

SUBCHAPTER A—GENERAL

PART 4401—FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ACQUISITION REGULATION SYSTEM

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AUTHORITY: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

SOURCE: 50 FR 31316, Aug. 1, 1985, unless otherwise noted.

4401.000 Scope of part.

This part sets forth policies and procedures concerning the Federal Emergency Management Agency Acquisition Regulation (FEMAAR) System.

Subpart 4401.1—Purpose, Authority, Issuance

4401.101 Purpose.

FEMAAR is a supplement to the Federal Acquisition Regulation (FAR) and is established for the codification and publication of uniform policies and procedures for acquisitions by FEMA.

4401.103 Applicability.

This regulation applies to all acquisitions within FEMA, but not to placement or administration of cooperative agreements or grants.

4401.104 Issuance.

4401.104-1 Publication and code arrangement.

(a) The FEMAAR is published in (1) the daily issue of the FEDERAL REGISTER and (2) cumulated form in the Code of Federal Regulations (CFR).

(b) The FEMAAR is issued as chapter 44 of title 48, CFR.

4401.104-3 Copies.

Copies of the FEMAAR in FEDERAL REGISTER and CFR form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Agency offices may request copies of the FEMAAR from the Policy and Evaluation Division, Office of Acquisition Management.

Subpart 4401.3—Agency Acquisition Regulations

4401.301 Policy.

Policies, procedures, and guidance of an internal nature may be issued

4401.303

through internal FEMA issuances such as manuals, standard operating procedures, directives or instructions.

4401.303 Codification and public participation.

If subject matter in FAR requires no implementation, the FEMAAR will not contain a corresponding part, subpart, section, or subsection number. FAR subject matter governs.

Subpart 4401.4—Deviations From the FAR

4401.403 Individual deviations.

The Director, Office of Acquisition Management, must authorize individual deviations in advance. Requests for authorization must:

- (a) Cite the specific parts of the FAR or FEMAAR from which it is desired to deviate;
- (b) Describe the deviation fully;
- (c) Indicate the circumstances which require the deviation;
- (d) Give reasons supporting the action requested; and
- (e) Give reasons why the action is in the best interest of the Government.

4401.404 Class deviations.

The Director, Office of Acquisition Management, must authorize class deviations in advance.

4401.405 Deviations pertaining to treaties and executive agreements.

The Director, Office of Acquisition Management, is the central control point for all deviations including those pertaining to treaties and executive agreements.

Subpart 4401.6—Contracting Authority and Responsibilities

4401.600-70 Scope of subpart.

This subpart deals with the placement of contracting authority and responsibility within the agency, the selection and designation of contracting officers, and the authority of contracting officers.

4401.601 General.

The Director, Office of Acquisition Management, is designated the head of

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contracting activities and FEMA's procurement executive. The Director, Office of Acquisition Management, shall establish policy throughout the agency; monitor the overall effectiveness and efficiency of the agency's contracting offices; establish controls to assure compliance with laws, regulations, and procedures; and delegate contracting officer authority. The Director, Office of Acquisition Management, shall exercise the authority delegated under 44 CFR 2.67 FEMA Organization, Functions and Delegations.

4401.603 Selection, appointment, and termination of appointment.

4401.603-2 Selection.

In the areas of experience, training, and education, the following shall be required unless contracting authority is limited to a simplified purchase procedures. Waiver of any of these criteria shall be in writing:

(a) An individual contracting officer or an individual appointed to a position having contracting officer authority shall have a minimum of two years experience performing contracting, procurement, or purchasing functions in a Government or commercial contracting office. Additionally, where a contracting officer will work in a specialized field, experience in the field shall be a criterion for the appointment.

(b) An individual contracting officer or an individual appointed to a position having contracting officer authority shall have the equivalent of a bachelor's degree from an accredited college or institution with major studies in business administration, law, accounting, or related fields. The appointing official may waive this requirement when a candidate is otherwise qualified by virtue of extensive contract-related experience and training, business acumen, judgment, character, reputation, and ethics.

(c) An individual contracting officer or an individual appointed to a position having contracting authority shall have successfully completed training courses in both Government basic procurement and Government contract administration, each of not less than 80 class hours. Incumbents not meeting