

ARMY CONTRACTING COMMAND

DESK BOOK

August 2010



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ACC Desk Book

August 2010 Revision

SUMMARY OF CHANGES

General Format Changes. The format of the ACC Desk Book has been changed to match the organization of the FAR Parts. FAR, DFARS, and AFARS subparts, sections, subsections, and paragraphs are used below the FAR Part levels depending upon which regulation is most aligned with the ACC Desk Book topic.

Item I. Deviations. Adds guidance at **5101.402** and **5101.403** concerning deviations from the FAR, DFARS, DFARS PGI, and AFARS.

Item II. Contracting Officer's Representatives (CORs). Adds guidance at **201.602-2** concerning CORs and provides a link to ACC Pamphlet 70-1, Interim Army Contracting Command – Contracting Officer's Representative Policy Guide.

Item III. Definitions. Adds information and references at **5102.101** concerning the roles and responsibilities of the *Assistant Secretary of the Army (Acquisition, Logistics, and Technology)*.

Item IV. Posting J&As. Restructured the format at **6.305** and added more information concerning the DASA(P) Policy Alerts in paragraphs (b) and (c).

Item V. Approval of Service Contracting Requirements. Moved Desk Book coverage from Part 37 to Part 7 and placed it at **5107.503**.

Item VI. SBIR Notice in Part 19. Added a cross reference notice at **19.2-200** to alert readers that Small Business Innovation Research (SBIR) Program guidance is found in Part 35, Research and Development Contracting.

Item VII. Review of DD Form 2579. Added guidance at **219.201** concerning the review of DD Form 2579, Small Business Coordination Record.

Item VIII. Rejecting SBA Recommendations. Added guidance at **19.505** concerning the rejection of Small Business Administration recommendations.

Item IX. Early Payments to Small Businesses. Added guidance at **32.904** concerning early payments to small businesses.

Item X. SBIR Program. Added guidance at **35.200** concerning the Small Business Innovation Research (SBIR) Program and a link to Part 35 – Annex A – Small Business Innovation Research (SBIR) Program.

Item XI. ASSP Annual Report. Added guidance at **5137.590-6(f)** concerning the annual reporting requirement found at AFARS 5137.590-8, Data collection and reporting.

PART 1 -- FEDERAL ACQUISITION REGULATIONS SYSTEM

SUBPART 1.1 – PURPOSE, AUTHORITY, ISSUANCE

1.101 Purpose of the ACC Desk Book.

(a) The U.S. Army Contracting Command (ACC) Desk Book establishes acquisition and contracting procedures for the ACC. It provides procedures that implement Federal, Department of Defense (DoD), and Department of the Army (DA) acquisition regulations and are necessary to ensure certain practices are consistent throughout ACC. It also provides ACC internal agency guidance and workflow procedures.

(b) See the ACC Desk Book Supplement for procedures that apply to contracting activities when the ACC Executive Director serves as the Head of the Contracting Activity.

DFARS 201.170 Peer reviews of contracts for supplies and services.

(a) References:

(1) Defense Federal Acquisition Regulation Supplement (DFARS) Section 201.170, Peer Reviews.

(2) DFARS Procedures, Guidance and Information (PGI) 201.170, Peer Reviews.

(3) Army Federal Acquisition Regulation Supplement (AFARS) Section 5101.170, Peer Reviews.

(b) Peer Reviews of Solicitation and Contracts for Supplies and Services \$1B or More.

(1) Defense Procurement and Acquisition Policy (DPAP) Memorandum dated 29 September 2008 established the DoD policy for Peer Reviews. The objective of Peer Reviews is threefold: (i) to ensure contracting officers across the Department are implementing policy and regulations in a consistent and appropriate manner; (ii) to continue to improve the quality of the contracting processes across the Department; and (iii) to facilitate sharing of best practices and lessons learned across the Department. The DPAP will organize teams of reviewers and facilitate Peer Reviews for solicitations and contracts valued at \$1B or more. The military departments are required to establish their review processes for acquisitions that fall below the \$1B threshold. The DPAP policy applies to all solicitations issued after 30 September 2008.

(2) For requirements \$1B or more, the ACC, Contracting Operations Directorate, will consolidate input from individual ACC contracting organizations as part of the rolling forecast provided to the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) and the DPAP at the end of each quarter (31 March, 30 June, 30 September and 31 December).

(3) To initiate a DPAP-led Peer Review, the ACC Contracting Command/Center will notify the designated DASA (P) representative with a copy to the designated HQ ACC Contracting Operations Directorate representative, using the e-mail address MSC-ACQCTR@conus.army.mil. The notification will include the Principal Assistant Responsible for Contracting (PARC)'s determination that the acquisition has been reviewed in accordance with their internal procedures, to include a Solicitation Review Board (SRB) (prior to solicitation issuance) and/or a Contract Review Board (CRB) (prior to contract award)) chaired by the Head

of the Contracting Activity (HCA), and that the documents are ready for higher level review. The DASA(P) representative will contact the DPAP representative for initial coordination. Subsequent coordination will take place between the DPAP representative and the ACC.

(4) Each DPAP led Peer Review will be conducted on site at the local contracting office. Personnel at the local contracting office shall provide the DPAP led Peer Review Team with access to the documents set forth in Part 1, Annex A – OSD Peer Review Toolkit (Pre-Award) and Part 1, Annex B – OSD Peer Review Toolkit (Post-Award). The length of the Peer Review will depend on the value and complexity of the acquisition under review. When the review is complete, the Peer Review team will share their findings with the senior procurement official and the contracting officer. Upon disposition of the findings, the contracting officer shall provide a synopsis of the findings and the ultimate resolution to the Executive Director, ACC and the designated HQ ACC Contracting Operations Directorate representative (using the email address MSC-ACQCTR@conus.army.mil) for subsequent sharing of best practices and insights across the enterprise.

(c) Peer Reviews of Solicitation and Contracts for Supplies and Services Less than \$1 Billion.

(1) DASA(P) memo dated 31 December 2008 provided the Army's framework and implementation plan for pre-award reviews of contractual actions valued less than \$1B and for post award reviews of service contracts valued less than \$1B.

(2) All solicitations and contracts with an estimated value of \$50M or more will be reviewed at the Contracting Commands and Contracting Centers by an SRB and CRB. The purpose of the SRB/CRB is to review and assess the pre-solicitation, solicitation, and contract award documents for consistency, sufficiency, compliance and application of sound business practices. For procurements less than \$50M, PARCs are authorized to leverage existing review processes to the maximum extent practicable provided the processes are consistent with the spirit and intent of peer reviews.

(3) PARCs, without authority to redelegate, shall chair the SRB/CRB for procurements with an estimated value of \$50M, or more, but less than \$250M.

(4) HCAs, without authority to redelegate, shall chair the SRB/CRB for procurements with an estimated value of \$250M or more but less than \$1B.

(5) To achieve a greater level of consistency and standardization of practices across the ACC contracting enterprise, generic SRB/CRB toolkits (see Part 1, Annex C – ACC Solicitation Review Board Toolkit and Part 1, Annex D – ACC Contract Review Board Toolkit) were developed to serve as the foundation for the reviews across the enterprise. Each Contracting Command/Center is encouraged to supplement these criteria as appropriate for their specific organizational and functional requirements. Additional speciality requirements toolkits (such as for construction) may be developed as necessary.

(6) HCAs and PARCs shall implement their internal SRB/CRB review procedures, leveraging existing processes to the maximum extent practicable. At a minimum, the SRB and CRB members shall represent the contracting and legal communities. Consideration should also be given to including representatives from the local resource management/comptroller, small business and requirements communities consistent with the nature and complexity of the

requirement. Participation by the special competition advocate should be considered when the requirement involves non-competitive actions. Whenever possible, the same members shall participate in both the SRB and CRB. The Chief, HQ ACC Field Support Division will maintain a standing roster of senior level, YA (or YC)-1102-3, contracting professionals to participate in SRBs and CRBs for requirements designated as "special interest" by the board chairperson. To the maximum extent practicable, non local SRB/CRB members will participate in the reviews remotely.

(7) Waivers of formal review board requirements may only be granted by the respective review board chairperson. Waivers shall be in writing, provide detailed rationale justifying the circumstance for the waiver (such as unusual and compelling urgency) and be included as part of the official contract file. Waivers based solely on lack of time or failure to allot sufficient time for reviews should not be granted.

(8) Beginning with 1st Quarter FY10, a summary of SRB/CRB review results and review board waivers will be reported on a quarterly basis (by the 15th day of the month following the end of the quarter) and provided to the ACC Chief, Field Support Division, using the email address MSC-ACQCTR@conus.army.mil. Contracting Operations Directorate will provide the consolidated report to the Office of the DASA(P) with a copy furnished to each HCA and PARC as lessons learned, best practices and systemic issues.

(d) Post Award Review of Services. Section 808 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, established requirements for post-award independent management reviews of contracts for services, and for sharing lessons learned from those reviews. Peer Reviews will serve to address the statutory requirement for independent management reviews of contracts for service requirements. If the base contract period of performance is greater than one year, then the post award review should take place at the midpoint of the base period. If the base period of performance is one year or less, the post award review should occur prior to the exercise of the first option year. In either case, post award reviews should occur prior to every option period thereafter. Post-award Peer Reviews will be focused on; 1) the adequacy of competition; 2) an assessment of actual contract performance; and 3) the adequacy of Government surveillance of contractor performance.

(1) Post Award Reviews of service contracts \$500M or more and less than \$1B when the acquisition strategy has been approved by an HQDA level Army Services Strategy Panel (ASSP). The ASSP process implements Section 812 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163 and is used to approve strategies for service acquisitions valued \$500M or more. When directed, the DASA(P) will convene a special meeting of the ASSP members to review the documents set forth in the OSD Peer Review toolkit at Part 1, Annex B as well as the contract performance metrics established in the approved acquisition strategy. Contracting activities will brief the ASSP members as required. The ASSP members will assess the effectiveness of the current services review structure; evaluate the state of the approved acquisitions; and identify lessons learned and successful practices for immediate application to ongoing acquisitions.

(2) Post Award Reviews of service contracts less than \$500M. AFARS 5137.590-9, Execution Reviews, currently requires an annual report on program progress toward meeting approved metrics. Reports on service acquisitions with a total planned value of \$250 Million and greater shall be reviewed by the HCA level ASSP organization using the OSD Peer Review

Toolkit at Annex B, and associated metric data. The results of the reviews, will be documented in an annual review assessment and provided to the DASA(P), with a copies furnished to the Executive Director, ACC and Chief, Field Support Division by 30 October of each year.

SUBPART 1.3 – AGENCY ACQUISITION REGULATIONS

1.301 Maintenance and supplementation of the Desk Book. The Contracting Policy Division, Headquarters, ACC, maintains the ACC Desk Book. Local Contracting Command/Center instructions should be consistent with this Desk Book and be kept to a minimum.

1.305 Staffing Actions with HQ ACC requiring Headquarters, Department of Army approval when the ACC Executive Director is not the HCA. (See the ACC Desk Book Supplement for staffing actions when the ACC Executive Director is the HCA).

(a) The Executive Director, ACC will have visibility of all ACC contracting actions requiring review, concurrence or approval by the Deputy Assistant Secretary (Procurement) (DASA(P)) or the Army Acquisition Executive (AAE)/Assistant Secretary of the Army (Acquisition, Logistics, and Technology (ASA(ALT))). To insure this visibility, Contracting Commands/Centers will send actions that have been endorsed by the responsible Principal Assistant Responsible for Contracting (PARC) or Head of the Contracting Activity (HCA) concurrently to the HQACC mailbox MSC-ACQCTR@conus.army.mil and the DASA(P) mailbox psstaff@conus.army.mil.

The following sample list is not all inclusive, but key actions include (consult AFARS, DFARS, FAR when in doubt):

- (1) Justification and approvals greater than \$78.5M (FAR 6.304 (a) (4)).
- (2) Acquisition Strategies for service contracts with a total planned value of \$500M or more (base year and options). (AFARS 5137.590-4) (See Part 37 of the Desk Book for staffing procedures).
- (3) Consolidation of contract requirements with a total estimated value of \$500M (AFARS 5107.170).
- (4) Non performance based service contracts or task orders over \$78.5M (DFARS 237.170).
- (5) Task or delivery order contracts greater than above \$500M to be awarded to a single source (FAR16.504c(ii)(D)(i)) and PARC/Policy Alert 08-31-R1, 31 July 2008, Delegation of Authority for Determinations Required Under Section 843, DASA(P) website: <https://www.alt.army.mil/portal/page/portal/oasaalt/SAAL-ZP>
- (6) Determination and Findings, e.g., Berry Amendment Waivers; specialty metals (See Desk Book, Part 25).
- (7) End Use Certificates (DoD Directive 2040.3, End Use Certificates).
- (8) Acquisition Plans designated by the AAE as special interest and requiring approval by HQDA (AFARS 5107.103(b)).
- (9) Waivers and deviations to the FAR/DFARS (AFARS 5101.403).

(b) HQ ACC will review the above documents for information and awareness. DASA(P) procurement analysts (PA) will continue to review and staff the documents through DA. If the DASA(P) PA identifies issues that necessitate document revision, then the DASA(P) PA will return the documents concurrently to HQ ACC and the responsible contracting center for revision.

(c) Source Selection Appointments will be staffed in accordance with Part 15 of the Desk Book and AFARS 5115.303(a)(v).

(d) Acquisition Strategies for service requirements will be staffed in accordance with Part 37 of the Desk Book and AFARS 5130.590.

NOTE: HQDA requires documents to be prepared in Arial font, size 12.

NOTE: As a matter of routine, use the ACC mailbox: MSC-ACQCTR@conus.army.mil to copy furnish ACC on all information provided to HQDA and/or OSD.

AFARS SUBPART 5101.4 – DEVIATIONS FROM THE FAR

5101.402 Policy.

(a) In accordance with AFARS 5101.402(3) all FAR, DFARS, DFARS Procedures Guidance and Information (PGI), and AFARS deviation requests shall be prepared in accordance with DFARS 201.402(2), to include a complete statement of the rationale for the request. The rationale will include all relevant qualitative/quantitative facts that would be required by the decision maker. The deviation request will state what problem or situation will be avoided, corrected, or improved if the deviation request is approved.

(b) As set forth in AFARS Subpart 5101.4, individual and class deviations requiring higher headquarters approval, or publication in the *Federal Register*, will be reviewed by the PARC and submitted to the DASA(P) mailbox psstaff@conus.army.mil with a copy furnished to MSC-ACQCTR@conus.army.mil.

5101.403 Individual deviations. In accordance with FAR 1.403, the contracting officer must document the justification and agency approval of individual deviations in the contract file. Per FAR 4.803(a)(23), authority for deviations from the FAR must be included in the contract file.

DFARS SUBPART 201.6 – CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

201.602-2 Responsibilities - ACC Contracting Officer's Representative guidance.

(a) ACC Pamphlet 70-1, Interim Army Contracting Command – Contracting Officer's Representative Policy Guide (26 March 2010), documents and describes the training and management strategy for Contracting Officer's Representatives (CORs). This guide applies to ACC contracting officers; personnel assigned COR duties; personnel assigned to review COR

performance; and personnel responsible for scheduling, tracking, or documenting COR training. See paragraph 2, Applicability, of the pamphlet for additional information.

(b) Contracting Officers shall include a statement in the COR appointment letters that states the COR has no authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract.

(c) ACC Pamphlet 70-1 may be found at the following link:

<https://acc.portal.amc.army.mil/Official%20Documents/Command%20Pamphlets>

201.603 Selection, appointment and termination of appointment.

201.603-2 Selection of ACC contracting officers. ACC appointing official shall consider the complexity and dollar values of the acquisitions to be assigned and the candidate's experience, training, education, business acumen, judgment, character and reputation when selecting an individual to serve as a contracting officer. DFARS 201.603-2(1) provides the qualifications to serve as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold.

201.603-3 Appointment of ACC contracting officers. Contracting officers shall be appointed in writing with limitations specified on the scope of authority to be exercised, other than limitations contained in applicable law or regulation. Contracting officers shall be appointed using the SF 1402, Certificate of Appointment. Click on the icon, below, to see a sample certificate.



Microsoft Office
PowerPoint Slide

All ACC Certificates of Appointments shall contain the sample warrant language in Part 1, Annex E – Sample Warrant Language. Locally generated language may be added to cover appointments for grants, other transactions, and direct sales and to include other unique limitations. Each appointment shall be accompanied by an appointment of contracting officer memorandum (see Part 1, Annex F – Sample Appointment Memorandum) signed by the appropriate official as specified in AFARS 5101.603. Requests for selection and appointment of a contracting officer shall be submitted using the contracting officer's application format at Part 1, Annex G – Application for Contracting Officer's Appointment.

(a) Recording appointments. Once signed by the PARC or his designee, the warrant is provided to the civilian or military appointee with copies retained in the PARC Office. A civilian appointee is responsible for updating the Acquisition Career Record Brief (ACRB) to reflect the appointment as a contracting officer. A civilian appointee can input this directly into the ACRB by following these steps:

- Click on Section X, Certifications/Licenses
- Agree to Disclaimer
- Under Professional Licenses, Click "Add"
- Click on drop down menu and select "Contracting Officer Warrant"
- Enter appointment date
- Click "Save".

(b) Contingency Contracting Appointments. Contingency contracting officer appointments will be accomplished by the HCA of the contingency area based on the individual's experience, education, knowledge of acquisition policies and procedures, and training in accordance with the *Defense Acquisition Workforce Improvement Act* minimum standards. See the Office of Defense Procurement and Acquisition Policy's Contingency Contracting website at: <http://www.acq.osd.mil/dpap/pacc/cc/index.html>

(c) Contracting Officer Evaluations. DoD Instruction 5000.66, Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program (21 December 2005) stipulates that first-level evaluations of contracting officers are performed within the contracting career chain. The Deputy Secretary of Defense issued a memorandum on 27 August 2008, subject: Reinforcing the Evaluation Requirements of Contracting Officers under DoDI 5000.66, adding the requirement that the first-level evaluation must be provided by a contracting official who has direct knowledge of the individual's performance and is at least one level above the contracting officer. Therefore, the contracting officer warrant application (Part 1, Annex G) includes a requirement for the supervisor to certify that the first-level evaluation for the proposed contracting officer is in the contracting career chain.

(d) Biennial Certification. The 27 August 2008 memorandum referenced in paragraph 201.603-3-200(c), above, also requires the Army's Senior Procurement Executive (SPE) to biennially certify that the first-level evaluation of contracting officers is performed within the contracting chain. This is a recurring HQDA report titled "1st Level Evaluation of KO in Contracting Career Chain". The first biennial report was completed during October 2008. The next report will be due in October 2010.

(e) Biennial Review of Contracting Officer Warrants. In conjunction with the biennial certification cited above (201.603-3-200(d)), PARCs shall review all their contracting officer warrants to ensure they are current and valid and the number and type of warrants are appropriate.

PART 1, ANNEX A

OSD PEER REVIEW TOOLKIT (PRE-AWARD)

(a) Acquisition Documents Required by the OSD Peer Review Team. The OSD Preaward Peer Review Teams will require access to the following documents, as applicable:

- (1) The requirements document.
- (2) The acquisition strategy and acquisition plan.
- (3) The source selection plan.
- (4) The initial Request for Proposals (RFP) and all amendments including any RFP requirements (technical and contractual) that were changed and the reasons for the changes.
- (5) The Source Selection Evaluation Board (SSEB) analysis and finding to ensure the evaluation of offers was consistent with the Source Selection Plan and RFP criteria.
- (6) Minutes of discussions between the Government and offerors.
- (7) All evaluation notices generated as a result of deficiencies in offeror proposals.
- (8) All minutes of Source Selection Advisory Council (SSAC) deliberations held to date.
- (9) Offeror responses to the request for Final Proposal Revisions.
- (10) Minutes of final SSAC deliberations.
- (11) Source Selection Authority (SSA) Determination and Source Selection Decision.
- (12) Award/incentive fee arrangements and documentation of any required Head of the Contracting Activity (HCA) Determinations and Findings of nonavailability of objective criteria.
- (13) Justification and Approval (J&A) for use of noncompetitive procedures.
- (14) Documentation of prenegotiation objectives, cost/price negotiation and the assessment of contractor risk in determining profit or fee.

(b) Elements Required to be Confirmed by the OSD Peer Review Team. OSD Preaward Peer Review Team will review the following elements and confirm that:

- (1) The acquisition process was well understood by both Government and Industry.
- (2) The source selection was carried out in accordance with the Source Selection Plan and the RFP.
- (3) The SSEB evaluation was clearly documented.
- (4) The SSAC advisory panel recommendation was clearly documented.
- (5) The SSA decision was clearly derived from the conduct of the source selection process.

(6) All source selection documentation is consistent with solicitation Section M evaluation criteria.

(7) The proposed business arrangement is consistent with solicitation Section M evaluation criteria.

PART 1, ANNEX B

OSD PEER REVIEW TOOLKIT (POST-AWARD)

(a) Post-award Peer Reviews Documents for Services Required by OSD:

- (1) The contract requirements document.
- (2) The contract business arrangement, including business case analysis.
- (3) Market research documentation.
- (4) The business clearance, including documentation of cost/price negotiation and the assessment of contractor risk in determining profit or fee.
- (5) Contractor surveillance documentation to include metrics and quality assurance surveillance plans.
- (6) The contract document and any modifications.

(b) Elements to be examined, at a minimum, in every post-award review:

- (1) Contract performance in terms of cost, schedule, and performance requirements.
- (2) Use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms.
- (3) Contractor's use, management, and oversight of subcontractors.
- (4) Staffing of contract management and oversight functions.
- (5) Extent of any passthroughs, and excessive passthrough charges by the contractor (as defined in section 852 of the Nation Defense Authorization Act for Fiscal Year 2007, Public Law 109-364).

(c) Elements to be examined in post-award reviews of contracts in which one contractor provides oversight:

- (1) Extent of the DoD component's reliance on the contractor to perform acquisition functions closely associated with inherently governmental functions as defined in 10 USC 2383 (b)(3).
- (2) The financial interest of any prime contractor performing acquisition functions described in (1) above in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency

PART 1, ANNEX C – ACC SOLICITATION REVIEW BOARD TOOLKIT

ITEM NO.	DESCRIPTION	REFERENCES	COMMENTS
Tenet 1	Acquisition Approach is based on sound business principles that achieve program objectives and support appropriate cost, schedule and performance incentives and penalties.		
A1	Market Research (Communications with Industry)		
A1(a)	Described and documented in contract file.	FAR 10.002(e) AFARS 5110.002(b)	
A1(b)	If market research supports a commercial item determination, rationale must meet the commercial item definition.	FAR 2.101 FAR 10.002(d) PARC/Policy Chief Alert 07-04, dated 8 March 2007, Subject: Commercial Item Determinations	
A1(c)	Request for Information/Sources Sought	FAR 10.002	
A1(d)	Adequate to support the selected acquisition approach: commercial or non-commercial.	FAR 10.002(d)(1) and (2)	
A1(e)	Pre-solicitation Notices/Conference documentation	FAR 5.204 FAR 15.202	

A1(f)	Synopsis or Exception Determination	FAR 5.201 FAR 5.202 AFARS 5104.502	
A1(g)	Draft RFP and resolution of Industry Questions and Government Response		
A2	Competitive Practices		
A2(a)	Maximized use of full and open competition		
	1. If competition is restricted, J&A properly prepared, executed and approved by the designated authority.	FAR 6.303 FAR 6.304 DFARS 206.303 & 304 AFARS 5106.303	
	2. Plans for future competition are fully described.	FAR 6.303-2(a)(11)	
A2(b)	Requirements not unduly restrictive. Appropriate support provided for brand name only requirements and J&A approved at the appropriate level.	FAR 5.102(a)(6) FAR 11.104 FAR 11.105 PARC Policy Alert 08-27, dated 20 May 2008, Subject: Brand Name Specifications and Competition	

		PARC Policy Alert 09-47, dated 8 June 2009, Subject: Brand Name or Equal OFPP Guidance	
A2(c)	Multiple-Awards IDIQ Contracts		
	1. Preference for multiple-awards IDIQ type contracts	FAR 16.500(a) FAR 16.504(c)	
	2. Intent to provide maximum competition throughout the life of the contract, with meaningful competition for orders.	FAR 16.504(a) FAR 16.504(c)(1)(ii)(A)(4)	
	3. Maximum use of Fair Opportunity, or appropriate exception is approved	FAR 16.505(b)(1) FAR 16.505(b)(2) FAR 16.505(b)(4) DFARS 216.505-70	
A2(d)	Single Award IDIQ is approved by appropriate authority	FAR 16.503 (b)(2) DFARS 216.504(c)(1)(ii)(D) PARC Policy Alert 08-30, dated 28 May 2008, Subject: Enhanced Competition for Task Order and Delivery Order Contracts, Section 843 NDAA FY 08 PARC Policy Alert 08-31-R1, dated 31 July 2008	

A3	Requirements		
A3(a)	<p>SOW/PWS/Specifications include:</p> <ol style="list-style-type: none"> 1. Salient characteristics; 2. Measurable performance standards; 3. Plan for surveillance; and 4. Objective criteria whenever possible to measure contract performance 	<p>FAR 11.1 FAR 37.602</p>	
A3(b)	<p>Commercial items/non-developmental items are utilized to the maximum extent practicable. If estimated value exceeds \$1M, the appropriate commerciality determination is included.</p>	<p>FAR 10.002(b) FAR 12.202(b) DFARS 212.102(a)(1) PGI 212.102(a)</p>	
A3(c)	<p>For services, In-sourcing was considered. If not appropriate, proper Service Contract Approval has been obtained. Form is complete and the accountable GO/SES has certified that requirements contain no unauthorized personal services or inherently governmental functions.</p>	<p>FAR 7.5 DFARS 207.5 PARC Policy Alert 08-29, dated 13 June 2008, Subject: Contractor Manpower Reporting PARC Policy Alert 09-51, dated 16 July 2009, Subject: Army Policy for Civilian Workforce Management and Service Contracts</p>	

A3(d)	Requirements are clearly defined, strategically determined, and represents the bona-fide technical needs.		
A3(e)	Performance-based requirements are clearly defined. If services are not performance-based, appropriate approval has been obtained.	<p>FAR 37.102</p> <p>DFARS 237.170-2</p> <p>AFARS 5137.170-2</p>	
A3(f)	For MDAP: Requirements include provisions for two or more competing teams to produce prototypes through Milestone B (Competitive Prototyping)	<p>USD(AT&L) memo 19 September 2007, Subject: Prototyping and Competition</p> <p>ASA(ALT) memo 2 January 2008, Subject: Army Prototyping and Competition</p>	
A3(g)	Data Rights and Technical data requirements are considered. The strategy addresses the data required to design, manufacture, and sustain the system as well as to support future competition for production/sustainment including use of priced options for future delivery of technical data, and intellectual property rights.	<p>DFARS PGI 207.105</p> <p>DFARS 207.106 (S-70)</p> <p>DFARS 227.71 & 72</p> <p>ASA(ALT) memo dated 1 April 2008, Subject: Data Management and Tech Data Rights</p> <p>PARC Policy Alert 09-13, dated 12 June 2009, Subject: Data Management and Tech Data Rights</p>	

A3(h)	Value Engineering requirements included, where appropriate	FAR 48.102 FAR 48.201 & 202	
A3(i)	Performance Requirement summaries and/or surveillance plans are included, described, and are sufficient given cost, schedule and performance risks. Key performance elements and associated measures tie directly to program objectives.	FAR 37.603 FAR 37.604 FAR 46.401(a)	
A3(j)	For commercial IT purchases: desktops, notebooks and software should be purchased through the Army's Computer Hardware, Enterprise Software Solutions (CHESS) contracts, and DoD Enterprise Software Initiative agreements. If not, waiver has been granted by CHESS.	DFARS 208.7403 PARC Policy Alert 07-01, dated 8 January 2007, Subject: Enterprise Software Agreements PARC Policy Alert 09-44, dated 11 May 2009, Subject: Various Memos	
A3(k)	The following requirements have been included, as appropriate:		
	1. Cost as an Independent Variable (CAIV)	DoD Directive 5000.1	
	2. Earned Value Management System (EVMS)	FAR 34.2 DFARS 234.2 PGI 234.201 PARC Policy Alert 08-42, dated 11 September 2008, Subject: EVM Requirements and Reporting	

	3. Item Unique Identification (IUID)	DFARS 211.274-4 PARC Policy Alert 08-12, dated 16 January 2009, Subject: IUID Compliance and Reporting PARC Policy Alert 08-34, dated 24 July 2008, Subject: IUID & WAWF Compliance Issues PARC Policy Alert 09-45, dated 22 May 2009, Subject: Army Item Unique Identification Guidance	
	4. Radio Frequency Identification (RFID)	DFARS 211.275	
A3(l)	Contract Manpower Reporting requirements are included in the PWS/SOO/SOW and listed as a separate CLIN in Section B.	PARC Policy Alert 08-29, dated 13 June 2008 PARC Policy Alert 08-29-R1, dated 11 August 2008, Subject: Contractor Manpower Reporting	
A3(m)	Use of warranties considered, and, if appropriate, authorized.	FAR 46.703-705 FAR 12.404 DFARS 246.704	
A3(n)	Buy American Act Exception, or Non-Availability Determination	FAR 25.103	

A3(o)	Potential Organization Conflict of Interest reduction/elimination measures when contractor will provide oversight for another support contractor. D&F for use of support contractors.	FAR 9.5 FAR 9.506(6) FAR 37.2	
A3(p)	Appropriate Theater Business Clearance review been conducted by JCC I/A and language included in the solicitation when 1) contractor personnel are performing in Iraq and/or Afghanistan; 2) requires delivery of materiel to Iraq and/or Afghanistan, under FOB destination terms using commercial transportation outside the Defense Transportation System; or 3) authorize contractor personnel, including subcontractors, to carry weapons in Iraq and/or Afghanistan regardless of contract end date.	PARC Policy Alert 08-04, dated 5 November 2007, Subject: Theater Business Clearance (TBC) PARC Policy Alert 08-05, dated 20 November 2007, Subject: Additional TBC DFARS 225.74; PGI 225.7401 JCC I/A website: http://www2.centcom.mil/sites/contracts DPAP memorandum dated 15 September 2009, Subject: Theater Business Clearance/Contract Administration Delegation (TBC/CAD) Compliance	
A4	Acquisition Plan/Strategy		
A4(a)	Plan or strategy has been reviewed and approved by the appropriate official	DFARS 207.1 AFARS 5107.103 (S-90)	

		AFARS 5137.590	
A4(b)	Selected contract type appropriately compensates for risk:	FAR 16.103(d)	
	1. Limited use of T&M and Cost Plus type contract vehicles.	FAR 12.207 FAR 16.601 FAR 16.602 FAR 16.301-3 DFARS 212.207 PARC Policy Alert 08-22, dated 1 April 2008, Subject: Proper Use of T&M Contracts	
	2. Under a hybrid contract which may include fixed-price, T&M and/or cost plus CLIN/SLINs and when T&M is necessary, the T&M portion should be limited to no more than 10% of the total contract value.	DPAP Memorandum 18 February 2009, Subject: Criteria for Acquisition of Services PARC Policy Alert 09-46, dated 1 June 2009, Subject: Proper Use of T&M Contract Types	
	3. For T&M contracts, if the period of performance (base periods plus any option periods) exceeds 3 years, HCA approval is required.	FAR 16.601(d)(1)(ii)	
	4. For T&M/LH contracts for acquisition of commercial items, Head of Agency approval is required if the commercial	DFARS 212.207(b)	

	services are other than those acquired for support of a commercial item(s) or emergency repair services.		
	5. If Fixed Price Level of Effort type contract > \$100K, Chief of the Contracting Office approval is required.	FAR 16.207-3(d)	
	6. Award fee/award term plan is justified. Objective criteria utilized. If subjective criteria are also appropriate, consideration is given to the use of multiple incentives including both award and incentive fee criteria to reward effective outcomes.	FAR 16.205 FAR 16.404 FAR 16.405-2	
A4(c)	If an IDIQ type arrangement is contemplated, the guaranteed minimum and the maximum quantities/amount of supplies, or services are specified.	FAR 16.504(a)(4)(ii)	
A4(d)	Proposed contract length is appropriate given the technology and industry standards. 3-5 year period of performance is preferred. Services acquisitions with longer periods of performance, particularly multiple award contracts, should provide for decision points (on and off ramps) to ensure that the Government has a qualified pool of contractors that will provide continuous service throughout the life of the contract.	DPAP Memorandum 18 February 2009, Subject: Criteria for Acquisition of Services	
A4(e)	Proposed waivers/deviations/special terms or conditions are identified and approved by the appropriate official.		
A4(f)	If a potential organizational conflict of interest exists, there is a written analysis, a recommended course of action, and appropriate solicitation provision/contract clause.	FAR 9.5 FAR 37.2	

		AFARS 5109.503	
A4(g)	If options are included use has been justified	FAR 17.205	
A5	Socio-Economic Considerations.		
A5(a)	DD Form 2579 has been completed along with Small Business Specialist and Procurement Center Representative (PCR) concurrence.	FAR 19.501(f) FAR 19.202-1(e)(1) DFARS 219.5 AFARS 5119.5	
A5(b)	Bundled or consolidated requirements are adequately documented and approved by appropriate decision authority.	DFARS 207.170 AFARS 5107.170-3 FAR 19.202-1(e)(iii) FAR 10.001	
A5(c)	If a tiered evaluation of offers is planned, analysis of market research results supports the approach.	DFARS 210.001(a)(i)(B)	
A5(d)	Solicitation contains subcontracting plan requirements, goals and Electronic Subcontracting Reporting System (eSRS) reporting.	FAR 19.702 DFARS 219.7 AFARS 5119.7	
A6	Source Selection Approach		
A6(a)	Approach is fully described in the source selection plan with evaluation factors that are definable and measurable in readily	FAR 15.303(b)(2)	

	understood quantitative or qualitative terms, linked to key program requirements, and limited to those that genuinely discriminate among proposals. Source Selection Plan was established in accordance with Army Source Selection Manual guidance. Sections L and M of the solicitation are consistent with the source selection plan.	DFARS 215.303(b)(2) DFARS PGI 215.303(b)(2) AFARS 5115.000 AFARS 5115.303(b)(2) AFARS Appendix AA, Army Source Selection Manual	
A6(b)	SSA and SSO are appropriately appointed given the level and complexity of the acquisition. SSA has been approved by the appropriate authority.	AFARS 5115.303	
A6(c)	Intent to award without discussions is clearly stated.	FAR 15.306(a)(3) AFARS Appendix AA, Army Source Selection Manual	
A7	Solicitation		
A7(a)	CLIN structure is in accordance with DFARS. Structure logically corresponds to distinct requirements described in the SOW/SOO/PWS.	DFARS 204.71	
A7(b)	Structure and provisions facilitate a meeting of the minds between the government and industry as to the process, nature, and intent of the acquisition.		
A7(c)	Wage determination included, if appropriate.	FAR 22.1007 DFARS 222.1008	

A7(d)	Wide Area Workflow (WAWF)/Invoicing instructions are provided.	DFARS 232.70 DFARS 252.232-7003 PARC Policy Alert 08-34, dated 24 July 2008, Subject: IUID and WAWF Compliance Issues	
A7(e)	Solicitation reflects consistency between the PWS/SOO/SOW, evaluation plan, and Sections L and M.	AFARS Appendix AA, Army Source Selection Manual	
A7(f)	Appropriate Legal and PARC reviews have been obtained.	AFARS 5101.602-2(c) (iv)	
A7(g)	Sufficient funding available supported by an Independent Government Cost Estimate (IGCE).	AFARS 5101.602-2(a)	

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PART 1, ANNEX D – ACC CONTRACT REVIEW BOARD TOOLKIT

ITEM NO.	DESCRIPTION	REFERENCES	COMMENTS
Tenet 1	Source Selection/Negotiation. The source selection process was well understood by government and industry and the resultant business arrangement represents the best interests of the government.		
A1	The source selection plan was established in accordance with the Army Source Selection Manual (ASSM) guidance.	AFARS 5115.000	
A2	Source selection evaluation was conducted in accordance with the plan and the criteria specified in the solicitation. Evidence that clarifications and/or communications, if any, were appropriate. Board findings are fully documented.	AFARS 5115.306 AFARS Appendix AA, Army Source Selection Manual	
A3	If discussions are held, the competitive range determination is substantiated and clearly documented. Appropriate notice of exclusion from competitive range provided to impacted offerors.	FAR 15.503(a)(1) FAR 15.306(c) (3)	
A4	Record supports that discussions were meaningful. Requests for Final Proposal Revisions adequately capture discussion issues.	FAR 15.306(d)(3) FAR 15.307(b)	
A5	Source Selection decision is derived from the conduct of the source selection and is fully documented. The	FAR 15.308	

	Source Selection Authority (SSA) independently exercised prudent business judgment and arrived at a decision based on the best value to the Government consistent with the evaluation criteria stated in the solicitation.	AFARS 5115.308 AFARS 5115.101	
A5(a)	For sole source, the pre-negotiation objectives are clearly stated, approved at the appropriate level, and documented in the file.	FAR 15.404-4 FAR 15.406-1 AFARS 5115.406	
A5(b)	For sole source, the post-negotiation memorandum clearly articulates the outcome of negotiations and is approved at the appropriate level.	FAR 15.406-3 AFARS 5115.406-3	
A5(c)	If applicable, Field Pricing Assistance is documented. Evidence of adequate cost/price analysis and price reasonableness determination. Level of Risk is considered in determining contractor profit (weighted guidelines are used).	FAR 15.404-2 DFARS 215.404-4 DFARS PGI 215.404-4	
A5(d)	Certificate of Current Cost or Pricing Data obtained or an appropriate exception is utilized	FAR 15.406-2	
A5(e)	Exceptional Case Truth in Negotiations Act (TINA) Waivers are granted in accordance with criteria at DFARS 215.403-1(c)(4). Also evidence of review by SPE if greater than \$100M.	FAR 15.403(4)(a)(2) DFARS PGI 215.403-1 (c)(4)(A)(2) AFARS 5115.403-1	

		PARC Policy Alert 07-11, dated 20 June 2007, Subject: Determining Fair and Reasonable Contract Prices	
A5(f)	For cost type contracts, a Cost Realism assessment performed to determine most probable cost.	FAR 15.305(a)(1)	
A6	Price Negotiation Memorandum documents the principal elements of the negotiated agreement to include the contracting officer's determination of fair and reasonable pricing.	FAR 15.406-3(a) DFARS 215.406 AFARS 5115.406	
Tenet 2	Award Documents. Contract reflects outcome of negotiations/source selection process; is legally supportable; and represents a meeting of the minds between the government and the successful offeror.		
A1	Appropriate terms and conditions incorporated.		
A2	If award is to large business, the subcontracting plan has been incorporated and includes eSRS requirements.	FAR 19.702(a)(1) FAR 19.704	
A3	If an Organizational Conflict of Interest (OCOI) was identified, measures to reduce/eliminate the potential conflict have been included and there is evidence that the situation was resolved	FAR 9.506	
A4	A contract administration plan has been developed and describes the duties that are retained by the contracting officer or delegated to an appropriate government	FAR 7.105(b)(18) FAR 42.2	

	official such as a COR or DCMA.	DFARS 242.2	
A4(a)	For services, a COR is appointed before contract award. File documentation demonstrates that the COR meets the minimum training requirements of DAU CLC 106, COR with a Mission Focus. COR appointment letter incorporates requirements for submission/tracking of COR reports. If a COR is not appointed, the file is fully documented explaining who will be responsible for oversight and surveillance functions to include performance assessment of contractors.	DFARS 201.602-2 DASA(P) memorandum dated 9 February 2007, Subject: Contract Administration and Surveillance for Service Contracts	
A4(b)	Assignment/delegation to DCMA, if eligible.	FAR 42.3 DFARS 242.302	
A4(c)	A quality assurance surveillance plan is incorporated which clearly identifies measures and standards. Surveillance activities should be tailored to the dollar value/complexity of the specific requirement.	DASA (P) memo dated 9 February 2007, Subject: Contract Administration and Surveillance for Service Contracts DPAP memo dated 14 July 2008, Subject: Management of Contractor Performance Under T&M and LH Contracts for Services	

A4(d)	If contractor personnel are authorized to accompany U.S. Forces deployed to the CENTCOM AOR, assignment of contract administration is based on the contract administration delegation assessment provided by JCC I/A.	PARC Policy Alert 08-04, dated 5 November 2007, Subject: Theater Business Clearance (TBC). PARC Policy Alert 08-05, dated 20 November 2007, Subject: Additional TBC.	
A5	A fully documented responsibility determination by the contracting officer.	FAR 9.4 FAR 9.105-1(c) FAR 9.105-2	
A5(a)	Pre-Award Survey Documentation	FAR 9.106-2	
A5(b)	Certificate of Competency (COC) referral/issue/denial.	FAR 19.602-2	
A5(c)	File contains verification that the contractor is not on the Excluded Parties List System (EPLS) at www.epls.gov .	FAR 9.405(d)(4) PARC/Policy Alert 09-27, dated 25 February 2007, Subject: EPLS Reminder.	
A6	EEO compliance approval has been obtained.	FAR 22.805	
A7	If greater than \$5.5M, Congressional Notifications have been prepared. If contract award is planned prior to	FAR 5.303(a)	

	Congressional Notification, approval must be granted by DASA (P)	AFARS 5105.303 PARC Policy Alert 09-57, dated 3 September 2009, Subject: Requirement for Congressional Notification	
A8	Contract Action Report (CAR) has been prepared, and is accurate and complete and action will be reported in FPDS.	FAR 4.602	
A9	Notification to Unsuccessful Offerors.	FAR 15.503	
A10	Pre-award Notice for small business programs.	FAR 15.503(a)(2)	
A11	Appropriate Legal and PARC reviews have been obtained.		
A12	Sufficient funds are available.	AFARS 5101.602-2(a)	
A13	If a multiple award IDIQ is planned, ordering instructions are included for ordering supplies/services.	FAR 16.505(b)(1)(ii)	
A14	If this is a service acquisition, with a long period of performance or a multiple award IDIQ, decision points have been included (such as on and off ramps) to ensure that the Government has a qualified pool of contractors that will provide continuous service throughout the life of the contract.	DPAP memorandum dated 18 February 2009, Subject: Criteria for Acquisition of Services	

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PART 1, ANNEX E
SAMPLE WARRANT LANGUAGE

Unlimited Warrant:

Subject to the limitations of the Federal Acquisition Regulation, Department of Defense Federal Acquisition Regulation Supplement, and Army Federal Acquisition Regulation Supplement. No monetary limitations are placed on this appointment other than those established by law, regulation and directive.

Simplified Acquisition Threshold (SAT):

Subject to the limitations contained in the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement and Army Federal Acquisition Regulation Supplement. This appointment is limited to new contract actions not exceeding the simplified acquisition threshold, including commercial items up to \$5.5 Million as specified under FAR Parts 12 and 13.

Limited Warrant:

Subject to the limitations contained in the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement and Army Federal Acquisition Regulation Supplement. This appointment is limited to the execution of contractual documents which do not exceed \$\$\$\$.

Note: Locally generated language may be added to cover appointments for grants, other transactions, direct sales, and to include other unique limitations.

**PART 1, ANNEX F
SAMPLE APPOINTMENT MEMORANDUM**

Office Symbol

MEMORANDUM FOR (Name)

SUBJECT: Appointment of Contracting Officer

1. Congratulations on your appointment as a Contracting Officer. This appointment attests to your professional commitment and dedication and is an expression of confidence that you will accept challenges and meet demands in such a manner as to reflect credit upon the United States of America and this command.
2. As a Contracting Officer, you occupy a position of trust within the Army that requires the highest levels of contracting expertise, integrity and fairness in dealings with contractors. You are responsible for ensuring performance of all necessary actions for effective contracting, compliance with the terms of the contract and safeguarding the interest of the United States in its contractual relationships. To perform these responsibilities, you are allowed wide latitude in exercising sound business judgment. However, you should ensure that the requirements of AFARS 1.602-1(b) have been met and sufficient funds are available for obligation; contractors receive impartial, fair and equitable treatment; and request and consider the advice of subject matter specialists as appropriate.
3. Under this appointment, you will act as an agent of the United States Government. I enjoin you to make proper use of the expert and advisory services available to you in shaping your decisions and actions. However, you are solely responsible for the integrity of the contracting decisions and documents that you execute under your purview as Contracting Officer.
4. The Certificate of Appointment number XXXXX [with limitations as stated therein] is enclosed. Please display the certificate in a prominent location.

NAME OF PARC or other appropriate official
Signature Block

Encl

PART 1, ANNEX G
Application For Contracting Officer's Appointment

Identification and Personal Data

Name	Civilian Series and Grade		
	Military Functional Area and Rank		
Complete Mailing Address (Optional)	E-Mail Address		
	Phone Numbers		
	Commercial:		
	DSN:		
Position Title:	Years Experience in Contracting		
		Years	Months
Acquisition Career Field: (e.g., C for Contracting)	DAWIA Certification Level		

Name (as it is to appear on the warrant certificate)

Primary Warrant Type (Check one)

<input type="checkbox"/>	Contracting Officer
<input type="checkbox"/>	Procurement Contracting Officer
<input type="checkbox"/>	Administrative Contracting Officer
<input type="checkbox"/>	Terminating Contracting Officer
<input type="checkbox"/>	Other Contracting Officer (e.g., such as Grants, etc.) Describe the unique situation for this warrant.

Warrant Authority Requested

<input type="checkbox"/>	Initial
<input type="checkbox"/>	Unlimited
<input type="checkbox"/>	Limited (Enter requested dollar limits and specify Warrant Limitations)
<input type="checkbox"/>	Unlimited Warrant Providing Additional Authority (To Execute Grants, Cooperative Agreements, and Other Transactions. Specify Which Authority)
<input type="checkbox"/>	Modify Warrant Authority (Chg Execution Authority from \$_____ to \$_____)

Application (continued)

Justification for requested warrant authority

Provide information supporting the requested dollar thresholds, e.g., estimated dollar value of anticipated awards, historical dollar value of supported program contract awards, office manning structure. (Warrant authority must be in line with position demands.) Justification should include factors such as:

- Is there a critical organizational need where a new warrant is necessary? Describe that critical need.
- Would the lack of this warrant adversely impact the execution of contractual actions? Describe how.
- What is/are the unique circumstances which conclude(s) that this person should receive a warrant to carry out their duties?
- What qualifies them for a warrant apart from others? The person may be highly qualified, i.e., meet the educational and/or experience requirements, but why is he/she in particular selected for a warrant?

Applicant's Qualifications for a Contracting Officer's Position

Mandatory contracting courses:

Has successfully completed all mandatory contracting courses or their equivalent for current grade or rank: Yes___ No___

Experience requirements:

Has completed 2 years experience in a contracting position:

Yes___ No___

Has at least 2 years of experience and (on or before September 2000) applicant occupied a contracting officer position with authority to award or administer contracts above the simplified threshold:

Yes___ No___

Or has at least 2 years of experience and (on or before September 2000) applicant held a civilian position in the GS-1102 or was member of the armed forces in an occupational specialty similar to the GS-1102 series:

Yes___ No___

Has ten years of acquisition experience gained before 1 October 1991:

Yes___ No___

Application (continued)

Educational requirements:

Has received a Baccalaureate degree from an accredited educational institution, **and**

Completed at least 24 semester credit hours, or equivalent study, from an accredited educational institution in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

Yes____ No____

Verification of Contracting Officer’s Qualifications

ACRB/ORB – Include with the application. The ACRB or ORB must be signed by the applicant and be current as to grade, rank, length of acquisition experience, certification level, education, and training.

Prior Warrants Held

Yes____ No____

Signatures

Applicant_____ Date _____

Certification of Rating Chain: IAW the requirements of DoDI 5000.66, I, the undersigned supervisor, hereby certify that at least the first-level evaluation for this proposed contracting officer will be done within the contracting chain.

Supervisory Endorsement: I recommend the above individual be appointed as a Contracting Officer. I certify the above named individual possesses the qualifications as cited in FAR 1.603-2 and as documented by his/her enclosed and signed ACRB or ORB.

Supervisor_____ Date _____

Supervisor’s Printed Name and Title_____

Supervisor’s Phone Number_____

Principal Assistant Responsible for Contracting_____

Date _____

PART 2 – DEFINITIONS OF WORDS AND TERMS

AFARS SUBPART 5102.1 – DEFINITIONS

5102.101 Definitions.

Assistant Secretary of the Army for Acquisition, Logistics, and Technology (ASA(ALT)) holds several titles, two of which are related to acquisition and contracting.

(1) *Army Acquisition Executive (AAE)* has the responsibility for implementing the Defense Acquisition System within the Department of the Army. The Defense Acquisition System is the management process by which DoD and the Department of the Army provide effective, affordable, and well-managed acquisition programs that include weapon systems, services, and automated information systems.

(2) *Senior Procurement Executive (SPE)* is the individual who is responsible for the management and direction of the acquisition system of the Department of the Army, including implementation of the unique acquisition policies, regulations and standards.

(3) References concerning the above definitions:

(i) FAR Section 2.101 Definitions. *Senior procurement executive.*

(ii) AFARS Section 5102.101 Definitions. *Army Acquisition Executive.*

(iii) DoD Instruction 5000.02, Operation of the Defense Acquisition System.

(iv) Department of the Army General Order No. 3, Assignment of Functions and Responsibilities Within Headquarters, Department of the Army, dated 9 July 2002.

PART 6 – COMPETITION REQUIREMENTS

SUBPART 6.3 – OTHER THAN FULL AND OPEN COMPETITION

6.302 Circumstances permitting other than full and open competition.

6.302-2 Preparing and staffing justification and approval (J&A) documents.

(a) The PCO will inform the J&A approval authority in advance, if a contract action must be awarded prior to processing a J&A citing unusual and compelling urgency as the rationale for other than full and open competition. If the action exceeds the dollar threshold at FAR 6.304(a)(4), and therefore must be approved by the ASA(ALT) in his/her role as the Army's SPE, send the J&A document to the DASA(P) mailbox psstaff@conus.army.mil and copy furnish the ACC mailbox MSC-ACQCTR@conus.army.mil no later than 15 days after contract award.

(b) The following requirements apply to J&A actions exceeding the dollar threshold identified at FAR 6.304(a)(4), for SPE approval:

(1) Each justification must be reviewed for legal sufficiency by counsel for the activity preparing the justification prior to submission for approval.

(2) Prepare the following documents as part of the J&A package:

(i) Transmittal memorandum (electronic cover memorandum) signed by the local field command's HCA. The cover transmittal letter should indicate if there has been any history of protests or Congressional interest. If there has, fully explain the circumstances in the HCA cover letter. This information is required by the SPE for every J&A.

(ii) Justification review document (JRD) containing all concurrences in accordance with AFARS 5153.9004, Format for a Justification Review Document for Other Than Full and Open Competition. The JRD will be signed by the local field Command's HCA.

(iii) J&A shall follow the format at AFARS 5153.9005, Format for a Justification and Approval for Other Than Full and Open Competition. When preparing the J&A, refer to the DASA(P) J&A Checklist to ensure all relevant points are discussed. DASA(P) J&A Checklist is found at AFARS 5106.303-2-90(4). Also see Desk Book Part 6, Annex A – Guidance to Customers on Preparing J&As.

(A) Include the command control number on the upper right hand corner of every page of the J&A. This is necessary to ensure that if the approval page becomes separated from the J&A, the approval can be traced back to the particular J&A to which it applies.

(B) Submit the approval language as the last page of the J&A on plain bond paper (not letter head) using Arial 12 pitch. Be sure to include the command control number and the appropriate page number. Include sufficient factual detail in the approval paragraph concerning the contractual action being approved to preclude any confusion regarding any prior or subsequent approvals for this program or concerning similar efforts.

(iv) The approved Acquisition Plan (AP) that supports the J&A. If the existing AP does not reflect the information in the J&A, provide an amended AP or a memorandum explaining the differences between the two.

6.305 Posting J&As to Army Single Face to Industry.

(a) The National Defense Authorization Act for Fiscal Year 2008, Section 844, Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts, mandated that all J&A documents be made publicly available 14 days after contract award (except 30 days after award for limited competition citing 6.302-2, Unusual and Compelling Urgency). See FAR 6.305.

(b) Department of the Army Guidance. DASA(P) issued Policy Alert #09-18, Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts, on 5 February 2009. On 13 February 2009, DASA(P) added more information to Alert #09-18 concerning how to post J&As to the Army Single Face to Industry (AFSI) Acquisition Business website. On 17 February 2009, DASA(P) changed the Policy Alert number from #09-18 to #09-19R. The following is a summary of the guidance contained in the alerts.

(1) J&As are to be posted to the Army Single Face to Industry (ASFI) website: https://acquisition.army.mil/asfi/gov_personnel_main.cfm Instructions on how to load the J&A files are provided on the website.

(2) Before submitting a J&A to ASFI, contracting officers will carefully screen all justifications for contractor proprietary data and remove proprietary data along with references and citations that are necessary to protect the proprietary data. Contracting officers should be guided by the exemptions to disclosure of information contained in the Freedom of Information Act and the prohibitions against disclosure in FAR 24.202 in determining whether other data should be removed, working closely with legal experts.

(c) DASA(P) issued Policy Alert #09-29, Revision to AFARS Subpart 5106.303-1(d) to Deconflict with FAR Subpart 6.305(b), on 27 February 2009. This alert revised AFARS 5106.303-1(d) by changing the time to submit J&As citing 6.302-2 that require SPE approval from 30 days to 7 calendar days. J&As citing 6.302-2, Unusual and compelling urgency, and which are over \$78.5M shall be submitted to the DASA(P) mail box psstaff@conus.army.mil for review and approval within 7 calendar days of contract award.

PART 6, ANNEX A

GUIDANCE TO CUSTOMERS ON PREPARING J&As

1. Begin the J&A process as early as possible. Allow additional time for the review process at Department of Army and to respond to their comments.
2. Market research should be done and the J&A should include a discussion of the type of market research, who conducted it, when it was done, who responded and the results. A thorough knowledge of the marketplace would be evident in each J&A. General phases regarding the Government's continuous surveillance of the marketplace are not acceptable.
3. The status of the technical data should be fully described along with any information regarding the cost to procure the technical data suitable for competitive procurement. The J&A should discuss buying the data, show that the cost is prohibitive or state that the firm has refused to sell it.
4. Fixed price type contracts are highly preferred. If another contract type is anticipated, the J&A should discuss the rationale for that decision. All time-and-materials contracts and single award task order contracts over \$100M must include a solid analysis demonstrating that other contract types are untenable.
5. The J&A should fully analyze the alternative strategies to sole source procurements. This analysis should indicate that a good faith effort was made to consider where we are with the system and what could be done to increase the level of competition, if not for the current buy then for the future. All J&As will have to be supported with an analysis of alternatives (AoA). The analysis must present actionable options to maximize competition for future acquisitions, minimize the quantities procured and the period of performance under sole source acquisition, and obtain the technical data and Government-purpose data rights necessary to facilitate competition, while maintaining an acceptable level of cost, schedule and performance risk. If the analysis cannot be completed prior to submission of the J & A, the quantities and duration of time on the J&A should be reduced to the minimum needed to satisfy the requirement. The J&A will state that a written analysis of alternatives will be completed within 120 days and will be incorporated as an addendum to the program strategy.
6. Discussion of the following items should also be included in each J&A as appropriate:
 - a. Consider the entire life cycle of the acquisition when planning the acquisition strategy. A completed award at Milestone A does not relieve the need to maximize competition at each phase of the acquisition.
 - b. Review data rights. Have data rights been appropriately considered? Has consideration been given to whether government purpose data rights, either by right or negotiation, are a possibility? Should the purchase of the technology be pursued? Will the technologies of the system change so rapidly that purchased technical data packages become outdated before the next acquisition?

c. Consider the useable life of the system. Has the system been type classified? Will it remain in the Army inventory for decades (e.g., Abrams) or is its future unknown (MRAP variants). The AoA for short-lived systems may not support purchase of TDPs.

d. Consider components and contracted logistics support as possibilities for competition even when the major system cannot be effectively competed.

PART 7 – ACQUISITION PLANNING

DFARS SUBPART 207.1 – ACQUISITION PLANS

207.103 Preparing written acquisition plans.

(a) Prepare written acquisition plans (APs) in accordance with FAR 7.103, DFARS 207.103 and AFARS 5107.103, Agency-head responsibilities. This includes:

(1) Structuring contract requirements to facilitate competition by and among small business concerns.

(2) Avoiding unnecessary and unjustified bundling and consolidation of requirements that precludes small business participation as prime contractors.

(3) The Program/Project Manager (PM)/requiring activity has overall responsibility for the AP. An integrated product team (IPT) should be formed for the specific purpose of formulating the AP.

(b) Contracting officers will provide written comments to the requiring activity concerning the adequacy and accuracy of draft APs, with particular attention to the proposed contract type and the appropriateness and realism of the proposed delivery schedule (as compared with delivery schedules achieved on current or prior contracts for similar items). After the contracting officer reviews the draft AP, it must be sent to the Competition Advocate Office, the Small Business Office, and the Legal Office for review. The requiring activity shall incorporate all comments, finalize the AP, and commence staffing.

(c) All final acquisition plans are to be staffed by the requiring activity through the contracting officer. The contracting officer will review all final APs for format and content for coordination and approval. All APs for actions requiring a J&A shall be accompanied by the J&A when they are submitted for review and approval. A staffing template for approvals and concurrences is provided at Part 7, Annex A – Acquisition Plan Staffing Template.

(d) Contracting officers shall review the approved acquisition plan to ensure that the solicitation reflects the approach described therein. If there has been a change to the contracting strategy, a revised acquisition plan is required. Contracting officers will not issue a solicitation until the plan is approved. In the case of urgency, waiving the requirements of “detail and formality” may be granted only by the plan approval official. See (f) below.

(e) APs and Waivers are approved at the following levels:

(1) For programs assigned to Program Executive Officers (PEOs) reporting directly to Headquarters, Department of the Army (HQDA), acquisition plans must be approved by cognizant PEO and PM. This approval authority may not be re-delegated.

(2) For all non-PEO acquisitions, AP must be approved by the Principal Assistant Responsible for Contracting (PARC). This approval authority may not be re-delegated.

(3) Programs designated by the AAE as a special interest program requires review and approval by HQDA and must include the concurrences listed in AFARS 5107.103 (S-90), Acquisition plan approvals.

(f) The individual authorized to approve the AP will approve waivers. The requirement for a written AP (when required) cannot be waived. Only the requirements of “detail and formality” can be waived. This does not relieve the contracting officer from the requirement for an AP. When an abbreviated AP is authorized, document the contract file with the waiver.

207.105 Contents of written acquisition plans. Prepare acquisition plans in accordance with FAR 7.105 and DFARS PGI 207.105. Part 7, Annex B – Acquisition Plan Cover Sheet, contains a recommended cover sheet for an AP.

7.107 Additional requirements for acquisitions involving bundling.

(a) See FAR Subpart 2.1 – Definitions, for the definitions of “bundled contract”, “bundling”, and “separate smaller contract”. Bundling occurs when two or more requirements for supplies or services, previously provided or performed under separate smaller contracts (previously suitable for small business), are combined into a solicitation for a single contract that is unlikely to be suitable for award to a small business. A “separate smaller contract” is a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small businesses.

(b) Bundling may provide benefits to the Government, however, because of the potential impact on small business participation, market research must be performed to determine whether bundling is necessary and justified. Contracting Commands and Centers must show they have taken positive steps to maximize small business participation and avoid unnecessary bundling. Acquisition planning team members developing the acquisition strategy must actively seek and promote small business opportunities as prime contractors and subcontractors, structure the procurement to encourage competition by and among small businesses, eliminate obstacles from their participation, and avoid unnecessary and unwarranted bundling. Substantial bundling occurs when the dollar thresholds addressed at FAR 7.104 are met. Additional support for the bundled procurement as specified in FAR 7.107(e) must be addressed when substantial bundling is involved.

(c) Contract bundling is justified by demonstrating “measurably substantial benefits” such as cost savings, quality improvements, reduction in acquisition cycle time, or better terms and conditions. The “DoD Benefit Analysis Guidebook for Bundling” provides direction in completing the required bundling assessments by the acquisition planners, see:

<http://www.acq.osd.mil/osbp/news/guidebook.htm>

(d) When bundling is necessary, the agency shall make a determination that shows measurably substantial benefits as set forth in FAR 7.107(b) (1) or (2) will be derived. If the expected benefits do not meet the thresholds in FAR 7.107(b)(1) or (2), the ASA(ALT), without re-delegation, may determine that bundling is necessary and justified if the expected benefits are critical to the agency's mission success and the acquisition strategy provides for maximum practicable participation by small business concerns. Stating that the strategy is mission critical is not a justification unless substantiated.

(e) Acquisitions Under \$7.5M. The proposed procurement package for bundled procurement actions under \$7.5M should be reviewed by the Small Business Specialist and SBA contracting center representative during the review of the DD Form 2579, Small Business Coordination Record. Although this review is not as extensive as those above \$7.5M, the action must be necessary and justified.

(f) Small Business Notifications. In accordance with FAR 10.001, the affected incumbent small business concerns must be notified of the Government's intent to bundle at least 30 days prior to release of the solicitation or prior to placing an order without a solicitation. The notification must be made to all affected incumbent small business firms who had previously been awarded contracts for the items/services now being bundled. These firms must also be furnished contact information for the appropriate SBA representative. Administrative delays and protests may develop if this notification is not made. Additionally, the notification effort must be documented in a determination and findings for the contract file.

(g) When forwarding a bundled procurement action to ASA(ALT), the package will be reviewed by the ACC Office of Small Business Programs (OSBP) and copy furnished to the ACC mailbox: MSC-ACQCTR@conus.army.mil

207.170 Consolidation of contract requirements.

(a) ACC contracting commands and centers shall follow the policy and procedures contained in DFARS 207.170 and AFARS 5107.170, Consolidation of contract requirements.

(b) Contracting Officers and Program Managers must ensure that Small Business Advisors participate in market research when consolidation is contemplated. Early in the initial acquisition planning stages the Contracting Officer, Program Manager, and Small Business Advisor must work collectively to address and develop an acquisition strategy that provides maximum opportunity for small business participation. Failure to include the Small Business Advisor during the acquisition planning stages may result in a delay, and/or a requirement for additional market research.

(c) Prior to issuing solicitations for consolidated requirements, Small Business advisors review the decision to consolidate and indicate on the DD Form 2579, Small Business Coordination Record, that consolidation of contract requirements is necessary and justified, the

benefits of a consolidated acquisition substantially exceed the benefits of each of the possible alternative contracting approaches, and identify associated benefits.

(d) Consolidating Requirements over \$5.5 million. Contracting Officers shall not award a consolidated requirement greater than \$5.5 million (including options), unless the acquisition planning documentation includes:

(1) Results of market research that specifically identify the benefits anticipated by the consolidation. The decision to consolidate acquisitions should depend on benefits or savings that will be achieved without infringing on the intent of the small business program.

(2) Identification of any alternative contracting approaches that would involve a lesser degree of consolidation.

(3) Description of actions taken to maximize small business participation as prime and/or through subcontracting. Additionally, describe efforts to utilize small business participation and subcontracting past-performance as an evaluation factor for award.

(4) Small business history (name of previous or current small business incumbent, dollar value of previous contract, type of services/supplies provided, and length of time service/supplies provided by small businesses).

(5) A determination that the consolidation is necessary and justified in accordance with DFARS 207.170-3(a)(3). The determination should also address: cost savings, price reduction, reduced personnel or administrative cost; or any other benefit whether quantifiable in dollar amounts or not. Where the total value of the consolidated requirement is \$500M or more, the DASA(P) will make the determination. Where the total value of the consolidated requirements is above \$5.5M and up to \$500M, the HCA will make the determination. For actions where the total value of the consolidated requirements does not exceed \$100M, the HCA's authority under the previous sentence may be delegated to the PARC, without further delegation.

(e) Consolidating Requirements under \$5.5 million. After participating in market research with the Program Managers and contracting officers, the Small Business Advisor, the Small Business Administration (SBA) contracting center representative will consider consolidation as part of reviewing the DD 2579, Small Business Coordination Record.

(1) To expedite the review process, ensure that the market research indicates that the document discusses benefits or savings that will be achieved without infringing on the intent of the small business program or displacing small businesses; and any significant negative impacts on incumbent small businesses.

(2) Negative impacts can occur when incumbent small businesses are excluded from the opportunity to participate in re-compete (except program graduation). For example, if a historically Service-Disabled, Veteran-Owned Small Business (SDVOSB) procurement consolidated with a new requirement is set-aside for exclusive 8(a) competition, the incumbent SDVOSB may be excluded and negatively impacted. However, when incumbent 8(a) firms

graduate, exclusion from the 8(a) re-compete is not considered a negative impact, and positively enforces the purpose and intent of the small business development program.

AFARS SUBPART 5107.5 – INHERENTLY GOVERNMENTAL FUNCTIONS

5107.503 Policy.

(e) Approval of Service Contracting Requirements. See Part 7, Annex C – Approval of Service Contracting Requirements.

PART 7, ANNEX A
ACQUISITION PLAN STAFFING TEMPLATE

ACQUISITION PLAN COORDINATION SHEET

WHEN REQUIRED

Director Safety	Date	Concur/Non-Concur
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ALL

Special Advocate for Competition	Date	Concur/Non-Concur
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ALL

Legal Office (Attorney assigned to procurement)	Date	Concur/Non-Concur
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WHEN REQUIRED

ACC G8	Date	Concur/Non-Concur
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ALL PEO REQUIREMENTS

PEO Acquisition Authority	Date	Concur/Non-Concur
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WHEN REQUIRED

Industrial Base Advocate	Date	Concur/Non-Concur
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WHEN REQUIRED

Director, Intelligence & Security/G2	Date	Concur/Non-Concur
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WHEN REQUIRED BY FAR 7.104 (a)(2)(i)

Small Business Office	Date	Concur/Non-Concur
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PART 7, ANNEX B
ACQUISITION PLAN COVER SHEET

ACQUISITION PLAN NUMBER _____(for tracking purposes)

PROGRAM:

PROGRAM MANAGER:

DESCRIPTION OF PROGRAM

(Insert a brief technical description of the System/Equipment/Service)

APPROVED:

(PEO Managed Programs)

(Non-PEO managed programs)

Signature Block of PEO

Signature block of Principal Assistant
Responsible for Contracting

CONCUR:

(All Plans)

(Noncompetitive Plans)

Signature Block of Ch, Small

Signature Block of Competition Advocate

Business Programs Office

(Only Industrial Preparedness

Planning List (IPPL) items)

Signature Block for Production Base Advocate

NOTE: "PROCUREMENT SENSITIVE" and "FOR OFFICIAL USE ONLY" will be marked on all pages.

PART 7, ANNEX C
APPROVAL OF SERVICE CONTRACTING REQUIREMENTS

(Procedures apply to AMC and ACC requirements)

1. Implements.

- a. Memorandum, Secretary of the Army, 7 January 2005, Accounting for Contract Services
- b. Memorandum, Secretary of the Army, Army Policy for Civilian Hiring and Initiation/Continuation of Contracts for Service Personnel, 23 February 2006.
- c. Memorandum, Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(MR&A)), 8 May 2008, Implementation of Section 324 of the National Defense Authorization Act for Fiscal year 2008 (Pub L.119-181)(FY 2008 NDAA) – Guidelines and Procedures for In-sourcing New and Contracted Out Functions.
- d. Memorandum, Deputy Under Secretary of Defense (Acquisition and Technology) (DUSD(AT)), Inventories and Review of Contracts for Services, 16 May 2008.
- e. Memorandum, Office of the Assistant Secretary of Manpower and Reserve Affairs, 16 June 2008, Implementation of Section 324 of the National Defense Authorization Act for FY 2008 (P.L. 110-181)(FY2008 NDAA) – Guidelines and Procedures on In-sourcing New and Contracted Out functions – Update1.
- f. Memorandum, U.S. Army Materiel Command (AMC) Policy for Initiation/Continuation of Service Requirements, 5 March 2009.

2. Background.

- a. References establish the requirement to closely manage hiring civilian employees and the initiation/continuation of contracts for services. The initial focus in 2005 (reference 1a) was to account for contractors working in and supporting DoD activities. Army direction in 2006 (reference 1b) expanded the focus to accounting for and validating requirements and the manpower mix for all contracted services.
- b. The FY 2008 National Defense Authorization Act (NDAA) (Sections 324 and 807) mandated that DoD should consider in sourcing new functions and functions currently performed by contractors and ensure that inappropriate/unauthorized personal services and contracts for inherently governmental functions are discontinued or in-sourced. References 1c, 1d, and 1e serve as the framework for complying with those requirements.

To accommodate changes from the FY 2008 NDAA and to integrate the funding and approval of AMC service requirements with other AMC requirements, the Executive Deputy to the AMC CG signed a memorandum on 5 March 2009 merging the funding approval process for service requirements with AMC's Resource Summit. That means that beginning with the Resource Summit for FY 2010, AMC service requirements are reviewed and approved along with all other requirements. The Resource Summit Process and Mid- Year Review for FY 2010 replace the Service Requirement Review Board (SR2B) process as the forum to approve requirements for services and the SR2B is disestablished as of 1 October FY 2009.

Note: For service requirements for customers outside the AMC community, for example FORSCOM and TRADOC, follow that command's approval procedures.

3. All Service Requirements

Before initiating any contract for service, contracting centers are reminded that all Army customers must have the Department of Army Manpower and Reserve Affairs (M&RA) form (titled "Request for Civilian Hire or Services Contract Approval Form"), signed by an SES or General Officer along with the accompanying completed worksheets. The M&RA form is at website: <http://www.asamra.army.mil/insourcing>. The customer's signature on the form certifies that there are no personal services or inherently governmental functions included with the effort therefore complying with the 2008 National Defense Authorization Act. The accompanying worksheets must be completed by the requiring activity to provide background support for the certification.

Note: The only exemptions to this requirement are FMS, construction and utilities.

4. AMC Service Requirements

a. AMC customers must complete the "AMC Supplement to the M&RA Form" (See website <https://www.us.army.mil/suite/page/611159>) as an appendix to the M&RA form, "Request for Civilian Hire or Services Contract Approval Form"

b. Funding approval thresholds for AMC service requirements are:

- (1) All AMC requirements equal to or over \$50M.... AMC EDCG
- (2) MSC requirements \$25M-\$50M..... AMC G8
- (3) HQ AMC requirements less than \$50M..... AMC G8
- (4) MSC requirements less than \$25M..... MSC CG or GO/SES designee

c. The first three categories of service requirements (4a thru 4c) must be submitted as part of the AMC's Resource Summit process. Customers should go to the command's G8 for guidance on resource summit submissions.

For the last category (4.b.(4)), AMC Life Cycle Management Center requirements less than \$25M, AMC customers should follow the MSC's procedures for approval. See paragraph 5 for ACC MSC requirements.

5. ACC MSC Service Requirements less than \$25M

Since ACC is an AMC MSC, service requirements from any ACC contracting center less than \$25M must be approved by the Executive Director, ACC, in his role as the ACC MSC Commander.

Note: Memorandum, Headquarters Army Contracting Command, Delegation of Authority No. CPL 09-12 AMSCC-CO, Delegation of Authority for Service Contract Approval, 14 April 2009, delegates authority to GO/ SES PARCs at ACC Contracting Centers to approve service contract requirements at or below \$1M.

For requirements above \$1M, but less than \$25M, the Contracting Center as the requirer must complete the M&RA form and the “AMC Supplement to the M&RA Form” and send them under cover of a memorandum requesting approval to: MSC-ACQCTR@conus.army.mil. The memorandum must describe and justify the requirement and provide lines for the ACC Executive Director to initial and approve/disapprove the requirement. See “Sample Format” at the end of this annex.

ACC Contracting Center requirements for FY 2010 and beyond not processed through the Resource Summit, and ACC Contracting Centers headed by a non-SES or GO PARC will also follow the procedures in the preceding paragraphs.

6. Approval of HQ ACC Service Contract Requirements

In accordance with HQ ACC Command Policy Letter CPL-09-29-AMSCC-CO, Delegation of Authority for Service Contract Approval, 24 August 2009, all service contract requirements from HQ ACC staff sections must be approved (less than \$25M) or concurred with (\$25M or above) by the Executive Director, ACC, in his role as the ACC MSC Commander. After ACC Executive Director concurrence, HQ ACC requirements over \$25M will be processed through the AMC Resource Summit for approval at the appropriate level.

When seeking ACC MSC Commander/Executive Director approval or concurrence, HQ ACC Staff Sections as the requirer for service contract requirements must complete and sign the U.S. Army Manpower and Reserve Affairs form titled “Request for Civilian Hire or Services Contract Approval Form” at Annex A below or at website <http://www.asamra.army.mil/insourcing> and the “AMC Supplement to the M&RA Form at website: <https://www.us.army.mil/suite/page/611159> . The forms must be transmitted using an AMC Form 356 describing and justifying the requirement and coordinated with AMSCC-RM (ACC G8).

SAMPLE FORMAT FOR REQUESTING APPROVAL OF A SERVICE REQUIREMENT

Office symbol

MEMORANDUM FOR Mr. Jeffrey P. Parsons, Executive Director, U.S. Army Contracting Command, 9301 Chapek Road, Fort Belvoir, VA 22060-5527

SUBJECT: Request for Approval of a Service Requirement for (title/name of requirement)_____

1. Request your approval as the ACC Major Subordinate Command Commander of the requirement for description)_____ in the amount of \$_____.

2. The justification for this requirement is_____

3. The point of contact for this action is _____.

Encl

PARC's Signature

Approved_____

Disapproved_____

PART 13 – SIMPLIFIED ACQUISITION PROCEDURES

AFARS SUBPART 5113.2 – ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

5113.270-90 Use of the Governmentwide commercial purchase card.

(a) Army Regulation (AR) 715-XX, The Government-wide Purchase Card (GPC), 2 May 2007 is in effect until the final AR is published. The draft GPC AR can be found at: www.usma.edu/doc/gpc/GPCArmyReg.pdf

(b) The proponent of AR 715-XX is the ASA(ALT) and as the proponent, has the authority to approve exceptions to this regulation. Any requested exceptions should be submitted through the primary level 3 Agency/Organization Program Coordinator (A/OPC). The address for the ACC Level 3 A/OPC is HQ ACC, ATTN: AMSCC-RM, 9301 Chapek Road, Fort Belvoir, VA 22060.

(c) Span of Control. Span of control is discussed in AR 715-XX, but needs re-emphasis. When the level 4 A/OPC's span of control will exceed the standard (300 accounts) in paragraph 3-4 of AR 715-XX:

(1) The PARC will submit documentation asserting the Level 4 A/OPC can adequately administer the installation's GPC program to the level 3 A/OPC within 30 days of the receipt of the documentation from the Director of Contracting (DOC)/contracting activity; or

(2) The DOC must reduce the number of accounts the Level 4 A/OPC administers or designate an additional level 4 A/OPC.

Also, per paragraph 3-4 c. of AR 715-XX, the billing official must request a waiver from the level 2 A/OPC (DASA(P)), ATTN:SAAL-PB, Rosslyn Metro Center, 1700 North Moore Street, Suite 1475, Arlington, VA 22202) when the billing official's span of control will exceed nineteen cardholder accounts. The level 4 A/OPC will submit this waiver request through the primary level 3 A/OPC to the level 2 A/OPC. The address for the ACC Level 3 A/OPC is: HQ ACC, ATTN: AMSCC-RM, 9301 Chapek Road, Fort Belvoir, VA 22060. Level 4 A/OPCs will submit copies of waivers approved by the contracting center/DOC and the PARC to the primary level 3 A/OPC within 30 days of approval by the signature authority.

(d) Purchase of Mementos and Promotional Items. Approval for purchase of mementos and promotional items must be made at the General Officer, Senior Executive Service, or Commander level and must include a specific case-by-case concurrence by the local legal counsel and resource manager. The purchase of mementos and promotional items is considered an improper expenditure of funds because mementos are considered to be gifts. An exception to this rule is the purchase of modest promotional items, which must be shown to directly contribute to execution of your mission. Such purchases are considered a necessary expense if there is a direct link between the distribution of the item and the accomplishment of the mission requirement or objective. If the only link is an indirect contribution, such as customer

relations or employee morale, the expenditure is improper. Request a legal review of the purchase before purchasing mementos or promotional items.

(e) Per the ACC Executive Director's guidance, contracting centers periodically may be required to submit reports on GPC performance in three areas: surveillance, span of control, and delinquencies.

PART 15 – CONTRACTING BY NEGOTIATION

AFARS SUBPART 5115.3 – SOURCE SELECTION

5115.303 Responsibilities.

(a) In accordance with AFARS 5115.303(a)(i), the AAE or designee is the Source Selection Authority (SSA) for Major Defense Acquisition Programs (MDAP), Major Automated Information Systems (MAIS) acquisition programs, and designated Army Acquisition Programs. MDAPs and MAIS, are defined in DoD Instruction 5000.2, Operation of the Defense Acquisition System, Enclosure 3, Acquisition Category (ACAT) and Milestone Decision Authority (MDA), as ACAT I and ACAT IA programs.

(b) AAE Appointments. When requesting the AAE appoint an SSA, the contents of the request for appointment package shall consist of:

(1) Memorandum of Endorsement prepared in accordance with AFARS 5101.290(a).

(i) In accordance with AFARS 5115.303 (a)(v), the memorandum will be staffed through HQ AMC Legal Counsel at Office of Command Counsel, Headquarters, U. S. Army Materiel Command, ATTN: AMCCC, 9301 Chapek Road, Fort Belvoir, VA 22060 to the Office of the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) at the address contained in AFARS 5101.290 (b)(3). Additionally, provide a copy of the appointment package to the U.S. Army Contracting Command, ATTN: AMSCC-CO (Field Support Division), 9301 Chapek Road, Fort Belvoir, VA 22060.

(ii) This memorandum shall include the qualifications of the nominee, the reason for the proposed nominee and an assurance that there is no real or perceived conflict or bias relative to the proposed nominee serving as the SSA.

(2) A memorandum prepared for signature of the AAE appointing the SSA. See AFARS Appendix AA, Army Source Selection Manual, for a sample source selection appointment letter.

(3) A biography of the SSA nominee that includes the individual's experience, education, business and technical expertise.

(4) Documentation providing evidence that the SSA nominee received the required Ethics/Standards of Conduct briefing from the Major Subordinate Commands (MSC) Legal Counsel. The documentation must contain the date the briefing was provided to the nominee.

(5) All documents contained in the package shall be marked "Source Selection Information" in accordance with FAR 3.104-4(c). The identity of the SSA nominee shall be considered procurement sensitive. As such, copies of the SSA nomination package shall not be provided to other than the addressees in paragraph (b)(1)(i) above. Additionally, SSA nomination packages must be in a sealed envelope marked "personal" and sent via U.S. Mail (See AFARS 5115.303 (a)(v)). Electronic submissions are not authorized.

(c) DASA(P) Appointments. The DASA(P) shall appoint the SSA for service acquisitions with a total planned value of \$500M or more and service acquisitions identified by the ASA(ALT) as special interest. SSA appointment packages for DASA(P) appointments may be sent directly to DASA(P) at the address contained in AFARS 5101.290 (b)(3).

(d) Except as described in paragraphs (a), (b), and (c) above, HCAs or PARCs are delegated the authority to appoint SSAs for the following:

(1) ACAT II and III programs defined in DoD Instruction 5000.2, Operation of the Defense Acquisition System. HCAs cannot redelegate the authority to appoint the SSA for a ACAT II program.

(2) Acquisitions not managed in accordance with DoD Directive 5000.1, The Defense Acquisition System, for which formal source selection procedures are used.

See AFARS 5115.303 for more details concerning SSA appointments.

FAR PART 17 – SPECIAL CONTRACTING METHODS

DFARS SUBPART 217.74 – UNDEFINITIZED CONTRACT ACTIONS.

217.7403 Policy.

Follow the “U.S. Army Management Plan for Undefinitized Contract Actions (UCA)” issued by the OASA(ALT). The latest revision is dated 5 October 2009. A copy the Army Management Plan is found at the following link:

[https://acc.portal.amc.army.mil/Contract_Operations/Contract_Policy/Shared%20Documents/ACC%20PROCEDURES%20\(SOP\)%20DESKGUIDE/Desk%20Book%20Linked%20Documents/Army_Mgt_Plan_UCA_20091005.pdf](https://acc.portal.amc.army.mil/Contract_Operations/Contract_Policy/Shared%20Documents/ACC%20PROCEDURES%20(SOP)%20DESKGUIDE/Desk%20Book%20Linked%20Documents/Army_Mgt_Plan_UCA_20091005.pdf)

PART 19 – SMALL BUSINESS PROGRAMS

SUBPART 19.2 – POLICIES

19.2-200 ACC guidance concerning the Small Business Innovation Research (SBIR) Program

See Desk Book PART 35 – RESEARCH AND DEVELOPMENT CONTRACTING for guidance concerning the SBIR Program.

DFARS SUBPART 219.2 – POLICIES

219.201 Review of DD Form 2579 Small Business Coordination Record

(a) DFARS 219.201(d)(10)(A) requires contracting activity small business specialists to review and make recommendations for all acquisitions greater than \$10,000, except those under \$100,000 that are totally set aside for small business concerns in accordance with FAR 19.502-2. This includes all task orders, delivery orders, and orders placed against Federal Supply Schedule contracts. Follow the procedures at DFARS Procedures, Guidance and Information (PGI) 219.201(d)(10) regarding such reviews.

(b) DFARS 219.201(d)(10)(B) requires the review to be made before issuance of the solicitation or contract modification and documenting the review on the DD Form 2579, Small Business Coordination Record.

(c) When completing the DD Form 2579, Small Business Coordination Record, the contracting activity will include the following:

(1) An analysis of the market research supporting the proposed acquisition strategy shall be attached to the DD Form 2579. This analysis shall be in sufficient detail to demonstrate how the market research supports the acquisition strategy. Market research is required for all acquisitions in accordance with FAR 7.102(a). The results of market research are used to determine, among other things, whether the criteria in FAR Part 19 are met for setting aside the acquisition for small business or, for a task or delivery order, whether there are a sufficient number of qualified small business concerns available to justify limiting competition under the terms of the contract. See DFARS 210.001(a)(ii)(B). The decision of which acquisition strategy will be pursued (e.g., full and open, task order using existing multiple award IDIQ contract) cannot be determined until the results of the market research ascertain the capabilities of small business concerns.

(2) A written rationale when an acquisition is not set aside for small business. See FAR 19.501(e).

FAR SUBPART 19.3 – DETERMINATION OF SMALL BUSINESS STATUS FOR SMALL BUSINESS PROGRAMS

19.302 Protesting a small business representation or rerepresentation.

(a) A protest against small business representation is commonly referred to as a “small business size challenge”.

(b) All small business representation protests shall be forwarded to the Small Business Administration (SBA) nearest to the apparent successful offeror.

(c) To maintain visibility and appropriate follow-up, the contracting officer shall also notify the local Small Business Specialist (SBS) when a small business protest is sent to SBA. The SBS shall maintain a log which contains: log number, date protest received, protester, date and format protest sent to SBA, firm being protested, brief description of the allegations, actions taken, and final resolution.

(d) To minimize the potential for sustainable protests, contracting officers should verify an offeror’s self-certifications of small business status to the maximum extent practicable, especially when the offeror derives a benefit from the small business status. To aid in verifying status, the SBA maintains readily accessible lists of certified small disadvantaged businesses and HUB Zone businesses.

SUBPART 19.5 – SET-ASIDES FOR SMALL BUSINESS

19.505 Rejecting Small Business Administration recommendations.

(a) When the SBA Procurement Center Representative (PCR) issues a SBA Form 70 “SBA Recommendation” for a particular course of action, the contracting officer can either concur or nonconcur with the recommendation. Upon notification to the SBA PCR of nonconurrence, the SBA PCR can issue a written appeal to the HCA. Within ACC, this particular HCA authority has been delegated to the PARC via Command Policy Letter (CPL 09-18-AMSCC-CO) – Appointment of Principal Assistant Responsible for Contracting (PARC) and Delegation of Responsibilities dated 5 August 2009. The contracting officer shall suspend action on the acquisition until the PARC has rendered a decision.

(b) When the PARC agrees that the contracting officer’s rejection of the SBA PCR’s recommendation was appropriate, the PARC shall provide notification to the SBA PCR and ACC Office of Small Business Programs (OSBP), Associate Director. Upon notification, the SBA PCR may forward the issue to the SBA Administrator for appeal to the Secretary of the Army. The SBA PCR may also request that the contracting officer suspend the action on the acquisition.

(c) Upon the contracting officer notification from SBA of the SBA appeal to the Secretary of the Army, the PARC shall provide notification of the appeal to the ACC OSBP, Associate Director. When the SBA Administrator issues an appeal to the Secretary of the Army, the

contracting officer shall continue to suspend action on the acquisition until the SBA appeal has been settled.

(d) When a contracting officer makes a determination not to honor a request to suspend action on a procurement, the contracting officer shall immediately notify their local OSBP, PARC, HCA, ACC OSBP, Associate Director and the SBA Representative. The ACC OSBP will notify the DA OSBP, as appropriate. The contracting officer shall also provide a copy of the statement of facts justifying the determination to the ACC OSBP, Associate Director.

SUBPART 19.7 – THE SMALL BUSINESS SUBCONTRACTING PROGRAM

19.705 Responsibilities of the contracting officer under the subcontracting assistance program.

19.705-2 Determining the need for a subcontracting plan.

(a) By statute (15 U.S.C. 637(d)), a Small Business Subcontracting Plan is required from large businesses for proposed awards over \$550,000 (\$1M for construction) with subcontracting possibilities. See FAR 19.702(a).

(b) The contracting officer's determination that subcontracting possibilities do not exist must be coordinated with the Office of Small Business Programs and the SBA procurement center representative (PCR), and be approved at a level above the contracting officer IAW FAR 19.705-2(c).

(c) All Department of Defense (DOD) contractors and subcontractors with subcontracting plans must report semi-annually on their small business subcontracting accomplishments. The report must be submitted for the six months ending 31 March, and the twelve months ending 30 September. Reports are due 30 days after the close of each reporting period. Reports are submitted on Standard Form 294s and 295s. Contractors should input subcontracting accomplishments into the Electronic Subcontracting Reporting System (eSRS).

(d) Ensure that small business subcontracting plan compliance is included in all future Procurement Management Reviews (PMRs) or any other internal oversight reviews. Review results should document whether or not contracting officers are taking action to rectify prime contractor's failure to comply with subcontracting plans.

(e) Contracting officers shall request in the solicitation that large business offerors submit a subcontracting plan with their proposal. Failure to submit an acceptable subcontracting plan shall make the offeror/bidder ineligible for the award of a contract.

19.705-4 Reviewing the subcontracting plan.

(a) As required in AFARS 5119.705-4(d), the contracting officer shall review proposed subcontracting plans, except those for commercial items or plans approved under the DoD Comprehensive Subcontracting Plan Pilot Program, in accordance with the guide at AFARS Appendix DD, obtaining information and advice, as appropriate, from the contract administration

office (see FAR 19.706 and DFARS 219.706). The contracting officer shall review the plan for compliance with FAR 52.219-9, DFARS 219.705-4 and 252.219-7003, and AFARS 5119.7.

(b) The contracting officer shall submit proposed subcontracting plans for review to the Small Business Specialist and SBA PCR (see FAR 19.705-5(a)(3)).

(c) The contracting officer shall evaluate the subcontracting plan (or may request that the small business advisor evaluate the plan).

(1) If negative comments are received, the contracting officer must document the file with either a statement that the comments have been reconciled, or that the contracting officer considers the plan acceptable, notwithstanding the comments.

(2) If a plan scores lower than AFARS Appendix DD requires, the contracting officer must document the rationale for that determination in the contract file, with a copy to the Small Business Specialist (AFARS 5119.705-4(d)(iii)).

(d) For all contracts exceeding \$500,000 and solicited with full and open competition, a subcontracting plan that includes small disadvantaged business subcontracting goal of less than five percent (5%) must be approved one level above the contracting officer (DFARS 219.705-4(d)). A copy of the approval shall be forwarded to the local Office of Small Business.

(e) The approved plan must be incorporated into and made a part of the contract (FAR 19.705-5(a)(5)) and included as an attachment in Section J.

PART 25 – FOREIGN ACQUISITION

DFARS SUBPART 225.8 – OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

225.802-71 End use certificates

(a) ASA(ALT) approves all End Use Certificates (EUCs). ACC personnel receiving a request from a contractor or foreign government for execution of an EUC shall, in accordance with DFARS 225.802-71, refer to DoD Directive 2040.3, End Use Certificates, for guidance. Link at: <http://www.dtic.mil/whs/directives/corres/pdf/204003p.pdf>

(b) DoD Directive 2040.3 defines an EUC as a written agreement in connection with the transfer of military equipment or technical data to the United States that restricts the use or transfer of that item by the United States.

(c) No contract that requires an EUC shall be entered into for items being procured from off-shore manufacturers without obtaining an EUC authorized by the Army Acquisition Executive (AAE). In accordance with DA Pamphlet 70-3, Army Acquisition Procedures, the AAE has responsibility for authorizing and executing all categories of EUCs.

(d) EUCs are divided into three categories (Category I, II and III). The definitions and detailed descriptions applicable to each category are delineated in DoD Directive 2040.3.

(e) The contents of an EUC request package shall consist of an endorsement memorandum prepared in accordance with AFARS 5101.290(a) to DASA(P) at the address contained in AFARS 5101.290(b)(3) which must address the following:

(1) Solicitation/Contract Number, task or delivery order and award date applicable to the EUC.

(i) List the items and quantities for which the EUC is being requested.

(ii) Total estimated dollar value of contract.

(iii) Identify the country and contractor (subcontractor, if applicable) requesting the EUC. Also include the contractor's address.

(iv) A brief description of the purpose or use of the items.

(v) Identification of the EUC category.

(vi) In the case of a request for an EUC after contract award, include rationale as to why the requirement for an EUC was not known during negotiations.

(vii) Specific justification required for the waiver as delineated in DoD Directive 2040.3, paragraph 6.1.3 for a Category III EUC. Recommended format for an endorsement memo is at Part 25, Annex A – Recommended Format for an EUC Endorsement Memo.

(viii) Limitations to be imposed by the exporting country.

(2) A copy of the contractor's request for an EUC which may include the foreign government's limitation/restrictive language. The foreign government's limitation/restrictive language must be in English.

(f) EUCs to be approved by the AAE shall be sent to the DASA(P) mailbox psstaff@conus.army.mil with a copy furnished to the HQ ACC mailbox MSC-ACQCTR@conus.army.mil

(g) Upon execution of an EUC, the DASA(P) action officer will return the original signed EUC to the requesting organization. The original executed EUC must be filed in the contract file and a copy sent to the contractor and requirements office.

SUBPART 225.70 – AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

225.7000 Waivers for the Berry Amendment and buying specialty metals.

(a) In accordance with AFARS 5125.7002-2(b)(1)(i), all determinations to waive the Berry Amendment require prior approval by the Secretary of the Army (SecArmy). Requests to buy specialty metals also require SecArmy approval. The HCA must endorse all requests for a waiver of the Berry Amendment and requests to buy specialty metals (i.e., Domestic Non-availability Determinations (DNAD)). As the HCA for the Office of the Program Manager – Saudi Arabian National Guard (OPM SANG) Contracting Center, the Military Surface Deployment and Distribution Command (SDDC) Contracting Center, and the National Capital Region Contracting Center (NCRCC), the Executive Director, ACC will endorse requests for waivers of the Berry Amendment and requests to buy specialty metals. The format for requesting a waiver to the Berry Amendment is at AFARS 5153.9003 and may be tailored for requests to buy specialty metals. A tailored version of the DNAD at Part 25, Annex B – DNAD for [Specify] Specialty Metals, may be used for the determination and findings for waiving the Berry Amendment.

(b) When preparing the DNAD, address requirements in AFARS 5125.7002-2(b)(1)(ii). Also, include a discussion of the market research conducted that establishes that a domestic source is not available. The documentation should be sufficient to assure the SecArmy that reasonable efforts have been made to find a viable source. A sources sought synopsis published in FedBizOpps is one reliable method to ascertain the availability of a source. Other means of gathering information about potential sources include conferences, contact with industry organizations, and contact with U.S. trade associations.

(c) A sample format for a determination of domestic non-availability for specialty metals is at Part 25, Annex B.

PART 25, ANNEX A
RECOMMENDED FORMAT FOR AN EUC ENDORSEMENT MEMO

(Use ACC Site Specific Letterhead)

(Insert Office Symbol)

MEMORANDUM FOR Office of the Deputy Assistant Secretary of the Army (Procurement)
ATTN: SAAL-PP, Presidential Tower Bldg. Suite 10143, 2511 Jefferson Davis Highway,
Arlington, VA 22202-3911

SUBJECT: Request for Approval of an End User Certificate (EUC), *(insert solicitation or contract or task/delivery order number)*

1. The purpose of this memorandum is to obtain the approval of the Army Acquisition Executive (AAE) for a Declaration by End User. This requirement is based on a request dated *(insert date)* from *(insert contractor name and address to include country)*. The type of Declaration by End User requested is Category *(insert appropriate category number)* for the purchase of *(insert item description)*. The request from *(insert contractor name)* with proposed certificate text is enclosed.
2. Provide the purpose and supporting rationale as to why the EUC is required.
3. The EUC is required for the shipment of the items as follows:
 - a. Solicitation or Contract Number (Delivery Order No., if applicable):
 - b. Target Award Date or Award Date:
 - c. Total Dollar Value:
 - d. Identify items and quantity:
4. Provide supporting rationale to justify why the EUC was requested post-award, if applicable.
5. The Procuring Contracting Officer's Determination and Findings relative to the EUC is enclosed.

Note: If the EUC is a Category III the following paragraphs must be addressed and included in this memorandum:

6. In accordance with DoD Directive 2040.3 dated 14 November 1991, a waiver approved by the Under Secretary of Defense is required when requesting a Category III EUC. In support of this requirement, the following additional information is provided:
 - a. Address why it is in the best interest of the U.S. Government to procure the item(s).

b. Address the limitations to be imposed by the exporting government and a justification for acceptance of those limitations by the U.S. Government.

c. Provide a statement to address that no satisfactory alternatives exist, either foreign or domestic.

7. It is recommended that the Army Acquisition Executive approve the EUC for the acquisition of (insert item description).

8. The POC for this request is (insert name, title, office symbol, DSN, and e-mail address of the Contracting Officer).

Encls

HCA (or PARC) Signature Block

Contractor's Request
Contracting Officer's D&F

PART 25, ANNEX B

DNAD FOR [SPECIFY] SPECIALTY METALS

In accordance with 10 U.S.C. §2533b and the Defense Federal Acquisition Regulation Supplement (DFARS 225.7002-2(b)), I hereby make the following findings and determination concerning acquisition of the [*identify the program affected or, if the material/part concerned affects multiple programs, identify the specific material/part*].

Findings

1. 10 U.S.C. §2533b requires that, unless meeting an exception in the law, funds that were appropriated or are otherwise available to the Department of Defense may not be used for procurement of _____ [*identify applicable class of end item, component thereof, or directly purchased specialty metal*]. Classes of end items are: aircraft, missile and space systems, ships, tank and automotive items, weapon systems, or ammunition which contains specialty metals unless the metals were melted or produced in the United States. This requirement does not apply to the extent that the Secretary of the Army determines that compliant specialty metal of satisfactory quality and sufficient quantity, and in the correct form, cannot be procured as and when needed.
2. The [*name of contracting activity*] has an acquisition for [*identify specific item at prime and subcontract level*]. It was determined that this acquisition is subject to the 10 U.S.C. §2533b requirements to buy strategic materials critical to national security from U.S. sources and did not fall under any of the statutory exceptions. [*Identify prime contractor*] has asserted that [*identify non-compliant end item, component, part, or material*] cannot be obtained containing specialty metals melted or produced in the U.S. and has requested approval of a determination that is not available from domestic sources.
3. Describe the mission of the organization:
4. Describe the circumstances that preclude the buying of a domestic end item. (10 U.S.C. §2533b requires specialty metals to be domestic.) [*Provide a detailed description to explain what portion of the specific item being procured at the prime contract level is not compliant. Specify whether the DNAD is for a program as a whole, a specific contract, certain deliveries, and/or specified end items, components, or parts.*]
5. Describe market research performed, to include firms contacted. [*Summarize the market research and analysis supporting the assertion of non-availability and/or include the contractor provided data as an attachment.*] The [*specify the activity (e.g., AFRL)*] conducted an in-depth study of these items and determined that they are [*provide brief summary of the analysis -- this should address the aspects of satisfactory quality, sufficient quantity, correct form, and time requirements.*]
6. Describe the impact if the waiver is not approved.

7. Describe any alternatives/substitutes considered and why these alternatives/substitutes are not satisfactory (see DFARS 225.7002-2(b) (2) (i). The requiring activity's written certification should accompany the request for a DNAD.

8. Provide any other data that will support the request, such as contractors' responses to a competitive solicitation.

Determination

Based on the findings above, I have determined that [*specify item/material*] is not exempt from coverage by 10 U.S.C. §2533b, I hereby determine that satisfactory quality and sufficient quantity of compliant specialty metals in the form of [*specify specific items*] cannot be procured as and when needed. This determination is made in accordance with DFARS 252.225.7014 and /or Alternate I (Deviation 2008-O0002) and 10 U.S.C. §2533b. This determination will be effective until [*specify time period or program completion.*]

NAME

DATE

SECRETARY OF THE ARMY

PART 32 – CONTRACT FINANCING

SUBPART 32.9 – PROMPT PAYMENT

32.904 Determining payment due dates.

(a) Small businesses are not automatically entitled to early payment of invoices based on the authority of FAR 32.903 (a)(5) concerning the use of accelerated payment method specified at 5 Code of Federal Regulations 1315.5(b). The Department of Defense (i.e., the agency head) has not issued policy allowing the blanket early payment of any category of small businesses. Army contracting officers may not place provisions in contracts with small businesses which authorize payment in advance of the payment dates set forth in FAR Subpart 32.9-Prompt Payment, unless early payment is made under an authority other than 5 CFR 1315.5 (b). For guidance on establishing payment dates see FAR 32.904 and DFARS 232.904, Determining payment due dates.

(b) Note that in accordance with DFARS 232.906(a)(ii), the restrictions of FAR 32.906 prohibiting early payment do not apply to invoice payments made to small disadvantaged business concerns.

PART 33 – PROTESTS, DISPUTES, AND APPEALS

SUBPART 33.1 – PROTESTS

33.103 Protests to the agency.

(a) Follow AMC-Level Protest Procedures at website:
<http://www.amc.army.mil/pa/COMMANDCOUNSEL.asp>

(b) PARCs at OPM SANG, SDDC, and NCRCC should notify the Executive Director, ACC of protests received at their contracting centers. Forward information on protests to the ACC Mailbox: MSC-ACQCTR@conus.army.mil.

PART 35 – RESEARCH AND DEVELOPMENT CONTRACTING

SUBPART 35.200 – SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM

(a) The ACC is required to meet DoD obligation and disbursement rate goals concerning the SBIR Program. The ACC Desk Book, Part 35, Annex A – Small Business Innovation Research (SBIR) Program, was developed to define roles, responsibilities, and processes for SBIR awards.

(b) Part 35, Annex A applies to contracts placed in support of the Army SBIR Program. ACC contracting centers and subordinate contracting commands will utilize the guidelines in Annex A when placing SBIR awards. Annex A also describes the roles and duties of Army SBIR Participating Organizations (see Part 35, Annex A, paragraph C. Definitions, definition number 2). To ensure the efficiency of the contracting process, Army SBIR Participating Organizations are encouraged to follow the procedures in Annex A to the maximum extent possible.

(c) Part 35, Annex A is found at the following link:
[https://acc.portal.amc.army.mil/Contract_Operations/Contract_Policy/Shared%20Documents/ACC%20PROCEDURES%20\(SOP\)%20DESKGUIDE/Desk%20Book%20Linked%20Documents/Desk_Book_Part_35_Annex_A_SBIR.doc](https://acc.portal.amc.army.mil/Contract_Operations/Contract_Policy/Shared%20Documents/ACC%20PROCEDURES%20(SOP)%20DESKGUIDE/Desk%20Book%20Linked%20Documents/Desk_Book_Part_35_Annex_A_SBIR.doc)

PART 37 – SERVICE CONTRACTING

AFARS SUBPART 5137.5 – MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

5137.590-6 ACC Army Service Strategy Panel (ASSP) procedures.

(a) General. The ASSP is a review and approval process for service acquisitions implementing the management structure for procurement of services in the DA.

(1) The process herein implements Section 2330 of Title 10 USC as amended by Section 812 of the NDAA for Fiscal Year 2006 (Pub. Law Number 109-163) Management of Procurement of Services, which mandated that the Secretary of Defense establish and implement a management structure for the procurement of services for the DoD.

(2) The Army implemented the mandates of Public Law 109-163 in AFARS 5137.590, Army Management and Oversight of the Acquisition of Services, thereby strengthening DoD's management of service acquisitions at the strategic and tactical levels.

(3) AFARS 5137.590-4, Review Thresholds, identifies the dollar thresholds for review and approval of acquisition strategy documents. The review and approval dollar threshold is the total planned value of the services portion of the acquisition. The Under Secretary of Defense for Acquisition, Technology and Logistics USD(AT&L) or Assistant Secretary of Defense (Networks and Information Integration) will review and approve a proposed acquisition program containing both hardware and services if the non IT portion exceeds \$1B or the total estimated value of the IT services exceeds \$500M. The DASA(P) will review and approve service acquisitions with a total planned dollar value of \$500M or more and service acquisitions identified by the ASA (ALT) as special interest. After DASA(P) review, non-IT services acquisitions with a total estimated value of \$1B will be referred to the USD(AT&L) for review.

(4) The Executive Director, ACC will review and concur with all services acquisition strategies of \$500M or more and those of special interest prior to submission to DASA(P) or higher. The Executive Director, ACC will approve service acquisition strategies of \$250M but less than \$500M as the HCA for OPM SANG Contracting Center, SDDC Contracting Center, and NCRCC. PEOs, direct reporting PMs and HCAs (with authority over contracting centers other than OPM-SANG, SDDC, and NCRCC) will approve acquisition strategies for \$250M but less than \$500M.

(b) Getting started. The internal review process should start early to allow adequate time to ensure extensive market research is performed and allow for numerous strategy meetings, timely coordination and reviews. It is strongly encouraged that at least 3-6 months should be factored into the acquisition timeline.

(c) Supporting documentation. Documentation that supports the acquisition strategy may vary with the approach anticipated, but at a minimum should contain the following, when applicable:

(1) Market Research Report

(2) Justification & Approvals (for actions competed on other than full and open basis)

- (3) Source Selection Plan
- (4) Award Fee Plan
- (5) Determinations & Findings (D&F) (for bundled or consolidated requirements)
- (6) D&F for single award (IDIQ type contract)
- (7) Cost Benefit Analysis (for bundled requirements)
- (8) Section L (Instructions, Conditions and Notices to Offerors) and Section M (Evaluation Factors for Award) for acquisition strategies requiring DoD approval
- (9) If a hybrid contract, a percentage break-out of orders issued for each contract type
- (10) ASSP Briefing slides

Guidance on preparing the acquisition strategy for the ASSP is in AFARS 5137.590-7. Part 37, Annex A – Acquisition Strategy Content Guide, adds further explanation and considerations based on lessons learned from previous ASSPs.

(d) ASSP review process for acquisition strategies requiring approval by DASA(P) and/or OSD (\$500M or more) when the ACC Executive Director is not the HCA.

(1) ACC Contracting Centers (CCs) will send the final working draft of Acquisition Strategy (AS) and supporting documentation for the ASSP review concurrently to the HQ ACC Mailbox MSC-ACQCTR@conus.army.mil and the DASA(P) Mailbox psstaff@conus.army.mil. Final working draft means the CC has staffed the AS with their legal and small business offices. HQ ACC and the DASA(P) procurement analysts will work together to review and staff the strategies and provide the contracting officer with consolidated comments and guidance.

(2) HQ ACC procurement analysts (PAs) will review and staff the AS with HQ ACC Command Counsel and Small Business offices and provide comments to the CC. The PA and the CC will maintain contact as the strategy and supporting documents are processed and staffed through the CC's chain of command, PARC and HCA.

(3) When the AS is signed by the PARC and HCA at the CC, the CC will send the action to the ACC Executive Director (use the MSC-ACQCTR@conus.army.mil e-mail address) for information and to the DASA(P) psstaff@conus.army.mil for approval.

(4) ODASA(P) schedules and conducts the ASSP.

(5) When the Executive Director, ACC is the HCA (e.g., for SDDC, OPM SANG, and NCR), see the Desk Book Supplement, "Procedures for Staffing/Approval of Actions by the Executive Director, ACC as the HCA" for review and staffing procedures on:

(i) Acquisition strategies needing approval by DASA(P) and/or OSD (\$500M or more) when the ACC Executive Director is the HCA.

(ii) Acquisition strategies needing approval by the Executive Director, ACC as the HCA (\$250M but less than \$500M).

(e) Conducting the ASSP. The CC's Contacting Officer will normally brief the ASSP. A senior representative from the requiring office will attend the ASSP to support the contracting officer. The ASSP is chaired by the DASA(P). Members are identified in AFARS 5137.590-6(d).

(f) Data collection and reporting. In accordance with AFARS 5137.590-8, certain data for each acquisition of services above the simplified acquisition threshold will be reported on an annual basis to the ODASA(P). The annual report should be consolidated at the HCA level and submitted to HQ ACC by 15 October of each year to produce a consolidated ACC report to DASA(P) by 30 October of each year.

(g) Execution reviews. In accordance with AFARS 5137.590-9, approval of the strategy requires submittal of a report on the progress made toward meeting the program's metrics. The annual report should be submitted to HQ ACC by 15 October of each year to produce a consolidated report to DASA(P) by 30 October of each year.

(h) Small Business Program requirements for the ASSP. In accordance with office of the Secretary of the Army, Office of Small Business Programs (OSBP) Policy Letter 03-09 (12 March 2009), the procurement team shall provide a pre-brief to the Director, Army OSBP on service acquisitions valued over \$500M. The pre-brief must be conducted prior to scheduling the formal ASSP briefing to the DASA(P). The policy clearly identifies the scope and content for the pre-brief. In addition, the pre-brief will address, but not be limited to the following information:

(1) Type of requirement, single or multiple tasks, estimated dollar value of each, review of size standards and involvement of the Small Business Specialist and Procurement Center Representative (PCR) in selecting the North American Industry Classification System (NAICS) code.

(2) Type and combination of market research techniques used, (e.g., request for information, sources sought, industry days, one-on-one vendor sessions) and analysis of the impact of vendor responses on the strategy to increase small business set-asides or other set-asides.

(3) Number of incumbent contracts awarded to large and small businesses and socioeconomic classification of each small business to include the adequacy of bundling or consolidation benefit analysis reports, and, incumbent contractor subcontracting achievements.

(4) Structure of Performance Work Statement (PWS) requirements, tasks severability, regional or global performance, proposed contract type, and experience level of qualified small businesses.

(5) Copy of approved DD Form 2579, Small Business Coordination Record, realism of minimum subcontracting goals and teaming opportunities.

(6) Role of the Small Business Specialist on the Source Selection Evaluation Board and evaluation criteria for Small Business Participation Plan and Subcontracting Plan's (i.e., individual, master, and comprehensive).

(7) Performance metrics to assess contractor achievement of individual subcontracting goals and submission of quality subcontracting reports on a quarterly or semi-annual basis.

(8) Small Business Participation Plan evaluation criteria and risk mitigation approach in the event of poor performance.

(9) The statutory requirement at FAR 19.702(b)(3) states that no small business subcontracting plan is required when work is performed entirely outside of the U.S. and its outlying areas. The Army Office of Small Business Programs interprets this to mean that no direct or indirect work will be performed within the U.S. If any direct or indirect work will be performed in the U.S., then a subcontracting plan will be required. The CC must document in the acquisition strategy presented at the formal ASSP to the DASA(P) that no work under the resultant contract will be performed in the U.S.

PART 37, ANNEX A

ACQUISITION STRATEGY CONTENT GUIDE

(In accordance with AFARS 5137.590 and lessons learned from prior ASSP Reviews)

Title of Requirement: _____ Date: _____

1. REQUIREMENT:

- a. Are the requirement(s) clear and well defined with identified outcomes to be satisfied (performance, schedule and cost)?
- b. Does the strategy demonstrate implementation of performance-based methods and outcomes?
 - i. If not, AAE approval required (for requirements greater than \$78.5M IAW DFARS 237.170-2(a)(2)).
- c. If this is not a new acquisition, were measures of success met previously? If yes, identify how the requirement was previously satisfied.
- d. Discuss the procurement history (dollar value, contract term, contract type, business size, number of offerors, and source selection method). If a multiple award IDIQ contract was used, include a break-out of task and delivery orders by contractor, contract type and dollar value.
- e. List challenges that drive the mission or acquisition approach (e.g., BRAC, mobilization, cost growth, changes from a previous contract if a follow-on)
- f. If significant potential organizational conflicts of interest (OCI) are involved, has appropriate approval been obtained?
- g. Is there any congressional interest? Summarize.
- h. Are there opportunities for strategic sourcing?
- i. Has approval to initiate a contract for services been obtained from an appropriate GO/SES? Are accompanying worksheets completed? Will the requirement to report contracting manpower to the Contractor Manpower Reporting Application (CMRA) database be included in the contract?
- j. If this involves performance in Iraq or Afghanistan, have theater business clearances been obtained (IAW PARC Policy Alerts 08-04, 08-05)?

2. RISKS:

- a. Current and potential costs (e.g., competitive environment, contract type, funding short falls)
- b. Schedule risks (e.g., transition period, surge requirements)
- c. Performance risks (e.g., technical complexity, availability of qualified personnel)
- d. Level of risk and risk mitigation plan (See Risk Management Guide for DoD Acquisition found at <http://www.acq.osd.mil/se/publications.htm>)
- e. Link risk mitigation efforts to past performance evaluation, contract management, contract type, special provisions, metrics and award or incentive fees.

3. COMPETITION:

- a. Will full and open competition be provided? If not, provide an explanation why and the respective citation that allows less than full and open competition. Address plans for competition for any follow-on requirements. Include a discussion of the J&A status. If a multiple award IDIQ is proposed does it address the intent to compete Task Orders pursuant to Fair Opportunity provisions.
- b. Is the nature and extent of market research included (e.g., results from industry day, draft request for proposal (RFP), sources sought, request for information (RFI), internet search, lesson learned from similar efforts, standard industry practices)?

4. SOCIO ECONOMIC CONSIDERATIONS:

- a. How will the acquisition support small business goals?
- b. Has the AbilityOne program been considered to satisfy any of the requirements?
- c. How will this acquisition support any other socio-economic programs?
- d. Have subcontracting potential and goals and use of eSRS been included?
- e. Is this a consolidated requirement? If yes, DASA(P) approval is required if the action is \$500M or more IAW AFARS 5107.170-3(a).
- f. If this is a bundled requirement, include the analysis. Is it Competition in Contracting Act of 1984 (CICA) bundling?* Does it follow the DoD Benefits Analysis Guide book?

*Under the CICA bundling concept, the General Accounting Office reviews bundling challenges to determine whether the Agency has a reasonable basis for its decision to combine requirements. When requirements are consolidated, the Government can proceed to procure the consolidated requirements without violating CICA if it has adequate justification. GAO has found that "administrative convenience" by itself does not justify bundling requirements. Rather, economic savings as a result of the consolidation should be demonstrated as well.

g. Has the SBA contracting center representative concurred on the DD Form 2579, Small Business Coordination Record?

h. Has the contracting officer briefed the Director, Army Small Business Office on the proposed strategy? Recommend this be done prior to the HQDA Level ASSP.

5. BUSINESS ARRANGEMENTS:

a. How will the acquisition be funded?

i. Estimate dollar value and the basis for estimate, including the method of calculating escalation

ii. Address whether funding is available and the type of funds that will be used.

b. What is the proposed business arrangement (e.g., single or multiple awards; IDIQ type arrangements) and duration?

i. If an IDIQ type arrangement, have multiple awards been considered? If not has approval been obtained? DASA (P) is approval authority for awards of \$500M or more except if the determination cites exception (iv) (public interest) in which case it must be approved by the ASA(ALT).

ii. If multiple awards are planned, does the strategy reflect a “minimum” number with a reservation to award more or none (rather than an arbitrary ceiling)?

iii. If an IDIQ, is the guaranteed minimum specified?

iv. Is the use of a non-DoD contract proposed? If yes, has approval been obtained IAW AFARS 5117.7802? If yes, does the interagency agreement for an assisted acquisition contain all the specific elements outlined in June 6, 2008 OFPP Memorandum, “Improving Management and Use of Interagency Acquisitions”?

c. What is the length of the contract? (DoD’s preference is 3 years and no more than 5 years). Is it appropriate? A strong business case must be presented for contracts exceeding 5 years. If the strategy proposes a contract term greater than 5 years, are opportunities for refreshment of competition (decision points, on and off ramps) included?

d. Address contract type with a rationale for selection.

i. Time-and-Materials (T&M) contract types are discouraged. If the strategy calls for a T&M contract:

(a) Is the appropriate rationale included to justify its use? Can only be used when it is not possible to estimate accurately extent or duration work or to anticipate costs at time of contract award.

(b) Do circumstances warrant its use? Explain. If T&M was used on the previous effort, include a breakout of the dollar value/task orders that were awarded using T&M provisions.

(c) Are there plans for monitoring to ensure consistent and adequate oversight? Has a goal or target to reduce use of T&M been considered?

(d) Has the appropriate Determination and Findings (D&F) been executed, including a ceiling price and HCA approval if it exceeds 3 years? (FAR 16.601(d)(i))

(e) If a commercial services/IDIQ contract and only T&M and labor hours allowed, has the appropriate D&F been executed? (FAR 12.207 (c)(2))

ii. If the strategy calls for an award/incentive fee contract:

(a) Are arrangements set up to reward effective outcomes?

(b) Are objective criteria used to the maximum extent?

(c) If criteria are subjective, has the HCA or PARC (if delegated) approved the use?

(d) Are award fee ratings, definitions and rollover IAW DPAP 4/24/07 memo?

(e) Is a history of award fee attainment on the prior procurements included? Is the plan to measure award fee for this acquisition discussed?

e. If a cost-type contract is planned, is the earned value management system appropriate? If so, are the appropriate solicitation and contract provisions pursuant to DFARS 234.203 included?

f. Is this a commercial service as defined in FAR 2.101(b)?

i. If over \$1 M, has the contracting officer documented in writing the determination that the commercial item definition has been met for this acquisition? Does the determination adequately document the market research and rationale supporting the conclusion?

ii. Identify the award procedures from FAR 12.207 that will be used for the selection (full and open, other than full and open competition, fair opportunity)

iii. Per FAR 12.207(b)(2) does the D&F for this commercial service establish that the requirement has been structured to maximize the use of firm fixed price contracts in the future, for the same or similar procurements?

g. Address any waivers/deviation that will be required

h. Source selection process:

i. Does the strategy include the basis for award and major factors/sub-factors as well as a discussion of the price/cost evaluation process? Are the factors/subfactors stated in relative

order of importance? Are the factors/subfactors described in sufficient detail to communicate the measures of merit that will be used to determine how the proposal will be evaluated and ratings determined?

ii. Is past performance a major evaluation factor? If so, will Contractor Performance Assessment Reporting System (CPARS) be used? If past performance is not evaluated, is rationale provided? (See FAR15.304 (c (3)(iii))

iii. Are adjectival ratings consistent with the Army Source Selection Manual?

iv. Discuss appointment of the source selection authority (SSA)

v. Formal appointment? (If over \$500M, DASA (P) appoints for service acquisitions IAW AFARS 5115.303(a)(iv)).

vi. If SSA is not within the acquisition chain has HCA/PARC approval been obtained? (AFARS 5115.303(S-90)(b))

vii. Name of the SSA should not be disclosed in the strategy.

viii. Is contractor support being utilized? If so, has the appropriate determination and approval been obtained? See FAR 37.204, AFARS 5137.204 and PARC/Policy Alert 08-46.

ix. If the acquisition is greater than \$1B, Sections L & M and the source selection plan should be submitted with the strategy for subsequent review by OSD.

i. Are appropriate program oversight mechanisms included? Does the strategy discuss the existing or planned contract management approach following award; appointment of COR; quality assurance surveillance or written oversight plans and responsibilities, involvement of DCMA in surveillance and tracking procedures or processes used to monitor contract performance?

i. What is the method of insuring oversight? DPAP memorandum dated 14 July 2008 requires that all contracts for services (including T&M and LH), must include Quality Assurance Surveillance Plans to facilitate assessment of contractor performance.

ii. If the acquisition is over \$2,500, will a COR be appointed in accordance with Army policy memorandum of Feb 07?

iii. Discuss COR training requirements.

j. Is a milestone timeline to award included?

i. If the estimated value of the acquisition exceeds \$1B include time for OSD Review of the Acquisition Strategy and Pre-Award Peer Reviews of the solicitation, Final Proposal Revisions and Prior to Award Decision.

6. MULTI-YEAR CONTRACTS:

- a. If this is a multi-year service contract, does it address plans for budgeting for termination liability.
- b. OMB Circular A-11 requires multi-year service contracts to be scored as operating leases. Does the strategy address budget scorekeeping that will result from the use of the proposed contract?

7. LEASES: Is a lease-purchase strategy required by OMB Circular A-94?

8. METRICS:

- a. Are cost, schedule, performance, small business and customer satisfaction metrics linked to the acquisition outcomes?
- b. Are performance measures meaningful? (i.e., tied to key performance parameters in the Performance Requirements Summary (PRS) and award fee plan (as appropriate)).

PART 37, ANNEX B
FORMAT FOR ASSP APPROVAL MEMO

(ACC Letterhead)

AMSCC-CO

MEMORANDUM FOR PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING, U. S. ARMY CONTRACTING COMMAND, _____

SUBJECT: Acquisition Strategy for _____

1. I hereby approve the subject acquisition strategy (enclosed) subject to the following conditions: Pursuant to the U.S. Army Federal Acquisition Regulation Supplement (AFARS) 5137.590-9, you are required to submit an annual report on the progress made towards meeting the program's metrics. The annual report should be submitted no later than 15 October of the reporting year. In addition to the acquisition specific metrics, the annual report will also address the following FY 2008 National Defense Authorization Act (NDAA), Section 808 requirements.

- a. Evaluation of the contract performance in terms of cost, schedule and requirements;
- b. Use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders (if applicable) and management and oversight mechanisms;
- c. Contractor's use of management and oversight functions;
- d. Staffing of the contract management oversight functions; and
- e. Extent of any contractor pass-throughs, and excess pass-through charges (as defined in Section 852 of the NDAA for FY 2007).

2. In the event there are significant cost, schedule or performance problems, notify the undersigned immediately in writing of the specific problem and the risk mitigation plan to remedy the situation.

3. Submit annual reports and any other notices and revisions to the ACC Mailbox MSC-ACQCTR@conus.army.mil.

4. Point of contact for this action is _____.

JEFFREY P. PARSONS
Head of Contracting Activity