $30,000 awarded to individuals located outside the *United States* and its *outlying areas* for work to be performed outside the *United States* and its *outlying areas*; or

(iii) Contracts when specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services. The *contracting officer must* include a written determination in the contract file of a decision applicable to authority under this paragraph (c)(2)(iii).

(d) American Recovery and Reinvestment Act actions. The *contracting officer*, when entering data in FPDS, *shall* use the instructions at https://www.fpds.gov to identify any action funded in whole or in

part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

(e) *Office codes*. Agencies *shall* by March 31, 2016—

(1) Use the *Activity Address Code (AAC)*, as defined in 2.101, assigned to the issuing *contracting office* as the *contracting office* code, and

(2) Use the AAC assigned to the program/funding office providing the predominance of funding for the *contract action* as the program/funding office code.

4.606 Reporting Data.

(a) *Actions required to be reported to FPDS*.

(1) As a minimum, agencies *must* report the following *contract actions* over the *micro-purchase threshold*, regardless of *solicitation* process used, and agencies *must* report any modification to these *contract actions* that change previously reported *contract action* data, regardless of dollar value:

(i) *Definitive contracts*, including *purchase orders* and imprest fund buys over the *micro-purchase threshold* awarded by a *contracting officer*.

(ii) *Indefinite delivery vehicle* (identified as an "IDV" in FPDS). Examples of IDVs include the following:

(A) Task and *Delivery Order* Contracts (see subpart 16.5), including–

(1) Government-wide *acquisition* contracts.

(2) Multi-agency contracts.

(B) GSA Federal supply schedules.

(C) Blanket Purchase Agreements (see 13.303).

(D) Basic Ordering Agreements (see 16.703).

(E) Any other agreement or contract against which individual orders or purchases *may* be placed.

(iii) All calls and orders awarded under the indefinite delivery vehicles identified in paragraph (a)(1)(ii) of this section.

(2) The GSA Office of Charge Card Management will provide the Government purchase card data, at a minimum annually, and GSA will incorporate that data into FPDS for reports.

(3) Agencies *may* use the FPDS Express Reporting capability for consolidated multiple action reports for a vendor when it would be overly burdensome to report each action individually. When used, Express Reporting *should* be done at least monthly.

(b) *Reporting other actions*. Agencies *may* submit actions other than those listed at paragraph (a)(1) of this section only if they are able to be segregated from FAR-based actions and this is approved *in*

writing by the FPDS Program Office. Prior to the commencement of reporting, agencies *must* contact the FPDS Program Office if they desire to submit any of the following types of activity:

(1) Transactions at or below the *micro-purchase threshold*, except as provided in paragraph (a)(2) of this section.

(2) Any non-appropriated fund (NAF) or NAF portion of a *contract action* using a mix of appropriated and non-appropriated funding.

(3) Lease and supplemental lease agreements for real property.

(4) Grants and entitlement actions.

(c) *Actions not reported*. The following types of *contract actions* are not to be reported to FPDS:

(1) Imprest fund transactions below the *micro-purchase threshold*, including those made via the Government purchase card (unless specific agency procedures prescribe reporting these actions).

(2) Orders from GSA stock and the GSA Global Supply Program.

(3) Purchases made at GSA or AbilityOne service stores, as these items stocked for resale have already been reported by GSA.

(4) Purchases made using non-appropriated fund activity cards, chaplain fund cards, individual Government personnel training orders, and Defense Printing orders.

(5) Actions that, pursuant to other authority, will not be entered in FPDS (*e.g.*, reporting of the information would compromise national security).

(6) *Contract actions* in which the required data would constitute *classified information*.

(7) Resale activity (i.e., commissary or exchange activity).

(8) Revenue generating arrangements (i.e., concessions).

(9) Training expenditures not issued as orders or contracts.

(10) Interagency agreements other than inter-agency *acquisitions* required to be reported at 4.606(a)(1).

(11) Letters of obligation used in the A-76 process.

(d) Agencies not subject to the FAR. Agencies not subject to the FAR *may* be required by other authority (e.g., statute, OMB, or internal agency policy) to report certain information to FPDS. Those agencies not subject to the FAR *must* first receive approval from the FPDS Program Office prior to reporting to FPDS.

4.607 Solicitation provisions and contract clause.

(a) Insert the provision at 52.204-5, Women-Owned Business (Other Than Small Business), in all *solicitations* that-

(1) Are not set aside for small business concerns;

(2) Exceed the *simplified acquisition threshold*; and

(3) Are for contracts that will be performed in the *United States* or its *outlying areas*.

(b) Insert the provision at 52.204-6, *Unique Entity Identifier*, in *solicitations* that do not contain the provision at 52.204-7, *System for Award Management*, or meet a condition at 4.605(c)(2).

(c) Insert the clause at 52.204-12, *Unique Entity Identifier* Maintenance, in *solicitations* and resulting contracts that contain the provision at 52.204-6, *Unique Entity Identifier*.

Subpart 4.7 - Contractor Records Retention

4.700 Scope of subpart.

This subpart provides policies and procedures for retention of records by contractors to meet the records review requirements of the Government. In this subpart, the terms "contracts" and "contractors" include "subcontracts" and "subcontractors."

4.701 Purpose.

The purpose of this subpart is to generally describe records retention requirements and to allow reductions in the retention period for specific classes of records under prescribed circumstances.

4.702 Applicability.

(a) This subpart applies to records generated under contracts that contain one of the following clauses:

(1) Audit and Records-Sealed Bidding (52.214-26).

(2) Audit and Records-Negotiation (52.215-2).

(b) This subpart is not mandatory on Department of Energy contracts for which the Comptroller General allows alternative records retention periods. Apart from this exception, this subpart applies to record retention periods under contracts that are subject to 10 U.S.C. chapter 137 legacy provisions (10 U.S.C. 3064) and 10 U.S.C. 3016 and chapter 203, or 40 U.S.C. 101, *et seq*.

4.703 Policy.

(a) Except as stated in 4.703(b), contractors *shall* make available records, which includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form, and other supporting evidence to satisfy contract negotiation, administration, and audit requirements of the *contracting* agencies and the Comptroller General for-

(1) 3 years after final payment; or

(2) For certain records the period specified in 4.705 through 4.705-3, whichever of these periods expires first.

(b) Contractors *shall* make available the foregoing records and supporting evidence for a longer period of time than is required in 4.703(a) if-

(1) A retention period longer than that cited in 4.703(a) is specified in any *contract clause*; or

(2) The contractor, for its own purposes, retains the foregoing records and supporting evidence for a longer period. Under this circumstance, the retention period *shall* be the period of the contractor's retention or 3 years after final payment, whichever period expires first.

(3) The contractor does not meet the original due date for submission of *final indirect cost rate* proposals specified in paragraph (d)(2) of the clause at 52.216-7, Allowable Cost and Payment. Under these circumstances, the retention periods in 4.705 *shall* be automatically extended one *day* for each *day* the proposal is not submitted after the original due date.

(c) Nothing in this section *shall* be construed to preclude a contractor from duplicating or storing original records in electronic form unless they contain significant information not shown on the record copy. Original records need not be maintained or produced in an audit if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves accurate images of the original records, including *signatures* and other written or graphic images, and that the imaging process is reliable and secure so as to maintain the integrity of the records.

(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

(d) If the information described in paragraph (a) of this section is maintained on a computer, contractors *shall* retain the computer data on a reliable medium for the time periods prescribed. Contractors *may* transfer computer data in machine readable form from one reliable computer medium to another. Contractors' computer data retention and transfer procedures *shall* maintain the integrity, reliability, and security of the original computer data. Contractors *shall* also retain an audit trail describing the data transfer. For the record retention time periods prescribed, contractors *shall* not destroy, discard, delete, or write over such computer data.

4.704 Calculation of retention periods.

(a) The retention periods in 4.705 are calculated from the end of the contractor's fiscal year in which an entry is made charging or allocating a cost to a Government contract or subcontract. If a specific record contains a series of entries, the retention period is calculated from the end of the contractor's fiscal year in which the final entry is made. The contractor *should* cut off the records in annual blocks and retain them for block disposal under the prescribed retention periods.

(b) When records generated during a prior contract are relied upon by a contractor for *certified cost or pricing data* in negotiating a succeeding contract, the prescribed periods *shall* run from the date of the succeeding contract.

(c) If two or more of the record categories described in 4.705 are interfiled and screening for disposal is not practical, the contractor *shall* retain the entire record series for the longest period prescribed for any category of records.

4.705 Specific retention periods.

The contractor *shall* retain the records identified in 4.705-1 through 4.705-3 for the periods designated, provided retention is required under 4.702. Records are identified in this subpart in terms of their purpose or use and not by specific name or form number. Although the descriptive identifications *may* not conform to normal contractor usage or filing practices, these identifications apply to all contractor records that come within the description.

4.705-1 Financial and cost accounting records.

(a) Accounts receivable *invoices*, adjustments to the accounts, *invoice* registers, carrier *freight* bills, shipping orders, and other documents which detail the material or services billed on the related *invoices*: Retain 4 years.

(b) Material, work order, or service order files, consisting of purchase requisitions or *purchase orders* for material or services, or orders for transfer of material or *supplies*: Retain 4 years.

(c) Cash advance recapitulations, prepared as posting entries to accounts receivable ledgers for amounts of expense vouchers prepared for employees' travel and related expenses: Retain 4 years.

(d) Paid, canceled, and voided checks, other than those issued for the payment of salary and wages: Retain 4 years.

(e) Accounts payable records to support disbursements of funds for materials, equipment, *supplies*, and services, containing originals or copies of the following and related documents: remittance advices and statements, vendors' *invoices*, *invoice* audits and distribution slips, receiving and *inspection* reports or comparable certifications of receipt and *inspection* of material or services, and debit and credit memoranda: Retain 4 years.

(f) Labor cost distribution cards or equivalent documents: Retain 2 years.

(g) Petty cash records showing description of expenditures, to whom paid, name of person authorizing payment, and date, including copies of vouchers and other supporting documents: Retain 2 years.

4.705-2 Pay administration records.

(a) Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; change slips; and tax withholding statements: Retain 4 years.

(b) Clock cards or other time and attendance cards: Retain 2 years.

(c) Paid checks, receipts for wages paid in cash, or other evidence of payments for services rendered by employees: Retain 2 years.

4.705-3 Acquisition and supply records.

(a) Store requisitions for materials, *supplies*, equipment, and services: Retain 2 years.

(b) Work orders for maintenance and other services: Retain 4 years.

(c) Equipment records, consisting of equipment usage and status reports and equipment repair orders: Retain 4 years.

(d) Expendable property records, reflecting accountability for the receipt and use of material in the performance of a contract: Retain 4 years.

(e) Receiving and *inspection* report records, consisting of reports reflecting receipt and *inspection* of *supplies*, equipment, and materials: Retain 4 years.

(f) *Purchase order* files for *supplies*, equipment, material, or services used in the performance of a contract; supporting documentation and backup files including, but not limited to, *invoices*, and memoranda; *e.g.,* memoranda of negotiations showing the principal elements of subcontract price negotiations (see 52.244-2): Retain 4 years.

(g) Production records of quality control, reliability, and *inspection*: Retain 4 years.

(h) Property records (see FAR 45.101 and 52.245-1): Retain 4 years.

Subpart 4.8 - Government Contract Files

4.800 Scope of subpart.

This subpart prescribes requirements for establishing, maintaining, and disposing of contract files.

4.801 General.

(a) The head of each office performing *contracting*, contract administration, or paying functions *shall* establish files containing the records of all contractual actions.

(b) The documentation in the files (see 4.803) *shall* be sufficient to constitute a complete history of the transaction for the purpose of-

(1) Providing a complete background as a basis for informed decisions at each step in the *acquisition* process;

(2) Supporting actions taken;

(3) Providing information for reviews and investigations; and

(4) Furnishing essential facts in the event of litigation or congressional inquiries.

(c) The files to be established include-

(1) A file for cancelled *solicitations*;

(2) A file for each contract; and

(3) A file such as a contractor general file, containing documents relating, for example-to-

(i) No specific contract;

(ii) More than one contract; or

(iii) The contractor in a general way (*e.g.,* contractor's management systems, *past performance*, or capabilities).

4.802 Contract files.

(a) A contract file *should* generally consist of-

(1) The *contracting office* contract file that documents the basis for the *acquisition* and the award, the assignment of contract administration (including payment responsibilities), and any subsequent actions taken by the *contracting office*;

(2) The *contract administration office* contract file that documents actions reflecting the basis for and the performance of contract administration responsibilities; and

(3) The paying office contract file that documents actions prerequisite to, substantiating, and reflecting contract payments.

(b) Normally, each file *should* be kept separately; however, if appropriate, any or all of the files *may* be combined; *e.g.,* if all functions or any combination of the functions are performed by the same office.

(c) Files *must* be maintained at organizational levels that ensure-

(1) Effective documentation of contract actions;

(2) Ready accessibility to principal users;

(3) Minimal establishment of duplicate and working files;

(4) The safeguarding of classified documents; and

(5) Conformance with agency regulations for file location and maintenance.

(d) If the contract files or file *segments* are decentralized (*e.g.,* by type or function) to various organizational elements or to other outside offices, responsibility for their maintenance *must* be assigned. A central control and, if needed, a locator system *should* be established to ensure the ability to locate promptly any contract files.

(e) Contents of contract files that are contractor bid or proposal information or *source selection information* as defined in 2.101 *must* be protected from disclosure to unauthorized persons (see 3.104-4).

(f) Agencies *may* retain contract files in any medium (paper, electronic, microfilm, etc.) or any combination of media, as long as the requirements of this subpart are satisfied.

4.803 Contents of contract files.

The following are examples of the records normally contained, if applicable, in contract files:

(a) *Contracting office* contract file.

(1) Purchase request, *acquisition planning* information, and other presolicitation documents.

(2) Justifications and approvals, determinations and findings, and associated documents.

(3) Evidence of availability of funds.

(4) Synopsis of proposed *acquisition* as required by part 5 or a reference to the synopsis.

(5) The list of sources solicited, and a list of any firms or persons whose requests for copies of the *solicitation* were denied, together with the reasons for denial.

(6) Set-aside decision (see 19.1506) including the type and extent of *market research* conducted.

(7) Government estimate of contract price.

(8) A copy of the *solicitation* and all amendments thereto.

(9) Security requirements and evidence of required clearances.

(10) A copy of each *offer* or quotation, the related abstract, and records of determinations concerning late *offers* or quotations. Unsuccessful *offers* or quotations *may* be maintained separately, if cross-referenced to the contract file. The only portions of the unsuccessful *offer* or quotation that need be retained are-

(i) Completed *solicitation* sections A, B, and K;

(ii) Technical and management proposals;

(iii) Cost/price proposals; and

(iv) Any other pages of the *solicitation* that the *offeror* or quoter has altered or annotated.

(11) Contractor's representations and certifications (see 4.1201(c)).

(12) *Preaward survey* reports or reference to previous *preaward survey* reports relied upon.

(13) Source selection documentation.

(14) *Contracting officer*'s determination of the contractor's responsibility.

(15) Small Business Administration Certificate of Competency.

(16) Records of contractor's compliance with labor policies including equal employment opportunity policies.

(17) Data and information related to the *contracting officer*'s determination of a fair and reasonable price. This *may* include-

(i) *Certified cost or pricing data*;

(ii) *Data other than certified cost or pricing data*;

(iii) Justification for waiver from the requirement to submit *certified cost or pricing data*; or

(iv) Certificates of Current *Cost or Pricing Data*.

(18) Packaging and transportation data.

(19) Cost or price analysis.

(20) Audit reports or reasons for waiver.

(21) Record of negotiation.

(22) Justification for type of contract.

(23) Authority for deviations from this regulation, statutory requirements, or other restrictions.

(24) Required approvals of award and evidence of legal review.

(25) Notice of award.

(26) The original of-

(i) The signed contract or award;

(ii) All *contract modifications*; and

(iii) Documents supporting modifications executed by the *contracting office*.

(27) Synopsis of award or reference thereto.

(28) Notice to unsuccessful quoters or *offerors* and record of any debriefing.

(29) *Acquisition* management reports (see subpart 4.6).

(30) Bid, performance, payment, or other bond documents, or a reference thereto, and notices to *sureties*.

(31) Report of postaward conference.

(32) Notice to proceed, stop orders, and any *overtime* premium approvals granted at the time of award.

(33) Documents requesting and authorizing modification in the normal assignment of contract

administration functions and responsibility.

(34) Approvals or disapprovals of requests for waivers or deviations from contract requirements.

(35) Rejected engineering change proposals.

(36) Royalty, invention, and copyright reports (including invention disclosures) or reference thereto.

(37) Contract completion documents.

(38) Documentation regarding termination actions for which the *contracting office* is responsible.

(39) Cross-references to pertinent documents that are filed elsewhere.

(40) Any additional documents on which action was taken or that reflect actions by the *contracting office* pertinent to the contract.

(41) A current chronological list identifying the awarding and successor *contracting officers*, with inclusive dates of responsibility.

(42) When limiting competition, or awarding on a sole source basis, to economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the WOSB Program in accordance with subpart 19.15, include documentation-

(i) Of the type and extent of *market research*; and

(ii) That the NAICS code assigned to the *acquisition* is for an industry that SBA has designated as-

(A) Underrepresented for EDWOSB concerns; or

(B) Substantially underrepresented for WOSB concerns.

(b) *Contract administration office* contract file.

(1) Copy of the contract and all modifications, together with official record copies of supporting documents executed by the *contract administration office*.

(2) Any document modifying the normal assignment of contract administration functions and responsibility.

(3) Security requirements.

(4) *Certified cost or pricing data*, Certificates of Current *Cost or Pricing Data*, or *data other than certified cost or pricing data*; cost or price analysis; and other documentation supporting contractual actions executed by the *contract administration office*.

(5) *Preaward survey* information.

(6) Purchasing system information.

(7) *Consent to subcontract* or purchase.

(8) Performance and payment bonds and *surety* information.

(9) Postaward conference records.

(10) Orders issued under the contract.

(11) Notice to proceed and stop orders.

(12) *Insurance* policies or certificates of *insurance* or references to them.

(13) Documents supporting advance or progress payments.

(14) Progressing, expediting, and production surveillance records.

(15) Quality assurance records.

(16) Property administration records.

(17) Documentation regarding termination actions for which the *contract administration office* is responsible.

(18) Cross reference to other pertinent documents that are filed elsewhere.

(19) Any additional documents on which action was taken or that reflect actions by the *contract administration office* pertinent to the contract.

(20) Contract completion documents.

(c) Paying office contract file.

(1) Copy of the contract and any modifications.

(2) Bills, *invoices*, vouchers, and supporting documents.

(3) Record of payments or receipts.

(4) Other pertinent documents.

4.804 Closeout of contract files.

4.804-1 Closeout by the office administering the contract.

(a) Except as provided in paragraph (c) of this section, time standards for closing out contract files are as follows:

(1) Files for contracts using *simplified acquisition procedures should* be considered closed when the *contracting officer* receives evidence of receipt of property and final payment, unless otherwise specified by agency regulations.

(2) Files for firm-fixed-price contracts, other than those using *simplified acquisition procedures*, *should* be closed within 6 months after the date on which the *contracting officer* receives evidence of physical completion.

(3) Files for contracts requiring settlement of *indirect cost rates should* be closed within 36 months of the month in which the *contracting officer* receives evidence of physical completion.

(4) Files for all other contracts *should* be closed within 20 months of the month in which the *contracting officer* receives evidence of physical completion.

(b) When closing out the contract files at 4.804-1(a)(2), (3), and (4), the *contracting officer shall* use the closeout procedures at 4.804-5. However, these closeout actions *may* be modified to reflect the extent of administration that has been performed. Quick closeout procedures (see 42.708) *should* be used, when appropriate, to reduce administrative costs and to enable deobligation of excess funds.

(c) A contract file *shall* not be closed if-

(1) The contract is in litigation or under appeal; or

(2) In the case of a termination, all termination actions have not been completed.

4.804-2 Closeout of the contracting office files if another office administers the contract.

(a) Contract files for contracts using *simplified acquisition procedures should* be considered closed when the *contracting officer* receives evidence of receipt of property and final payment, unless otherwise specified by agency regulation.

(b) All other contract files *shall* be closed as soon as practicable after the *contracting officer* receives a contract completion statement from the *contract administration office*. The *contracting officer shall* ensure that all contractual actions required have been completed and *shall* prepare a statement to that effect. This statement is authority to close the contract file and *shall* be made a part of the official contract file.

4.804-3 Closeout of paying office contract files.

The paying office *shall* close the contract file upon issuance of the final payment voucher.

4.804-4 Physically completed contracts.

(a) Except as provided in paragraph (b) of this section, a contract is considered to be physically completed when-

(1)

(i) The contractor has completed the required deliveries and the Government has inspected and accepted the *supplies*;

(ii) The contractor has performed all services and the Government has accepted these services; and

(iii) All *option* provisions, if any, have expired; or

(2) The Government has given the contractor a notice of complete contract termination.

(b) Rental, use, and storage agreements are considered to be physically completed when-

(1) The Government has given the contractor a notice of complete contract termination; or

(2) The contract period has expired.

4.804-5 Procedures for closing out contract files.

(a) The *contract administration office* is responsible for initiating (automated or manual) administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the *contract administration office must* review the contract funds status and notify the *contracting office* of any excess funds the *contract administration office* might deobligate. When complete, the administrative closeout procedures *must* ensure that-

(1) Disposition of classified material is completed;

(2) *Final patent report is cleared*. If a final patent report is required, the *contracting officer may* proceed with contract closeout in accordance with the following procedures, or as otherwise prescribed by agency procedures:

(i) Final patent reports *should* be cleared within 60 days of receipt.

(ii) If the final patent report is not received, the *contracting officer shall* notify the contractor of the contractor's obligations and the Government's rights under the applicable patent rights clause, in accordance with 27.303. If the contractor fails to respond to this notification, the *contracting officer may* proceed with contract closeout upon consultation with the agency legal counsel responsible for patent matters regarding the contractor's failure to respond.

(3) Final royalty report is cleared;

(4) There is no outstanding *value engineering change proposal*;

(5) Plant clearance report is received;

(6) Property clearance is received;

(7) All interim or disallowed costs are settled;

(8) Price revision is completed;

(9) Subcontracts are settled by the prime contractor;

(10) Prior year *indirect cost rates* are settled;

(11) Termination docket is completed;

(12) Contract audit is completed;

(13) Contractor's closing statement is completed;

(14) Contractor's final *invoice* has been submitted; and

(15) Contract funds review is completed and excess funds deobligated.

(b) When the actions in paragraph (a) of this section have been verified, the *contracting officer* administering the contract *must* ensure that a contract completion statement, containing the following information, is prepared:

(1) *Contract administration office* name and address (if different from the *contracting office*).

(2) *Contracting office* name and address.

(3) Contract number.

(4) Last modification number.

(5) Last call or order number.

(6) Contractor name and address.

(7) Dollar amount of excess funds, if any.

(8) Voucher number and date, if final payment has been made.

(9) *Invoice* number and date, if the final approved *invoice* has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown.

(10) A statement that all required contract administration actions have been fully and satisfactorily accomplished.

(11) Name and *signature* of the *contracting officer*.

(12) Date.

(c) When the statement is completed, the *contracting officer must* ensure that-

(1) The signed original is placed in the *contracting office* contract file (or forwarded to the *contracting office* for placement in the files if the *contract administration office* is different from the *contracting office*); and

(2) A signed copy is placed in the appropriate contract administration file if administration is performed by a *contract administration office*.

4.805 Storage, handling, and contract files.

(a) Agencies *must* prescribe procedures for the handling, storing, and disposing of contract files, in accordance with the National Archives and Records Administration (NARA) General Records Schedule 1.1, Financial Management and Reporting Records. The Financial Management and Reporting Records can be found at http://www.archives.gov/records-mgmt/grs.html. These procedures *must* take into account documents held in all types of media, including microfilm and various electronic media. Agencies *may* change the original medium to facilitate storage as long as the requirements of the part, law, and other regulations are satisfied. The process used to create and store records *must* record and reproduce the original document, including *signatures* and other written and graphic images completely, accurately, and clearly. Data transfer, storage, and retrieval procedures *must* protect the original data from alteration. Unless law or other regulations require signed originals to be kept, they *may* be destroyed after the responsible agency official verifies that

record copies on *alternate* media and copies reproduced from the record copy are accurate, complete, and clear representations of the originals. When original documents have been converted to *alternate* media for storage, the requirements in Table 4-1 of this section also apply to the record copies in the *alternate* media.

(b) If administrative records are mixed with program records and cannot be economically segregated, the entire file *should* be kept for the period of time approved for the program records. Similarly, if documents described in the following table are part of a subject or case file that documents activities that are not described in the table, they *should* be treated in the same manner as the files of which they are a part.

(c) An agency that requires a shorter retention period than those identified in Table 4-1 *shall* request approval from NARA through the agency's records officer.

Table 4-1 - Retention Periods

Record	Retention period
(1) Contracts (and related records or documents, including successful and unsuccessful proposals, except see paragraph (c)(2) of this section regarding contractor payrolls submitted under *construction* contracts).	6 years after final payment.
(2) Contractor's payrolls submitted under *construction* contracts in accordance with Department of Labor regulations (29 CFR 5.5(a)(3)), with related certifications, anti-kickback affidavits, and other related records.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date (see paragraph (c)(8) of this section).
(3) *Unsolicited proposals* not accepted by a department or agency.	Retain in accordance with agency procedures.
(4) Files for canceled *solicitations*.	6 years after cancellation.
(5) Other copies of *procurement* file records used for administrative purposes.	When business use ceases.
(6) Documents pertaining generally to the contractor as described at 4.801(c)(3).	Until superseded or obsolete.
(7) Data submitted to the Federal *Procurement* Data System (FPDS). Electronic data file maintained by fiscal year, containing unclassified records of all *procurements* exceeding the *micro-purchase threshold*, and information required under 4.603.	6 years after submittal to FPDS.

Record	Retention period
(8) Investigations, cases pending or in litigation (including protests), or similar matters (including enforcement actions).	Until final clearance or settlement, or, if related to a document identified in paragraphs (c)(1) through (7) of this section, for the retention period specified for the related document, whichever is later.

Subpart 4.9 - Taxpayer Identification Number Information

4.900 Scope of subpart.

This subpart provides policies and procedures for obtaining-

(a) *Taxpayer Identification Number (TIN*) information that *may* be used for debt collection purposes; and

(b) Contract information and payment information for submittal to the payment office for Internal Revenue Service (IRS) reporting purposes.

4.901 Definition.

Common parent, as used in this subpart, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the *offeror* is a member.

4.902 General.

(a) *Debt collection*. 31 U.S.C.7701(c) requires each contractor doing business with a Government agency to furnish its TIN to that agency. 31 U.S.C.3325(d) requires the Government to include, with each certified voucher prepared by the Government payment office and submitted to a disbursing official, the TIN of the contractor receiving payment under the voucher. The TIN *may* be used by the Government to collect and report on any delinquent amounts arising out of the contractor's relationship with the Government.

(b) *Information reporting to the IRS*. The TIN is also required for Government reporting of certain contract information (see 4.903) and payment information (see 4.904) to the IRS.

4.903 Reporting contract information to the IRS.

(a) 26 U.S.C.6050M, as implemented in 26 CFR, requires heads of Federal *executive agencies* to report certain information to the IRS.

(b)

(1) The required information applies to *contract modifications*-

(i) Increasing the amount of a contract awarded before January 1,1989, by $50,000 or more; and

(ii) Entered into on or after April 1,1990.

(2) The reporting requirement also applies to certain contracts and modifications thereto in excess of $25,000 entered into on or after January 1,1989.

(c) The information to report is-

(1) Name, address, and TIN of the contractor;

(2) Name and TIN of the *common parent* (if any);

(3) Date of the contract action;

(4) Amount obligated on the contract action; and

(5) Estimated contract completion date.

(d) Transmit the information to the IRS through the Federal *Procurement* Data System (see subpart 4.6 and implementing instructions).

4.904 Reporting payment information to the IRS.

26 U.S.C. 6041 and 6041 A, as implemented in 26 CFR, in part, require payors, including Government agencies, to report to the IRS, on Form 1099, payments made to certain contractors. 26 U.S.C. 6109 requires a contractor to provide its TIN if a Form 1099 is required. The payment office is responsible for submitting reports to the IRS.

4.905 Solicitation provision.

The *contracting officer shall* insert the provision at 52.204-3, Taxpayer Identification, in *solicitations* that-

(a) Do not include the provision at 52.204-7, *System for Award Management*; and

(b) Are not conducted under the procedures of part 12.

Subpart 4.10 - Uniform Use of Line Items

4.1000 Scope.

This subpart prescribes policies and procedures for assigning *line items* and *subline items* and their identifiers. However, in order to provide agencies with time to transition their information systems,

agencies have until October 1, 2019, to apply the requirements of 4.1002 through 4.1008.

4.1001 Policy.

In order to improve the accuracy, traceability, and usability of *procurement* data, *procurement* instruments *shall* identify the *supplies* or services to be acquired as separately identified *line items* and, as needed, *subline items*.

(a) *Line items* are established to define deliverables or organize information about deliverables. Each *line item* describes characteristics for the item purchased, *e.g.*, *pricing*, delivery, and funding information.

(b) Each *line item may* be subdivided into separate unique subsets (called *subline items*) to ease administration. If a *line item* has deliverable *subline items*, the *line item* is informational. *Subline items* differentiate between or among certain characteristics of the *line item*, such as colors or sizes, dates of delivery, destinations, or places of performance. *Subline items* are established to define deliverables or organize information about deliverables.

4.1002 Applicability.

The policies of this subpart *shall* apply to the following *procurement* instruments, to include amendments, modifications, and *change orders* thereto:

(a) *Solicitations*.

(b) Contracts, including, but not limited to, Governmentwide *acquisition* contracts (GWACs), multi-agency contracts (MACs), Federal Supply Schedule (FSS) contracts, indefinite-delivery contracts, and *purchase orders*.

(c) Agreements that include pre-priced *supplies* or services.

(d) Task and *delivery orders*.

4.1003 Establishing line items.

Establish separate *line items* for deliverables that have the following characteristics except as provided at 4.1005-2:

(a) Separately identifiable.

(1) A supply is separately identifiable if it has its own identification (*e.g.*, national stock number (NSN), item description, manufacturer's part number).

(2) Services are separately identifiable if they have no more than one statement of work or *performance work statement*.

(3) If the *procurement* instrument involves a *first article* (see subpart 9.3), establish a separate *line item* for each item requiring a separate approval. If the *first article* consists of a lot composed of a mixture of items that will be approved as a single lot, a single *line item may* be used.

(b) Single unit price or total price.

(c) Single accounting classification citation. A single deliverable *may* be funded by multiple accounting classifications when the deliverable effort cannot be otherwise subdivided.

(d) Separate delivery schedule, destination, period of performance, or place of performance.

(e) Single contract *pricing* type (e.g., fixed-price or cost-reimbursement).

4.1004 Establishing subline items.

Subline items may be used to facilitate tracking of performance, deliverables, payment, and contract funds accounting or for other management purposes. *Subline items may* be either deliverable or informational. The list of characteristics at 4.1003 applies to deliverable *subline items*, but it is not applicable to informational *subline items*. A *line item* with *subline items shall* contain only that information that is common to all *subline items* thereunder. All *subline items* under one *line item shall* be the same contract type as the *line item*.

(a) *Deliverable subline items*. Deliverable *subline items may* be used for several related items that require separate identification. For example, instead of establishing multiple separate *line items*, *subline items may* be established for-

(1) Items that are basically the same, except for minor variations such as–

(i) Size or color;

(ii) Accounting classification, but see also 4.1005-1(a)(4); or

(iii) Date of delivery, destination, or period or place of performance;

(2) Separately priced collateral functions that relate to the primary product, such as packaging and handling, or transportation; or

(3) Items to be separately identified at the time of *shipment* or performance.

(b) *Informational subline items*.

(1) Informational *subline items may* be used by agencies for administrative purposes. This type of *subline item* identifies information that relates directly to the *line item* and is an integral part of it (*e.g.*, parts of an assembly or parts of a kit).

(2) Position informational *subline items* within the *line item* description, not in the quantity or price fields.

4.1005 Data elements for line items and subline items.

4.1005-1 Required data elements.

(a) Except as provided in 4.1005-2, each *line item* or *subline item shall* include in the schedule (described at 12.303(b)(4), 14.201-2, or 15.204-2, or in a comparable section of the *procurement*

instrument), at a minimum, the following information as separate, distinct data elements:

(1) *Line item* or *subline item* number established in accordance with agency procedures.

(2) Description of what is being purchased.

(3) Product or Service Code (PSC).

(4) Accounting classification citation.

(i) *Line items* or deliverable *subline items*. If multiple accounting classifications for a single deliverable apply, include the dollar amount for each accounting classification in the schedule (or a comparable section of the *procurement* instrument).

(ii) Informational *subline items*. An accounting classification citation is not required. (See 4.1004).

(5)

(i) For fixed-price *line items*:

(A) Unit of measure.

(B) Quantity.

(C) Unit price.

(D) Total price.

(ii) For cost-reimbursement *line items*:

(A) Unit of measure.

(B) Quantity.

(C) Estimated cost.

(D) Fee (if any).

(E) Total estimated cost plus any fee.

(b) If a contract contains a combination of fixed-price, time-and-materials, labor-hour, or cost-reimbursable *line items*, identify the contract type for each *line item* in the schedule (or a comparable section of the *procurement* instrument) to facilitate payment.

(c) Each deliverable *line item* or deliverable *subline item shall* have its own delivery schedule, destination, period of performance, or place of performance expressly stated in the appropriate section of the *procurement* instrument ("as required" constitutes an expressly stated delivery term). When a *line item* has deliverable *subline items*, the delivery schedule, destination, period of performance, or place of performance *shall* be identified at the *subline item* level, rather than the *line item* level.

(d) Terms and conditions in other sections of the contract (such as *contract clauses* or payment instructions) *shall* also specify applicability to individual *line items* if not applicable to the contract

as a whole.

4.1005-2 Exceptions.

(a) *Indefinite-delivery contracts*-

(1) *General*. The following required data elements are not known at time of issuance of an indefinite-delivery contract, but *shall* be provided in each order at the time of issuance: accounting classification, delivery date and destination, or period and place of performance.

(2) *Indefinite-delivery indefinite-quantity (IDIQ) and requirements contracts*.

(i) IDIQ and requirements contracts *may* omit the quantity at the *line item* level for the base award provided that the total contract minimum and maximum, or the estimate, respectively, is stated.

(ii) Multiple-award IDIQ contracts awarded using the procedures at 13.106-1(a)(2)(iv)(A) or 15.304(c)(1)(ii)(A) *may* omit price or cost at the *line item* or *subline item* level for the contract award, provided that the total contract minimum and maximum is stated (see 16.504(a)(1)).

(b) *Item description and PSC*. These data elements are not required in the *line item* if there are associated deliverable *subline items* that include the actual detailed identification. When this exception applies, use a general narrative description for the *line item*.

(c) *Single unit price or single total price*. The requirement for a single unit price or single total price at the *line item* level does not apply if any of the following conditions are present:

(1) There are associated deliverable *subline items* that are priced.

(2) The *line item* or *subline item* is not separately priced.

(3) The *supplies* or services are being acquired on a cost-reimbursement, time-and-materials, or labor-hour basis.

(4) The *procurement* instrument is for services and firm prices have been established for elements of the total price, but the actual number of the elements is not known until performance (*e.g.*, a labor-hour contract for maintenance/repair). The *contracting officer may* structure these *procurement* instruments to reflect a firm or estimated total amount for each *line item*.

4.1006 Modifications.

(a) When a new item (such as an increased quantity) is added to the *procurement* instrument, assign a new *line item number*.

(b) If the modification relates to existing *line items*, the modification *shall* refer to those items.

4.1007 Solicitation alternative line item proposal.

Solicitations should be structured to allow *offerors* to propose alternative *line items* (see 4.1008 and

52.212-1(e)). For example, when soliciting certain items using units of measure such as kit, set, or lot, the *offeror may* not be able to group and deliver all items in a single *shipment*.

4.1008 Solicitation provision.

Insert the provision at 52.204-22, Alternative *Line Item* Proposal, in all *solicitations*.

Subpart 4.11 - System for Award Management

4.1100 Scope.

This subpart prescribes policies and procedures for requiring contractor registration in the *System for Award Management (SAM*) to—

(a) Increase visibility of vendor sources (including their geographical locations) for specific *supplies* and services; and

(b) Establish a common source of vendor data for the Government.

4.1101 Definition.

As used in this subpart-

Agreement means basic *agreement*, basic ordering *agreement*, or blanket purchase *agreement*.

4.1102 Policy.

(a) *Offerors* and quoters are required to be registered in SAM at the time an *offer* or quotation is submitted in order to comply with the annual representations and certifications requirements except for—

(1) Purchases under the *micro-purchase* threshold that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card for payment only;

(2) Classified contracts (see 2.101) when registration in SAM, or use of SAM data, could compromise the safeguarding of *classified information* or national security;

(3) Contracts awarded by–

(i) Deployed *contracting officers* in the course of military operations, including, but not limited to, *contingency operations* as defined in 10 U.S.C.101(a)(13) or *humanitarian or peacekeeping operations* as defined in 10 U.S.C. 3015(2);

(ii) *Contracting* officers located outside the *United States* and its *outlying areas*, as defined in 2.101, for work to be performed in support of diplomatic or developmental operations, including those

performed in support of foreign assistance programs overseas, in an area that has been designated by the Department of State as a danger pay post (see https://aoprals.state.gov/);or

(iii) *Contracting* officers in the conduct of *emergency* operations, such as responses to natural or environmental disasters or national or civil *emergencies*, *e.g.,* Robert T. Stafford Disaster Relief and *Emergency* Assistance Act (42 U.S.C.5121);

(4) Contracts with individuals for performance outside the *United States* and its *outlying areas*;

(5) Contracts awarded without providing for *full and open competition* due to unusual or compelling urgency (see 6.302-2);

(6) Contract actions at or below $30,000 awarded to foreign vendors for work performed outside the *United States*, if it is impractical to obtain SAM registration; and

(7) *Micro-purchases* that do not use the *electronic funds transfer (EFT*) method for payment and are not required to be reported (see subpart 4.6).

(b) If practical, the *contracting officer shall* modify the contract or *agreement* awarded under paragraph (a)(3) of this section to require SAM registration.

(c) *Contracting* officers *shall* use the legal business name or "doing business as" name and physical address from the contractor's SAM registration for the provided *unique entity identifier* to identify the contractor in section A of the contract schedule, similar sections of non-uniform contract formats and *agreements*, and all corresponding forms and data exchanges. *Contracting officers shall* make no changes to the data retrieved from SAM.

(d)

(1)

(i) If a contractor has legally changed its business name or "doing business as" name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and *change-of-name agreements* in subpart 42.12, the contractor is required to provide the responsible *contracting officer* a minimum of one business *day*'s written notification of its intention to change the name in SAM, comply with the requirements of subpart 42.12, and agree *in writing* to the timeline and procedures specified by the responsible *contracting officer*. Along with the notification, the contractor is required to provide the *contracting officer* sufficient documentation to support the legally changed name.

(ii) If the contractor fails to comply with the requirements of paragraph (d)(1)(i) of the clause at 52.204-13, *System for Award Management* Maintenance, or fails to perform the *agreement* at 52.204-13, paragraph (d)(1)(i)(C), and, in the absence of a properly executed novation or change-of-name *agreement*, the SAM information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the "*Suspension* of Payment" paragraph of the EFT clause of the contract.

(2) The contractor *shall* not change the name or address for *electronic funds transfer* payments (EFT) or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of *assignment of claims* (see subpart 32.8, Assignment of *Claims*).

(3) Assignees *shall* be separately registered in SAM. Information provided to the contractor’s SAM

record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information within the meaning of the "*Suspension* of payment" paragraph of the EFT clause of the contract.

4.1103 Procedures.

(a) Unless the *acquisition* is exempt under 4.1102(a), the *contracting officer*—

(1) *Shall* verify that the *offeror* or quoter is registered in SAM (see paragraph (b) of this section) at the time an *offer* or quotation is submitted;

(2) *Should* use the *unique entity identifier* to verify SAM registration–

(i) Via https://www.sam.gov; or

(ii) As otherwise provided by agency procedures; or

(3) Need not verify SAM registration before placing an order or call if the contract or *agreement* includes the clause at 52.204-13, *System for Award Management* Maintenance, or a similar agency clause, except when use of the Governmentwide commercial purchase card is contemplated as a method of payment. (See 32.1108(b)(2).)

(b) If the contract action is being awarded in accordance with 4.1102(a)(5), the contractor is required to be registered in SAM within 30 days after contract award, or at least three days prior to submission of the first *invoice*, whichever occurs first.

(c) Agencies *shall* protect against improper disclosure of information contained in SAM.

(d) The *contracting officer shall*, on contractual documents transmitted to the payment office, provide the *unique entity identifier*, or, if applicable, the *Electronic Funds Transfer* indicator, in accordance with agency procedures.

4.1104 Disaster Response Registry.

Contracting officers shall consult the *Disaster Response Registry* via https://www.sam.gov, Search Records, Advanced Search, *Disaster Response Registry* Search when *contracting* for debris removal, distribution of *supplies*, reconstruction, and other disaster or *emergency* relief activities inside the *United States* and *outlying areas*. (See 26.205).

4.1105 Solicitation provision and contract clauses.

(a)

(1) Insert the provision at 52.204-7, *System for Award Management*, in all *solicitations* except when the conditions in 4.1102(a) apply.

(2) Insert the provision at 52.204-7, *System for Award Management*, with its *Alternate* I when the *solicitation* is anticipated to be awarded in accordance with 4.1102(a)(5).

(b) Insert the clause at 52.204-13, *System for Award Management* Maintenance, in *solicitations* that contain the provision at 52.204-7, and resulting contracts.

Subpart 4.12 - Representations and Certifications

4.1200 Scope.

This subpart prescribes policies and procedures for requiring submission and maintenance of representations and certifications via the *System for Award Management (SAM*) to-

(a) Eliminate the administrative burden for contractors of submitting the same information to various *contracting offices*;

(b) Establish a common source for this information to *procurement* offices across the Government; and

(c) Incorporate by reference the contractor's representations and certifications in the awarded contract.

4.1201 Policy.

(a) *Offerors* and quoters are required to complete electronic annual representations and certifications in SAM accessed via https://www.sam.gov as a part of required registration (see FAR 4.1102).

(b)

(1) All registrants are required to review and update the representations and certifications submitted to SAM as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and certifications are effective until one year from date of submission or update to SAM.

(2) A contractors that represented itself as a small business prior to award of a contract *must* update the representations and certifications in SAM in accordance with 52.219-28, A contractor that represented itself as other than small business before contract award and qualifies as a small business *may* update its representations and certifications in SAM in accordance with 52.219-28.

(c) Data in SAM is archived and is electronically retrievable. Therefore, when a prospective contractor has completed representations and certifications electronically in SAM, the *contracting officer must* reference the date of SAM verification in the contract file to satisfy contract file documentation requirements of 4.803(a)(11). However, if an *offeror* identifies changes to SAM data pursuant to the FAR provisions at 52.204-8(d) or 52.212-3(b), the *contracting officer must* include a copy of the changes in the contract file.

(d) The *contracting officer shall* incorporate the representations and certifications by reference in the contract (see 52.204-19, or for *acquisitions* of *commercial products* or *commercial services* see 52.212-4(v)).

4.1202 Solicitation provision and contract clause.

(a) Insert the provision at 52.204-8, Annual Representations and Certifications, in *solicitations*, except for *solicitations* for *commercial products* or *commercial services* issued under part 12. The *contracting officer shall* check the applicable provisions at 52.204-8(c)(2). Use the provision with its *Alternate* I in *solicitations* issued after October 1, 2025, that will result in a *multiple-award contract* with more than one North American Industry Classification System code assigned (see 19.102(b)). When the provision at 52.204-7, *System for Award Management*, is included in the *solicitation*, do not separately include the following representations and certifications:

(1) 52.203-2, Certificate of Independent Price Determination.

(2) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

(3) 52.203-18, Prohibition on *Contracting* with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation.

(4) 52.204-3, Taxpayer Identification.

(5) 52.204-5, Women-Owned Business (Other Than Small Business).

(6) 52.204-17, Ownership or Control of *Offeror*.

(7) 52.204-20, Predecessor of *Offeror*.

(8) 52.204-26, Covered Telecommunications Equipment or Services-Representation.

(9) 52.209-2, Prohibition on *Contracting* with Inverted Domestic Corporations-Representation.

(10) 52.209-5, Certification Regarding Responsibility Matters.

(11) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony *Conviction* under any Federal Law.

(12) 52.214-14, Place of Performance-Sealed Bidding.

(13) 52.215-6, Place of Performance.

(14) 52.219-1, Small Business Program Representations (Basic, *Alternates* I, and II).

(15) 52.219-2, Equal Low Bids.

(16) [Reserved]

(17) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed *End Products*.

(18) 52.222-22, Previous Contracts and Compliance Reports.

(19) 52.222-25, Affirmative Action Compliance.

(20) 52.222-38, Compliance with Veterans’ Employment Reporting Requirements.

(21) 52.222-48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment–Certification.

(22) 52.222-52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

(23) 52.223-1, *Biobased Product* Certification.

(24) 52.223-4, *Recovered Material* Certification.

(25) 52.223-9, Estimate of Percentage of *Recovered Material* Content for EPA-Designated Items (*Alternate* I only).

(26) 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.

(27) 52.225-2, Buy American Certificate.

(28) 52.225-4, Buy American-Free Trade Agreements-Israeli Trade Act Certificate (Basic, *Alternates* II, and III).

(29) 52.225-6, Trade Agreements Certificate.

(30) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-Certification.

(31) 52.225-25, Prohibition on *Contracting* with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications.

(32) 52.226-2, *Historically Black College or University* and *Minority Institution* Representation.

(33) 52.227-6, Royalty Information (Basic & *Alternate* I).

(34) 52.227-15, Representation of Limited Rights Data and Restricted *Computer Software*.

(b) The *contracting officer shall* insert the clause at 52.204-19, Incorporation by Reference of Representations and Certifications, in *solicitations* and contracts.

Subpart 4.13 - Personal Identity Verification

4.1300 Scope of subpart.

This subpart provides policy and procedures associated with Personal Identity Verification as required by-

(a) Federal Information Processing Standards Publication (FIPS PUB) Number 201, "Personal Identity Verification of Federal Employees and Contractors"; and

(b) Office of Management and Budget (OMB) Guidance M-05-24, dated August 5, 2005, "Implementation of Homeland Security Presidential Directive (HSPD) 12-Policy for a Common Identification Standard for Federal Employees and Contractors."

4.1301 Policy.

(a) Agencies *must* follow FIPS PUB Number 201 and the associated OMB implementation guidance for personal identity verification for all affected contractor and subcontractor personnel when contract performance requires contractors to have routine physical access to a Federally-controlled facility and/or routine access to a *Federally-controlled information system*.

(b) Agencies *must* include their implementation of FIPS PUB 201 and OMB Guidance M-05-24 in *solicitations* and contracts that require the contractor to have routine physical access to a Federally-controlled facility and/or routine access to a *Federally-controlled information system*.

(c) Agencies *must* designate an official responsible for verifying contractor employee personal identity.

(d)

(1) Agency procedures for the return of Personal Identity Verification (PIV) *products shall* ensure that Government contractors account for all forms of Government-provided identification issued to Government contractor employees under a contract, *i.e.*, the PIV cards or other similar badges, and *shall* ensure that contractors return such identification to the issuing agency as soon as any of the following occurs, unless otherwise determined by the agency:

(i) When no longer needed for contract performance.

(ii) Upon completion of a contractor employee’s employment.

(iii) Upon contract completion or termination.

(2) The *contracting officer may* delay final payment under a contract if the contractor fails to comply with these requirements.

4.1302 Acquisition of approved products and services for personal identity verification.

(a) In order to comply with FIPS PUB 201, agencies *must* purchase only approved personal identity verification *products* and services.

(b) Agencies *may* acquire the approved *products* and services from the GSA, Federal Supply Schedule 70, Special Item Number (SIN) 132-62, HSPD-12 Product and Service *Components*, in accordance with ordering procedures outlined in FAR subpart 8.4.

(c) When acquiring personal identity verification *products* and services not using the process in paragraph (b) of this section, agencies *must* ensure that the applicable *products* and services are approved as compliant with FIPS PUB 201 including-

(1) Certifying the *products* and services procured meet all applicable Federal standards and requirements;

(2) Ensuring interoperability and conformance to applicable Federal standards for the lifecycle of the *components*; and

(3) Maintaining a written plan for ensuring ongoing conformance to applicable Federal standards for the lifecycle of the *components*.

(d) For more information on personal identity verification *products* and services see http://www.idmanagement.gov.

4.1303 Contract clause.

The *contracting officer shall* insert the clause at 52.204-9, Personal Identity Verification of Contractor Personnel, in *solicitations* and contracts when contract performance requires contractors to have routine physical access to a Federally-controlled facility and/or routine access to a *Federally-controlled information system*. The clause *shall* not be used when contractors require only intermittent access to *Federally-controlled facilities*.

Subpart 4.14 - Reporting Executive Compensation and First-Tier Subcontract Awards

4.1400 Scope of subpart.

This subpart implements section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub.L.109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), which requires contractors to report subcontract award data and the total compensation of the five most highly compensated executives of the contractor and subcontractor. The public *may* view first-tier subcontract award data at http://www.usaspending.gov.

4.1401 Applicability.

(a) This subpart applies to all contracts with a value of $30,000 or more. Nothing in this subpart requires the disclosure of *classified information*.

(b) Reporting of subcontract information will be limited to the first-tier subcontractor.

4.1402 Procedures.

(a) Agencies *shall* ensure that contractors comply with the reporting requirements of 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards. Agencies *shall* review contractor reports on a quarterly basis to ensure the information is consistent with contract information. The agency is not required to address data for which the agency would not normally have supporting information, such as the compensation information required of contractors and first-tier subcontractors. However, the agency *shall* inform the contractor of any inconsistencies with the contract information and require that the contractor correct the report, or provide a reasonable explanation as to why it believes the information is correct. Agencies *may* review the reports at http://www.fsrs.gov.

(b) When *contracting officers* report the contract action to the Federal *Procurement* Data System (FPDS) in accordance with FAR subpart 4.6, certain data will then pre-populate from FPDS, to assist contractors in completing and submitting their reports. If data originating from FPDS is found by the contractor to be in error when the contractor completes the subcontract report, the contractor *should* notify the Government *contracting officer*, who is responsible for correcting the data in FPDS. Contracts reported using the generic entity identifier allowed at FAR 4.605(c)(2) will interfere with the contractor's ability to comply with this reporting requirement, because the data will not pre-populate from FPDS.

(c) If the contractor fails to comply with the reporting requirements, the *contracting officer shall* exercise appropriate contractual remedies. In addition, the *contracting officer shall* make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under subpart 42.15.

(d) There is a reporting exception in 52.204-10(g) for contractors and subcontractors who had gross income in the previous tax year under $300,000.

4.1403 Contract clause.

(a) Except as provided in paragraph (b) of this section, the *contracting officer shall* insert the clause at 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, in all *solicitations* and contracts of $30,000 or more.

(b) The clause is not prescribed for contracts that are not required to be reported in the Federal *Procurement* Data System (FPDS) (see subpart 4.6).

Subpart 4.15 - [Reserved]

4.1500 [Reserved]

4.1501 [Reserved]

4.1502 [Reserved]

Subpart 4.16 - Unique Procurement Instrument Identifiers

4.1600 Scope of subpart.

This subpart prescribes policies and procedures for assigning unique *Procurement* Instrument Identifiers (PIID) for each *solicitation*, contract, agreement, or order and related *procurement* instrument.

4.1601 Policy.

(a) Establishment of a *Procurement Instrument Identifier (PIID*). Agencies *shall* have in place a process that ensures that each PIID used to identify a *solicitation* or contract action is unique Governmentwide, and will remain so for at least 20 years from the date of contract award. The PIID *shall* be used to identify all *solicitation* and contract actions. The PIID *shall* also be used to identify *solicitation* and contract actions in designated support and reporting systems (e.g., Federal *Procurement* Data System, *System for Award Management*), in accordance with regulations, applicable authorities, and agency policies and procedures.)

(b) Transition of PIID numbering. No later than October 1, 2017, agencies *shall* comply with paragraph (a) of this section and use the requirements in 4.1602 and 4.1603 for all new *solicitations* and contract awards. Until an agency's transition is complete, it *shall* maintain its 2013 PIID format that is on record with the General Services Administration's Integrated Award Environment Program Office (which maintains a registry of the agency unique identifier scheme). The 2013 PIID format consisted of alpha characters in the first positions to indicate the agency, followed by alpha-numeric characters; the 2017 format instead has the AAC in the beginning 6 positions.

(c) Change in the *Procurement Instrument Identifier* after its assignment.

(1) Agencies *shall* not change the PIID unless one of the following two circumstances apply:

(i) The PIID serial numbering system is exhausted. In this instance, the *contracting officer may* assign a new PIID by issuing a *contract modification*.

(ii) Continued use of a PIID is administratively burdensome (e.g., for implementations of new agency contract writing systems). In this instance, the *contracting officer may* assign a new PIID by issuing a *contract modification*.

(2) The modification *shall* clearly identify both the original and the newly assigned PIID. Issuance of a new PIID is an administrative change (see 43.101).

4.1602 Identifying the PIID and supplementary PIID.

(a) *Identifying the PIID in solicitation and contract award documentation (including forms and electronic generated formats).* Agencies *shall* include all PIIDs for all related *procurement* actions as identified in paragraphs (a)(1) through (5) of this section.

(1) *Solicitation*. Identify the PIID for all *solicitations*. For amendments to *solicitations*, identify a supplementary PIID, in conjunction with the PIID for the *solicitation*.

(2) *Contracts and purchase orders*. Identify the PIID for contracts and *purchase orders*.

(3) *Delivery and task orders.* For delivery and *task orders* placed by an agency under a contract (*e.g.*, indefinite delivery indefinite quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide *acquisition* contracts (GWACs), or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and *task order* and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements.* Identify the PIID for blanket purchase agreements issued in accordance with 13.303, and for basic agreements and basic

ordering agreements issued in accordance with subpart 16.7. For blanket purchase agreements issued in accordance with subpart 8.4 under a MAS contract, identify the PIID for the blanket purchase agreement and the PIID for the MAS contract.

(i) *Orders*. For orders against basic ordering agreements or blanket purchase agreements issued in accordance with 13.303, identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under subpart 8.4.* For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications.* For modifications to actions described in paragraphs (a)(2) through (4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms.* When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section, identify the PIID in accordance with agency procedures.

(c) Additional agency specific identification information. If agency procedures require additional identification information in *solicitations*, contracts, or other related *procurement* instruments for administrative purposes, separate and clearly identify the additional information from the PIID.

4.1603 Procedures.

(a) *Elements of a PIID*. The PIID consists of a combination of thirteen to seventeen alpha and/or numeric characters sequenced to convey certain information. Do not use special characters (such as hyphens, dashes, or spaces).

(1) *Positions 1 through 6*. The first six positions identify the department/agency and office issuing the instrument. Use the AAC assigned to the issuing office for positions 1 through 6. Civilian agency points of contact for obtaining an AAC are on the AAC Contact list maintained by the General Services Administration and can be found at https://community.max.gov/x/24foL. For Department of Defense (DoD) inquiries, contact the service/agency Central Service Point or DoD AAC Monitor, or if unknown, email DODAADHQ@DLA.MIL for assistance.

(2) *Positions 7 through 8*. The seventh and eighth positions are the last two digits of the fiscal year in which the *procurement* instrument is issued or awarded. This is the date the action is signed, not the effective date if the effective date is different.

(3) *Position 9*. Indicate the type of instrument by entering one of the following upper case letters in position nine. Departments and independent agencies *may* assign those letters identified for department use below in accordance with their agency policy; however, any use *must* be applied to the entire department or agency.

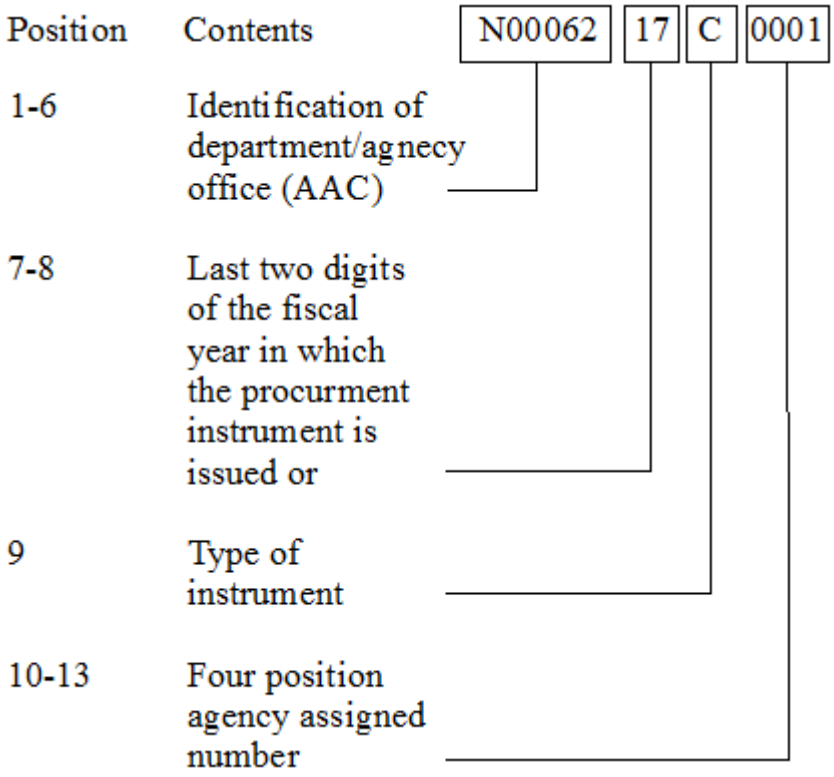
Instrument	Letter designation

Instrument	Letter designation
(i) Blanket purchase agreements	A
(ii) invitations for bids	B
(iii)Contracts of all types except indefinite-delivery contracts (see subpart 16.5)	C
(iv) Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide *acquisition* contracts (GWACs), and multi-agency contracts)	D
(v) Reserved for future Federal Governmentwide use	E
(vi) *Task orders*, *delivery orders* or calls under– Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide *acquisition* contracts (GWACs), and multi-agency contracts); Blanket purchase agreements; or Basic ordering agreements	F
(vii) Basic ordering agreements.	G
(viii) Agreements, including basic agreements and loan agreements, but excluding blanket purchase agreements, basic ordering agreements, and leases. Do not use this code for contracts or agreements with provisions for orders or calls	H
(ix) Do not use this letter	I
(x) Reserved for future Federal Governmentwide use	J
(xi) Reserved for departmental or agency use	K
(xii) Lease agreements	L
(xiii) Reserved for departmental or agency use	M
(xiv) Reserved for departmental or agency use	N
(xv) Do not use this letter	O

Instrument	Letter designation
(xvi) *Purchase orders* (assign V if numbering capacity of P is exhausted during a fiscal year)	P
(xvii) Requests for quotations (assign U if numbering capacity of Q is exhausted during a fiscal year)	Q
(xviii) Requests for proposals	R
(xix) Reserved for departmental or agency use	S
(xx) Reserved for departmental or agency use	T
(xxi) See Q, requests for quotations	U
(xxii) See P, *purchase orders*	V
(xxiii) Reserved for future Federal Governmentwide use	W
(xxiv) Reserved for future Federal Governmentwide use	X
(xxv) Imprest fund	Y
(xxvi) Reserved for future Federal Governmentwide use	Z

(4) Positions 10 through 17. Enter the number assigned by the issuing agency in these positions. Agencies *may* choose a minimum of four characters up to a maximum of eight characters to be used, but the same number of characters *must* be used agency-wide. If a number less than the maximum is used, do not use leading or trailing zeroes to make it equal the maximum in any system or data transmission. A separate series of numbers *may* be used for any type of instrument listed in paragraph (a)(3) of this section. An agency *may* reserve blocks of numbers or alpha-numeric numbers for use by its various *components*.

(5) Illustration of PIID. The following illustrates a properly configured PIID using four characters in the final positions:



(b) *Elements of a supplementary PIID*. Use the supplementary PIID to identify amendments to *solicitations* and modifications to contracts, orders, and agreements. The supplementary PIID is reported as a separate data element used in conjunction with, but not appended to, the PIID.

(1) Amendments to *solicitations*. Number amendments to *solicitations* sequentially using a four position numeric serial number added to the 13-17 character PIID beginning with 0001.

(2) Modifications to contracts, orders, and agreements. Number modifications to contracts, orders, and agreements using a six position alpha or numeric, or a combination thereof, added to the 13-17 character PIID. For example, a modification could be numbered P00001. This would be added to the end of the 13-17 character PIID illustrated in (a)(5) of this section.

(i) Position 1. Identify the office issuing the modification. The letter P *shall* be designated for modifications issued by the procuring *contracting office*. The letter A *shall* be used for modifications issued by the *contract administration office* (if other than the procuring *contracting office*).

(ii) Positions 2 through 6. These positions *may* be alpha, numeric, or a combination thereof, in accordance with agency procedures.

(iii) Each office authorized to issue modifications *shall* assign the supplementary identification numbers in sequence (unless provided otherwise in agency procedures). Do not assign the numbers until it has been determined that a modification is to be issued.

Subpart 4.17 - Service Contracts Inventory

4.1700 Scope of subpart.

This subpart implements section 743(a) of Division C of the Consolidated Appropriations Act, 2010

(Pub. L. 111-117), which requires agencies to report annually to the Office of Management and Budget (OMB) on activities performed by service contractors. Section 743(a) applies to *executive agencies*, other than the Department of Defense (DoD), covered by the Federal Activities Inventory Reform Act (Pub. L. 105-270) (FAIR Act). The information reported in the inventory will be publicly accessible.

4.1701 Definitions.

As used in this subpart–

FAIR Act agencies means the agencies required under the FAIR Act to submit inventories annually of the activities performed by Government personnel.

First-tier subcontract means a subcontract awarded directly by the contractor for the purpose of acquiring *supplies* or services (including *construction*) for performance of a prime contract. It does not include the contractor's supplier agreements with vendors, such as long-term arrangements for materials or *supplies* that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or *indirect costs*.

4.1702 Applicability.

(a) This subpart applies to–

(1) All *FAIR Act agencies*, except DoD as specified in 4.1705;

(2) *Solicitations*, contracts, and orders for services (including *construction*) that meet or exceed the thresholds at 4.1703; and

(3) Contractors and first-tier subcontractors.

(b) Procedures for compiling and submitting agency service contract inventories are governed by section 743(a)(3) of Division C of Pub. L. 111-117 and Office of Federal *Procurement* Policy (OFPP) guidance. The guidance is available at the following Web site: https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/service-contract-inventory-guidance.pdf.

(c) This subpart addresses requirements for obtaining information from, and reporting by, agency service contractors.

4.1703 Reporting requirements.

(a) Thresholds.

(1) Except as exempted by OFPP guidance, service contractor reporting *shall* be required for contracts and *first-tier subcontracts* for services based on type of contract and estimated total value. For indefinite-delivery contracts, reporting *shall* be determined based on the type and estimated total value of each order under the contract. Indefinite-delivery contracts include, but are not limited

to, contracts such as indefinite-delivery indefinite-quantity (IDIQ) contracts, Federal Supply Schedule contracts (FSSs), Governmentwide *acquisition* contracts (GWACs), and multi-agency contracts.

(2) Reporting is required according to the following thresholds:

(i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the *simplified acquisition threshold*.

(ii) All fixed-price service contracts awarded and orders issued according to the following thresholds:

(A) Awarded or issued in Fiscal Year 2014, with an estimated total value of $2.5 million or greater.

(B) Awarded or issued in Fiscal Year 2015, with an estimated total value of $1 million or greater.

(C) Awarded or issued in Fiscal Year 2016, and subsequent years, with an estimated total value of $500,000 or greater.

(3) Reporting is required for all *first-tier subcontracts* for services as prescribed in paragraphs (a)(2)(i) and (ii) of this section.

(b) Agency reporting responsibilities.

(1) Agencies *shall* ensure that contractors comply with the reporting requirements of 52.204-14, Service Contract Reporting Requirements and 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts. Agencies *shall* review contractor reported information for reasonableness and consistency with available contract information. The agency is not required to address data for which the agency would not normally have supporting information. In the event the agency believes that revisions to the contractor reported information are warranted, the agency *shall* notify the contractor no later than November 15. By November 30, the contractor *shall* revise the report, or document its rationale for the agency. Authorized agency officials *may* review the reports at www.sam.gov.

(2) Agencies are required to compile annually an inventory of service contracts performed for, or on behalf of, the agency during the prior fiscal year in order to determine the extent of the agency's reliance on service contractors. Agencies *shall* submit a service contract inventory to OMB by January 15 annually. Then, each agency *must* post the inventory on its Web site and publish a Federal Register Notice of Availability by February 15 annually.

(3) Most of the required information is already collected in the Federal *Procurement* Data System (FPDS). Information not collected in FPDS will be provided by the contractor, as specified in 52.204-14, Service Contract Reporting Requirements and 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts.

4.1704 Contracting officer responsibilities.

(a) For other than indefinite-delivery contracts, the *contracting officer shall* ensure that 52.204-14, Service Reporting Requirement, is included in *solicitations*, contracts, and orders as prescribed at 4.1705. For indefinite-delivery contracts, the *contracting officer* who awarded the contract *shall* ensure that 52.204-15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts, is included in *solicitations* and contracts as prescribed at 4.1705. The *contracting officer* at the order

level *shall* verify the clause's inclusion in the contract.

(b) If the contractor fails to submit a report in a timely manner, the *contracting officer shall* exercise appropriate contractual remedies. In addition, the *contracting officer shall* make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under subpart 42.15.

4.1705 Contract clauses.

(a) The *contracting officer shall* insert the clause at 52.204-14, Service Contract Reporting Requirements, in *solicitations* and contracts for services (including *construction*) that meet or exceed the thresholds at 4.1703, except for indefinite-delivery contracts. This clause is not required for actions entirely funded by DoD, contracts awarded with a generic entity identifier, or in classified *solicitations*, contracts, or orders.

(b) The *contracting officer shall* insert the clause at 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, in *solicitations* and indefinite-delivery contracts for services (including *construction*) where one or more orders issued thereunder are expected to each meet or exceed the thresholds at 4.1703. This clause is not required for actions entirely funded by DoD, contracts awarded with a generic entity identifier, or in classified *solicitations*, contracts, or orders.

Subpart 4.18 - Commercial and Government Entity Code

4.1800 Scope of subpart.

(a) This subpart prescribes policies and procedures for identification of commercial and government entities. The *Commercial and Government Entity (CAGE) code* system *may* be used, among other things, to–

(1) Exchange data with another *contracting activity*, including contract administration activities and contract payment activities.

(2) Exchange data with another system that requires the unique identification of a contractor entity; or

(3) Identify when *offerors* are owned or controlled by another entity.

(b) For information on the *unique entity identifier*, which is a different identifier, see 4.605 and the provisions at 52.204-6, *Unique Entity Identifier*, and 52.204-7, *System for Award Management*.

4.1801 Definitions.

As used in this part–

Highest-level owner means the entity that owns or controls an *immediate owner* of the *offeror*, or that owns or controls one or more entities that control an *immediate owner* of the *offeror*. No entity owns or exercises control of the highest level owner.

Immediate owner means an entity, other than the *offeror*, that has direct control of the *offeror*. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

4.1802 Policy.

(a) Commercial and Government Entity code.

(1) *Offerors shall* provide the *contracting officer* the CAGE code assigned to that *offeror*'s location prior to the award of a contract action above the *micro-purchase threshold*, when there is a requirement to be *registered in the System for Award Management (SAM*) or a requirement to have a *unique entity identifier* in the *solicitation*.

(2) The *contracting officer shall* include the contractor's CAGE code in the contract and in any electronic transmissions of the contract data to other systems when it is provided in accordance with paragraph (a)(1) of this section.

(b) Ownership or control of *offeror*. *Offerors*, if owned or controlled by another entity, *shall* provide the *contracting officer* with the CAGE code and legal name of that entity prior to the award of a contract action above the *micro-purchase threshold*, when there is a requirement to be registered in SAM or a requirement to have a *unique entity identifier* in the *solicitation*.

4.1803 Verifying CAGE codes prior to award.

(a) *Contracting officers shall* verify the *offeror*'s CAGE code by reviewing the entity's registration in the *System for Award Management (SAM*). Active registrations in SAM have had the associated CAGE codes verified.

(b) For entities not required to be registered in SAM, the *contracting officer shall* validate the CAGE code using the CAGE code search feature at https://cage.dla.mil.

4.1804 Solicitation provisions and contract clause.

(a) Insert the provision at 52.204-16, Commercial and Government Entity Code Reporting, in all *solicitations* that include–

(1) 52.204-6, *Unique Entity Identifier*; or

(2) 52.204-7, *System for Award Management*.

(b) Insert the provision at 52.204-17, Ownership or Control of *Offeror*, in all *solicitations* that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.

(c) Insert the clause at 52.204-18, Commercial and Government Entity Code Maintenance, in all *solicitations* and contracts when the *solicitation* contains the provision at 52.204-16, Commercial and Government Entity Code Reporting.

(d) Insert the provision at 52.204-20, Predecessor of *Offeror*, in all *solicitations* that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.

Subpart 4.19 - Basic Safeguarding of Covered Contractor Information Systems

4.1901 Definitions.

As used in this subpart–

Covered contractor information system means an *information system* that is owned or operated by a contractor that processes, stores, or transmits *Federal contract information*.

Federal contract information means *information*, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including *information* provided by the Government to the public (such as that on public Web sites) or simple transactional *information*, such as that necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of *information* resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of *information* (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect *information systems*.

4.1902 Applicability.

This subpart applies to all *acquisitions*, including *acquisitions* of *commercial products* or *commercial services* other than commercially available off-the-shelf items, when a contractor's *information system may* contain *Federal contract information*.

4.1903 Contract clause.

The *contracting officer shall* insert the clause at 52.204-21, Basic *Safeguarding* of *Covered Contractor Information Systems*, in *solicitations* and contracts when the contractor or a subcontractor at any tier *may* have *Federal contract information* residing in or transiting through its *information system*.

Subpart 4.20 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab

4.2001 Definitions.

As used in this subpart—

Kaspersky Lab covered article means any hardware, software, or service that–

(1) Is developed or provided by a *Kaspersky Lab covered entity*

(2) Includes any hardware, software, or service developed or provided in whole or in part by a *Kaspersky Lab covered entity*; or

(3) Contains *components* using any hardware or software developed in whole or in part by a *Kaspersky Lab covered entity*.

Kaspersky Lab covered entity means–

(1) Kaspersky Lab;

(2) Any successor entity to Kaspersky Lab, including any change in name, e.g., “Kaspersky”;

(3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(4) Any entity of which Kaspersky Lab has a majority ownership.

4.2002 Prohibition.

Section 1634 of Division A of the *National Defense* Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use on or after October 1, 2018, of any hardware, software, or services developed or provided, in whole or in part, by a covered entity. Contractors are prohibited from—

(a) Providing any *Kaspersky Lab covered article* that the Government will use on or after October 1, 2018; and

(b) Using any *Kaspersky Lab covered article* on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

4.2003 Notification.

When a contractor provides notification pursuant to 52.204-23, follow agency procedures.

4.2004 Contract clause.

The *contracting officer shall* insert the clause at 52.204-23, Prohibition on *Contracting* for Hardware, Software, and Services Developed or Provided by *Kaspersky Lab Covered Entities*, in all *solicitations* and contracts.

Subpart 4.21 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

4.2100 Scope of part.

This subpart implements paragraphs (a)(1)(A) and (a)(1)(B) of section 889 of the John S. McCain *National Defense* Authorization Act for Fiscal Year 2019 (Pub. L. 115-232).

4.2101 Definitions.

As used in this subpart—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (*e.g.*, microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a *covered foreign country*.

Critical technology means–

(1) Defense articles or defense services included on the *United States* Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and *components*, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of *covered telecommunications equipment or services* used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (*e.g.*, voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any *component* necessary for the proper function or performance of a piece of equipment, system, or service.

4.2102 Prohibition.

(a) *Prohibited equipment, systems, or services*.

(1) On or after August 13, 2019, agencies are prohibited from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system, unless an exception at paragraph (b) of this section applies or the *covered telecommunications equipment or services* are covered by a waiver described

in 4.2104.

(2) On or after August 13, 2020, agencies are prohibited from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system, unless an exception at paragraph (b) of this section applies or the *covered telecommunications equipment or services* are covered by a waiver described in 4.2104. This prohibition applies to the use of *covered telecommunications equipment or services*, regardless of whether that use is in performance of work under a Federal contract.

(b) *Exceptions*. This subpart does not prohibit agencies from procuring or contractors from providing-

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Contracting Officers*. Unless an exception at paragraph (b) of this section applies or the covered telecommunications equipment or service is covered by a waiver described in 4.2104, *Contracting Officers shall* not—

(1) Procure or obtain, or extend or renew a contract (*e.g.*, exercise an *option*) to procure or obtain, any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system; or

(2) Enter into a contract, or extend or renew a contract, with an entity that uses any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system.

(d) *Recording prohibitions in the System for Award Management (SAM).*

(1) Prohibitions on purchases of *products* or services produced or provided by entities identified in paragraphs (1) and (2) of the definition of "*covered telecommunications equipment or services*" (including known subsidiaries or *affiliates*) at 4.2101 will be recorded in SAM (see 9.404).

(2) Prohibitions on purchases of *products* or services produced or provided by entities identified pursuant to paragraph (4) of the definition of "*covered telecommunications equipment or services*" (including known subsidiaries or *affiliates*) at 4.2101 are recorded by the Department of Defense in SAM (see 9.404).

4.2103 Procedures.

(a) *Representations.*

(1)

(i) If the *offeror* selects "does not" in paragraphs (c)(1) and/or (c)(2) of the provision at 52.204-26 or in paragraphs (v)(2)(i) and/or (v)(2)(ii) of the provision at 52.212-3, the *contracting officer may* rely on the "does not" representation(s), unless the *contracting officer* has reason to question the

representation. If the *contracting officer* has a reason to question the representation, the *contracting officer shall* follow agency procedures.

(ii) If the *offeror* selects "does" in paragraph (c)(1) of the provision at 52.204-26 or paragraph (v)(2)(i) of the provision at 52.212-3, the *offeror* will be required to complete the representation in paragraph (d)(1) of the provision at 52.204-24.

(iii) If the *offeror* selects "does" in paragraph (c)(2) of the provision at 52.204-26 or paragraph (v)(2)(ii) of the provision at 52.212-3, the *offeror* will be required to complete the representation in paragraph (d)(2) of the provision at 52.204-24.

(2)

(i) If the *offeror* selects "will not" in paragraph (d)(1) of the provision at 52.204-24 or "does not" in paragraph (d)(2) of the provision at 52.204-24, the *contracting officer may* rely on the representations, unless the *contracting officer* has reason to question the representations. If the *contracting officer* has a reason to question the representations, the *contracting officer shall* follow agency procedures.

(ii) If an *offeror* selects "will" in paragraph (d)(1) of the provision at 52.204-24, the *offeror must* provide the information required by paragraph (e)(1) of the provision at 52.204-24, and the *contracting officer shall* follow agency procedures.

(iii) If an *offeror* selects "does" in paragraph (d)(2) of the provision at 52.204-24, the *offeror must* complete the disclosure at paragraph (e)(2) of the provision at 52.204-24, and the *contracting officer shall* follow agency procedures.

(b) *Reporting*. If a contractor provides a report pursuant to paragraph (d) of the clause at 52.204-25, Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment, follow agency procedures.

4.2104 Waivers.

(a) *Executive agencies*. The head of an *executive agency may*, on a one-time basis, waive the prohibition at 4.2102(a) with respect to a Government entity (*e.g.*, requirements office, *contracting office*) that requests such a waiver.

(1) *Waiver.* The waiver *may* be provided, for a period not to extend beyond August 13, 2021 for the prohibition at 4.2102(a)(1), or beyond August 13, 2022 for the prohibition at 4.2102(a)(2), if the Government official, on behalf of the entity, seeking the waiver submits to the head of the *executive agency*–

(i) A compelling justification for the additional time to implement the requirements under 4.2102(a), as determined by the head of the *executive agency*; and

(ii) A full and complete laydown or description of the presences of covered telecommunications or video surveillance equipment or services in the relevant supply chain and a phase-out plan to eliminate such covered telecommunications or video surveillance equipment or services from the relevant systems.

(2) *Executive agency waiver requirements for the prohibition at 4.2102(a)(2).* Before the head of an

executive agency can grant a waiver to the prohibition at 4.2102(a)(2), the agency *must*—

(i) Have designated a senior agency official for supply chain risk management, responsible for ensuring the agency effectively carries out the supply chain risk management functions and responsibilities described in law, regulation, and policy;

(ii) Establish participation in an information-sharing environment when and as required by the Federal *Acquisition* Security Council (FASC) to facilitate interagency sharing of relevant *acquisition* supply chain risk information;

(iii) Notify and consult with the Office of the Director of National Intelligence (ODNI) on the waiver request using ODNI guidance, briefings, best practices, or direct inquiry, as appropriate; and

(iv) Notify the ODNI and the FASC 15 days prior to granting the waiver that it intends to grant the waiver.

(3) *Waivers for emergency acquisitions.*

(i) In the case of an *emergency*, including a declaration of *major disaster*, in which prior notice and consultation with the ODNI and prior notice to the FASC is impracticable and would severely jeopardize performance of mission-critical functions, the head of an agency *may* grant a waiver without meeting the notice and consultation requirements under 4.2104(a)(2)(iii) and 4.2104(a)(2)(iv) to enable effective mission critical functions or *emergency* response and recovery.

(ii) In the case of a waiver granted in response to an *emergency*, the head of an agency granting the waiver *must*—

(A) Make a determination that the notice and consultation requirements are impracticable due to an *emergency* condition; and

(B) Within 30 days of award, notify the ODNI and the FASC of the waiver issued under *emergency* conditions in addition to the waiver notice to Congress under 4.2104(a)(4).

(4) *Waiver notice.*

(i) For waivers to the prohibition at 4.2102(a)(1), the head of the *executive agency shall*, not later than 30 days after approval—

(A) Submit in accordance with agency procedures to the appropriate congressional committees the full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the relevant supply chain; and

(B) The phase-out plan to eliminate such covered telecommunications or video surveillance equipment or services from the relevant systems.

(ii) For waivers to the prohibition at 4.2102(a)(2), the head of the *executive agency shall*, not later than 30 days after approval submit in accordance with agency procedures to the appropriate congressional committees—

(A) An attestation by the agency that granting of the waiver would not, to the agency's knowledge having conducted the necessary due diligence as directed by statute and regulation, present a material increase in risk to U.S. national security;

(B) The full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the relevant supply chain, to include a description of each category of covered technology equipment or services discovered after a *reasonable inquiry*, as well as each category of equipment, system, or service used by the entity in which such covered technology is found after conducting a *reasonable inquiry*; and

(C) The phase-out plan to eliminate such covered telecommunications or video surveillance equipment or services from the relevant systems.

(b) *Director of National Intelligence*. The Director of National Intelligence *may* provide a waiver if the Director determines the waiver is in the national security interests of the *United States*.

4.2105 Solicitation provisions and contract clause.

(a) The *contracting officer shall* insert the provision at 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment–

(1) In all *solicitations* for contracts; and

(2) Under indefinite delivery contracts, in all notices of intent to place an order, or *solicitations* for an order (*e.g.*, subpart 8.4 and 16.505).

(b) The *contracting officer shall* insert the clause at 52.204-25, Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment, in all *solicitations* and contracts.

(c) The *contracting officer shall* insert the provision at 52.204-26, *Covered Telecommunications Equipment or Services*-Representation, in all *solicitations*.

Subpart 4.22 Prohibition on a ByteDance Covered Application.

4.2201 Definitions.

As used in this subpart—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1)Means any equipment or interconnected system or subsystem of equipment, used in the automatic *acquisition*, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the *executive agency*, if the equipment is used by the *executive agency* directly or is used by a contractor under a contract with the *executive agency* that requires the use—

(i)Of that equipment; or

(ii)Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2)Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3)Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

4.2202 Prohibition.

(a) Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, "No TikTok on Government Devices" Implementation Guidance, collectively prohibit the presence or use of a *covered application* on *information technology*, including certain equipment used by Federal contractors.

(b) This prohibition applies to the presence or use of a *covered application* on any *information technology* owned or managed by the Government, or on any *information technology* used or provided by the contractor under a contract, including equipment provided by the contractor's employees, unless an exception is granted in accordance with OMB Memorandum M-23-13.

4.2203 Contract clause.

The *contracting officer shall* insert the clause at 52.204-27, Prohibition on a ByteDance *Covered Application*, in all *solicitations* and contracts, unless an exception is granted in accordance with OMB Memorandum M-23-13.

Subpart 4.23 Federal Acquisition Security Council.

4.2300 Scope of subpart.

This subpart implements the Federal *Acquisition* Supply Chain Security Act of 2018 (title II of Pub. L. 115–390) and the *Federal Acquisition Security Council (FASC*) regulation at 41 CFR part 201–1. The authority provided in this subpart expires on December 31, 2033 (see 41 U.S.C. 1328).

4.2301 Definitions.

As used in this subpart—

Covered article as defined in 41 U.S.C. 4713(k), means—

(1) *Information technology*, as defined in 40 U.S.C. 11101, including cloud computing services of all

types;

(2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see 32 CFR part 2002); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental *information technology*.

FASCSA order means any of the following orders issued under the Federal *Acquisition* Supply Chain Security Act (FASCSA) requiring the removal of *covered articles* from *executive agency* information systems or the exclusion of one or more named *sources* or named *covered articles* from *executive agency procurement* actions, as described in 41 CFR 201–1.303(d) and (e):

(1) The Secretary of Homeland Security *may* issue *FASCSA orders* applicable to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of *FASCSA order may* be referred to as a Department of Homeland Security (DHS) *FASCSA order*.

(2) The Secretary of Defense *may* issue *FASCSA orders* applicable to the Department of Defense (DoD) and national security systems other than *sensitive compartmented information systems*. This type of *FASCSA order may* be referred to as a DoD *FASCSA order*.

(3) The Director of National Intelligence (DNI) *may* issue *FASCSA orders* applicable to the intelligence community and *sensitive compartmented information systems*, to the extent not covered by paragraph (2) of this definition. This type of *FASCSA order may* be referred to as a DNI *FASCSA order*.

Federal Acquisition Security Council (FASC) means the Council established pursuant to 41 U.S.C. 1322(a).

Intelligence community, as defined by 50 U.S.C. 3003(4), means the following—

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;

(9) The Bureau of Intelligence and Research of the Department of State;

(10) The Office of Intelligence and Analysis of the Department of the Treasury;

(11) The Office of Intelligence and Analysis of the Department of Homeland Security; or

(12) Such other elements of any department or agency as *may* be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

National security system, as defined in 44 U.S.C. 3552, means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

(2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of *national defense* or foreign policy.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of any *covered articles*, or any *products* or services produced or provided by a *source*. This applies when the *covered article* or the *source* is subject to an applicable *FASCSA order*. A *reasonable inquiry* excludes the need to include an internal or third-party audit.

Sensitive compartmented information means *classified information* concerning or derived from intelligence *sources*, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

Sensitive compartmented information system means a national security system authorized to process or store *sensitive compartmented information*.

Source means a non-Federal supplier, or potential supplier, of *products* or services, at any tier.

Supply chain risk, as defined in 41 U.S.C. 4713(k), means the risk that any person *may* sabotage, maliciously introduce unwanted functionality, extract data, or otherwise manipulate the design, integrity, manufacturing, production, distribution, installation, operation, maintenance, disposition, or retirement of *covered articles* so as to surveil, deny, disrupt, or otherwise manipulate the function, use, or operation of the *covered articles* or information stored or transmitted on the *covered articles*.

Supply chain risk information includes, but is not limited to, information that describes or identifies:

(1) Functionality and features of *covered articles*, including access to data and information system privileges;

(2) The user environment where a *covered article* is used or installed;

(3) The ability of a *source* to produce and deliver *covered articles* as expected;

(4) Foreign control of, or influence over, a *source* or *covered article* (*e.g.,* foreign ownership, personal and professional ties between a *source* and any foreign entity, legal regime of any foreign country in which a *source* is headquartered or conducts operations);

(5) Implications to government mission(s) or assets, national security, homeland security, or critical functions associated with use of a covered *source* or *covered article*;

(6) Vulnerability of Federal systems, programs, or facilities;

(7) Market alternatives to the covered *source*;

(8) Potential impact or harm caused by the possible loss, damage, or compromise of a product, material, or service to an organization's operations or mission; and

(9) Likelihood of a potential impact or harm, or the exploitability of a system;

(10) Security, authenticity, and integrity of *covered articles* and their supply and compilation chain;

(11) Capacity to mitigate risks identified;

(12) Factors that *may* reflect upon the reliability of other *supply chain risk information*; and

(13) Any other considerations that would factor into an analysis of the security, integrity, resilience, quality, trustworthiness, or authenticity of *covered articles* or *sources*.

4.2302 Sharing supply chain risk information.

(a) *Executive agencies* are required to share relevant *supply chain risk information* with the FASC if the *executive agency* has determined there is a reasonable basis to conclude a substantial supply chain risk associated with a *source* or *covered article* exists (see 41 CFR 201–1.201).

(b) In support of information sharing described in paragraph (a) of this section, the *contracting officer shall* work with the program office or requiring activity in accordance with agency procedures regarding the sharing of relevant information on actual or potential supply chain risk determined to exist during the *procurement* process.

4.2303 FASCSA orders.

(a) *Executive agencies* are prohibited from procuring or obtaining, or extending or renewing a contract to procure or obtain, any *covered article*, or any *products* or services produced or provided by a *source*, including contractor use of *covered articles* or *sources*, if that prohibition is established by an applicable *FASCSA order* issued by the Director of National Intelligence, Secretary of Defense, or Secretary of Homeland Security (the “issuing official”)(see 41 CFR 201–1.304(a)).

(b) If a *covered article* or the *source* is subject to an applicable Governmentwide *FASCSA order* issued collectively by the Director of National Intelligence, Secretary of Defense, and Secretary of Homeland Security, *executive agencies* responsible for management of the Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts *shall* facilitate implementation of a collective *FASCSA order* by removing the *covered articles* or *sources* identified in the *FASCSA order* from such contracts (see 41 CFR 201–1.303(g)).

(c)

(1) *FASCSA orders* regarding *sources* or *covered articles* will be found in the *System for Award Management (SAM*), by searching for the phrase "*FASCSA order*". SAM *may* be updated as new *FASCSA orders* are issued.

(2) Some *FASCSA orders* will not be identified in SAM and will need to be identified in the *solicitation* to be effective for that *acquisition*. The requiring activity or program office will identify these *FASCSA orders* to the *contracting officer* (see 4.2304(d)).

(3) The *contracting officer shall* work with the program office or requiring activity to identify which *FASCSA orders* apply to the *acquisition*.

4.2304 Procedures.

(a) *Identifying applicable FASCSA orders*. The applicability of *FASCSA orders* to a particular *acquisition* depends on the *contracting office*'s agency, the scope of the *FASCSA order*, the funding, and whether the requirement involves certain types of information systems (see the definition of *FASCSA order* at 4.2301). The *contracting officer shall* coordinate with the program office or requiring activity to identify the *FASCSA order*(s) that apply to the *acquisition* as follows:

(1) Unless the program office or requiring activity instructs the *contracting officer* otherwise, *FASCSA orders* apply as follows: contracts awarded by civilian agencies will be subject to DHS *FASCSA orders*, and contracts awarded by the Department of Defense will be subject to DoD *FASCSA orders*. See paragraph (b) of 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders-Prohibition.

(2) For *acquisitions* where the program office or the requiring activity instructs the *contracting officer* to select specific *FASCSA orders*, the *contracting officer must* select "yes" or "no" for each applicable type of *FASCSA order* (*i.e.*, "DHS *FASCSA Order*" "DoD *FASCSA Order*" or "DNI *FASCSA Order*"). See paragraph (b)(1) of 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders—Prohibition, with its *Alternate* I.

(b) Federal Supply Schedules, Governmentwide *acquisition* contracts, multi-agency contracts specific procedures—

(1) Applying *FASCSA orders*. An agency awarding this type of contract *may* choose to apply *FASCSA orders* in accordance with agency policy as follows:

(i) *Application at the contract level.* The agency awarding the basic contract *may* choose to apply *FASCSA orders* to the basic contract award. This is the preferred method, especially if small value orders or orders without a request for quotation (RFQ) are expected. Ordering activity *contracting officers may* use this contract vehicle without taking further steps to identify applicable *FASCSA orders* in the order. The *contracting officer* awarding the basic contract would select "yes" for all *FASCSA orders* (*i.e.,* "DHS *FASCSA Order*" "DoD *FASCSA Order*" and "DNI *FASCSA Order*") (see paragraph (b)(1) of 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders—Prohibition, with its *Alternate* I). If the *contracting officer* becomes aware of a newly issued applicable *FASCSA order*, then the agency awarding the basic contract *shall* modify the basic contract to remove any *covered article*, or any *products* or services produced or provided by a *source*, prohibited by the newly issued *FASCSA order*.

(ii) *Application at the order level.* The agency awarding the basic contract *may* choose to apply *FASCSA orders* at the order level, as implemented by the ordering activity *contracting officer*.

(2) *Collective FASCSA orders.* If a new *FASCSA order* is issued collectively by the Secretary of Homeland Security, Secretary of Defense, and Director of National Intelligence, then the *contracting officer shall* modify the basic contract based upon the requirements of the order, removing any *covered article*, or any *products* or services produced or provided by a *source* (see 4.2303(b)).

(3) *Interagency acquisitions.* For an *interagency acquisition* (see subpart 17.5) where the funding agency differs from the awarding agency, the funding agency *shall* determine the applicable *FASCSA orders*.

(4) *Inconsistencies.* If any inconsistency is identified between the basic contract and the order, then the *FASCSA orders* identified in the order will take precedence.

(c) *Updating the solicitation or contract for new FASCSA orders.* The *contracting officer shall* update a *solicitation* or contract if the program office or requiring activity determines it is necessary to:

(1) Amend the *solicitation* to incorporate *FASCSA orders* in effect after the date the *solicitation* was issued but prior to contract award; or

(2) Modify the contract to incorporate *FASCSA orders* issued after the date of contract award.

(i) Any such modification *should* take place within a reasonable amount of time, but no later than 6 months from the determination of the program office or requiring activity.

(ii) If the contract is not modified within the time specified in paragraph (c)(2)(i) of this section, then the contract file *shall* be documented providing rationale why the contract could not be modified within this timeframe.

(d) *Agency specific procedures.* The *contracting officer shall* follow agency procedures for implementing *FASCSA orders* not identified in SAM (see 4.2303(c)(2)).

(e) *Disclosures.* If an *offeror* provides a disclosure pursuant to paragraph (e) of 52.204-29, Federal *Acquisition* Supply Chain Security Act Orders—Representation and Disclosures, the *contracting officer shall* engage with the program office or requiring activity to determine whether to pursue a waiver, if available, in accordance with 4.2305 and agency procedures or not award to that *offeror*. For *FASCSA orders* handled at the order level, the disclosures language is found at paragraph (b)(5) of 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders—Prohibition, with its *Alternate* II.

(f) *Waiver.* An *acquisition may* be either fully or partially covered by a waiver. Partial waiver coverage occurs when only portions of the *products* or services being procured or provided by a *source* are covered by an applicable waiver. If the requiring activity notifies the *contracting officer* that the *acquisition* is partially covered by an approved individual waiver or class waiver under 4.2305, then the *contracting officer shall* work with the program office or requiring activity to identify in the *solicitation*, RFQ, or order, the *covered articles* or services produced by or provided by a *source* that are subject to the waiver (see 41 CFR 201–1.304(b)).

(g) *Reporting.* If a contractor provides a report pursuant to paragraph (c) of 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders—Prohibition, the *contracting officer shall* engage with the agency supply chain risk management program in accordance with agency procedures.

4.2305 Waivers.

(a) An *executive agency* required to comply with a *FASCSA order may* submit a request that the order or some of its provisions not apply to—

(1) The agency;

(2) Specific actions of the agency or a specific class of *acquisitions*;

(3) Actions of the agency for a period of time before compliance with the order is practicable; or

(4) Other activities, as appropriate, that the *requesting agency* identifies.

(b) A request for waiver *shall* be submitted by the *executive agency in writing* to the official that issued the order, unless other instructions for submission are provided by the applicable *FASCSA order*.

(c) The request for waiver *shall* provide the following information for the issuing official to review and evaluate the request, including—

(1) Identification of the applicable *FASCSA order*;

(2) A description of the exception sought, including, if limited to only a portion of the order, a description of the order provisions from which an exception is sought;

(3) The name or a description sufficient to identify the *covered article* or the product or service provided by a *source* that is subject to the order from which an exception is sought;

(4) Compelling justification for why an exception *should* be granted, such as the impact of the order on the agency's ability to fulfill its mission-critical functions, or considerations related to the national interest, including national security reviews, national security investigations, or national security agreements;

(5) Any alternative mitigations to be undertaken to reduce the risks addressed by the *FASCSA order*; and

(6) Any other information requested by the issuing official.

(d) The *contracting officer*, in accordance with agency procedures and working with the program office or requiring activity, *shall* decide whether to pursue a waiver or to make award to an *offeror* that does not require a waiver in accordance with the procedures at 4.2304(f). If a waiver is being pursued, then the *contracting officer may* not make an award until written approval is obtained that the waiver has been granted.

4.2306 Solicitation provision and contract clauses.

(a) In all Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts where *FASCSA orders* are applied at the order level, the *contracting officer shall* insert the clause at 52.204-28, Federal *Acquisition* Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide *Acquisition* Contracts, and Multi-Agency Contracts, in the basic contract *solicitation* and resultant contract (see 4.2304(b)(1)(ii)).

(b) The *contracting officer shall* insert the provision at 52.204-29, Federal *Acquisition* Supply Chain Security Act Orders—Representation and Disclosures—

(1) In all *solicitations*, except for Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts.

(2) In all *solicitations* for Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts, if *FASCSA orders* are applied at the contract level (see 4.2304(b)(1)(i)).

(c) The *contracting officer shall* insert the clause at 52.204-30, Federal *Acquisition* Supply Chain Security Act Orders—Prohibition—

(1) In *solicitations* and contracts if the conditions specified at 4.2304(a)(1) apply, except for Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts. For *acquisitions* where conditions specified at 4.2304(a)(2) apply, then the *contracting officer shall* use the clause with its *Alternate* I.

(2) In Federal Supply Schedules, Governmentwide *acquisition* contracts, and multi-agency contracts—

(i) Where *FASCSA orders* are applied at the contract level, with its *Alternate* I in all *solicitations* and resultant contracts. See 4.2304(b)(1)(i).

(ii) Where *FASCSA orders* are applied at the order level, with its *Alternate* II in all RFQs, or in all notices of intent to place an order. See 4.2304(b)(1)(ii).