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NLRB FOIA Branch
1015 Half Street SE
4th Floor
Washington, DC 20570
Fax: (202) 273-FOIA (3642)

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

October 7, 2020

Re: FOIA Case No. NLRB-2021-000001

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received in this Office on October 1, 2020, in which you request “a copy of the NLRB’s Acquisition Handbook, which is maintained by the Acquisition Management Branch of the NLRB.” You assumed fees in the amount of \$37.00 for the processing of your request.

We acknowledged your request on October 1, 2020.

Pursuant to the FOIA, a search inquiry was directed to the Agency’s Office of the Chief Financial Officer, Acquisition Management Branch. A search conducted by that office located a document titled, “National Labor Relations Board Acquisition Management Branch Policy,” which is attached.

For the purpose of assessing fees, we have placed you in Category D, the “all other requesters” category, because you do not fall within any of the other fee categories. Consistent with this fee category, you will be assessed charges to recover the reasonable direct costs for searching for the requested records, except that you will not be charged for the first two hours of search. NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(2)(ii)(D). Charges for all categories of requesters are \$9.25 per quarter hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Less than two hours of professional time was expended in searching for the requested material. Accordingly, there is no charge assessed for this request.

You may contact Ed Hughes, the FOIA Attorney who processed your request, at (202) 273-1773 as well as the Agency’s FOIA Public Liaison, Patricia A. Weth, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in

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addition to the FOIA Attorney, can further explain responsive and releasable agency records. The contact information for the Agency's FOIA Public Liaison is:

Patricia A. Weth
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Attorney, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock

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and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

Patricia A. Weth

Patricia A. Weth
Acting FOIA Officer

Attachment: (44 pages)



National Labor Relations Board
Acquisition Management Branch
Policy

April 28, 2017



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FOREWORD

The Acquisition Management Branch (AMB) at the National Labor Relations Board (NLRB) exists to provide the necessary regulatory and policy based guidance to permit the issuance of contracts and interagency agreements, allowing the NLRB to acquire supplies and services in an effort to support the Agency's mission. The AMB Policy shall be used as a reference source supporting the acquisition professionals in their daily operations and management responsibilities. Each "Part" is designed to improve and/or map portions of the acquisition process and Federal Acquisition Regulation (FAR) as it applies to the NLRB. This Policy does not circumvent the FAR, albeit provides Agency specific direction that shall be followed in all applicable stages of the acquisition process. It is envisioned that this AMB Policy is to be a living document and accessible on both the local shared drives as well as AMB's SharePoint site. All comments and recommendations to improve the Policy, as well as lessons learned shall be provided to Tashiana Carter at Tashiana.Carter@nlrb.gov.

A handwritten signature in black ink, appearing to read "C. Henshaw".

Digitally signed by Christopher V. Henshaw
DN: cn=Christopher V. Henshaw, o=National
Labor Relations Board,
email=christopher.henshaw@nlrb.gov, c=US
Adobe Acrobat version: 11.0.8

Christopher Henshaw
Director of the Acquisition Management Branch



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OFFICE OF THE CHIEF FINANCIAL OFFICER
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Version Number	Effective Date	Summary of Changes
1.0	April 28, 2017	Null



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PART 1 – FEDERAL ACQUISITION REGULATION SYSTEM

SUBPART 1.1 – PURPOSE, AUTHORITY, ISSUANCE

1.101 Purpose

The Acquisition Management Branch Policy (AMBP) is issued by the National Labor Relations Board’s (NLRB) Director of Acquisitions, who is also the Head of the Contracting Activity (HCA). The AMBP implements and supplements the Federal Acquisition Regulation (FAR), pursuant to FAR 1.304, and establishes local NLRB procedures relating to the acquisition of supplies and services under the authority of Title 41 of the United States Code (U.S.C.) and other statutory authority. The AMBP is not a stand-alone document and shall be read in conjunction with the FAR, NLRB Operations Management Memoranda, NLRB General Counsel Memoranda, NLRB Administrative Bulletins, NLRB Administrative Policies/Procedures, Directives and Issuances from the Office of the Chief Financial Officer (OCFO), and the NLRB Financial Manual.

1.102 Superseded Material

This issuance replaces Chapter CON-1, “Contract and Procurement” of the Administrative Policies and Procedures Manual, dated August 12, 2004, in its entirety.

1.103 Authority

The Director of Acquisitions, as HCA, issues the AMBP per the Code of Federal Regulations (CFR), Title 41, Chapter 101; Title 48, Chapter 1, Federal Acquisition Regulations as local policy and guidance to provide the procedures used in the administration of an Agency-wide Contract and Procurement Program, and to direct the performance of NLRB Contracting Officers (CO) and other acquisition staff.

1.104 Applicability and Scope

This directive is applicable to all acquisitions and contracting functions performed by NLRB personnel, except where expressly excluded.

1.105 Numbering and Availability

AMBP numbering generally parallels the FAR numbering. Supplemental numbering for clauses is the same as the FAR, with the addition of a number of 9000.



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SUBPART 1.2 – ADMINISTRATION

1.201 Maintenance of the AMBP

- (a) The HCA shall issue revisions to the NLRB Acquisition Management Branch Policy (AMBP) as necessary. Revisions are generally coordinated through the Office of the Chief Financial Officer. Recommendations for amending the AMBP shall be submitted by e-mail to the HCA (via the originator's chain of command) using the following format:
 - (1) Facts (the current rule, as applied);
 - (2) Issue;
 - (3) Recommendation;
 - (4) Discussion, fully justifying the need to supplement or implement higher-level acquisition regulations in local policy.
- (b) To the maximum extent practicable, revisions to the AMBP should be coordinated by the HCA with the Budget Director and Finance Director.
- (c) COs shall ensure that the FAR, AMBP, and other guidance included in the Acquisition Management Section of the OCFO Financial Manual are available to NLRB staff and customers.
- (d) Compliance with the AMBP, including any revision to the AMBP, shall be permissive on the date of the revision and shall be mandatory 30 days after issuance, unless otherwise provided in the revision's Procurement Notice.
- (e) The HCA shall ensure the AMBP and any other local acquisition policies are periodically reviewed at intervals not to exceed 12 months and shall take action to cancel any policy not reviewed and revised after two years.

SUBPART 1.3 – AGENCY ACQUISITION REGULATIONS

1.301 Policy

- (a) NLRB implements and supplements the FAR with the AMBP under the authorization of and subject to the authority of the HCA. The AMBP contains the following:
 - (1) Clear requirements and procedures required by law
 - (2) Mandatory NLRB-wide acquisition policy
 - (3) Deviations from higher level regulations
 - (4) Designations or delegations of authority



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- (b) The AMBP contains enterprise-wide policies and procedures relating to the acquisition of supplies and services by NLRB personnel, except those that may otherwise reside in other NLRB-issued or higher-level directives.

1.302 Procurement Notices

- (a) Procurement Notices are issued, numbered, and managed by the HCA to provide agency-specific information and procedural guidance to NLRB contracting personnel and customers, to emphasize existing policy, to transmit new or changed policy promulgated by NLRB senior authorities, or to make editorial or administrative revisions. Procurement Notices revising the AMBP shall expire upon incorporation into the AMBP unless otherwise specified.
- (b) There are three general types of Procurement Notices:
- (1) Standard. Revises the AMBP or otherwise provides new acquisition policy due to new or revised policy promulgated by OCFO or other authority. This Procurement Notice type includes revisions that alter the substantive meaning of any coverage in the AMBP. Procurement Notices are not used to approve deviations to the FAR or AMBP. Procurement Notices with AMBP coverage are not used to restate or repeat statutes, executive orders, or higher-level acquisition regulations. Instead, these Procurement Notices provide NLRB-unique supplements or NLRB-specific implementation to such policy or regulation. A standard Procurement Notice is signed by the HCA.
 - (2) Advisory. Reminds the acquisition workforce of an existing policy requirement and provides no AMBP supplementation. An advisory Procurement Notice does not establish new policies or procedures. The document is signed by the HCA.
 - (3) Technical. Provides editorial, stylistic, administrative or other revisions that have no impact on the basic meaning, scope, or applicability of the AMBP coverage being revised. A technical Procurement Notice is signed by the HCA.
- (c) Unnumbered memoranda addressed to the Acquisition Branch or to NLRB's requiring activities (to include directive-type memoranda) may be issued for one-time requests for comments, reports, announcements of procurement events, and other announcements. These memoranda shall not be used to make or revise local acquisition policy or procedures. These memos of short-term impact are not considered Procurement Notices and no implementation beyond the immediate action requested is required.
- (d) Numbering. Procurement Notices will be assigned sequential Procurement Notice numbers for each fiscal year (FY) (e.g., PROCNOTE 2016-001) and tracked in the Procurement Notice Index located in the "Acquisition Policy" SharePoint folder.



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Once a Procurement Notice number has been assigned, it cannot be reissued or reassigned if that Procurement Notice is withdrawn or otherwise no longer required before it has been completed, signed and issued. In this situation, the HCA will note the disposition of the affected Procurement Notice in the Procurement Notice Index.

(e) Responsibilities.

- 1) Acquisition Policy Officer. The Deputy Director of Acquisitions reviews the need for a Procurement Notice, drafts the Procurement Notice (or assigns an Action Officer), and coordinates the Procurement Notice with the appropriate areas of the Agency for review, impact on NLRB (including policy, operations, and systems), comments, draft revisions, concurrences, and signature. If an NLRB local clause/provision is impacted, the Acquisition Policy Officer shall coordinate with the HCA, and the Office of Special Counsel. In addition, the Acquisition Policy Officer ensures that a Procurement Notice number is issued and distributes the Procurement Notice, and updates the AMBP as appropriate, as well as updates the Procurement Notice Index.
- 2) Subject matter experts and NLRB leadership includes NLRB Directors, and Special Counsel. Subject matter experts and leaders internal and external to the Acquisition Management Branch may review, provide comments, and coordinate on Procurement Notices.

(f) Drafting guidelines. Procurement Notices will follow the Procurement Notice template. Procurement Notices will include the follow sections where applicable:

- (1) Subject
- (2) References
- (3) Purpose
- (4) Background
- (5) Acquisitions Affected by the Change
- (6) Policy
- (7) Procedures
- (8) AMBP Subparts Changed
- (9) Effective Date and Expiration

1.303 Contracting Activity Guidance

The HCA, consistent with FAR 1.304, may issue procedural guidance relative to the FAR and/or AMBP. This authority is delegated to the HCA without power of re-delegation. Requests for approval of any class deviation (as defined in FAR Subpart 1.4) from the FAR, before its inclusion into the AMBP, shall be approved by the Senior Procurement Executive (SPE).



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1.304 Contracting activity provisions and clauses

- (a) Provisions and clauses that are developed as a result of negotiations or which fulfill a specific and unique requirement of the acquisition, that do not constitute a deviation from higher level regulations or from AMBP, shall be approved by the HCA for essentiality, appropriateness, and sufficiency, and reviewed by Special Counsel prior to incorporation into a solicitation or contract. These provisions and clauses can be approved for one-time use only, i.e., for use in a single acquisition or contract. One-time use provisions and clauses are not assigned AMBP numbers, but shall be identified in accordance with FAR 52.103 by title and date.
- (b) Requests for proposed repetitive use or “substantially the same as” local provisions and clauses, shall be forwarded to the HCA, accompanied by prescriptive language for use on either an enterprise or non-enterprise basis. The HCA is responsible for review, numbering, and internal and Special Counsel coordination. This local clause/provision approval authority may not be delegated. The provision or clause shall have been reviewed for legal sufficiency by OGC prior to forwarding to the HCA. The HCA shall review these provisions and clauses for essentiality, appropriateness, and sufficiency. The local provision or clause will be assigned AMBP numbers when approved and incorporated into the AMBP by Procurement Notice.
- (c) Requests for substantive changes to existing AMBP provisions and clauses shall be reviewed and approved using the procedures described in paragraph (b). Requests for minor changes do not require review or approval by the HCA. Such minor changes may include, but are not limited to, changes to addresses, dates, position titles, spelling errors, and typographical mistakes that do not result in any substantive change to policy. These changes may be considered technical edits and do not require review by Special Counsel or incorporation into the AMBP by numbered Procurement Notice.
- (d) Local clauses are identified in AMBP Part 52 – Solicitation Provisions and Contract Clauses.

1.305 Agency Control and Compliance Procedures

The procedures required by FAR 1.304 comprise AMBP Subparts 1.3, and 1.4 and this section.

1.306 OMB Circular A-123, Management’s Responsibility for Internal Control

- (a) Purpose. This Circular provides guidance to Federal managers on improving the accountability and effectiveness of Federal programs and operations by establishing, assessing, correcting, and reporting on internal controls.



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- (1) Internal control includes the plan of organization, methods and procedures adopted by management to meet its goals. Internal control includes processes for planning, organizing, directing, controlling, and reporting on agency operations.
- (2) The three objectives of internal control are:
 - (i) Effectiveness and efficiency of operations
 - (ii) Reliability of financial reporting
 - (iii) Compliance with applicable laws and regulations.
- (b) Policy. Annually, the NLRB Chief Financial Officer (CFO) must provide assurances on internal control in the Agency's Performance and Accountability Report, including a separate assurance on internal control over financial reporting, along with a report on identified material weaknesses and corrective actions.
- (c) Requirements. The HCA shall assist the CFO in taking systematic and proactive measures to:
 - (1) Develop and implement appropriate, cost-effective internal controls for results-oriented management
 - (2) Assess the adequacy of internal controls, and identify needed improvements in Agency acquisition operations
 - (3) Assist in taking corresponding corrective action

SUBPART 1.4 – DEVIATIONS FROM THE FAR

1.401 Individual Deviations

- (a) Deviations from FAR or the AMBP which affect only one contract or transaction may be made only after approval by the HCA.
- (b) Requests for deviations from the following sections shall be submitted to the HCA for submission by the SPE to Special Counsel for final approval by the Head of the Agency.
 - (1) FAR 3.104, Procurement Integrity;
 - (2) FAR Subpart 27.4, Rights in Data and Copyrights;
 - (3) FAR Part 30, Cost Accounting Standards Administration;
 - (4) FAR Subpart 31.1, Applicability;
 - (5) FAR Subpart 31.2, Contracts with Commercial Organizations;
 - (6) FAR Part 32, Contract Financing (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1)



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1.402 Class Deviations

- (a) Requests for class deviations shall be submitted to the SPE via the HCA for approval by the Head of the Agency.
- (b) The SPE may approve requests for any class deviation that does not:
 - (1) Have a significant effect beyond the internal operating procedures of the agency;
 - (2) Have a significant cost or administrative impact on contractors or offerors;
 - (3) Diminish any preference given small business concerns by the FAR; or
 - (4) Extend to requirements imposed by statute or by regulations of other agencies such as the Small Business Administration and the Department of Labor.
- (c) All class deviations for the FAR and AMBP which are required for longer than one year will be incorporated in the AMBP

1.403 Submission of Requests for Deviations

- (a) Requests for authority to deviate from the provisions of the FAR or the AMBP shall be submitted to the HCA via the Acquisition Policy Officer. Requests for authority to deviate shall be submitted in the form of a memorandum signed by the requester. The deviation request shall include a statement that the request has been reviewed and concurred on by Special Counsel. Comments by Special Counsel shall be forwarded with the request.
- (b) Requests for class deviations having a significant cost or administrative impact upon contractors or vendors must be published in the Federal Register.
 - (1) Class deviations for which publication is required should be submitted to the HCA in sufficient time to allow for a 60-day public comment period, resolution of public comments, review of the resolved comments by the HCA and approval by the SPE.
 - (2) If a paperwork reduction or regulatory flexibility analysis is required, additional time should be allowed for these analyses.

1.404 Control of Deviations

A register shall be maintained by the Acquisition Policy Officer of the NLRB deviations granted to the FAR and AMBP. Each deviation shall be recorded in the register and shall be assigned a control number. The control number shall be included in the document authorizing the deviation and shall be cited in all references to the deviation.



SUBPART 1.5 – AGENCY AND PUBLIC PARTICIPATION

1.501 Changes in Contracting Processes, Techniques, or Methods

- (a) General. Whenever a CO contemplates a significant change in a contracting process, technique, or method which may have a substantial impact on industry and/or the Government, the CO shall promptly notify the HCA of the contemplated change and the reasons for the change. This notification is necessary because the HCA must be able to respond to press inquiries or to any reactions from industry, the Congress, or the general public. It is essential that the HCA know what is contemplated before a significant change is publicized.
- (b) Significant changes. Contemplated changes which require notification are (but not limited to) a significant change in-
 - (1) A longstanding inspection/acceptance requirement or procedure
 - (2) The method of providing and/or accounting for Government-furnished property
 - (3) A type of contract which constitutes a significant departure from the acquisition technique previously utilized
 - (4) Solicitation techniques, vendors submittals and the elements used in evaluation of offers
 - (5) Item specification or Performance Work Statements likely to prompt a major change in service methods, manufacturing and/or processing techniques.
- (c) Data to support request. To determine the impact of a contemplated change in contracting method, requests for approval of a proposed change in a contracting method should contain the following information:
 - (1) A description of the present and proposed contracting methods
 - (2) A statement of the difficulties encountered in the use of the present method and/or the improvements foreseen as the result of a change
 - (3) A statement as to the degree of impact of the change expected on industry and/or the Government
 - (4) A statement as to the net benefits accruing to the Government as a result of the change.



SUBPART 1.6 – CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

1.601 General

Authority conferred upon the HCA or the HCA’s subordinates under any paragraph of the AMBP may be delegated with power of re-delegation to other officials, except when specifically limited by law or the provisions of the pertinent AMBP paragraph. The Acquisition Policy Officer will maintain a list of all delegations.

1.602 Contracting Officers

1.602-1 Authority

- (a) The HCA has cognizant oversight of all NLRB acquisitions.
- (b) The Acquisition Policy Officer shall prepare and maintain a current listing of all COs and the limits of their authority.
- (c) The CO warrant list shall be reviewed annually by the HCA. The review will include the following considerations:
 - (1) The contracting activity’s needs for the number and dollar values of warrants relative to the office’s size and mission;
 - (2) Whether warrants should be limited or unlimited;
 - (3) Whether warrants are suspended/rescinded when appropriate;
 - (4) Whether COs meet the FAR and AMBP selection criteria; and
 - (5) The number and duration of any waivers to selection criteria.

1.602-2 Responsibilities

- (a) Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.
- (b) Contracting Officers are responsible for staying current on their Continuous Learning Points (CLPs) in order to maintain their FAC-C Certification and Contracting Officer’s warrant.



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1.602-3 Ratification of Unauthorized Commitments

- (d) Responsibilities. Pursuant to the authorization of FAR 1.602-3(b)(3), ratification authority for unauthorized commitments less than or equal to \$10,000.00 is delegated to the HCA. The SPE is the ratification authority for unauthorized commitments greater than \$10,000.00. The HCA shall:
- (1) Take positive action to preclude, to the maximum extent possible, the need for ratification actions.
 - (2) Ensure ratification actions are documented, reviewed, and approved in accordance with this directive.
 - (3) Provide a consolidated report of all ratification actions during the FY to the SPE by 30 October annually.
- (e) Procedures. The individual who made the unauthorized commitment shall:
- (1) Initiate Ratification Package by completing the appropriate blocks on the NLRB form Disposition of Unauthorized Commitment
 - (2) Prepare a signed statement describing the circumstances, including:
 - (i) Explanation why normal acquisition procedures were not followed.
 - (ii) Description of the bona fide Government need that caused the unauthorized commitment.
 - (iii) Explanation of the benefit the Government received and the value of the benefit.
 - (iv) Any other pertinent facts.
 - (v) Certification that the statement is accurate and complete.
 - (vi) Include all relevant documentation (e.g., receipts, invoices, purchase requests, funding documents, correspondence, and e-mails).
 - (3) The individual's supervisor shall:
 - (i) Verify the individual's statement for accuracy and completeness, including:
 - (A) the measures taken to prevent recurrence of unauthorized commitments;
 - (B) disciplinary action taken or recommended;



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- (C) prepare a purchase description and appropriate purchase request for the ratifying action.
- (4) The Budget Officer shall:
 - (i) Ascertain whether funds were available at the time of the unauthorized commitment.
 - (ii) Ascertain whether funds are available for ratification of the unauthorized commitment.
 - (iii) Prepare appropriate funding documentation and include in the Ratification Package.
- (5) The CO Shall:
 - (i) Ensure the adequacy of all facts, records, and documents.
 - (ii) Determine if the price paid is fair and reasonable.
 - (iii) Recommend approval or disapproval of the ratification.
 - (iv) Prepare appropriate contractual documents if ratification is approved.
- (6) Special Counsel shall concur or non-concur with the CO's recommendation.
- (7) The HCA shall:
 - (i) Determine if the transaction meets the limitations cited at FAR 1.602-3(c) and if ratification is appropriate and in the best interest of the Government.
 - (ii) If ratification is approved, forward complete Ratification Package to the CO for appropriate contractual action.
 - (iii) If ratification is not approved, prepare a statement describing appropriate disposition action (e.g., referring action to the NLRB Acquisition Management Branch (AMB) office for resolution or processing under FAR Part 50).

1.603 Selection, Appointment, and Termination of Appointment for COs

1.603-1 General

- (a) The authority in FAR 1.603-1 for the selection, appointment, and termination of appointment of COs is retained by the HCA and has not been re-delegated. "Appointment" extends to the issuance of new warrants and the reinstatement of suspended and terminated warrants.



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- (b) NLRB CO Warrants are issued to employees at particular dollar limitation thresholds and type based upon the needs of the organization and the demands of a particular position. The CO appointment is made by the HCA for the benefit of the organization to satisfy a documented mission workload need rather than for the benefit of the employee.

1.603-2 Micro-Purchase Contracting

- (a) Micro-purchase contracting authority.
 - (1) Issuance of a Government-wide purchase card constitutes authority to make micro-purchases (see FAR 1.603-3(b)). This procurement authority is issued under the procedures of the NLRB Purchase Card Program and is not subject to the limitation on delegation of authority for selection, appointment, or termination of COs.
 - (b) The Purchase Card Program is managed by the Agency Program Coordinator who is assigned by the HCA. Government purchase cards are distributed throughout the agency to include Headquarters and the Regions with the authority to purchase up through the micro-purchase threshold per transaction. Designated COs within the AMB may utilize the purchase card up through the simplified acquisition threshold. The Agency Purchase Card Policy can be found on the OCFO's SharePoint Site.

1.604 Contract In-process Review and Oversight

- (a) Contracting Officers shall ensure documented review and approval of acquisition plans/acquisition strategies, pre-negotiation and post-negotiation memoranda, and source selection decisions and documentation:
 - (1) For actions at or below the Simplified Acquisition Threshold (SAT): by the CO
 - (2) For actions above the SAT: HCA or Deputy Director of Acquisitions.
- (b) If the acquisition meets one of the following criteria and is greater than the SAT, the CO must obtain HCA approval:
 - (1) Complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.
 - (2) Any acquisition that requires contract bundling (FAR 7.107).



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1.605 Legal Review

- (a) The Office of Special Counsel is an integral member of the acquisition team for all procurements. The CO shall obtain legal counsel as necessary to ensure procurement activities are conducted in compliance with applicable statutes and regulations. Notwithstanding any advice or counsel obtained, the CO is ultimately responsible for all acquisition decisions. COs shall obtain legal review and advice as described in this section. A CO may seek legal advice in all other matters where there is doubt over the legal sufficiency of an action or where legal interpretation as to the application of laws and regulations is required, to include solicitation, contract interpretation, or funding issues.
- (b) COs shall obtain legal review and advice from OGC for:
 - (1) Solicitations and planned commercial contracts (including orders, or Blanket Purchase Agreements (BPA)) for:
 - (i) Non-competitive commercial actions with a value greater than the SAT. Submit contract awards, orders, or BPA's only if substantially changed from the solicitation; if a question of legality arises regarding the submission of certified cost or pricing data; or where otherwise required by regulation or policy. (For BPAs and indefinite-delivery contracts, the review threshold is based on the projected total cost of the orders to be issued.)
 - (ii) Competitive commercial actions with a value greater than the SAT. Competitive actions to be reviewed include: task and delivery orders under FAR Subpart 8.4 or Subpart 16.5, purchase orders under FAR Subpart 13.5, and contracts under FAR Part 15. Provide source selection documentation, including source selection plans, evaluation reports or briefings, competitive range determinations, and source selection decisions associated with these actions. The CO is responsible for making competitive range determinations and the source selection authority is responsible for the source selection decision and the documentation of that decision. Obtain legal counsel to ensure documents and decisions are legally sufficient and sound and can reasonably be defended in case of protest or audit.
 - (iii) Cloud computing service contracts. Regardless of dollar amount, all contract actions (including modifications) for cloud computing shall be



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reviewed by the Office of Special Counsel to ensure the required FAR provisions and clauses are present.

- (A) Prior to Special Counsel review, all service level agreements (SLAs) shall be reviewed and coordinated with the Office of the Chief Information Officer (OCIO) to ensure SLAs address the agency's needs before being incorporated into the cloud computing contract.
 - (B) To the greatest extent practicable, all communications with Special Counsel and all opinions or interpretations by Special Counsel shall be maintained in accordance with the contract index sheet(s). Consult with Special Counsel before distributing or releasing all or any portion of any communication with Special Counsel or opinion/interpretation issued by Special Counsel to any person or entity outside the NLRB. This does not preclude distributing or releasing Special Counsel communications or opinion/interpretations with other members of the acquisition team assigned to the specific acquisition for which Special Counsel communication or opinion/interpretation was prepared.
 - (C) Whenever the CO decides on a course of action differing significantly from the advice of Special Counsel, the rationale for that decision shall be well documented in the contract file. A copy of the rationale shall be provided to the HCA.
- (iv) Conferences. Regardless of dollar amount, all contract actions for conferences including provision for food, lodging, travel, gifts or entertainment shall be reviewed by the Office of Special Counsel.
- (2) Modifications involving complex contractual issues that raise legal issues; or where there is a concern as to whether the modification is in-scope, regardless of the dollar amount.
- (i) Note: Modifications to exercise pre-priced options, in-scope modifications (any dollar amount), administrative modifications that do not significantly impact the scope or previously agreed to provisions of the contract, and lease modifications effecting escalation and real estate tax adjustments **do not** need Special Counsel review.
- (3) Written acquisition plans required by this AMBP.



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- (4) Justifications for other than full and open competition (FAR Subpart 6.3), limited source justifications (FAR 8.405-6), and exceptions from fair opportunity (FAR 16.505) which require approval above the level of the CO.
- (5) Interagency Agreements (IAAs) with other Government entities, only when a determinations and findings (D&F) for interagency acquisitions under the Economy Act pursuant to FAR Subpart 17.5 is required.
- (6) Memorandums of Understanding (MOUs) and Memorandums of Agreement (MOAs)
- (7) Ratification actions
- (8) Mistakes in bid/proposals before and after award.
- (9) Protests, disputes, claims and appeals. Additionally, OGC concurrence is required on all decisions to override an automatic stay imposed after a bid protest at the GAO or the stay required under the FAR after an agency-level protest is filed.
- (10) Proposed responses to Congressional, Government Accountability Office, or Inspector General inquiries that involve legal considerations.
- (11) Personal conflicts of interest, organizational conflicts of interest, or improper business practices.
- (12) Debarment or suspension issues.
- (13) Offers that indicate a contingent fee has been or may be paid.
- (14) Novation or Change-of-Name Agreements; Assignment of Claims; Indemnification; and Insurance, and Sureties.
- (15) Bankruptcies.
- (16) Tax issues.
- (17) Proposed termination actions and related issues.
- (18) Intellectual property rights.
- (19) Requests for Extraordinary Contractual Action.



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- (20) Fraud or suspected fraud.
- (21) FAR Deviations or special clauses.
- (22) Correspondence and other communication with contractors that interpret complex contractual provisions or involve questions having legal implications.
- (23) Solicitations and selections subject to the Selection of Architects and Engineers statute (40 U.S.C Chapter 11, formerly the “Brooks Architect-Engineer Act”).
- (24) Broad Agency Announcement (BAA) related awards issued under FAR 35.016.
- (25) Other documents and actions specifically designated in the FAR or this AMBP. Example: Freedom of Information Act (FOIA) requests for contract documents, including Government estimates, proposals, source selection information or data, as well as contract administration records.
- (26) Agreements and Technology Investment Agreements issued in accordance with the Agreement Regulations, 32 Code of Federal Regulations (CFR) Chapter I Subchapter C.



PART 2 – DEFINITIONS OF WORDS AND TERMS TABLE OF CONTENTS

SUBPART 2.1 – DEFINITIONS

2.101 Definitions

“Agency head” or “head of the agency” means The Board Chairman of the NLRB.

“Head of the Contracting Activity (HCA)” means the Director of Acquisitions in the Office of the Chief Financial Officer, in accordance with the FAR 2.101 definition of “contracting activity.” Additional specific authorities were delegated by the SPE in a July 28, 2016 memorandum.

“Incremental funding” is a method of funding contracts for severable services that provides specific spending limits that are less than the total estimated cost/price of the entire contract, with the understanding that additional funds are expected to be provided at a later date.

“Non-severable services” are services that are entire in nature and constitute a single undertaking. For these types of services, the Government does not receive value until the entire task has been performed. An example would be a contract for a scientific study with a final report on the results as the contract deliverable.

“Senior Procurement Executive (SPE)” means the Chief Financial Officer (CFO) in accordance with a March 28, 2016 delegation of authority memorandum.

“Severable services” are continuing and recurring in nature, meaning that tasks can be separated into individual, divisible units that each provide value to the government. An example would be a contract for janitorial services, where cleaning services are performed on a daily basis.



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PART 3 – IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

SUBPART 3.1 – SAFEGUARDS

3.101 General

Detailed rules which apply to the conduct of NLRB employees are set forth in this AMBP and the FAR.

SUBPART 3.2 – CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

- (a) Reporting Procedures: Suspected violations of the gratuities clause (FAR 52.203-3) shall be reported to the HCA in writing. The HCA will request the Office of Inspector General (OIG) to conduct any necessary investigation. Upon receipt of the OIG report, the HCA will evaluate the circumstances to determine if a violation has occurred. The HCA will refer violations and recommended corrective actions to the CFO for disposition.
- (b) Treatment of Violations: The OCFO will process violations in accordance with FAR 3.204.

SUBPART 3.3 – REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

- (a) Reporting Requirements: Potential anti-competitive practices such as described in FAR Subpart 3.3, evidenced in bids or proposals, shall be reported to the Office of Special Counsel through the HCA with a copy to the CFO and the Inspector General.

SUBPART 3.4 – CONTINGENT FEES

- (a) Misrepresentations or violations of the Covenant Against Contingent Fees:
 - (i) Government personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentation of a contingent fee



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arrangement, or other violation of the Covenant against Contingent Fees shall report the matter promptly to the HCA.

- (ii) When there is specific evidence or other reasonable basis to suspect one or more of the violations in paragraph (1) of this section, the HCA shall review the facts and, if appropriate, take or direct one or more of the actions set forth at FAR 3.405(b). The HCA shall refer suspected fraudulent or criminal matters to the NLRB's OIG for possible referral to the Department of Justice.

SUBPART 3.5 – OTHER IMPROPER BUSINESS PRACTICES

3.105 General

Subcontractor Kickbacks: COs shall report suspected violations of the Anti-Kickback Act through the HCA to the OIG.

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

3.106 General

The SPE must approve exceptions to the restriction against contracts with Government employees under FAR Subpart 3.6. In addition, the CO shall comply with FAR Subpart 9.5 before awarding any such contract.

SUBPART 3.7– VOIDING AND RESCINDING CONTRACTS

3.107 General

For purposes of implementing FAR subpart 3.7, the authorities granted to the “agency head or designee” shall be exercised by the HCA (not delegable).



PART 4 – ADMINISTRATIVE MATTERS

SUBPART 4.1 – CONTRACT EXECUTION

4.101 Responsibilities

- (a) Senior Procurement Executive (SPE). In coordination with the HCA, The SPE shall establish necessary policies to ensure the accurate and timely input of data into FPDS. At a minimum, the SPE and the HCA shall ensure that the following procedures are implemented.
 - (i) COs shall report contract data using the FPDS web portal interface no later than 14 days after an award is made. To ensure data entry and accuracy, logs of contract actions shall be regularly reviewed and compared to data entries in FPDS.
 - (ii) The HCA shall also verify and validate accuracy of the data and ensure contract awards have been entered into FPDS within the appropriate time frames.
 - (iii) The SPE will provide the annual certification of the General Services Administration's (GSA) FPDS data to OMB within 120 days after the end of each fiscal year (i.e. January 28th), as required by FAR 4.604(c).
- (b) Contracting Officers (COs). COs are the individuals primarily responsible for the accuracy of contract data submitted to FPDS.
 - (i) The verification and validation of FPDS data shall be conducted by a person that did not award the contracts being reviewed. The HCA may institute any appropriate process that complies with this requirement.
 - (ii) The HCA shall provide certifications of the accuracy, timeliness and validity of their FPDS data on an annual basis to the SPE based on a statistical sample from the FPDS-NG system. Certifications to the HCA shall include a description of the means used to verify the accuracy and completeness of the data and a statement that all discrepancies found have been corrected.

SUBPART 4.6 – FEDERAL PROCUREMENT DATA SYSTEM

- (a) Contracting Officers shall report contract actions into the Federal Procurement Data System in accordance with the FAR Part 4.603.



- (b) The unique identifier for each contract action reported to the Federal Procurement Data System shall be “6300,” with the Agency Activity Code (AAC) of “63NLRB.”
- (c) Data should be reported to the Federal Procurement Data System within 14 days of contract award/modification.

SUBPART 4.16 – Unique Procurement Instrument Identifiers

This subpart prescribes policies and procedures for assigning numbers to all solicitations, contracts, and related instruments.

4.1601 Policy

- (a) Use the unique procurement instrument identifiers (PIID) numbering system prescribed by this section for the solicitation, contract, agreement, or order and related procurement instruments described in FAR Subpart 4.16.
- (b) Enter the basic PIID number, including Federal supply contract numbers and any supplementary numbers, in the spaces provided on the solicitation, contract, or related instrument forms.
 - (i) Elements of a number. The number consists of 13 alpha-numeric characters grouped to convey certain information; reference FAR 4.1603(a) for elements of a PIID.
 - (A) Positions 1 through 6. The first six positions (63NLRB) are identified as they NLRB Activity Address Code.
 - (B) Positions 7 through 8. The seventh and eighth positions are the last two digits of the FY in which the procurement instrument is issued or awarded.
 - (C) Position 9. The ninth position indicates the type of instrument by entering one of the following upper case letters in position nine. The following codes are used at the NLRB, consistent with the codes outlined in FAR 4.1603(a)(3).

Instrument	Letter designation	NLRB Designation
(i) Blanket purchase agreements	A	Same as the FAR.
(ii) Invitations for bids	B	Same as the FAR.



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(iii) Contracts of all types except indefinite-delivery contracts (see subpart 16.5)	C	Same as the FAR.
(iv) Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide acquisition contracts (GWACs), and multi-agency contracts)	D	Same as the FAR.
(v) Reserved for future Federal Governmentwide use	E	Same as the FAR.
(vi) Task orders, delivery orders or calls under—	F	Same as the FAR.
Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide acquisition contracts (GWACs), and multi-agency contracts);		
Blanket purchase agreements; or		
Basic ordering agreements.		
(vii) Basic ordering agreements	G	Same as the FAR.
(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 provision for orders or calls	H	Same as the FAR.



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(ix) Do not use this letter	I	Same as the FAR.
(x) Reserved for future Federal Governmentwide use	J	Same as the FAR.
(xi) Reserved for departmental or agency use	K	PCS Moves
(xii) Lease agreements	L	Same as the FAR.
(xiii) Reserved for departmental or agency use	M	Miscellaneous Obligations
(xiv) Reserved for departmental or agency use	N	P-Card Orders
(xv) Do not use this letter	O	Same as the FAR.
(xvi) Purchase orders (assign V if numbering capacity of P is exhausted during a fiscal year)	P	Same as the FAR.
(xvii) Requests for quotations (assign U if numbering capacity of Q is exhausted during a fiscal year)	Q	Same as the FAR.
(xviii) Requests for proposals	R	Same as the FAR.
(xix) Reserved for departmental or agency use	S	Witness Fees
(xx) Reserved for departmental or agency use	T	Training
(xxi) See Q, requests for quotations	U	Same as the FAR.
(xxii) See P, purchase orders	V	Same as the FAR.



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(xxiii) Reserved for future Federal Governmentwide use	W	Same as the FAR.
(xxiv) Reserved for future Federal Governmentwide use	X	Same as the FAR.
(xxv) Imprest fund	Y	Same as the FAR.
(xxvi) Reserved for future Federal Governmentwide use	Z	Same as the FAR.

(D) Positions 10 through 13. Four position agency assigned number. This number is auto-generated via the Contract Lifecycle Management (CLM) module (or the CORE purchase module) in Oracle Federal Financial system.

SUBPART 4.7 – UNSOLICITED PROPOSALS

- (a) Agency Procedures: The HCA is the point of contact for the receipt and handling of unsolicited proposals.



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PART 5 – PUBLICIZING CONTRACT ACTIONS

(RESERVED)

PART 6 – COMPETITION REQUIREMENTS

SUBPART 6.3 – OTHER THAN FULL AND OPEN COMPETITION

- (a) General: Before soliciting a non-competitive acquisition where the justification limits consideration to only one source under this section, the CO shall use Requests for Information (RFI) or Sources Sought (SS) notices. The result of this inquiry shall be included in the Justification and Approval (J&A) document.
- (b) Actions taken to remove or overcome barriers to competition are already required by this section. The CO and requiring activity shall track actions documented in prior justifications, and taken to remove impediments to competition.
- (c) Justifications for follow-on acquisitions for the same service or supply will include the previous justification document as part of the approval package. If any planned actions cited in the prior justification document approved by the CO were not completed, the approval level for the subsequent justification is the Deputy Director or HCA. If planned actions cited in a prior justification approved by the Agency Competition Advocate were not completed, the HCA shall approve the subsequent justification.

PART 7 – ACQUISITION PLANNING

SUBPART 7.1 – ACQUISITION PLANS

- (a) **Content of written acquisition plans/strategies.** The contents found at FAR 7.105 shall be used for acquisition plans for requirements exceeding \$2.5 million, including all options.



PART 8 – REQUIRED SOURCES OF SUPPLIES AND SERVICE

SUBPART 8.4 – FEDERAL SUPPLY SCHEDULES

- (a) Limiting sources, per FAR 8.405-6.
 - (i) Before soliciting a non-competitive order or BPA restricting consideration under this section to a sole/limited source or to items peculiar to one manufacturer (FAR 8.405-6(b)), the CO shall use RFI or SS notices. The result of this inquiry shall be included in the Limited Sources Justification (LSJ) document.
 - (ii) Actions taken to remove or overcome barriers to competition are already required by this section. Follow the additional instructions in AMBP Subpart 6.3 regarding the justifications

PART 9 – CONTRACTOR QUALIFICATIONS

(RESERVED)

PART 10 – MARKET RESEARCH

- (a) As part of market research, when an Independent Government Cost Estimate is used to determine fair and reasonable, the CO shall include the name of the preparer(s) and the date prepared and shall address the following five questions:
 - (i) How was the estimate made?
 - (ii) What assumptions were made?
 - (iii) What information and tools were used?
 - (iv) Where was the information obtained?
 - (v) How did previous estimates compare with prices paid?

PART 11 – DESCRIBING AGENCY NEEDS

(RESERVED)



PART 12 – ACQUISITION OF COMMERCIAL ITEMS

(RESERVED)

PART 13 – SIMPLIFIED ACQUISITION PROCEDURES

SUBPART 13.5 – SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL ITEMS

- (a) Special documentation requirements.
 - (i) Before soliciting brand name acquisition under this section, the CO shall issue an RFI or sources sought notice. The result of this inquiry shall be included in the FAR 13.501 (b)(4) justification document.
 - (ii) Actions taken to remove or overcome barriers to competition are already required by this section. Follow the additional instructions in AMBP Subpart 6.3 regarding the justifications.

PART 14 – SEALED BIDDING

(RESERVED)

PART 15 – CONTRACTING BY NEGOTIATION

SUBPART 15.1 – SOURCE SELECTION

- (a) Promote competition. If only one offer is received in response to a competitive solicitation or Request for Proposal (RFP), the CO shall seek feedback from prospective offerors to understand why they did not submit an offer/quote. The CO will include in the contract file the follow-up questions posed and the responses received.



PART 16 THROUGH PART 26

(RESERVED)

PART 27 – PATENTS, DATA, AND COPYRIGHTS

SUBPART 27.4 – RIGHTS IN DATA AND COPYRIGHTS

27.101 General

The CO shall determine if the use of the clause 52.227-14 Rights in Data – General, the provision 52.227-15 Representation of Limited Rights Data and Restricted Computer Software, or the clause 52.227-17 Rights in Data – Special Works are applicable to any information technology acquisition where data is produced by the contractor to meet the NLRB’s mission. The clauses and provision are not required for Part 8 Federal Supply Schedule acquisitions; however, the award shall specifically state the NLRB’s right to use, disclose, modify, distribute, and reproduce the software.

PART 28 THROUGH PART 32

(RESERVED)

PART 33 – PROTESTS, DISPUTES, AND APPEALS

SUBPART 33.1 – PROTESTS

- (a) Additional provision. The CO shall insert a provision that is substantially the same as the local provision at AMBP Part 52: 52.233-9000 Agency-Level Protests in all solicitations. Complete the provision fill-in with the name and contact information of the Protest Deciding Official (PDO), an individual who has not had personal involvement in the procurement. Typically, the PDO is the Acquisition Director or, where necessary, the Deputy Director. Do not insert the name of the CO as the PDO.



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PART 34 THROUGH PART 51

(RESERVED)



PART 52 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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SUBPART 52.2 – TEXTS OF PROVISIONS AND CLAUSES

52.201-9000 Contracting Officer's Representative
52.216-9000 Ordering Officers
52.232-9000 Limitation of Government's Obligation
52.233-9000 Agency-Level Protests

LOCAL CLAUSE: 52.201-9000 CONTRACTING OFFICER'S REPRESENTATIVE

The CO shall insert a clause that is substantially the same as the local clause at AMBP 52.201-9000 Contracting Officer's Representative, in addition to any COR clause(s) required by the AMBP, in all solicitations and contracts that will have a COR appointed in accordance with AMBP.

CONTRACTING OFFICER'S REPRESENTATIVE (NOV 2015)

- (a) The Contracting Officer's Representative (COR) is a representative of the Government with limited authority who has been designated in writing by the CO to provide technical direction, clarification, and guidance with respect to existing specifications and performance work statement/statement of work/statement of objectives, as established in the contract. The COR also monitors the progress and quality of the Contractor's performance for payment purposes. The COR shall promptly report Contractor performance discrepancies and suggested corrective actions to the CO for resolution.
- (b) The COR is not authorized to take any direct or indirect actions or make any commitments that will result in changes to price, quantity, quality, schedule, place of performance, delivery or any other terms or conditions of the written contract.
- (c) The Contractor is responsible for promptly providing written notification to the CO if it believes the COR has requested or directed any change to the existing contract. No action shall be taken by the Contractor for any proposed change to the contract until the CO has issued a written directive or a written modification to the contract. The Government will not accept and is not liable for any alleged change to the contract unless the change is included in a written contract modification or directive signed by the CO.



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(d) COR authority is not delegable.

LOCAL CLAUSE: 52.216-9000 ORDERING OFFICERS

The CO shall insert a clause that is substantially the same as the local clause at AMBP 52.216-9000 Ordering Officers in all solicitations and contracts that will have an ordering officer appointed.

ORDERING OFFICERS (NOV 2015)

(a) Authority

(1) The Ordering Officer is a representative of the Government with limited authority who has been designated in writing by the CO to place oral orders against this contract/BPA using the procedures described in paragraph (b) of this clause. No single order placed by an Ordering Officer shall exceed the single order limit specified on that Ordering Officer's appointment memorandum (a copy of which will be provided to the Contractor) or exceed the total order limit under the contract/BPA ordering instructions.

(2) The Ordering Officer is not authorized to take any direct or indirect actions or make any commitments that will result in changes to price, quantity, quality, schedule, place of performance, delivery or any other terms or conditions of the written contract/BPA.

(3) The Contractor is responsible for promptly providing written notification to the CO if it believes the Ordering Officer has requested or directed any change to the existing contract/BPA. No action shall be taken by the Contractor for any proposed change to the contract/BPA until the CO has issued a written directive or written modification to the contract/BPA. The Government will not accept and is not liable for any alleged change to the contract/BPA unless the change is included in a written modification or directive signed by the CO.

(4) Ordering Officers may only place orders up to the limits set forth in their Ordering Officer memorandum and their delegation of contracting authority for purchase cardholder. If either of these delegations of authority is terminated by either the CO or the AMB purchase card program manager, orders shall no longer be placed by them or accepted by the Contractor. The CO will issue a memorandum terminating the Ordering Officer's authority and the Ordering Officer and the Contractor will be required to acknowledge such termination in writing.

(5) Ordering officer authority is not delegable



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(6) The CO will supply the Contractor with a list, updated during the term of the contract, of Ordering Officers authorized to place orders against this contract and the limits of their authority.

(b) Ordering Procedures

(1) Notwithstanding the requirements set forth in AMBP clause 52.216-9000, Ordering, the Contractor is authorized to accept oral orders from the individuals listed above during the active period of performance of this contract/BPA.

(2) Written (confirming) orders must be issued by the Ordering Officer before any work may be performed by the Contractor. An email issued by the Ordering Officer and affirmed by a Contractor-designated ordering representative is acceptable written confirmation and acknowledgement of the order. The specifics of the order must not conflict with the existing contract terms and conditions. The order must include:

(i) Contract/BPA number

(ii) CLIN(s)

(iii) Price(s) as stated in the contract/BPA. Any order that deviates from the prices set forth in the schedule of the contract/BPA must be placed by the CO. Ordering Officers are not authorized to negotiate price adjustments.

(iv) Quantity(ies)

(v) Period of performance or delivery schedule

(vi) Place of performance or delivery

(vii) Any other specifics that may need to be documented that are not in conflict with existing terms and conditions of the contract/BPA.

(3) If the written confirmation of the order conflicts with the contract/BPA in anyway, the Contractor will immediately contact the Ordering Officer and CO. The issue must be resolved prior to the Contractor starting any work.

(4) Ordering Officers **may not split purchases** to circumvent their single or monthly ordering limitations. If purchases will exceed such limits, the order shall be placed by the CO.

(5) The method of payment for the orders shall be the Government purchase card administered by the NLRB Purchase Card Program.

LOCAL CLAUSE: 52.232-9000 Limitation of Government's Obligation.

Use the clause at [52.232-9000](#), Limitation of Government's Obligation, in solicitations and resultant incrementally funded contracts. The contracting officer may revise the contractor's notification period, in paragraph (c) of the clause, from "ninety" to "thirty" or "sixty" days, as appropriate.



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LIMITATION OF GOVERNMENT'S OBLIGATION (NOV 2015)

(a) Contract line item(s) [*Contracting Officer insert after negotiations*] is/are incrementally funded. For this/these item(s), the sum of \$ [*Contracting Officer insert after negotiations*] are incrementally funded. For these item(s), the sum of \$*_ of the total price is presently available for payment and allotted to this contract. An allotment schedule is set forth in paragraph (j) of this clause.

(b) For item(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those item(s) for the Government's convenience, approximates the total amount currently allotted to the contract. The Contractor is not authorized to continue work on those item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the contract for those item(s) regardless of anything to the contrary in the clause entitled "Termination for Convenience of the Government." As used in this clause, the total amount payable by the Government in the event of termination of applicable contract line item(s) for convenience includes costs, profit, and estimated termination settlement costs for those item(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (j) of this clause, the Contractor will notify the Contracting Officer in writing at least ninety days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable item(s). The notification will state (1) the estimated date when that point will be reached and (2) an estimate of additional funding, if any, needed to continue performance of applicable line items up to the next scheduled date for allotment of funds identified in paragraph (j) of this clause, or to a mutually agreed upon substitute date. The notification will also advise the Contracting Officer of the estimated amount of additional funds that will be required for the timely performance of the item(s) funded pursuant to this clause, for a subsequent period as may be specified in the allotment schedule in paragraph (j) of this clause or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed substitute date, the Contracting Officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the clause of this contract entitled "Termination for Convenience of the Government."

(d) When additional funds are allotted for continued performance of the contract line item(s) identified in paragraph (a) of this clause, the parties will agree as to the period of contract performance which will be covered by the funds. The provisions of paragraphs (b) through (d) of this clause will apply in like manner to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly.

(e) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated below, in amounts sufficient for timely performance of the contract line item(s) identified in paragraph (a) of this clause, the Contractor incurs additional costs or is delayed in the performance of the work under this contract and if additional funds are allotted, an equitable adjustment will be made



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in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the item(s), or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes."

(f) The Government may at any time prior to termination allot additional funds for the performance of the contract line item(s) identified in paragraph (a) of this clause.

(g) The termination provisions of this clause do not limit the rights of the Government under the clause entitled "Default." The provisions of this clause are limited to the work and allotment of funds for the contract line item(s) set forth in paragraph (a) of this clause. This clause no longer applies once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (d) and (e) of this clause.

(h) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the clause of this contract entitled "Termination for Convenience of the Government."

(i) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(j) The parties contemplate that the Government will allot funds to this contract in accordance with the following schedule:

On execution of contract	\$ _____
(month) (day), (year)	\$ _____
(month) (day), (year)	\$ _____
(month) (day), (year)	\$ _____

(End of clause)

LOCAL PROVISION: 52.233-9000 AGENCY-LEVEL PROTESTS

The CO shall insert a provision that is substantially the same as the local provision at AMBP Agency-Level Protests in all solicitations. Complete the provision fill-in with the name and contact information of the Protest Deciding Official (PDO), an individual who has not had personal involvement in the procurement. Typically, the PDO is the Acquisition Director or, where necessary, the Deputy Director. Do not insert the name of the CO as the PDO.

Potential bidders or offerors may submit an agency-level protest directly to the Contracting Officer (CO). As an alternative to the CO's consideration of a protest, a potential bidder or offeror may request an independent review of their protest by the NLRB Protest Deciding Official (Insert Name / Email). In either case, the agency-level protest must comply with the requirements and procedures in FAR 33.103 for submitting agency-level protests.



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PROVISIONS AND CLAUSES BLOCKED BY COURT ORDER

- (a) Provision 52.222-57, Representation Regarding Compliance with Labor Laws (Executive Order 13673), and its commercial items version at paragraph(s) 52.212-3
- (b) Provision 52.222-58, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673)
- (a) Clause 52.222-59, Compliance with Labor Laws (Executive Order 13673)
- (b) Clause 52.222-61, Arbitration of Contractor Employee Claims (Executive Order 13673)
- (c) If a solicitation has been issued with representations or clauses blocked by the court order, amend those solicitations immediately to remove those representations and clauses; and do not take any action on information, if any, submitted in response to those representations and clauses.
- (d) Do not implement the procedures at FAR 22.2004-2, 22.2004-3, 22.2004-4 or associated changes in FAR Parts 9 and 42.



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Acronym List

Acronym	Definition
ACA	Agency Competition Advocate
AMBP	Acquisition Management Branch Policy
AMB	Acquisition Management Branch
AQL	Acceptable Quality Level
BAA	Broad Agency Announcement
BPA	Blanket Purchase Agreement
CAR	Contract Action Report
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
CLIN	Contract Line Item Number
CO	Contracting Officer
COOP	Continuity of Operations Planning
COR	Contracting Officer's Representative
D&F	Determination and Finding
ESSB	Enterprise Strategic Sourcing Branch
FAR	Federal Acquisition Regulation
FMR	Federal Management Regulation
FOIA	Freedom of Information Act
GSA	General Services Administration
HCA	Head of the Contracting Activity
IAA	Interagency Agreement
IDIQ	Indefinite Delivery Indefinite Quantity
IDP	Individual Development Plan
IFMS	Interagency Fleet Management System
J&A	Justification and Approval
KBS	Knowledge-Based Services
LSJ	Limited Sources Justification
MOU	Memorandum of Understanding
NLRB	National Labor Relations Board
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OED	Office of Employee Development
OGC	Office of General Counsel
OIG	Office of Inspector General
OSBP	Office of Small Business Programs



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Acronym	Definition
QASP	Quality Assurance Surveillance Plan
PACA	Procuring Activity Competition Advocate
PGI	Procedures, Guidance, and Information
PIID	Procurement Instrument Identifier
PM	Program Manager
PMT	Predictive Milestone Tool
RFI	Request for Information
RFQ	Request for Quotation
SAT	Simplified Acquisition Threshold
SPE	Senior Procurement Executive
SS	Sources Sought
U.S.C.	United States Code