

## FEDERAL CONTRACTING HIGHLIGHTS - GUIDE FOR HHS EXECUTIVES AND STAFF (November 2016<sup>1</sup>)

<b>Definition</b>	A <b>contract</b> is a mutually binding legal relationship obligating the <i>seller</i> to furnish the supplies or services (including construction) and the <i>buyer</i> to pay for them. A federal contract is the appropriate instrument to acquire products or services for the direct use or benefit of the government. [Federal contracts should not be confused with federal grants and cooperative agreements, which are assistance mechanisms, intended to support or stimulate research or other activities of interest to the government through the provision of financial resources.]
<b>Authority</b>	<u>HHS contracting bases its authority on:</u> (listed in descending order of precedence) <ol style="list-style-type: none"> <li>1. <b>Federal contract laws</b></li> <li>2. <b>Federal Acquisition Regulations</b> (FAR) Chapter 1 of Title 48, CFR <a href="https://acquisition.gov/far">https://acquisition.gov/far</a></li> <li>3. <b>HHS Acquisition Regulations</b> (HHSAR) 48 CFR Chapter 3 <a href="http://www.hhs.gov/policies/hhsar/">http://www.hhs.gov/policies/hhsar/</a></li> <li>4. <b>HHS Acquisition Policies</b> <a href="http://www.hhs.gov/grants/contracts/contract-policies-regulations">http://www.hhs.gov/grants/contracts/contract-policies-regulations</a> and <b>Local standard operating procedures</b> <a href="http://www.psc.gov/ams/ams-index.html">http://www.psc.gov/ams/ams-index.html</a></li> </ol>
<b>Contract types</b>	There are two major types: <b>fixed-price</b> and <b>cost reimbursement</b> . The former is the preferred type, as it places maximum risk on the contractor while the latter places maximum risk on the government. There are a variety of other types, including incentive and award fee types, time and materials, labor hour, etc. <a href="https://acquisition.gov/far/current/html/FARTOCP16.html">https://acquisition.gov/far/current/html/FARTOCP16.html</a>
<b>Contract categories</b>	<u>Based on a dollar threshold PSC's contracts are either:</u> <ul style="list-style-type: none"> <li>• <b>Streamlined acquisitions within the Simplified Acquisition Threshold (SAT)</b> – price-based awards, not exceeding \$150,000 OR</li> <li>• <b>Negotiated contracts</b> – more complex awards, generally over \$150,000</li> </ul>
<b>Deadlines</b>	<b>To ensure timely awards by Fiscal Year end, the Acquisition Management Service has established the following Fiscal Year 2016 deadlines for receipt of properly completed and approved acquisition requirements package:</b> <ul style="list-style-type: none"> <li>• <b>March 17, 2017</b> – All Competitive Contracts with a total value estimated at \$5,000,000 or more (inclusive of options)*</li> <li>• <b>April 7, 2017</b> – All Competitive Contracts with a total value estimated under \$5,000,000 (inclusive of options)*</li> <li>• <b>June 2, 2017</b> – All Competitive Task/Delivery Orders*</li> <li>• <b>June 16, 2017</b> – All Non-Competitive Contracts, Non-competitive Task/Delivery Orders and Modifications</li> <li>• <b>July 7, 2017</b> – Simplified Acquisitions estimated between \$25,001 and \$150,000 (including all options)</li> <li>• <b>July 14, 2017</b> – Contract Options that need to be exercised by September 30 (assumes a 60-day notice period)</li> <li>• <b>August 11, 2017</b> – Simplified Acquisitions estimated between \$3,501 and \$25,000 (inclusive of options)</li> <li>• <b>September 1, 2017</b> – Micro-purchases of \$3,500 or less which cannot be bought using a purchase card</li> </ul> <p><i>*Assumes a maximum response time of 30 days for proposals.</i></p>
<b>Competition Requirements &amp; Exceptions</b>	By law, federal acquisitions should be <b>full and open competitions</b> but there are exceptions for sole or limited sources in certain circumstances, including socio-economic programs (currently six small business types are tracked). Rationale for acquisitions strategy must be documented.
<b>Roles</b>	A. <b>Program:</b> <ol style="list-style-type: none"> <li>1. Pre-Award – <b>Requiring Activity Contact</b> - provides requisition, technical input to source selection; and,</li> <li>2. Post-Award role - <b>Contracting Officer's Representative</b> (FAC-COR certified) - technical monitoring and receiving/accepting.</li> </ol> B. <b>Acquisition:</b> <ol style="list-style-type: none"> <li>1. <b>Contracting Officer</b> (FAC-C certified and warranted) - government's business representative with the exclusive authority to negotiate on behalf of and obligate the government;</li> <li>2. <b>Head of Contracting Activity</b> – one per OPDIV acquisition organization; <b>PSC is the assigned contracting office for ACF, ACL and HHS Staff Divisions.</b></li> <li>3. <b>Associate Deputy Assistant Secretary for Acquisition/Senior Procurement Executive</b> – HHS (ASFR) acquisition policy  <b>HHS Chief &amp; Deputy Chief Acquisition Officers</b> – HHS (ASFR) Acquisition Leadership</li> </ol>
<b>Market Research</b>	Program Officials are encouraged to meet with vendors for marketing sessions and inquire about products or services but cannot comment on pending acquisitions or commit to a purchase. <a href="http://www.fai.gov/drupal/content/myth-busting">http://www.fai.gov/drupal/content/myth-busting</a>

<sup>1</sup> This guide was prepared by the Program Support Center Acquisition Management Service. For questions about the information in this guide, please contact your acquisition officer, [pscacquisitions@psc.hhs.gov](mailto:pscacquisitions@psc.hhs.gov), or call 301-443-6557.

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<b>Background</b>	The Program Support Center (PSC) Acquisition Management Service (referred to hereafter as PSC) publishes its acquisition lead times in order to inform its customers about the amount of time the customers should anticipate it will take PSC to make an award <b><i>from the date a complete requirement is received</i></b> . The nine other acquisition offices in HHS may have different time lines. PSC goals are to make awards, within the lead times, for 85% of the customers' <i>streamlined acquisitions w/in the SAT</i> and 95% of their <i>negotiated contracts</i> . Lead times are 20 to 45 business days for streamlined acquisitions w/in the SAT to a range of 90 to 160 business days for negotiated contracts.
<b>Complete Requirement Package Required from Customer</b>	A complete requirement contains all the required documents to permit the initiation of the acquisition process and, at a minimum, must include funding document, a clear and concise <b>description, specification, statement of work, or performance work statement</b> , a reasonable and realistic <b>independent government cost estimate</b> , and either a compelling <b>justification</b> for limited or no competition or solid <b>criteria</b> for distinguishing competing bids or proposals. Requirements greater than \$150,000 require the attachment of a complete acquisition plan. Requirements must be created, reviewed, and approved, including certification of funds availability, in sufficient time to permit the acquisition process to take place. Timeliness and a successful purchase depend upon complete and correct requirement packages.

### STREAMLINED ACQUISITIONS W/IN THE SAT

Acquisition of supplies and services, the aggregate amount of which does not exceed \$150,000	<u>Acquisition Phase<sup>2</sup></u>	<u>Less Complex</u> \$3,500 or Less <i>September 1, 2017</i> Over \$3,500 - \$25,000 <i>August 11, 2017</i>	<u>More Complex</u> Over \$25,000 - \$150,000 <i>July 7, 2017</i>
	1. Acquisition Planning (Complete Acquisition Package Received – Starts Clock)		0
2. Solicitation Preparation		7	19
3. Receipt & Evaluation of Offers/Quotes		12	23
4. Award Decision (Award Issued – Stops Clock)		1	3
<b>Total</b>		<b>20</b>	<b>45</b>

### NEGOTIATED CONTRACTS

Acquisitions greater than \$150,000	<u>Acquisition Phase<sup>2</sup></u>	<u>Non-Competitive</u> <i>June 16, 2017</i>	<u>Less Complex TO/DO</u> <i>June 2, 2017</i> Over \$150,000 - \$5M <i>April 7, 2017</i>	<u>More Complex</u> \$5M or More <i>March 17, 2017</i>
	1. Acquisition Planning (Complete Acquisition Package Received – Starts Clock)		0	0
2. Solicitation Preparation		41	30	62
3. Receipt & Evaluation of Offers/Quotes		44	85	93
4. Award Decision (Award Issued – Stops Clock)		5	5	5
<b>Total</b>		<b>90</b>	<b>120</b>	<b>160</b>

<sup>2</sup> Reference <http://www.psc.gov/additional-resources/acquisitions/acquisition-management-services/acquisition-documents-and-guidance> for a complete overview of the acquisition phases/process flow with descriptions.