

Subpart 401.3—Agency Acquisition Regulations

Parent topic: PART 401—AGRICULTURE ACQUISITION REGULATION SYSTEM

401.301 Policy.

(a) The SPE, subject to the authorities in AGAR 401.103 and FAR 1.301, may issue and publish Departmental regulations, that together with the FAR constitute Department-wide policies, procedures, solicitation provisions, and contract clauses governing the contracting process or otherwise controlling the relationship between USDA (including any of its contracting activities) and contractors or prospective contractors.

(b) Each designated Mission Area senior contracting official is authorized to issue or authorize the issuance of, at any organizational level, internal guidance which does not have a significant effect beyond the internal operating procedures of the activity, or a significant cost or administrative impact on offerors or contractors. Internal guidance issued by contracting activities will not be published in the Federal Register. Mission Area contracting leadership shall ensure that the guidance, procedures, or instructions issued—

(1) Are consistent with the policies and procedures contained in this regulation and the USDA Contracting Desk Book;

(2) Follow the format, arrangement, and numbering system of this regulation to the extent practicable;

(3) Contain no material which duplicates, paraphrases, or is inconsistent with this regulation; and

(4) Are numbered and identified by use of alphabetical suffices to the chapter number as follows:

(i) Marketing and Regulatory Programs (MRP).

(ii) Research, Education and Economics (REE).

(iii) Food, Nutrition and Consumer Services (FNCS).

(iv) Natural Resources and Environment (NRE).

(v) Farm Production and Conservation (FPAC).

(vi) Food Safety and Inspection Services (FSIS).

(vii) [Reserved]

(viii) Departmental Administration (DA) or Departmental Management (DM).

(ix) [Reserved]

(x) Rural Development (RD).

401.304 Agency control and compliance procedures.

- (a) The AGAR System is under the direct oversight and control of the SPE, who is responsible for review and issuance of all Department-wide acquisition regulations published in the Federal Register to assure compliance with FAR part 1.
- (b) The SPE is also responsible for review and issuance of unpublished, Department-wide internal guidance under the AGAR System.
- (c) The Mission Area senior contracting official is responsible for establishment and implementation of formal procedures for oversight and control of unpublished internal guidance issued within the contracting activity to implement FAR or AGAR requirements. These procedures shall be subject to the review and approval by the SPE.
- (d) The SPE is responsible for evaluating coverage under the AGAR system to determine applicability to other agencies and for recommending coverage to the FAR Secretariat for inclusion in the FAR.
- (e) Recommendations for revision of existing FAR coverage or new FAR coverage shall be submitted by the Mission Area senior contracting official to the SPE for further action.

401.370 Exclusions.

Subject to the policies of FAR 1.3, certain USDA acquisition policies and procedures may be excluded from the AGAR under appropriately justified circumstances, such as:

- (a) Subject matter which is effective for a period less than 12 months.
- (b) Subject matter which is instituted on an experimental basis for a reasonable period.
- (c) Acquisition procedures instituted on an interim basis to comply with the requirements of statute, regulation, Executive Order, Office of Management and Budget (OMB) Circular, or Office of Federal Procurement Policy (OFPP) Policy Letter.

401.371 USDA Contracting Desk Book.

- (a) The SPE may issue and update the USDA Contracting Desk Book, consistent with the policies of the FAR and the AGAR, for the following purposes:
 - (1) To communicate Department-wide policy and/or procedural guidance to contracting activities;
 - (2) To delegate to procurement officials the authority to make determinations or to take action to implement the policies of the FAR or the AGAR; and,
 - (3) To establish internal policy and procedures on an interim basis, prior to incorporation in the AGAR or in a Departmental Directive.

(b) The USDA Contracting Desk Book is only available in electronic format on the USDA procurement website.

401.372 Departmental directives.

Subject to the policies of FAR 1.3, USDA from time to time may issue internal directives to establish procedures, standards, guidance, methods of performing duties, functions, or operations. Such directives include Departmental Regulations (DRs), Departmental Notices, and Secretary's Memoranda.