

6 FAM 1220 PROCUREMENT

(TL:GS-92; 10-08-2002)

6 FAM 1221 GENERAL PROCUREMENT POLICY

6 FAM 1221.1 Procurement Regulations

(TL:GS-92; 10-08-2002)

(State Only)

The Federal Acquisition *Regulation* (FAR) and the Department of State Acquisition *Regulation* (DOSAR) govern procurement of personal property and nonpersonal services including construction by the Department of State except, *that* the FAR and the DOSAR are not mandatory for those operations which enjoy exemption from the Federal Property and Administrative Services Act of 1949, as amended. The regulations in the DOSAR implement, supplement, and in some instances deviate from the FAR. Officers of the Department to whom procurement authority has been delegated should consult the Office of the *Procurement Executive (A/OPE)* whenever they are in doubt of *the* applicability or interpretation of the FAR or the DOSAR.

6 FAM 1221.2 *Competitive Sourcing*

(TL:GS-92; 10-08-2002)

(State Only)

a. *Definitions:*

(1) *Commercial activity: Commercial activity is defined as any activity that is not an inherently governmental function;*

(2) *Competitive sourcing: The basic principle of competitive sourcing is that the Department should use competition to obtain the most appropriate means of performing commercial activities. The goal is to compare the cost of work now done by U.S. Government employees with the cost that a private firm could offer, using the concept of "best value" as defined in the Federal Acquisition Regulation (FAR) and OMB guidance. The intent is not to expand outsourcing or contracting out for services, but rather to study the commercial work we do and see whether it is more efficiently and effectively performed by State Department employees or by contractors. If the best value is to do the work in-house, then the function is not given to a contractor. If contracting out is found to be the best value, then the U.S. Govern-*

ment awards a performance-based contract or an order under an existing contract;

(3) Inherently governmental: The Federal Acquisition Regulation (FAR), in Part 2, defines an inherently governmental function as one that is so intimately related to the public interest as to mandate performance by U.S. Government employees. For example, taking action that would bind the United States or directing Department employees are considered inherently governmental functions. The FAR provides considerable detail on this subject.

b. Inventory: The Federal Activities Inventory Reform Act requires that each agency submit to OMB by June 30 of each year an inventory of its direct-hire full-time equivalents performing commercial activities. OMB further requires the inventory to show which full-time equivalents are inherently governmental in nature and which perform commercial activities. The Bureau of Human Resources (HR) manages the annual inventory process. Competitive-sourcing decisions are based on an analysis of the inventory by affected bureaus and offices. This analysis results in a selection of suitable candidates for competitive sourcing studies.

c. Planning the competitive sourcing study: Bureaus or offices that will conduct competitive sourcing studies should, as a minimum, plan to implement the following procedures:

- (1) Establish a team for the study;*
- (2) Notify the union;*
- (3) Arrange for contractor support and training;*
- (4) Elect a cost-comparison method (streamlined study, full-cost comparison under OMB Circular A-76, direct conversion, or other OMB-approved approach);*
- (5) Set milestones; and*
- (6) Collect other relevant information.*

Under the quality-sourcing program, contractor support may be available through acquisition arrangements made by A/LM/AQM to assist with a study.

d. Procedures: The Supplement to OMB Circular A-76 provides that direct conversion may be made from in-house to contract for commercial activities of 10 FTE or fewer, following the procedures in the Federal Acquisition Regulation. From 11 to 65 FTE, a streamlined cost comparison may be conducted, as provided in the Supplement. Bureaus and offices shall follow the OMB procedures in conducting competitive sourcing studies. Al-

ternatively, bureaus and offices may coordinate with the Assistant Secretary for Administration and obtain OMB approval for alternative approaches.

e. *Independent review official (IRO): For studies under OMB Circular A-76 other than direct conversions, an independent review official must be designated. The Assistant Inspector General for Audits (OIG/AUD) or designee will ordinarily be the IRO, but may obtain contractor support for performing the review. For studies involving commercial activities within OIG, the IRO may designate another official to perform the review to ensure impartiality, such as the IG of another Federal agency.*

f. *Appeals process: Appeals of competitive sourcing actions shall follow the procedures in OMB Circular A-76 and its Supplement. The appeals officials are as follows:*

(1) *For appeals of waivers of cost comparisons granted by the designated official listed in paragraph g of this section, the Supplement to OMB Circular A-76 provides that the appeal authority is the Secretary of State;*

(2) *For appeals of cost comparisons under OMB Circular A-76 (streamlined or full studies), the appeal authority must be independent of the activity under review and at least two organizational levels above the official who signed the U.S. Government's cost proposal.*

g. *Designated official: The Assistant Secretary for Administration is the designated official responsible for implementation of OMB Circular A-76 and the granting of waivers.*

6 FAM 1221.3 Centralized Procurement

*(TL:GS-92; 10-08-2002)
(State Only)*

Procurement services shall be performed for the Department on a centralized basis by the Office of *Acquisitions Management (A/LM/AQM)*, except where personnel of other organizational units have been granted procurement authority by competent authority.

6 FAM 1221.4 Negotiations with Contractors or Suppliers

*(TL:GS-1; 08-22-1991)
(State Only)*

Neither requisitioning officers controlling allotments nor operating officials shall enter into negotiations with prospective contractors or suppliers unless such negotiations are permitted by existing delegations of procurement authority (all persons with procurement authority have been provided copies of the pertinent delegations). Any employee who obtains goods or

services in advance of the execution of a contract or issuance of a purchase order may become personally liable for payment.

6 FAM 1222 LEGAL AND OTHER REGULATORY REQUIREMENTS

(TL:GS-98; 10-08-2002)
(State Only)

Officers who have been delegated procurement authority are governed by the following:

- (1) Limitations of Appropriations Act;
- (2) Other limitations imposed by statute or Executive Order;
- (3) Decisions of the Comptroller General;
- (4) Federal Acquisition *Regulation* (FAR);
- (5) Department of State Acquisition *Regulation* (DOSAR);
- (6) Regulations of the Department of State other than the DOSAR; and
- (7) General Accounting Office regulations and administrative instructions issued by other U.S. Government agencies having regulatory authority, such as the Office of Management and Budget and the General Services Administration.

6 FAM 1223 SECURITY REQUIREMENTS

(TL:GS-1070; 04-02-1973)
(State Only)

Requisitioning offices must state on requisitions that classified or administratively controlled contracts will be necessary where such is the case. Access to classified or administratively controlled information shall be granted only in accordance with the provisions of 5 FAM 900.

6 FAM 1224 YEAR-END PROCUREMENT: *POLICY*

(TL:GS-92; 10-08-2002)
(State Only)

It is the Department's policy to comply strictly with the statutory requirements governing the use of appropriations and to ensure that pur-

chases near the end of the fiscal year represent a bona fide need of that fiscal year. Good procurement must be preceded by adequate planning and budget and fiscal management. Crash procurement and frantic year-end buying are inefficient and uneconomical. The following rules shall govern all fiscal year-end procurement:

(1) Orders for supplies, materials, equipment, and services shall be kept to the minimum needed to carry on essential, approved programs;

(2) Inventories shall be held to normal levels; and

(3) New contracts for future services shall be made only in accordance with established advance acquisition plans.

6 FAM 1225 THROUGH 1229 UNASSIGNED