

Chapter 1

Authority, Responsibility, and Policy

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Chapter 1 Authority, Responsibility, and Policy

SECTION 1 AUTHORITY AND RESPONSIBILITY

1.1.1 Procurement Manual

1.1.1.a *Authority.* The *Procurement Manual* (PM) is authorized by Title 39, United States Code, and the delegation at 39 CFR 226.2(c)(1).

1.1.1.b *Applicability.* The PM applies to all purchasing activities. Procedural guidance necessary to implement the PM is contained in:

1. Handbook AS-707, *Supplies, Services and Equipment Purchasing Handbook*;
2. Handbook PO-513, *Mail Transportation Purchasing Handbook*;
3. Handbook RE-14, *Design and Construction Purchasing Handbook*;
4. Other publications and directives referenced or incorporated in the PM or these handbooks.

1.1.2 Responsibility for Procurement Policy

1.1.2.a *Vice President, Purchasing and Materials.* The vice president (VP) of Purchasing and Materials (P&M), is responsible for all purchasing policies and procedures. The VP has delegated that responsibility in some areas as follows:

1. Responsibility for policies and procedures unique to the acquisition, lease and disposal of real estate has been delegated to the vice president of Facilities (see 1.6.2.q for the definition of real estate and related services); and
2. Responsibilities for supplemental policies and procedural directives with respect to the requirement categories listed in Exhibit 8.1.2, *Supplemental Policy and Procedural Authority*, have been delegated to the positions described in that exhibit.

1.1.2.b *Procurement Policy Committee.* The Procurement Policy Committee (PPC) oversees the development of Postal Service purchasing policy. It reviews policy direction and evaluates proposed changes to the PM. The PPC provides its recommendations to the VP, P&M.

1.1.2.c *Membership.* The permanent members of the PPC are:

1. The manager of Policies, Planning and Diversity (the Chair).
2. The manager of Headquarters Purchasing.
3. The manager of Field Customer Support.

4. The manager of National Mail Transportation Purchasing.
 5. A representative of Field Transportation Contracting.
 6. The manager of Major Facilities Purchasing.
 7. The manager of Facilities Program Management.
 8. The senior counsel, Contract Protests and Policies.
 9. The manager of Supplier Diversity (Diversity Development).
- 1.1.2.d *Approval Authority.* Only the VP, P&M, may approve or disapprove the recommendations of the PPC.
- 1.1.2.e *Meetings.* The PPC meets at least annually. The Chair may call meetings at any time upon 30 days written notice to the other members. Meetings may be held with less than 30 days notice if approved by a majority of the PPC members.
- 1.1.2.f *Policies, Planning and Diversity.* The staff of Policies, Planning and Diversity, P&M, prepares PM cases and other matters for the PPC's consideration.

SECTION 2 PM PUBLICATION

1.2.1 Issuance

The PM is issued and maintained by the VP, P&M, and is incorporated by reference in 39 CFR 601. It is published as Postal Service Publication 41.

1.2.2 Availability

- 1.2.2.a The PM may be purchased from:

SUPERINTENDENT OF DOCUMENT
GOVERNMENT PRINTING OFFICE
WASHINGTON DC 20402-9317

- 1.2.2.b Within the Postal Service the PM may be obtained by submitting Form 7380, *MDC Supply Requisition*, to the servicing material distribution center.

- 1.2.2.c The PM may be examined during business hours at:

USPS LIBRARY
475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-1641

and at the following purchasing organizations:

PURCHASING AND MATERIAL SERVICE CENTER
7800 N STEMMONS FWY
DALLAS TX 75266-7190

PURCHASING AND MATERIAL SERVICE CENTER
615 CHESTNUT STREET
PHILADELPHIA PA 19197-0592

PURCHASING AND MATERIAL SERVICE CENTER
2 HUDSON PLACE
HOBOKEN NJ 07030-5515

PURCHASING AND MATERIAL SERVICE CENTER
2051 KILLEBREW DRIVE
MINNEAPOLIS MN 55425-1880

PURCHASING AND MATERIAL SERVICE CENTER
7029 ALBERT PICK ROAD
GREENSBORO NC 27495-1102

PURCHASING AND MATERIAL SERVICE CENTER
433 WEST VAN BUREN STREET
CHICAGO IL 60699-6260

PURCHASING AND MATERIAL SERVICE CENTER
225 NORTH HUMPHRIES BOULEVARD
MEMPHIS TN 38166-6260

PURCHASING AND MATERIAL SERVICE CENTER
8 GRIFFIN ROAD NORTH
WINDSOR CT 06095-1572

PURCHASING AND MATERIAL SERVICE CENTER
3300 SOUTH PARKER ROAD
DENVER CO 80014-3500

PURCHASING AND MATERIAL SERVICE CENTER
850 CHERRY AVE
SAN BRUNO CA 94099-6260

FACILITIES SERVICE OFFICE
255 HUMPHREYS BLVD
MEMPHIS TN 38166-0300

FACILITIES SERVICE OFFICE
615 CHESTNUT STREET
PHILADELPHIA PA 19197-0591

FACILITIES SERVICE OFFICE
4000 DEKALB TECHNOLOGY PKY
ATLANTA GA 30340-2799

FACILITIES SERVICE OFFICE
222 S. RIVERSIDE PLAZA
CHICAGO IL 60606-6150

FACILITIES SERVICE OFFICE
10500 LITTLE PATUXENT PKY
COLUMBIA MD 21045-0701

FACILITIES SERVICE OFFICE
7800 N STEMMONS FREEWAY
DALLAS TX 75266-7180

FACILITIES SERVICE OFFICE
8055 E TUFTS AVE PKY
DENVER CO 80237-2881

FACILITIES SERVICE OFFICE
7029 ALBERT PICK ROAD
GREENSBORO NC 27495-1103

FACILITIES SERVICE OFFICE
2 HUDSON PLACE
HOBOKEN NJ 07030-5502

FACILITIES SERVICE OFFICE
6800 W 64TH ST
OVERLAND PARK KS 66202-4171

FACILITIES SERVICE OFFICE
850 CHERRY AVE
SAN BRUNO CA 94099-0300

FACILITIES SERVICE OFFICE
6 GRIFFIN RD N
WINDSOR CT 06006-0300

DISTRIBUTION NETWORK OFFICE
5315 CABELLS RUN ROAD
PITTSBURGH PA 15205-7070

DISTRIBUTION NETWORK OFFICE
500 EAST FULLERTON AVENUE
CAROL STREAM IL 60199-5040

DISTRIBUTION NETWORK OFFICE
721 EMERSON ROAD
SAINT LOUIS MO 63141-6748

DISTRIBUTION NETWORK OFFICE
2800 SHIRLINGTON ROAD
ARLINGTON VA 22206-7071

DISTRIBUTION NETWORK OFFICE
421 8TH AVENUE
NEW YORK NY 10199-9792

DISTRIBUTION NETWORK OFFICE
BUCHANON OFFICE CENTER
GUAYNABO PR 00965-

DISTRIBUTION NETWORK OFFICE
6 GRIFFIN ROAD N
WINDSOR CT 06006-7070

DISTRIBUTION NETWORK OFFICE
1000 MARINA BLVD
BRISBANE CA 94005-1300

DISTRIBUTION NETWORK OFFICE
400 EMBASSY ROW NE
ATLANTA GA 30328-7071

DISTRIBUTION NETWORK OFFICE
7800 STEMMONS FWY
DALLAS TX 75247-4217

DISTRIBUTION NETWORK OFFICE
1745 STOUT STREET
DENVER CO 80299-6200

DISTRIBUTION NETWORK OFFICE
34301 9TH AVENUE S
FEDERAL WAY WA 98003-6797

1.2.2.d A copy of the PM is on file with:

DIRECTOR OFFICE OF THE FEDERAL REGISTER
NATIONAL ARCHIVES AND RECORDS SERVICES
GENERAL SERVICES ADMINISTRATION
WASHINGTON DC 20408-0001

1.2.3 Arrangement and Numbering

The PM is divided into numbered chapters, sections, and parts, with appendices identified alphabetically and divided into numbered sections and parts. Subdivisions below the part level are paragraphs (lettered alphabetically, lower case) and subparagraphs (Arabic numbers), with further indented subdivisions (in parentheses) in the following order: lower case alphabet, Arabic numbers, and lower case Roman numerals. The numbering system for a chapter is illustrated in Exhibit 1.2.3. For an appendix, substitute a capital letter for the chapter number.

LEVEL	EXAMPLE
chapter	4.
section	2.
part	3.
paragraph	a.
subparagraph	1
subdivision 1	(a)
subdivision 2	(1)
subdivision 3	(i)

Numbering System

Exhibit 1.2.3

1.2.4 References

References to the PM are by chapter or appendix, and part, followed by paragraph and further subdivision as needed. For example:

- 1.2.4.a Section 3 of chapter 7 is referred to as “7.3” and part 2 of that section is referred to as “7.3.2:”
- 1.2.4.b Paragraph k of part 2, section 3, chapter 3 is referred to as “3.3.2.k,” and subparagraph 1 under that paragraph is “3.3.2k.1;” and
- 1.2.4.c Part 3 of section 1, appendix B, is referred to as “B.1.3.”

1.2.5 Provisions and Clauses

All solicitation provisions referenced in the text of the PM are located in appendix A; all contract clauses so referenced are in appendix B.

SECTION 3 PM CHANGES

1.3.1 Proposed Changes

Anyone may propose changes to the PM. Proposed changes should be submitted in the format contained in Exhibit 1.3.1, *PM Change Format* (along with supporting documentation, if necessary), and addressed to Policies, Planning and Diversity.

1.3.2 Types of Changes

- 1.3.2.a Proposed changes to the PM fall into one of two categories: substantive or administrative/editorial.
- 1.3.2.b Substantive changes are primarily changes in procurement policy. They may result from new legislation, legal decisions, new contracting methods, or other areas of opportunity. Proposed substantive changes are researched by Policies, Planning and Diversity, and sent to the PPC for its review. Proposed changes which do not have any merit are returned to the originator with an explanation. Following its review, the Committee recommends approval, disapproval or approval with changes to the vice president of Purchasing and Materials. If required, the PPC may obtain the advice of specialists or experts to assist in its deliberations.
- 1.3.2.c Administrative/editorial changes are changes in (1) the procurement process, (2) grammar, (3) syntax, or (4) are nondiscretionary changes required by statutes or regulations applicable to the Postal Service. Changes of this sort are reviewed by the Manager, Policies, Planning and Diversity and the Senior Counsel, Contract Protests and Policies.

1.3.3 Disposition

Proposed PM changes are approved, disapproved, or approved as amended. Originators of disapproved changes are provided an explanation of the rationale.

1.3.4 Issuance

Changes to the PM are published in the *Postal Bulletin*, in PM Circulars, and in numbered Transmittal Letters.

Proposed PM Change

1. PM provision or provisions for which the proposed change is sought:

Chapter # _____ Section # _____ Part # _____ etc _____

Title _____

2. State your proposed change (new wording):

3. Explain why the change is necessary or desirable:

4. Discuss the effect of the change on the Postal Service in terms of cost and personnel resources:

5. List other documents, if any, that will be affected by the proposed change:

6. If applicable, reference related procedures or experiences of other (postal or nonpostal) agencies or organizations:

7. Submitted by: _____

Date submitted: _____

PP&D use only: _____

Case Number Assigned: _____

Assigned to: _____

PM Change Format
Exhibit 1.3.1

SECTION 4 PM DEVIATIONS

1.4.1 General

- 1.4.1.a Conformance with PM requirements promotes consistency and integrity throughout Postal Service purchasing. There are circumstances, however, when departures from PM requirements are necessary or desirable. Deviations may be authorized in such circumstances.
- 1.4.1.b The following are examples of deviations requiring authorization:
1. Omitting any required PM clause or using a clause that differs from a required PM clause covering the same subject.
 2. Using a collateral clause or contract provision that modifies the substance or intent of a required clause.
 3. Using a clause that is inconsistent with the substance or intent of a PM clause covering the same subject, or inconsistent with the PM coverage of the subject, even when the PM clause is not required to be used verbatim.
 4. Any procedure, method, or practice which is inconsistent with the PM and any variance from PM limitations on the use of clauses, procedures or types of contracts.
- 1.4.1.c The following are not deviations from the PM:
1. Clauses drafted specifically to meet unique requirements when not inconsistent with the substance or intent of a PM clause covering the same subject.
 2. Procedures or instructions developed to (1) meet specific operational needs or the needs of specialized commodity areas and (2) approved by the vice president of Purchasing and Materials.
 3. Interim procedures or instructions to (1) test new purchasing techniques or methods, or (2) promote Postal Service efficiency.

1.4.2 Authorization of Deviations

- 1.4.2.a *Request for Authorization.* Deviations must be authorized in advance of their use. Contracting officers must forward a request through organizational levels to an individual authorized deviation approval authority (see paragraph c). Each request must include:
1. Identification of the PM requirement from which deviation is sought;
 2. A full description of the deviation and the period of time and circumstances under which it will be used;
 3. An explanation of why the deviation is necessary or desirable; and
 4. Copies of any documents involved, such as forms, clauses, memoranda of negotiations, or correspondence.
- 1.4.2.b *Approval*
1. Deviations concerning matters unique to the purchase of supplies, services, or equipment may be approved by one of the following:
 - (a) When only one contract is affected:
 - (1) VP, P&M;
 - (2) Manager, Purchasing Operations;

- (3) Manager, Policies, Planning and Diversity;
 - (4) Manager, Headquarters Purchasing (this authority may be redelegated);
 - (5) Manager, Field Customer Support (this authority may be redelegated).
- (b) When more than one contract is affected: VP, P&M.
2. Deviations concerning matters unique to the purchase of design and construction and related services may be approved by the following:
- (a) When only one contract is affected:
 - (1) VP, P&M;
 - (2) Manager, Purchasing Operations;
 - (3) Manager, Policies, Planning and Diversity; and
 - (4) Manager, Major Facilities Purchasing (this authority may be redelegated).
 - (b) When more than one contract is affected: VP, P&M.
3. Deviations concerning matters unique to the purchase of mail transportation may be authorized by the following:
- (a) When only one contract is affected:
 - (1) VP, P&M;
 - (2) Manager, Purchasing Operations;
 - (3) Manager, Policies, Planning and Diversity; and
 - (4) Manager, National Mail Transportation Purchasing (this authority may be redelegated).
 - (b) When more than one contract is affected: VP, P&M.
- 1.4.2.c *Records.* Contracting officers must provide copies of all correspondence requesting, authorizing, denying, or otherwise dealing with deviations to the manager of Policies, Planning and Diversity.

SECTION 5 PURCHASING AUTHORITY

1.5.1 Vice President, Purchasing and Materials

The VP, P&M, has unlimited contracting authority. This authority includes the authority to award and administer contracts and to carry out all related responsibilities. Exhibit 1.5.1, *Authorities and Responsibilities, VP, Purchasing and Materials*, lists the various authorities and responsibilities vested in the VP, P&M.

1.5.2 Delegations of Authority

- 1.5.2.a *Contracting.* The VP, P&M, has delegated contracting authority, including redelegation authority, throughout P&M. An individual contracting officer's contracting and related authorities are enumerated in his or her letter of delegation.

- 1.5.2.b *Special Categories of Contracts.* The VP, P&M, has delegated contracting authority for certain specialized requirements to other Postal Service officials. Some of those delegations are set out in Chapter 8, Special Categories of Contracts.
- 1.5.2.c *Local Buying Authority.* In the Administrative Support Manual (ASM) the VP, P&M, has delegated local buying authority to various positions throughout the Postal Service. Exhibit 1.5.2c, *Local Buying Authorities*, shows these positions and their delegated local buying authority. Local buying authority is described in 1.6.2.j.

1.5.3 Contracting Officers

- 1.5.3.a *Authority.* Contracting officers have the authority to enter into, administer, and terminate contracts and to make related decisions. Information on the limits of contracting officers' authority must be readily available to the public and to Postal Service personnel.
- 1.5.3.b *Entering into Contracts.* Contracting authority is delegated to named individuals, rather than to positions, on the basis of the individual's education, experience and training. Only individuals with authority so delegated may bind the Postal Service contractually. Postal employees who have not been delegated contracting authority may not bind the Postal Service. See Management Instruction AS-710-90-2, *Unauthorized Contractual Commitments*.
- 1.5.3.c *Actions Exceeding a Contracting Officer's Authority.* The contracting officer assigned responsibility for a purchase signs the contract even when the contract amount exceeds his or her delegated contracting authority. In these circumstances, prior written approval of the proposed award by a contracting officer authorized to delegate the required amount of contracting authority constitutes the required delegation. This approval must be kept in the contract file.
- 1.5.3.d *Contracting Officer's Representatives.* Certain contracting officer responsibilities may be performed by individuals acting on behalf of the contracting officer, if so appointed by the contracting officer. These individuals are referred to as contracting officers' representatives.
- 1.5.3.e *Reviews and Approvals.* Certain high-dollar-value purchases require the review and approval of the VP, P&M, even though the contract amount may be within the contracting officer's delegated contracting authority. Exhibit 1.5.3e, *Review and Approval Thresholds*, delineates the dollar amounts at which this review and approval is required.
- 1.5.3.f *Other Responsibilities.* Contracting officers are responsible for ensuring the performance of all actions necessary for efficient and effective contracting, ensuring compliance with the terms of contracts and protecting the interests of the Postal Service in all of its contractual relationships. Contracting officers are given the latitude to exercise sound business judgment while adhering to the requirements of the PM and other applicable Postal Service directives. In carrying out their responsibilities, contracting officers are expected to consult specialists, assigned counsel or the Inspection Service for advice and assistance when appropriate. Exhibit 1.5.3.f(1), *Authorities and Responsibilities — General Counsel*, lists the authorities and responsibilities of that organization; Exhibit 1.5.3.f(2), *Authorities and Responsibilities — Inspection Service*, lists the same for the Inspection Service.

Authorities and Responsibilities, Vice President, Purchasing and Materials

PM Reference

- 1.1.1.b Issue selected directives containing procedural guidance necessary to implement the PM.
- 1.1.2.a Establish all purchasing policies and procedures except those unique to real property and related services; approve such policies relating to special categories of contracts.
- 1.1.2.d Approve or disapprove recommendations of the Purchasing Policy Committee (PPC).
- 1.2.1 Issue and maintain the PM.
- 1.4.2.b Authorize deviations to the PM in matters concerning more than one contract.
- 1.5.2 Delegate authority consistent with the PM.
- 1.5.3.e Review and approve various aspects of high dollar-value contracts.
- 1.5.3.g Appoint contracting officers (COs) and delegate authority to appoint COs.
- 1.5.3.j Terminate CO appointment and delegate authority to terminate COs.
- 1.8.2.a Receive reports of suspected anticompetitive practices; if there is evidence of violation of federal antitrust laws, forward reports to the Inspection Service.
- 1.9.2.b Designate individual contracts or classes of contracts as exempt from Provision 1-2, Contingent Fees and Clause 1-6, Contingent Fees.
- 1.9.5 Take appropriate action in cases of misrepresentation concerning contingent fees or violation or breach of Clause 1-6.
- 3.3.2.c Establish and maintain a consolidated list of contractors, debarred, suspended or ineligible for contracts or subcontracts. Ensure that the list is changed as necessary and distributed to all purchasing offices. Arrange to receive pertinent information from GSA, and notify GSA of any USPS debarment or suspension determination or any change in the status of contractors on the USPS list.
- 3.3.2.d Issue a written determination in cases where there is a compelling reason in the interest of the Postal Service to solicit proposals or quotes from, award contracts to, consent to subcontract with, or add new work to contracts held by debarred or suspended contractors.
- 3.3.2.e Debar a contractor with General Counsel concurrence.
- 3.3.2.g.2 Remove debarment or reduce the period of debarment, deny removal or reduction, or forward the application for removal or reduction to the Judicial Officer for hearing and final USPS determination. Transmit to the Judicial Officer, for filing, a notice and statement of the reasons for any removal or reduction or debarment that is approved.
- 3.3.2.h.1 Initiate a debarment proceeding by sending a written notice to the contractor, with a copy to the Chief Postal Inspector.
- 3.3.2.h.2 Forward to the Judicial Officer any request for a hearing received from a contractor who is served a notice of debarment.
- 3.3.2.i Suspend a contractor when in the interest of the USPS with General Counsel concurrence.
- 3.3.2.k.1 Cause a notice of suspension to be served, with a copy to the Chief Postal Inspector.
- 3.3.2.k.2 Answer inquiries concerning the suspension of a contractor, in coordination with the General Counsel.
- 3.3.2.k.3 Determine in writing that extension of a suspension is necessary.
- 4.6.5.a Determine that award should be made, in the interest of the Postal Service, without awaiting decision of a protest.
- 6.8.3.n Decide to pursue Court of Appeals review of a PSBCA decision that goes against the Postal Service, with the concurrence of the General Counsel or the General Counsel's designee.

Authorities and Responsibilities, Vice President, Purchasing and Materials

Exhibit 1.5.1 (p.1)

Authorities and Responsibilities, Vice President, Purchasing and Materials**PM Reference**

- 6.9.1.b Review and approve the termination for convenience or default of any contractor with a face value or potential termination liability exceeding \$1 million, or any termination considered to be of a sensitive or highly visible nature.
- 6.9.3.a.3 Decide, with the concurrence of the General Counsel, that liquidated damages be remitted in whole or in part.
- 8.3.2.a Concur in Information Systems technical standards for the acquisition of information systems.
- 10.2.7.b Determine that a contract is essential and must be awarded without complying with one or more requirements of EO 11246.
- 10.2.11.b.1 Exempt any contractor or subcontractor (or any group or category of contractor or subcontractor) from any provision of Clause 10-15, Affirmative Action for Handicapped Workers, in the interest of the Postal Service.
- 10.2.11.e Receive CO-forwarded complaints concerning the Rehabilitation Act of 1972 and give specific instructions on receiving them.
- 10.1.12.b.2 Submit CO justifications for proposed exemptions to Clause 10-18, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, through channels to the Postmaster General and the Director, OFCCP.
- 10.2.12.d Receive CO-forwarded complaints concerning the Vietnam Era Veterans Readjustment Assistance Act of 1972 and give specific instructions on receiving them.
- 10.3.2.a Authorize deviations from Buy American Act policy and procedures.
- 10.3.2.c Determine that sufficient and reasonable available commercial quantities of satisfactory quality do not exist domestically, or that purchase of a domestic-source end product would be inconsistent with USPS interest or unreasonably costly.
- 10.3.3.c.2 Determine that the articles and materials listed in this subsection are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of satisfactory quality, or that it would be inconsistent with the interest of the Postal Service to apply Buy American policy to these articles or materials.

Authorities and Responsibilities, Vice President, Purchasing and Materials

Exhibit 1.5.1 (p.2)

Local Buying Authorities

Amount	Position	Commodity
\$10,000	Officers/Vice Presidents at Headquarters	Supplies, Services Capital Equipment
\$10,000	Vice Presidents Area Operations	Supplies, Services Capital Equipment
\$10,000	Plant Managers, P&D	Supplies, Services Capital Equipment
\$10,000	District Managers Customer Services	Supplies, Services Capital Equipment
\$10,000	PCES Postmasters	Supplies and Services
\$10,000	Inspectors in Charge	Supplies and Services
\$2,000	Postmasters CAGs A–J, Vehicle Managers	Supplies and Services
\$1,000	Postmasters CAGs K&L	Supplies and Services

Local Buying Authorities
Exhibit 1.5.2c

Review and Approval Thresholds

Based on the commodity being purchased, and at various steps in the purchasing process, the following high-dollar value contracts require the review and approval of the VP, Purchasing and Materials.

Supplies, Services, and Equipment

If the estimated value of the contract exceeds \$10 million, the VP must approve:

- The individual purchasing plan;
- The solicitation; and
- The proposed contract award.

Facilities-related Contracts (excluding real estate acquisitions)

If the estimated value of the contract exceeds \$10 million, the VP must approve:

- The individual purchasing plan;
- The solicitation; and
- The proposed contract award.

Mail Transportation Contracts

Highway and domestic inland water contracts –

If the estimated contract value exceeds \$10 million, the VP must approve:
The proposed contract award.

Rail network contracts –

If the estimated contract value exceeds \$10 million, the VP must approve:
The individual purchasing plan;
The solicitation; and
The proposed contract award.

AMTRAK contract –

The VP must approve the purchasing plan prior to commencement of negotiations, and
The VP must approve the final contract price.

International water contracts –

If the estimated contract value exceeds \$10 million, the VP must approve:
The individual purchasing plan;
The solicitation; and
The proposed contract award.

Air network contracts (including air system and hub contracts) –

If the estimated contract value exceeds \$10 million, the VP must approve:
The individual purchasing plan;
The solicitation; and
The proposed contract award.

Review and Approval Thresholds

Exhibit 1.5.3e

Authorities and Responsibilities - General Counsel

General Counsel

- 1.7.3.b (39 CFR 265.6.(b)) Approve Records Officer instructions concerning determination of whether the public interest is served by the release of records exempt from mandatory disclosure under the Freedom of Information Act.
- 1.7.3.b (39 CFR 265.7(b)(4)) Concur in an extension of the 10-working-day period for response to public requests for information (as requested by a custodian at Headquarters).
- 1.7.3.b (39 CFR 265.7(e)) Decide appeals when requests to inspect or copy information under the Freedom of Information Act are denied, when a timely determination is not made, or when requests for fee waiver are not granted. Review the correctness of custodian action or failure to act, even when no appeal is made.
- 1.7.4 (39 CFR 266.7(a)(1)) Decide appeals when requests to inspect, copy, or amend records under the Privacy Act are denied, or when no timely determination is made.
- 1.1.2.e.2 Serve as a permanent member of the Procurement Policy Committee (PPC).
- 3.3.2.e Concur in a VP's debarment of a contractor.
- 3.3.2.l Concur in a VP's suspension of a contractor.
- 3.3.2.k.2 Either answer, or coordinate with the VP who answers, any inquiry concerning suspension of a contractor.
- 4.6.7 Decide protests filed directly with the General Counsel, protests for which the primary addressee cannot be determined (4.5.3.b), and protests which contracting officers refer to the General Counsel for resolution. (Or decline to decide protests when the matter involved has been decided or is being decided in court; see 4.5.7.o.)
- 4.6.7.m Maintain a file of all protest decisions.
- 6.8.3.n Concur in a VP's decision to appeal to the Court of Appeals for the Federal Circuit an adverse decision of the Board of Contract Appeals.
- Exhibit 8.1.2 Originate supplemental policy and procedure directives addressing legal services procurement requirements. Provide a copy to Policies, Planning & Diversity upon issuance and to the public upon request. Verify, at least annually, the currency and continuing applicability of each such directive, and issue changes.
- 8.2.1.c.1 Approve any modification of Clause 8-1, Nondisclosure (Professional Services), before inclusion in a contract for legal services.
- 9.3.7.c Concur in a contracting officer's decision to waive a contractual requirement to assign copyright to the Postal Service.
- 9.3.9.a Examine information on royalties and advise the contracting officer of any that are excessive or that USPS is not obligated to pay.
- 39 CFR 957.7 (App. D) Submit, on behalf of the VP who initiated the proceeding, a reply to a request for Judicial Officer hearing.
- 39 CFR 957.23 (App. D) File a written reply to a party who applies for modification or revocation of an order of debarment.
- 39 CFR 955.28 (App. E) Designate Postal Service counsel to represent USPS before the PSBCA.
- 3.3.2.h.2 (39 CFR 957.14 (App. D)) Represent the VP initiating a debarment proceeding in the Judicial Officer hearing and related proceedings.
- 10.2.10.e.8 Resolve questions about the applicability of the Service Contract Act when the DOL Wage and Hour Division requires retroactive application of a wage determination but the contracting officer at Headquarters questions the applicability.

Authorities and Responsibilities - General Counsel

Exhibit 1.5.3f(1) (p.1)

Authorities and Responsibilities - General Counsel

- 4.5.6.c.2 Concur in a contracting officer's determination that a protest received by the contracting officer is obviously without merit.
- 7.3.1.b Consult with any contracting officer who seeks to negotiate with a tax authority to determine tax validity or applicability or to obtain a tax exemption or refund.

Field Counsel

- 1.7.3.b (39 CFR 265.6(d)(4)) Advise postmasters concerning the release of the recorded names and addresses of post office box holders, when postmasters are unable to determine whether business use is involved.
- 1.7.3.b (39 CFR 265.7(b)(1)) Advise custodians who are not USPS officers concerning the denial of requests to inspect or copy records under the Freedom of Information Act.
- 1.7.3.b (39 CFR 265.7(b)(4)) Concur in an extension of the 10-working-day period for response to public requests for information.
- 1.7.3.b (39 CFR 265.10(a)(4)) Respond, with authorization from the employee, to a request from a non-federal source for medical information on the employee.
- 10.2.10.e.8 Resolve questions about the applicability of the Service Contract Act when the DOL Wage and Hour Division requires retroactive application of a wage determination but the contracting officer questions the applicability.
- 11.1.2.d (39 CFR 255.1(c)(3)) Advise local officials on whether particular complaints concerning handicapped access seek to end unlawful discrimination or to request special arrangements.

Assigned Counsel

- 1.7.6.a.2 Consult with contracting officers who seek to develop solicitation provisions that restrict competition to offerors not subject to a conflict of interest, or that limit eligibility for future contracts or subcontracts.
- 4.6.6.c.2 Concur in a contracting officer's determination that a protest received by the contracting officer is without merit.
- 4.6.7.f Assist contracting officers in preparing reports concerning a protest received by the General Counsel.
- 6.4.5.b.1 Advise contracting officers on the amount of progress payment justified under a nonconstruction contract.
- 6.5.4.b.1 Advise contracting officers on whether to permit contract novation.
- 6.8.3.b Assist contracting officers in reaching decisions on claims by or against contractors that cannot be resolved by agreement.
- 6.9.3.b.2 Consult with contracting officers who seek to ensure that termination for default rather than termination for convenience is appropriate.
- 6.9.3.b.7 Advise contracting officers prior to their issuance of notices of termination for default.
- 7.1.11.a.3 Give contracting officers procedural assistance when sureties refuse to pay or do not respond to written notices.
- 7.1.11.c.4 Advise contracting officers on whether construction projects are substantially complete.
- 7.2.4.c Concur in contracting officer waivers, in whole or in part, of the requirement for errors and omissions issuance.

Authorities and Responsibilities - General Counsel

Exhibit 1.5.3f(1) (p.2)

Authorities and Responsibilities - General Counsel

- 7.3 Assist contracting officers in dealing with all tax questions, and specifically:
- 7.3.1.c Questions concerning USPS constitutional immunity from State or local taxes.
 - 7.3.2.a Questions on federal excise tax requirements.
 - 7.3.3.b.2 Designation of prime contractors and subcontractors as USPS agents for the purpose of clarifying exemption from State or local taxes.
 - 7.3.3.c.1 Assertion by a State or locality of its right to tax a contractor's possession or use of, or interest in, the property.
 - 7.3.3.d Matters requiring special consideration - such as when the applicability of a tax is in litigation, depends on place and terms of delivery, etc.
- 8.5.2.b.4 Advise contracting officers on whether charges indicated as taxes on utility bills must be paid.
- 9.3.2.f.2 Concur in contracting officer approval of any variance from the contractor's obligation to grant USPS a paid-up, nonexclusive, irrevocable, worldwide license to copyrighted data.

Patent Counsel

- 9.2.1.b Consult with contracting officers on whether an alternate arrangement, rather than acquiring title, is in USPS's best interest.
- 9.2.1.d Advise contracting officers prior to their negotiation of an alternate agreement on patent rights following award of a covered contract.
- 9.2.1.e Advise contracting officers concerning USPS acquisition of patent rights or solicitation of alternate agreements for contracts not covered by 9.2.1.
- 9.2.2.b.2 Respond to patent and copyright infringement claims.
- 9.2.3.c.1 Grant approval prior to a contracting officer's waiver or modification of USPS's right to patent indemnification.
- NOTE: PH 4.3.1-31d requires concurrence of legal counsel for payment of unauthorized supplies and/or services.

Authorities and Responsibilities - General Counsel

Exhibit 1.5.3f(1) (p.3)

Authorities and Responsibilities - Inspection Service

Chief Postal Inspector

- 1.7.4.b.1 Authorize disclosure of records or information compiled for law enforcement purposes to persons outside the Postal Service.
- 1.7.4.b.2 Authorize the disclosure of address information that appears on pieces of mail to a contractor when such disclosure is required for contract performance.
- 1.7.9.c Review information or allegations concerning acceptance by a Postal Service employee of gratuities of any kind from contractors or persons seeking contracts or other business. Advise the contracting officer of findings.
- 1.8.2.a Refer reports of suspected violation of the federal antitrust laws to the Attorney General, if appropriate, for prosecution.
- 6.8.2.d Review contracting officer reports of unsupported contractor claims for which there is evidence of fraud or misrepresentation of fact on the contractor's part.
- 10.2.4.e.7(b) Review contracting officer reports of contractor, lessor, or subcontractor underpayments totalling \$500 or more under USPS construction contracts or lease agreements. Forward reports to the Secretary of Labor.
- 10.2.4.e.7(c) Review contracting officer reports of contractor, lessor, or subcontractor underpayments (under construction contracts or lease agreements) that are willful and violate the False Affidavits Act or another criminal statute.

Authorities and Responsibilities - Inspection Service
Exhibit 1.5.3f(2)

1.5.3.g *Appointment and Selection*1. *Appointment Authority*

- (a) Contracting officers are appointed by the VP, P&M, and by individuals delegated that authority by the VP. Appointees to the position of contracting officer levels I through IV must be career employees in good standing, and must meet the qualifications for the particular level (see 1.5.4).
- (b) Contracting officers must be appointed by letter and on Form 7378, *Certificate of Appointment*. The letter must state any limitations on the contracting officer's authority. Appointing officials must keep copies of all letters and certificates of appointment that have not been terminated.

2. *Selection*

- (a) *General*. Appointing officials must ensure that contracting officers are fully qualified by education, experience and training to solicit, negotiate, award and administer contracts on behalf of the Postal Service.
- (b) *Contracting Officer Levels*. Generally, contracting authorities are grouped by contracting officer level. There are four general levels of contracting officer:
 - (1) Level I contracting officers. Generally, these contracting officers are delegated up to \$100,000 of contracting authority, and up to the maximum limit for orders against Federal Supply Schedules and other indefinite delivery contracts and agreements.
 - (2) Level II contracting officers. Generally, these contracting officers are delegated up to \$1 million of contracting authority, and up to the maximum limit for orders against Federal Supply Schedules and other indefinite delivery contracts and agreements.
 - (3) Level III contracting officers. Generally, these contracting offices are delegated up to \$10 million of contracting authority, and up to the maximum limit for orders against Federal Supply Schedules and other indefinite delivery contracts and agreements.
 - (4) Generally, level IV contracting officers are delegated unlimited contracting authority.
- (c) *Qualifications*. Appointment to a particular contracting officer level requires progressively more exacting qualifications. The following qualifications apply to contracting officers appointed by the VP, P&M:
 - (1) Contracting Officer Level I:
 - (2) Experience: One year of experience performing substantive purchasing tasks.
 - (3) Duties: Performance or supervision of purchasing tasks for at least 25 percent of current work hours.
 - (4) Education: A baccalaureate degree. The individual nominated must have earned at least 24 hours in subjects related to purchasing, such as accounting, business finance, commercial (business) law, economics, quantitative analysis, marketing, contracting or purchasing, organization, or management. The required 24 semester hours may have been earned during the individual's pursuit of a baccalaureate degree, or at any other time.

► **NOTE:** The following professional certifications may serve as a substitute for the baccalaureate degree:

- (i) Certified Professional Contract Manager from the National Contract Management Association;
 - (ii) Certified Purchasing Manager from the National Association of Purchasing Management; and
 - (iii) Certified Public Purchasing Officer from the National Institute of Governmental Purchasing.
- (5) Training: Satisfactory completion of the following purchasing courses:
 - (i) Principles of Purchasing
 - (ii) Simplified Purchasing.

► **NOTE:** Coursework and earned credits in subjects covering the same general topics taken at an accredited college or university may serve as a substitute for this training requirement.
- (6) Contracting Officer Level II:
- (7) Experience: Three years of current, progressively complex and responsible experience in performing competitive and noncompetitive purchasing (not including simplified purchasing). Generally, this experience must have been gained in intermediate level contracting positions.
- (8) Duties: Performance or supervision of purchasing tasks for more than half of current workload.
- (9) Education: A baccalaureate degree. The individual nominated must have earned at least 24 hours in subjects related to purchasing, such as accounting, business finance, commercial (business) law, economics, quantitative analysis, marketing, contracting or purchasing, organization, or management. The required 24 semester hours may have been earned during the individual's pursuit of a baccalaureate degree, or at any other time.
- (10) Training: Satisfactory completion of the following purchasing courses:
 - (i) All level I courses
 - (ii) Contract Formation
 - (iii) Basic Contract Administration
 - (iv) Negotiation Strategies and Techniques
 - (v) Advanced Contract Administration.

► **NOTE:** Coursework and earned credits in subjects covering the same general topics taken at an accredited college or university may serve as a substitute for this training requirement.
- (11) Contracting Officer Level III
- (12) Experience: Five years of current, progressively complex and responsible experience in soliciting, negotiating, awarding and administering competitive and noncompetitive purchasing actions. Ordinarily, this experience must have been in higher-level purchasing positions.
- (13) Education: A baccalaureate degree. The individual nominated must have earned at least 24 hours in subjects related to purchasing, such as accounting, business finance, commercial (business) law,

economics, quantitative analysis, marketing, contracting or purchasing, organization, or management. The required 24 semester hours may have been earned during the individual's pursuit of a baccalaureate degree, or at any other time.

(14) Training: Satisfactory completion of the following courses:

- (i) All level II courses
- (ii) Contract Law
- (iii) Advanced Price Analysis
- (iv) Strategic Purchasing

► **NOTE:** Coursework and earned credits in subjects covering the same general topics taken at an accredited college or university may serve as a substitute for this training requirement.

(15) Contracting Officer Level IV

(16) A Level IV contracting officer must hold one of the following positions:

- (i) Manager, Purchasing Operations;
- (ii) Manager, Headquarters Purchasing;
- (iii) Manager, National Mail Transportation Purchasing;
- (iv) Manager, Major Facilities Purchasing; and
- (v) Manager, Field Customer Support.

1.5.3.h *Waivers and Interim Appointments*

1. *Waivers.* Waivers to the qualification requirements may be requested for individuals who, due to their extraordinary experience or extraordinary circumstances, should be granted contracting officer authority. Requests must be submitted through organizational levels to the VP, P&M.
2. *Interim Appointments.* Ordinarily, individuals will not be appointed as contracting officers if they do not meet the relevant qualification criteria. However, when necessary, appointing officials may grant an interim appointment to an individual who has not yet completed necessary training or education. No interim appointment may exceed one year, and no interim appointment may be granted to an individual more than once if the individual fails to complete the required training or education.

1.5.3.i *Continuing Professionalism.* All contracting officer appointments, regardless of level, must be reviewed annually by the appointing official in order to ascertain that the contracting officer has maintained professional proficiency and otherwise remains qualified. Therefore, contracting officers must:

1. Attend formal procurement training covering such areas as new requirements, techniques, or policies and procedures brought about by changes in statutes, regulations, business research or evaluations of postal purchasing practices; and
2. Maintain their professionalism through (1) attendance at seminars, conferences, meetings or other professional activities and (2) performing coursework in contracting and purchasing commensurate with their CO level and responsibilities. The appointing official will determine whether a particular CO's efforts in these areas meet the professional development requirements.

1.5.3.j *Termination.* Termination of a contracting officer appointment may be made by an appointing authority or by the VP, P&M. Terminations may be made for reasons

such as reassignment, termination of employment, or unsatisfactory performance. The termination must indicate the effective date of termination. Termination of employment automatically terminates a contracting officer's appointment. Terminations may not be made retroactively.

SECTION 6 MEANING OF WORDS AND TERMS

1.6.1 General

The words and terms defined in this section have the meanings given in this section whenever they are used in the PM, unless the context clearly indicates a different meaning or a different definition is given for a particular section, part, solicitation provision or contract clause. Definitions are in alphabetical order.

1.6.2 Definitions

- 1.6.2.a *Agreement.* A set of pre-established terms and conditions negotiated between the Postal Service and which only becomes a contract when an order is placed and accepted by the supplier. A contract is always an agreement; but an agreement is not always a contract.
- 1.6.2.b *Assigned Counsel.* The person or persons assigned by the General Counsel to provide legal advice to a VP or contracting officer. In general, contracting advice to Headquarters purchasing offices is provided by the Purchasing Law and Facilities Law organizations of the General Counsel, and advice to field purchasing offices is provided by Field Legal Services.
- 1.6.2.c *Change Order.* A written order signed by the contracting officer directing the contractor to make changes that the Changes clause authorizes the contracting officer to make without the specific consent of the contractor.
- 1.6.2.d *Contract.* Any understanding that can be legally enforced, formed by two or more parties who promise to perform or to refrain from performing some act. For purposes of this manual, a contract exists when there is a bilateral agreement, a unilateral order (such as a purchase order) by the Postal Service that becomes effective upon performance by the other party, or a binding order under an agreement that did not in itself bind the parties.
- 1.6.2.e *Contract Modification.* A written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity or other provisions of an existing contract whether made unilaterally under a provision in the contract or bilaterally by mutual parties to the contract. It includes such bilateral actions as supplemental agreements, and such unilateral actions as change orders, administrative changes, notice of termination, and exercise of options.
- 1.6.2.f *Contracting Officer.* A person who has direct purchasing authority or has been delegated purchasing authority (see 1.5.3). The term includes an authorized representative of a contracting officer acting within the limits of the authority delegated by the contracting officer.
- 1.6.2.g *Days.* This means calendar days unless working days are specified.
- 1.6.2.h *Evaluation Factors.* A standard by which the worth of a proposal is judged. Solicitations must state the factors that will be applied in evaluating proposals. The terms *evaluation factors* and *evaluation criteria* are used interchangeably.

- 1.6.2.i *Includes.* This means *includes but is not limited to.*
- 1.6.2.j *Local Buying Authority.* The authority to locally buy and pay for day-to-day operational needs. Local buying authority may not be used for certain commodities (see 4.1.3).
- 1.6.2.k *May.* This is permissive. *May not* and *no (person or thing) may* mean that the act described is prohibited.
- 1.6.2.l *Must.* This is imperative.
- 1.6.2.m *Purchasing.* All activities related to the purchase of supplies, services, equipment, design and construction and related services, and mail transportation, including planning, solicitation, source selection, contract award, and contract administration. It does not include activities related to the determination of requirements.
- 1.6.2.n *Proposal.* An offer that, if accepted, creates a contract. A proposal may be made in response to a solicitation, or may be unsolicited.
- 1.6.2.o *Purchasing Office.* An organizational element responsible for the purchase of supplies, services and equipment, real property, design and construction and related services, and mail transportation.
- 1.6.2.p *Quotation.* A response to a request for quotation; it is informational in character, and, unlike a proposal, it is not an offer that can be accepted by the Postal Service to form a binding contract.
- 1.6.2.q *Real Estate and Related Services.* The term *real estate* includes the acquisition of real property (including improvements on real property), and any interests in real property, by easement, license, purchase, lease, or exchange; the disposal of real property (including improvements on real property), and any interests in real property, by easement, license, sale, lease, or exchange; and the development and redevelopment of real property under lease agreements, including acquisition, disposal, or development and redevelopment by contract or agreement with government entities at any level. *Related services* includes professional services, planning efforts, studies, and the like, in support of the acquisition, disposal, or development and redevelopment of real estate (as defined above) including design/engineer, environmental, geo-technical, brokerage, legal, relocation, title, and similar services (other than services in connection with Postal Service-financed construction).
- 1.6.2.r *Services.* The performance of identifiable tasks.
- 1.6.2.s *Should.* This means desirable but not required.
- 1.6.2.t *Supplemental Agreement.* A contract modification that is mutually agreed to by the parties.
- 1.6.2.u *Supplies.* Property and rights or interest in property of any kind except real property.
- 1.6.2.v *Vice President.* When not otherwise specified, means the vice president of Purchasing and Materials.
- 1.6.2.w *Will.* This signifies intent or obligation.

SECTION 7 GENERAL POLICIES

1.7.1 Background

- 1.7.1.a The United States Postal Service, an independent establishment of the Executive branch, has been established by the Postal Reorganization Act, Public Law

91-375 (codified at Title 39 of the United States Code), to provide postal services to bind the nation together. The Postal Service does so in an environment unique for a government entity; it operates almost entirely from its own revenues, and is subject to direct and indirect competition from businesses and competing communications technologies across its entire product line. As a result, the Postal Service's business operations are driven by concerns such as service need and market share.

- 1.7.1.b Consistent with these circumstances, the Postal Service has been granted broad power to determine the character of and necessity for its expenditures, and to enter into and perform contracts upon terms and conditions and in the manner it deems necessary to accomplish its purposes. In order that it may operate in a business-like fashion, the Postal Service has been exempted from most federal laws dealing with public or federal contracts, property, works, officers, employees, budgets, or funds, including specifically laws regarding the establishment, adjudication, and judicial review of administrative procedures and determinations. While the Postal Service has adopted, as a matter of policy, various federal procurement practices not otherwise applicable to it, it has also undertaken to integrate into its purchasing procedures the business-related objectives reflected in its enabling legislation, while retaining standards of fairness and openness regarding its transactions appropriate to its status as a public entity.
- 1.7.1.c The Postal Service has established this PM, reflecting its business purposes, with the objective of acting efficiently and effectively to obtain at reasonable cost goods and services of appropriate quality to support its operations as a service to the people of the United States.
- 1.7.1.d The policies and procedures established by the PM are intended to further the objectives expressed herein, but are not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable by a party against the Postal Service or the United States, or their officers or employees, except to the extent expressly provided within the PM.

1.7.2 Competition

- 1.7.2.a Purchases must be made on the basis of adequate competition whenever feasible. Adequate competition means the solicitation and participation of a sufficient number of capable sources to ensure that the required quality and quantity of goods and services is obtained when needed, and that the price is fair and reasonable.
- 1.7.2.b Contracting officers, supported by such assistance as is necessary, must make a determination that adequate competition has been obtained in any instance in which it is required. In making that determination, contracting officers must act with reasoned discretion, taking into account both the business requirements of the particular procurement and the Postal Service's general interest in identifying new suppliers and in providing opportunities for its supplier base.
- 1.7.2.c The examples which follow are not necessarily inconsistent with the obtaining of adequate competition:
 1. Rotation of source lists when there are a number of qualified suppliers (see A.3.3);
 2. The failure to publicize, due to urgency, a procurement otherwise required to be publicized (see 3.2.1);
 3. Purchases from approved sources or prequalified suppliers (see 3.1.6); and
 4. Purchases from minority and woman-owned businesses (see 10.1.4).

- 1.7.2.d Adequate competition need not be obtained for purchases subject to noncompetitive procedures (see 4.3.1.d and 4.4).

1.7.3 **Contracts with Postal Service Employees**

- 1.7.3.a Except as provided in paragraphs b and c below, contracts may not be awarded to Postal Service employees, their immediate families, or business organizations substantially owned or controlled by Postal Service employees or their immediate families. *Postal Service employees* means all postal officers and employees, whether in full-time, part-time, career or noncareer positions, including specifically persons in temporary positions such as postmaster replacements and rural carrier reliefs. *Immediate family* means spouse, minor child or children, and individuals related to an employee by blood who are residents of the employee's household.
- 1.7.3.b The prohibition against contracting with Postal Service employees may be waived (all waivers must be in writing), by the contracting officer for:
1. New real estate leases of 3,000 square feet or less;
 2. Renewals of existing highway contract routes with immediate family members of a postal employee, subject to review and concurrence by the Associate Ethical Conduct Officer;
 3. Cleaning service contracts with immediate family members of nonsupervisory employees; and
 4. The licensing of a patented invention that is the sole property of the employee (see Management Instruction AS-710-91-17, *Unsolicited Proposals*).
- 1.7.3.c The prohibition does not apply to vehicle leases with Postal Service employees, and renewals and extensions of leases of interior space of 3,000 square feet or less. When to do so is in the best interests of the Postal Service, contracting officers may renew or extend existing leases of over 3,000 square feet from Postal Service employees or their immediate families, or business organizations substantially owned or controlled by them, with the concurrence of the Associate Ethical Conduct Officer (see 39 CFR 447.31).

1.7.4 **Release and Exchange of Information**

- 1.7.4.a *General.* The Postal Service makes records, data, and information available to the public to the maximum extent consistent with the Postal Service's interest, the privacy rights of individuals, ownership of rights in the data requested (see Chapter 9), and the need to protect Postal Service and other confidential business information (including information relating to the Postal Service's commercial operations) from disclosure.
- 1.7.4.b *Release*
1. Records properly identified and requested by any member of the public must be made available in accordance with subchapter 350, Administrative Support Manual, and 39 CFR 265, implementing the Freedom of Information Act (FOIA) (6 U.S.C. 552), unless exempt from disclosure.
 2. When authorized by subchapter 115 of the Domestic Mail Manual (DMM), a contract requiring the contractor to have access to address information (i.e., addresses and return addresses) that appears on pieces of mail must include Clause 1-7, Nondisclosure of Address Information.

- 1.7.4.c *Exchange.* Subject to any restrictions on disclosure, the Postal Service exchanges information with other government agencies regarding the performance of contractors.

1.7.5 **Protection of Individual Privacy**

Whenever a contractor will be required to design, develop, or operate a system of records on individuals to accomplish a Postal Service function, the contract must (a) require that the contractor comply with Postal Service policy and regulations (see 39 CFR 266–268) implementing the Privacy Act (5 U.S.C. 552a) and (b) must include Clause 1-1, Privacy Act.

1.7.6 **Advance Payments and Progress Payments**

- 1.7.6.a *Policy.* Normally, the Postal Service pays for supplies and services after delivery or performance. However, for some purchases, sources may be unavailable or competition too limited without the availability of advance payments or progress payments.
- 1.7.6.b *Advance Payments.* Approval to make advance payments must be obtained as required by Management Instruction FM-610-91-2, *Advance Payments*.
- 1.7.6.c *Progress Payments*
1. If the dollar value of a prospective contract is within the contracting officer's delegated contracting authority, he or she may approve the use of progress payments for the particular contract. For contracts over \$1,000,000, progress payments must also be approved by the VP, Finance and Planning.
 2. Before approving progress payments, the contracting officer must make a written determination establishing that:
 - (a) Progress payments are in the Postal Service's best interests;
 - (b) The contractor's accounting system and controls are adequate for proper administration of progress payments, or their adequacy will be ascertained before contract award; and
 - (c) Monthly progress reports will be obtained from the contractor, showing progress of the work as related to progress payments made.
- 1.7.6.d *Clauses.* Any contract providing for advance payments must include Clause 1-2, Advance Payments. Any contract, other than a construction contract, providing for progress payments must include Clause 1-3, Progress Payments. (For construction contracts, see Clause 11-10, Payment (Construction).)

1.7.7 **Conflicts of Interest**

- 1.7.7.a *Organizational Conflicts of Interest*
1. An organizational conflict of interest exists when the nature of the work to be performed under a contract may give an offeror an unfair competitive advantage, or when an offeror has other interests that may impair its objectivity or ability to perform satisfactorily. Such conflicts are not limited to any particular type of purchase, but are more likely to occur in contracts involving:
 - (a) Professional services (see 8.2.1);
 - (b) Consultant services (see 8.2.2); or

- (c) Performance of or assistance in technical evaluations.
 - (d) Projects that are procured in separate phases, such as design and then construction or research and development and then production (see 8.4.8 and 11.3.4).
2. As part of purchasing planning (see 2.1) contracting officers must attempt to identify potential conflicts of interest so that they may be avoided or mitigated. When a potential conflict is foreseen, the contracting officer should consult with assigned counsel and obtain the assistance of appropriate technical specialists to mitigate or avoid conflict. Such mitigation actions may include, but are not limited to, the development of solicitation provisions restricting competition to offerors not subject to a conflict of interest, or a contract clause limiting the contractor's eligibility for future contracts or subcontracts or other actions to mitigate or avoid an apparent conflict such as the adoption of measures to ensure as even a competition as possible, as may be in the interest of the Postal Service and the offerors. Any limit on future contracts must be for a reasonable period sufficient to avoid unfair competitive advantage or potential bias. See, for example, Clause 8-14, Organizational Conflict of Interest.
 3. If it does not become apparent until proposals are received that participation by a particular offeror could lead to a conflict of interest and unfair competition, the offeror may be disqualified and its proposal rejected, or the contracting officer may take such other actions as deemed necessary in the interest of the Postal Service and the offerors to avoid or mitigate the situation, acting in the interest of the Postal Service, and in consultation with assigned counsel and appropriate technical specialists to ensure a fair competition. Disqualification of an offeror for such reasons is a matter of the contracting officer's discretion, and does not constitute debarment or suspension nor does it constitute a finding of nonresponsibility.
 4. If the contracting officer determines to mitigate a situation that could lead to a conflict or which appears to constitute a conflict of interest, such determination should be reduced to a written analysis of the course of action chosen. Such analysis should include a consideration of benefits and detriments to the Postal Service and the offerors and may consider information provided by offerors in response to the solicitation or obtained during negotiations.
 5. The provisions of this section may be waived as to any procedure or rule by determining that its application in a particular situation would not be in the Postal Service's interest. Any such waiver should be in writing by the contracting officer and processed in accordance with subchapter 1.4.
- 1.7.7.b *Participation by Members of Congress.* The participation of members of Congress in contracts or agreements made on behalf of the United States (including the United States Postal Service) is prohibited by 41 U.S.C. section 22.

1.7.8 Standards of Conduct

Postal Service employees are held to the highest standard of conduct in the performance of their duties, and must conduct themselves so as to avoid even the appearance of any impropriety. All employees must adhere to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635.

1.7.9 **Gratuities or Gifts**

- 1.7.9.a Postal Service employees are prohibited from accepting gratuities or gifts from contractors or persons seeking postal contracts or other business under detailed rules (which include limited exceptions) prescribed in 5 CFR 201 – 205.
- 1.7.9.b All contracts must include Clause 1-5, Gratuities or Gifts, which provides for termination of the contract for default upon a finding by the Postal Service Board of Contract Appeals that a contractor, or the contractor's agent or representative, offered or gave a gratuity or gift to a Postal Service employee to obtain a contract or favorable treatment under a contract.
- 1.7.9.c Information or allegations concerning unlawful gratuities or gifts must promptly be referred to the Inspection Service. If the Inspection Service finds evidence that an unlawful gratuity or gift was offered or given, the contracting officer must determine whether debarment proceedings under 3.2.2 are appropriate, in addition to actions taken under a specific contract.

SECTION 8 ANTICOMPETITIVE PRACTICES

1.8.1 **General**

- 1.8.1.a An anticompetitive practice is designed to eliminate competition or restrain trade. Such practices include collusion, follow-the-leader pricing, rotated low price proposals, sharing of business, identical prices, and any other device intended to deprive the Postal Service of the benefits of competition. These practices may violate federal antitrust laws and be subject to prosecution by the Attorney General. Proposals suspected of reflecting anticompetitive practices may be rejected (see 4.1.5.e).
- 1.8.1.b All solicitations must include Provision 1-1, Certificate of Independent Price Determination.

1.8.2 **Reports**

- 1.8.2.a Any suspected anticompetitive practice must be reported promptly through normal management channels to the VP, P&M (or the VP, Facilities, if the matter involves real estate). Identical prices are not reported automatically, but only if there is reason to suspect an anticompetitive practice. If the VP believes that there is reasonable evidence of violation of federal antitrust laws, the report must be forwarded to the Inspection Service. The Inspection Service will refer the matter to the Attorney General for prosecution, if appropriate.
- 1.8.2.b Each report must include:
 - 1. A copy of each suspect proposal;
 - 2. A copy of the solicitation and any amendments; and
 - 3. A record of all the proposals received for each item covered by the solicitation, showing the following:
 - (a) The unit and total price offered.
 - (b) The net price to the Postal Service after discounts and allowance for transportation, or other costs.

- (c) The name of the manufacturer of the item, or the source of supply if the offeror is a dealer or distributor, and the location from which shipment will be made. When identical proposals are made by dealers, distributors, or jobbers representing the same manufacturer or supplier, they frequently indicate adherence to the supplier's list or suggested price to the government. Unless there is some evidence that such identical proposals resulted from collusion or concerted action among the offerors, they need not be reported.
 - (d) The destination of shipments, and whether the price quoted includes or excludes the cost of transportation to destination.
 - (e) The identity of the successful offeror and, if identical low proposals were submitted by several offerors, an indication of how the award was made.
4. Copies of documents filed by suspect offerors as part of the submission or obtained by the contracting officer, such as:
 - (a) Contracts with contingent-fee representatives who acted on behalf of one or more of the offerors that submitted identical proposals or assisted them in the preparation of their proposals;
 - (b) Correspondence or other evidence of patent rights owned or licensed by offerors quoting identical prices;
 - (c) Evidence of the existence of financial or other ties between offerors submitting suspect proposals; or
 - (d) Any pertinent financial or corporate information concerning the suspect offerors that may be in financial statements or annual reports to stockholders.
 5. Copies of reports containing findings of any special investigations concerning the proposals reported.
 6. Copies of any correspondence revealing the factors responsible for the suspect proposals, or explaining the prices offered.
- 1.8.2.c In addition to the documents and information described above, each report should provide any available information indicating:
1. The annual dollar value of purchases of the item in each of the three years preceding the year in which the suspect proposals were received;
 2. Any pattern of bidding in the three-year period preceding the receipt of the suspect proposals that appears to indicate practices such as bid rotation, sharing of the business, collusive bidding, or any other form of joint action;
 3. Whether the specifications for the item were written so that only a limited number of sources are capable of meeting the specifications; or
 4. Whether there are any known manufacturers or suppliers of the item that consistently avoid responding to Postal Service solicitations.

SECTION 9 CONTINGENT FEES

1.9.1 General

A contractor may not pay a fee to an agent contingent upon the agent's soliciting or obtaining the award of a contract. Such a fee arrangement is

improper because it may lead to the attempted or actual exercise of improper influence. The prohibition does not apply to contingent fee arrangements between contractors and bona fide employees or bona fide agencies employed by contractors to secure business.

1.9.2 Representation and Clause

- 1.9.2.a *General.* Except as provided in paragraph b below, solicitations must include Provision 1-2, Contingent Fee Representation, and all contracts must contain Clause 1-6, Contingent Fees.
- 1.9.2.b *Exceptions.* The representation and clause are not required for:
1. Simplified purchases (see 4.2);
 2. Contracts for public utility services furnished by a public utility company when the utility company's rates for the services are subject to regulation by a federal, state, or other regulatory body and the public utility company is the sole source of supply; or
 3. Other contracts, individually or by class, as designated by the VP, P&M.

1.9.3 Bona Fide Employee or Agency

- 1.9.3.a *Bona Fide Employee.* For the purpose of the representation and the clause, this means an individual employed by the concern in good faith and over whom the concern has the right to exercise supervision and control as to time, place, and manner of performance of work. A concern may employ an individual who represents other concerns, but the employment must have some continuity and may not be related just to the obtaining of one or more specific contracts. The employee's salary may be fixed or based on a commission, whichever is customary.
- 1.9.3.b *Bona Fide Agency.* In determining whether an agency is a bona fide established commercial selling agency employed by the contractor for the purpose of securing business, the factors below must be considered:
1. The fee must be commensurate with the nature and extent of the services and not excessive compared with the fees customarily allowed in the trade for similar services related to commercial business. In evaluating reasonableness of the fee, services of the agent other than actual solicitation should be considered, such as technical, consultant, or managerial services, and assistance in obtaining personnel, facilities, equipment, materials, or subcontractors for the performance of the contract.
 2. The agency should be an established concern, with knowledge of the products and the business of the concern represented and other qualifications necessary to sell the products or services on their merits, and there should ordinarily be a continuity of relationship between the contractor and the agency.
- 1.9.3.c *Use of Improper Influence.* No employee or agency is bona fide if the employee or agency seeks to obtain or claims to be able to obtain a contract through the use of improper influence.

1.9.4 Contractor's Statement of Contingent or Other Fees

Form 7319, *Contractor's Statement of Contingent or Other Fees*, must be obtained from successful offerors whenever either part of the required

representation is answered in the affirmative. Refusal to furnish the statement requires rejection of the proposal.

1.9.5 **Misrepresentation or Violation**

In case of misrepresentation concerning contingent fees, or violation or breach of Clause 1-6, Contingent Fees, the VP, P&M (or the VP, Facilities, for real estate related matters), must take one or more of the following actions, or other action, as is appropriate:

- 1.9.5.a If the award has not been made, determine whether the proposal should be rejected.
- 1.9.5.b If award has been made, take action to enforce the clause, either annulling the contract without liability or recovering the amount of the fee involved.
- 1.9.5.c Consider suspension or debarment.
- 1.9.5.d Consider referring the matter to the Attorney General, through the same channels as in 1.8.2.a.

SECTION 10 ADMINISTRATIVE MATTERS

1.10.1 **Files**

A file must be established for every purchase action, solicitation, and contract. Every purchasing office or office making contract payments must keep records of all actions taken concerning solicitations and contracts. The head of the office is responsible for the maintenance and disposition of these records. Depending on the type of purchase, see the handbooks referenced in 1.1.1.b for disposition instructions.

1.10.2 **Document Numbering**

This uniform numbering system must be used to identify all solicitations, contracts, and related purchasing documents (except those concerning real estate and mail transportation).

- 1.10.2.a *Basic Number.* The basic number consists of 13 characters (letters and numbers) arranged in four groups as follows:
 1. The first six characters are the finance number of the purchasing office issuing the document.
 2. The seventh and eighth characters are the last two numbers of the fiscal year in which the document is issued.
 3. The ninth character designates the category of document, as listed in Exhibit 1.10.2a3. Use categories B, F, P, and Z only if no other category applies.
 4. Characters 10 through 13 are the serial number of the document, except for indefinite-delivery contracts, for which see subparagraph 6 below. A separate series of serial numbers must be used for solicitation documents and for

award documents. The contracts and orders register and the indefinite-delivery contracts register have their own series of serial numbers.

5. Dashes must be used to separate the four groups of characters, as in 104233-91-B-0001. This example breaks down as shown in Exhibit 1.10.2a5.
6. For indefinite-delivery contracts, the tenth character is a capital letter designating the purchasing office.

1.10.2.b *Supplementary Numbers*

1. Supplementary numbers must be used in conjunction with the basic number to identify:
 - (a) Amendments to solicitations;
 - (b) Modifications to contracts and orders; and
 - (c) Task orders under Postal Service contracts.
2. The supplementary number must consist of a serial number directly following the basic number, using (separated by a dash) the following format:
 - (a) (a) Amendments must be sequentially numbered A01 to A99.
 - (b) Modifications must be sequentially numbered M01 to M99.
 - (c) Task orders must be sequentially numbered T001 through T999.

Ninth Character Categories for Document Numbering

GROUP	CHARACTER	CATEGORY
Solicitations	A	All solicitations
Competitive Contract Awards	B	Over \$100,000
	E	Follow-on to competition
	J	Architect-engineering
	L	Land acquisition
	M	Delivery orders under USPS indefinite-delivery contracts
	N	Delivery orders under government agency contracts (except required sources)
	O	Research and development
	P	\$100,000 or less
	S	Purchases from a public utility
	X	Open market purchases \$10,000 or less paid at ISCs
	Y	Purchases \$2,000 or less paid locally (not paid at ISC). (Use of this code is optional, and it is not recorded in the registers described in 1.10.3. A local purchase register is to be maintained for these purchases.)
Noncompetitive Contract Awards	C	Research and development Awards
	F	\$100,000 or less
	I	Consultant contracts
	K	Land acquisition
	Z	Over \$100,000
	9	Unauthorized commitments
Other	D	Orders under USPS ordering agreements
	H	Ordering agreements
	Q	First production buys
	R	Basic pricing agreements, Vehicle Maintenance Agreements, and Vehicle Washing and Polishing Agreements
	T	Purchases from required sources (workshops for people who are blind and other severely disabled and Federal Prison Industries, and Defense Fuel Supply Center)
	U	Revenue-producing contracts

Ninth Character Categories for Document Numbering
Exhibit 1.10.2a3

Character Element Breakdown for Document Numbering

CHARACTER	ELEMENT	EXAMPLE
1 thru 6	Purchasing Office	104233
7 thru 8	Fiscal Year	91
9	Type of Purchase	8
10 thru 13	Serial Number	0001

Character Element Breakdown for Document Numbering

Exhibit 1.10.2a5

1.10.3 Document Registers

All contracts, orders, and modifications must be recorded by document number in the appropriate register

- 1.10.3.a *Contracts and Orders Register.* This register must be used to record all initial contract awards and orders, except indefinite-delivery contracts (see paragraph c below).
- 1.10.3.b *Modifications and Data Corrections Register.* This register must be used to record modifications of contracts and orders, and for correcting or updating data previously recorded.
- 1.10.3.c *Indefinite-Delivery Contracts Register.* This register must be used to record the award of indefinite-delivery contracts.

1.10.4 Commodity Codes

Commodity codes are alphanumeric codes that describe the commodity or service being purchased. For delivery orders under USPS indefinite-delivery contracts, the commodity code is the fiscal year and serial number of the basic contract number (six characters without dashes, i.e., 88H001).

1.10.5 Socioeconomic Classification Codes

The codes shown in Exhibit 1.10.5 are used to identify contracts and orders by socioeconomic classification.

Socioeconomic Classification Codes

CODE	CLASSIFICATION
A	Small business
B	Small minority-owned business
C	Small woman-owned business
D	Small business labor surplus area
E	Small minority woman-owned business
F	Small minority-owned business, labor surplus area
G	Small woman-owned business, labor surplus area
H	Small minority woman-owned business, labor surplus area
I	Large business
J	Large minority-owned business
K	Large woman-owned business
L	Large business labor surplus area
M	Large minority woman-owned business
N	Large minority-owned business, labor surplus area
P	Large woman-owned business, labor surplus area
R	Large minority woman-owned business, labor surplus area
S	Nonprofit or educational institution, and other government agencies (use this category only if no other category applies)
T	National Industries for the Blind
U	National Industries for the Severely Handicapped
V	Food services contracts to people who are blind
W	Federal Prison Industries (UNICOR)

Socioeconomic Classification Codes
Exhibit 1.10.5