

SUBCHAPTER A—GENERAL

PART 401—AGRICULTURE ACQUISITION REGULATION SYSTEM

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AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

401.000 Scope of part.

This part presents basic policies and general information about the Depart-

ment of Agriculture's (USDA) Acquisition Regulation, subsequently referred to as the AGAR. The AGAR is an integral part of the Federal Acquisition Regulations System.

Subpart 401.1—Purpose, Authority, Issuance

401.101 Purpose.

(a) The AGAR provides for the codification and publication of uniform policies and procedures for acquisitions by contracting activities within USDA.

(b) The purpose of the AGAR is to implement the Federal Acquisition Regulation (FAR), where further implementation is needed, and to supplement the FAR when coverage is needed for subject matter not covered in the FAR. The AGAR is not by itself a complete document, as it must be used in conjunction with the FAR.

401.103 Authority.

The AGAR and amendments thereto are issued under 5 U.S.C. 301 and 40 U.S.C. 486(c). The Senior Procurement Executive (SPE) has the delegated authority to promulgate Departmental acquisition regulations.

401.104 Applicability.

The FAR and AGAR apply to all USDA acquisitions of supplies and services (including construction) which obligate appropriated funds, unless otherwise specified in this chapter or excepted by law.

401.105 Issuance.

401.105-1 Publication and code arrangement.

(a) The AGAR is codified in the Code of Federal Regulations (CFR) as Chapter 4 of Title 48, Federal Acquisition Regulations System, to implement and supplement Chapter 1 which constitutes the FAR. Parts 400 through 499 have been assigned to USDA by the Office of the Federal Register.

(b) The AGAR and its subsequent changes are published in:

401.105-2

(1) Daily issues of the FEDERAL REGISTER,

(2) Cumulative form in the CFR, and,

(3) Electronic form on the USDA Departmental Administration Procurement Homepage (see 401.170).

(c) Section 553(a)(2) of the Administrative Procedure Act, 5 U.S.C. 553, provides an exception from the standard public rulemaking procedures to the extent that the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the Administrative Procedure Act exception, and USDA agencies generally are required to provide notice and an opportunity for public comment on proposed rules (36 FR 13804, July 24, 1971). The AGAR has been promulgated and may be revised from time to time in accordance with the rulemaking procedures of the Administrative Procedure Act. The USDA also is required to publish for public comment procurement regulations in the FEDERAL REGISTER, pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 418b), and FAR 1.301.

[61 FR 53646, Oct. 15, 1996, as amended at 70 FR 44, Jan. 3, 2005]

401.105-2 Arrangement of regulations.

AGAR coverage parallels the FAR in format, arrangement, and numbering system. However, subdivisions below the section and subsection levels may not always correlate directly to FAR designated paragraphs and subparagraphs.

401.105-3 Copies.

Copies of the AGAR published in CFR form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Requests should reference Chapter 4 of Title 48 CFR.

401.106 OMB approval under the Paperwork Reduction Act.

The following OMB control numbers apply to USDA solicitations and specified information collections within the AGAR:

48 CFR Ch. 4 (10-1-06 Edition)

AGAR segment	OMB Control No.
411.170	0505-0014
415.2	0505-0013
436.575	0505-0011
437.110	0505-0015
437.270	0505-0016
452.211-1	0505-0014
452.215-71	0505-0013
452.236-75	0505-0011
452.237-74	0505-0015
452.237-76	0505-0016

[61 FR 53646, Oct. 15, 1996, as amended at 64 FR 52674, Sept. 30, 1999]

401.170 Electronic access to regulatory information.

The USDA Departmental Administration Procurement Homepage provides access to the AGAR, AGAR amendments (circulars), AGAR Advisories, and other USDA procurement policy and guidance in electronic form. The Internet address for the Procurement Homepage is URL <http://www.usda.gov/procurement/>.

[63 FR 26994, May 15, 1998, as amended at 70 FR 44, Jan. 3, 2005]

Subpart 401.2—Administration

401.201 Maintenance of the FAR.

401.201-1 The two councils.

(a) USDA's representative on the Civilian Agency Acquisition Council is designated by the SPE.

(b) The Procurement Policy Division will coordinate proposed FAR revisions within USDA.

[61 FR 53646, Oct. 15, 1996, as amended at 70 FR 44, Jan. 3, 2005]

Subpart 401.3—Agency Acquisition Regulations

401.301 Policy.

(a) The SPE, subject to the authorities in 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.