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1. Contracting Officer's Warrant System

1.1 Purpose and Objectives. To carry out its mission, the Bureau provides funds for Federal grants and assistance and agreement activities; and, it acquires supplies and services by acquisition (purchase orders and contracts). The primary objectives of those responsible for these activities are to:

A. Obtain the best possible components commensurate with Bureau mission and accomplishment at a fair and reasonable price for fair market value.

B. Acquire the supplies and services and transfer grants assistance and cooperative agreement funds as expeditiously as possible, consistent with sound management and business practices, and available.

C. Ensure that all phases of the relevant procedures are carried out in accordance with applicable laws, regulations, policies and procedures.

D. This Chapter provides the policy for the selection, designation, development, and restriction, suspension or termination of designation of a "Contracting Officer," as specified in the provisions of 48 CFR 1.603, 48 CFR 1401.603, and Interior Acquisition Policy Release (DIAPR) 89-43.

E. The Contracting Officer's Warrant System (COWS) is a formal procedure for certifying all Bureau Contracting Officers. No exceptions are provided. A Bureau employee is designated as a Contracting Officer through the issuance and receipt of a Certificate (or Warrant), based on the employee meeting applicable training, experience, and work performance requirements, as well as specific organizational need. These requirements and criteria are outlined in Illustrations 1 and 2 of 19 BIAM Supplement 1.

1.2 Policy.

A. The policy of the Bureau of Indian Affairs is to provide the delegation of acquisition and assistance agreement authority to Contracting Officers commensurately with assigned responsibilities and to prescribe requirements for those employees who are designated Contracting Officers, regardless of their personnel classification series.

B. Consistent with the provision of Section 1126 (b), Pub. L. 95-561 (92 Stat. 2319; 25 U.S.C. 2006), Area/Central Office non-Education acquisition personnel and their Supervisory Contract Specialists shall continue to provide timely and appropriate coordination of acquisition and assistance activities to facilitate the Office of Indian Education Programs

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(OIEP) needs and their acquisition/grants assistance requirements. Bureau personnel who wish to be considered for selection, certification and designation as Contracting Officers under 19 BIAM Chapter 1 need to conform to all of the administrative and personnel requirements as stated in 19 BIAM Supplement 1 except as exempted under 19 BIAM Supplement 1, Section 1.4D.

C. The acquisition function and activity are viewed as a professional discipline by the Federal government in its personnel management operations. Accordingly, standards have been established to classify acquisition positions (series 1106, 1105 and 1102), and to recruit, select, and retain those persons who exercise their knowledge, skills and abilities appropriately as acquisition specialists. Further, the Warrant System imposes additional requirements for knowledge, training, performance and experience in order to designate and certify personnel as Contracting Officers, who have the authority to sign and award legal instruments in the name of the Bureau.

D. Bureau employees who serve as (Warranted) Contracting Officers may receive their administrative supervision from non-acquisition officials. However, professional supervision and technical direction in acquisition-related policies and procedures must be limited, in practice, solely to those individuals who have the professional education, training, and experience associated with the specific personnel classification series in acquisition management. Thus, regardless of duty station or location, a (Warranted) Contracting Officer receives professional direction and assistance from the senior 1102 specialist in the Contracting Office serving the jurisdiction. It is this latter specialist who will exercise the major control on the procuring authority and its employees. For Central Office activities, the Chief, Division of Contracting and Grants Administration will exercise this authority.

Correspondingly, the Warrant System requirements and procedures reflected in 19 BIAM Supplement 1 apply to all Bureau personnel who aspire to be Warranted and serve as Contracting Officers. **As such, Warranted personnel are to receive periodic and scheduled performance counseling and monitoring of their acquisition-related skills and abilities by the applicable senior acquisition manager in the Area/Central Office jurisdiction.**

1.3 Authority.

A. The authority to appoint Contracting Officers rests with the Assistant Secretary - Indian Affairs. The policies, procedures, and instructions of this Supplement are in accordance with authority delegated to the Assistant Secretary - Indian Affairs in 209 DM 8.1. Compliance with the provisions of this Supplement is mandatory and the requirements contained in this Supplement are to be observed by each Bureau contracting activity/location and applies to all personnel.

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B. The authority to appoint Contracting Officers may be re-delegated below the level of the Deputy Commissioner of Indian Affairs only with approval of the Assistant Secretary - Policy, Management and Budget in order to emphasize the critical importance and responsibility of this professional function in the acquisition process. This re-delegation has been made to the Chief, Division of Contracting and Grants Administration for Level I Contracting Officer (Exceptions).

C. This Chapter and 19 BIAM Supplement 1 affect full-time acquisition specialists, as well as other full-time Bureau employees who exercise Contracting Officer authority on an exception (incidental or emergency) basis. Delegation of Contracting Officer authority below the Deputy Commissioner of Indian Affairs level shall be to full-time employees who satisfy the certification requirements stated herein, not to those persons who encumber certain positions or who have a particular organizational rank in the Bureau.

D. Contracting Officer authority is signature authority. Any Bureau employee below the level of the Deputy Commissioner of Indian Affairs wishing to exercise it shall qualify under the provisions of DIAR 1401.6, DIAPR 89-43; and this Supplement.

E. The possession of a Warrant by a Bureau employee indicates that the employee is authorized to sign and award contracts and other related legal instruments up to the dollar ceiling mandated. This designation does not alter the routine supervisor - employee relationship. That is, the Warranted employee continues to receive administrative supervision from his/her supervisor. All funds and related approvals for training, for example, are to be cleared by the employee's immediate supervisor. **However, professional supervision of acquisition duties and responsibilities rests only with peers who are duly qualified and certified in the acquisition discipline.**

F. Bureau employees who are Warranted are to affix their Warrant System number wherever their name/signature appears on an official Bureau legal acquisition instrument covered under this Supplement.

G. Authority to award and administer Federal grants assistance and other agreements (cooperative, inter-agency) to organizations is vested solely in an employee who is Warranted at the Level III or IV under this Warrant System, depending on the dollar amount of the action and the ceiling authority of the Warrant holder. The exception to this are Bureau education grants awarded to organizations under the authority of Pub. L. 100-297 (Part A and B, 25 U.S.C. 2008a and 25 U.S.C. 2501-2508 as amended, respectively), as are the local school procurement of no more than \$25,000 awarded under Section 5109 of Pub. L. 100-297. These exceptions are governed by the general provisions in section 1.4D of 19 BIAM Supplement 1.

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1.4 Definitions. The following terms in this manual are defined, as follows, unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed:

A. "Acquisition" means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when Bureau needs are established and includes the description of requirements to satisfy Bureau needs, solicitation and selection of sources, award of contracts, contract financing, and management functions directly related to the process of fulfilling Bureau needs by contract.

B. "Chief of the Contracting Office (CCO)" means the senior 1102 classification series Contract Specialist at a Bureau Area or Central Office.

C. "Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments and obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. "Contracts" do not include grants assistance and cooperative agreements.

D. "Contracting Activity/Location" means a Bureau activity, site, facility, or location headed by a Supervisory Contract Specialist (the senior 1102 Contract Specialist) that provides acquisition, grants assistance and cooperative agreement services in support of the Bureau mission.

E. "Contract Administration Office" means an office that performs: (1) assigned post-award functions related to the administration of contracts; and (2) assigned pre-award functions.

F. "Contracting" means purchasing, renting, leasing, or otherwise obtaining supplies or services from non-federal sources. Contracting includes description (but not determination) of supplies and services required, selection and solicitation or sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

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G. "Contract Office" means an office that awards or executes a contract for supplies or services and performs post-award functions not assigned to a contract administration office. The term is often synonymous with "Contracting Activity/Location" in paragraph D. above.

H. "Contracting Officer" means a person with the authority to enter into, administer and/or terminate contracts and make related Determinations and Findings and Justifications and Approval. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

I. "Contracting Officer Representative (COR)" refers to a Bureau employee who is administering contracts. Reference in this manual to Contracting Officer Representative does not: (1) require that a duty be performed at a particular office or activity; or (2) restrict in any way a Contracting Officer in the performance of any duty properly assigned.

J. "Cooperative Agreement" (or "Agreement") means a legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever:

(1) The primary purpose of the relationship is the transfer (rather than the acquisition by purchase, lease or barter) of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, for the direct benefit or use of the Federal Government; and

(2) Substantial involvement is anticipated between the Bureau (acting for the Federal Government) and the State or local government or other recipient during performance of the contemplated activity.

K. "Grant" (or "Assistance") means a legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever:

(1) The primary purpose of the relationship is the transfer (rather than the acquisition by purchase, lease, or barter) of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute for the direct benefit or use of the Federal Government; and

(2) No substantial involvement is anticipated between the Bureau (acting for the Federal Government) and the State or local government or other recipient during

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performance of the contemplated activity.

L. "Grants Officer" means a Level III or IV Warrant holder authorized to enter into, administer and/or terminate assistance agreements at the applicable dollar ceiling. This term excludes specific BIA Education Program Administrators designated as "Grants Management Officers" who award Part A and Part B school grants under Public Law 100-297.

M. "Head of the Contract Activity" (HCA) means the Assistant Secretary - Indian Affairs and includes the Central Office line official who has the delegated overall responsibility for managing the contracting activity. The term is synonymous with "head of the agency."

N. "Offer" means a response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called "bids" or "sealed bids;" responses to requests for proposals (negotiation) are offers called "proposals;" responses to requests for quotations (negotiation) are not offers and are called "quotes."

O. "Supplies" means all property except land or interest in land. It includes (but is not limited to) public works, buildings, and facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts and accessories; aircraft and aircraft parts, accessories, and equipment, machine tools; and the alteration or installation of any of the foregoing.

P. "Warrant System" means the Bureau procedures established for the selection, designation, certification, development, and restriction or termination of designation of Contracting Officers by the Assistant Secretary - Indian Affairs.

1.5 Signatory Authority Ceilings and Special Approvals.

A. The Contracting Officer's signatory authority for dollar ceilings is, as follows:

- (1) Level I - \$ 10,000 (per action, excluding grants).
- (2) Level II - \$ 25,000 (per action, excluding grants).
- (3) Level III - \$200,000 (per action, including grants).
- (4) Level IV - unlimited authority (including grants).

B. When regulations or Bureau directives require approval of an action above the level of the local Contracting Officer, this requirement means referral to the applicable Bureau Central Office or Department of the Interior acquisition management authorities. In

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all instances, the Contracting Officer's written Determination, Justification or request is to be transmitted to: Central Office, Division of Contracting and Grants Administration. The following are examples of actions requiring approval above the level of the Contracting Officer (See 19 BIAM Supplement 1, Illustration 4 for specific signature authority):

- (1) Justifications for Other than Full and Open Competition requirements:
- (2) Contracting for Advisory and Assistance Services (CAAS):
- (3) Personal services.
- (4) ADP equipment and services.
- (5) Ratification of unauthorized commitments.
- (6) Advisory Committees/Groups.
- (7) Lease of real property.
- (8) Newspaper advertising.
- (9) Purchase or lease of vehicles.
- (10) Purchase/lease/upgrade of copying equipment.
- (11) Subcontracting Plan Determination.
- (12) Inter-Agency agreements.

C. Failure to observe the Warrant signatory ceilings or to comply with the special approval/disapproval authority levels constitutes an unauthorized commitment, subject to the provisions of 19 BIAM Chapter 28.

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18. Contracting for Advisory and Assistance Services

18.1 General.

It is the Bureau's general policy to rely on qualified Indian, small businesses, other non-Indian minority, female, and non-minority enterprises for acquiring supplies and services to the maximum extent consistent with the effective and efficient accomplishment of essential programs. However, the Bureau performs the basic internal functions of management with its own staff resources in order to maintain essential control over the conduct of Bureau programs.

A. These basic internal functions are those necessary for the planning, conduct, and evaluation of assigned missions and related programs. These include:

- (1) Development of policy and procedures.
- (2) Assignment and evaluation of organizational responsibilities.
- (3) Establishment of performance goals, priorities, and schedules.
- (4) Program planning, budgeting, and fund allocation.
- (5) Bureau and acquisition/assistance agreement strategy planning.
- (6) Contracting.
- (7) Performance of liaison with other Departmental activities, government agencies, or public interest concerns.
- (8) Program review and analysis.
- (9) Internal inspection.
- (10) Personal security matters.
- (11) Personnel performances evaluation and appraisal.

B. Listed below are examples of efforts (not all-inclusive) considered to be basic functions of management essential to program control.

- (1) Preparation, review, or evaluation of:

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- (a) Acquisition planning (see 19 BIAM 4).
 - (b) Acquisition requests (see 19 BIAM 3).
 - (c) Decision position papers.
 - (d) Acquisition/Assistance Agreement Review Committee (ARC) presentations.
 - (e) Requests for authority to negotiate.
 - (f) Determinations and findings.
 - (g) Solicitations.
 - (h) Contracts (including claims settlement documents, defective pricing actions, and termination actions).
 - (i) Special acquisition reports.
 - (j) Proposed management/technical approaches.
 - (k) Contractor/grantee performance reports.
- (2) Development, review, or evaluation of "should-cost" data, and independent government estimates.
- (3) Review or evaluation of technical or cost proposals submitted by commercial concerns.
- (4) Participation in the source selection process, including providing representatives to, or furnishing of advice to, an Acquisition/Assistance Agreement Review Committee (ARC), or to a source selection advisory council.
- (5) Preparation or maintenance of budgets or other financial information relating to internal Bureau operations or to contractors/grantees.
- (6) Participation in the acquisition/assistance process, such as preparing, monitoring, and expediting Acquisition Requests (AR's), or coordinating and expediting government-furnished equipment or material.

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(7) Provision of personnel to represent the Bureau in meetings with other non-Bureau activities or with contractors/grantees.

(8) Provision of personnel to perform liaison functions between government activities or with contractors/grantees.

C. Bureau senior executives at central, area, and agency office locations -- and especially contracting officers -- shall analyze carefully all pending and proposed acquisition requests for advisory and assistance services. Only those acquisitions (purchase orders or contracts) that are considered critical to the Bureau mission will be forwarded by the line official for higher level review and consideration.

18.2 Application. While it is Bureau policy to perform the essential functions cited above with its own resources, commercial sources may be used with specific approval when critical, appropriate, and necessary to carry out the Bureau's mission. Also, advisory and assistance services contracts will be considered and awarded only when it is determined by the Department under 365 DM 1 that the Bureau's basic management and control responsibilities are not compromised or weakened. This policy will not be used as authority for contracting for personnel by methods not authorized by law, or as a means of circumventing Federal personnel or salary limitations or competitive employment procedures.

A. 19 BIAM Supplement 18, Illustration 1 presents a conceptual format and flow chart for use as a model in structuring management control arrangements which will ensure a provision of management support to Bureau programs, while simultaneously ensuring appropriate requirements, determination, and control of the Bureau in-house/contractor balance.

B. Advisory and assistance services will not be used in performing work of a policy, decision-making or managerial nature which is the direct responsibility of Bureau officials.

(1) Advisory and assistance services will normally be obtained only on an intermittent or temporary basis. Repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

(2) Former Government employees, per se, will not be given preference in advisory and assistance services arrangements.

(3) Advisory and assistance services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

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(4) Advisory and assistance services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

(5) Advisory and assistance services will not be used to obtain professional or technical advice which is readily available within the Bureau or other Interior Bureau or Federal agency.

(6) Grant and cooperative agreements will not be used as legal instruments for advisory and assistance service arrangements.

C. The contracting officer shall be responsible for determining whether and Acquisition Request (AR), regardless of dollar value, is for advisory and assistance services. The reviewing contracting officer shall also ensure that the applicable provisions of 19 BIAM Supplement 18 have been adhered to and that required documentation is complete and included in the AR and official contract file. (See 365 DM 1.3D).

D. The policies and procedures outlined in 365 DM 1, Contracting for Advisory and Assistance Services, are incorporated by reference and shall govern Bureau personnel.