

# Contract Administration



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Administrative Contracts

# Agenda

- Contract Types
- Contract Administration and Audit Services
- Post Award Orientation
- The Acquisition Team
- Contractor Registration and Reporting
  - CCR
  - Contract Invoice/ Voucher Payments
  - Schedule of Deliverables
    - Contract Specific Deliverables
    - FISMA/ FEDRAMP
    - OCI
    - eSRS
- Consent to Subcontracts
- Past Performance/ CPARS/ PPIRS
- Contract Close Out

# Contract Types

## FAR 16

- Contract types vary according to:
  - The degree and timing of the responsibility assumed by the contractor for the costs of performance.
  - The amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals.

# Contract Types

## FAR 16 (cont.)

- The contract types are grouped into two broad categories:
  - fixed-price contracts ([Subpart 16.2](#))
  - cost-reimbursement contracts ([Subpart 16.3](#))
- In between are the various incentive contracts ([Subpart 16.4](#))

# Contract Types

## Fixed-Price Contracts

- Fixed-price contracts provide for a firm price or, in appropriate cases, an adjustable price.
- Firm-fixed-price contracts places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties.
- Time-and-materials contracts and labor-hour contracts are not fixed-price contracts.

# Contract Types

## Cost-Reimbursement Contracts

- Cost-reimbursement types of contracts provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed.

# Contract Types

## Cost-Reimbursement Contracts (cont.)

- Cost-reimbursement contracts are used when:
  - Circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed-price type contract .
  - Uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.
- The contracting officer must document the rationale for selecting the contract type and must be approved and signed at least one level above the contracting officer.

# Contract Types

## Incentive Contracts

- The contractor's responsibility for the performance costs and the profit or fee incentives offered are tailored to the uncertainties involved in contract performance.
- Incentive contracts are designed to obtain specific acquisition objectives by:
  - Establishing reasonable and attainable targets that are clearly communicated to the contractor; and
  - Including appropriate incentive arrangements designed to:
    - Motivate contractor efforts that might not otherwise be emphasized; and
    - Discourage contractor inefficiency and waste.



# Contract Types

- Fixed Price Contracts FAR 16.2
- Cost Reimbursement FAR 16.3
- Indefinite Delivery/Indefinite Quantity
- Time and Materials
- Labor Hours
- Letter Contracts
- Basic Order Agreements

# Contract Administration and Audit Services

Contract Administration begins with Contract Award and is conducted in accordance with FAR Part 42 – Contract Administration and Audit Services

# Post Award Orientation

- Begins the contract administration process
  - Purpose:
    - Is to achieve a clear and mutual understanding of the contract requirements.
    - Understand the roles and responsibilities of the Acquisition team.
    - Establish protocol for communications.

# The Acquisition Team (The Big A)

## Meeting the Players

- Contracting Officer
- Contract Specialist
- Contracting Officer's Representative
- Other Government Staff (e.g., Subject Matter Experts, Government Task Leads, and Business Function Leads)
- The Contractor

# Contracting Officer (CO)

- **FAR Part 1.602-1 Authority**
- Contracting officers have authority to enter into, administer, or terminate contracts and make related determinations and findings.
- **FAR Part 1.602-2 Responsibilities**
- Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. Contracting Officers shall:
  - Ensure that sufficient funds are available for obligation
  - Ensure that contractors receive impartial, fair, and equitable treatment
  - Request and consider the advice of the acquisition team

# Contract Specialist (CS)

- Support the CO
- Preparation necessary contract documents
- Engage in all meetings with the acquisition team

# Contracting Officer's Representative (COR) Delegation

- The COR has delegated authority from the Contracting Officer
- COR is responsible for monitoring Contractor performance as set forth in contract and issuing technical guidance which is within the scope of the contract.
- The COR is **Not** authorized to:
  - Require or authorize a Contractor to perform additional work that is not provided for in the Statement of Work.
  - Modify a term or condition of a contract, or otherwise waive a contract term or condition.
  - Extend a date specified in the contract for the completion of services or the delivery of items.
  - Otherwise take any action that has the effect of requiring a Contractor to perform work that is not fully in accordance with the terms of the contract.

# Other Government Staff

- Other Government Staff
  - Subject Matter Experts (SME)
  - Government Task Leads (GTL)
  - Business Function Leads (BFL)
- Support the COR
- Assist in preparation of necessary documents specific to area of expertise
- Engage in meetings specific to area of expertise



# The Contractor

- As a CMS contractor YOU are part of our acquisition team. You are part of the Big A.
- As a valued business partner you serve a critical role in meeting, achieving, and exceeding the Agency's Mission and Vision of a high quality health care system that ensures better care and lower cost; improved health; and access to health care coverage.

# Contractor Registration and Reporting

- The System for Award Management (SAM) is combining federal procurement systems and the Catalog of Federal Domestic Assistance into one new system (<https://sam.gov>).
  - Central Contractor Registry (CCR)
  - Online Representations and Certifications Application (ORCA)
  - Excluded Parties List System (EPLS)

# Central Contractor Registry (CCR)

## FAR 52.204-7

- Company legal business name
- Trade style, doing business, or other name by which your entity is commonly recognized
- Company physical street address, city, state and Zip Code.
- Company mailing address, city, state and Zip Code (if separate from physical)
- Company telephone number
- Date the company was started
- Number of employees at your location
- Chief executive officer/key manager
- Line of business (industry)
- Company Headquarters name and address
- North American Industry Classification Standards (NAICS code)

# Contract Invoice/ Voucher Payments

- Purpose:
  - FAR 32.9-Prompt Payment Act - ensures that federal agencies pay vendors in a timely manner.
- Procedures:
  - All invoices/vouchers will be submitted in accordance with contract terms and conditions.
  - The contractor will designate on its Invoice/Voucher the Contract Type (I,II,III,IV), in accordance with the chart below.
  - All CMS Contractor invoices & vouchers will be paid in accordance with the time frames established in the chart below.
  - Category Types are identified in Section G of every contract.

# Contract Invoice/ Voucher Payments (cont.)

## INVOICE/VOUCHER REVIEW/APPROVAL PROCESSING TIME FRAMES

Contract Payment Category Types (\$ = Total Contract Value)

Days = Calendar Days

TYPE I		TYPE II	TYPE III		TYPE IV
Type IA	Type IB		Type IIIA	Type IIIB	
All Small Businesses (No \$ Limit)	All QIOs (No \$ Limit)	All Other Contracts (No \$ Limit)	Simplified Acquisitions \$3K to \$150K (Small Businesses)	Simplified Acquisitions \$3K to \$6.5M (Large Businesses)	All Large Business Prime Contracts with Small Business Subcontractors (from July 11, 2012 through July 10, 2013)
15 Days Not-to-Exceed 30 Days	15 Days Not-to-Exceed 30 Days	30 Days	15 Days Not-to-Exceed 30 Days	30 Days	28 Days Not-to-Exceed 30 Days

# Contract Invoice/ Voucher Payments (cont.)

- Contract Provisions/Clauses will depend on type of Contract
  - Firm Fixed Price (FFP)
  - Cost Reimbursement (CR)
  - Time & Materials/Labor Hour (T&M/ LH)

# Contract Invoice/ Voucher Payments (cont.)

- Contract specific clauses will provide directions
  - *Method of Payment*
    - CMS will only make an electronic payment for reimbursement of voucher submissions in accordance with FAR 52.232-33, Payments by Electronic Funds Transfer – Central Contractor Registration. In order to receive payments, the contractor must register in the CCR database in accordance with FAR 52.204-7. Failure to register in the CCR may prohibit CMS from making payments to your organization.

# Contract Invoice/ Voucher Payments (cont.)

## – *Content of Voucher*

- Invoices shall include, at a minimum:
  - Contractor's name and address;
  - Contractor's Tax Identification Number (TIN);
  - Contractor's DUNS Number;
  - Invoice date;
  - Invoice Number to include the designation of the Contract Payment Category Type.



# Contract Invoice/ Voucher Payments (cont.)

- **ELECTRONIC MAIL:** The contractor shall submit an electronic copy of the voucher to both of the following individuals:
  - Contract Specialist – [xxxx.xxxxx@CMS.HHS.Gov](mailto:xxxx.xxxxx@CMS.HHS.Gov); and
  - COR - [xxxx.xxxxx@CMS.HHS.Gov](mailto:xxxx.xxxxx@CMS.HHS.Gov).

# Contract Invoice/ Voucher Payments (cont.)

- **REGULAR MAIL:** An original and one (1) hard copy of the voucher shall be submitted to the address below:

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
OFM/Division of Accounting Operations  
P.O. Box 7520  
Baltimore, MD 21207-0520

# Contract Invoice/ Voucher Payments (cont.)

- **OVERNIGHT MAIL:** If the contractor chooses to use an overnight mail carrier, the original and one (1) hard copy of the voucher shall be submitted to the address below:

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
OFM/Division of Accounting Operations  
7500 Security Boulevard/Mailstop: C3-11-03  
Baltimore, MD 21244-1850

# Schedule of Deliverables

- Contract Specific Deliverables
- Federal Information Security Management Act (FISMA)
  - <http://csrc.nist.gov/groups/SMA/fisma/index.html>.
- Federal Risk and Authorization Management Program (FedRAMP) –  
<http://www.gsa.gov/portal/category/102371>.
- Conflicts of Interest, FAR 9.5
- Electronic Subcontracting Reporting System (eSRS)  
<https://esrs.symlicity.com>
  - Individual and Summary Subcontracting Reporting

# Contract Specific Deliverables

- Every contract will have the specific deliverables and reports.
- Every contract will specifically state type of deliverable, person receiving the deliverable, location of deliverable, delivery date, frequency, etc.
- All work and deliverable are subject to inspection and final acceptance by the CO, or a duly authorized representative of the CO (COR).

# Conflicts of Interest

- Unequal Access to Information FAR 9.505-4
  - e.g., Has access to nonpublic information
- Biased Ground Rules FAR 9.505-1 and 9.505-2
  - e.g., Helped in Writing SOW
- Impaired Objectivity FAR 9.505-3
  - e.g., The work performed by a contractor cannot be evaluated by the same contractor under another contract

# Electronic Subcontracting Reporting System (eSRS)

- Contractors Guide and Quick Reference Guide
  - <https://esrs.symplcity.com>
- eSRS was implemented in October of 2005 to make the subcontract reporting process electronic
- Prime contractors are to report twice a year, within 30 days of the end of a reporting period
- Reporting Periods
  - 1<sup>st</sup> reporting period Oct 1 – Mar 31 (Report due April 30)
  - 2<sup>nd</sup> reporting period Oct 1 – Sep 30 (Report due Oct 30)
- Contractors should make sure to not only report what they have done to accomplish their current goals but also what they plan on doing in specifics to reach their goals

# Electronic Subcontracting Reporting System (eSRS)

- Report on Current Goals and Actuals for the following:
  - Small Business (SB)
  - Small Disadvantaged Business (SDB)
  - Women-Owned Small Business (WOSB)
  - HUBZone Small Business (HUBZone SB)
  - Veteran-Owned Small Business
  - Service-Disable Veteran-Owned Small Business
  - Alaska Native Corporations (ANCs) and Indian Tribes



# Consent to Subcontracts

## FAR 44.2

- If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the Contracting Officer in the subcontracts clause of the contract.
- If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions (including unpriced modifications and unpriced delivery orders) under fixed-price contracts that exceed the simplified acquisition threshold, for—
  - Cost-reimbursement, time-and-materials, or labor-hour subcontracts; and
  - Fixed-price subcontracts that exceed—
    - either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

# Consent to Subcontracts

## FAR 44.2 (cont.)

- The contractor must provide at a minimum the following:
- Decision to subcontract consistent with the contractor's approved make-or-buy program, if any.
- Is the subcontract for special test equipment, equipment or real property that are available from Government sources?
- The selection of the particular supplies, equipment, or services are technically justified.
- Has the contractor complied with the prime contract requirements regarding—
  - Small business subcontracting, including, if applicable
  - Purchase from nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act).
- Was adequate price competition obtained or its absence properly justified?

# Consent to Subcontracts

## FAR 44.2 (cont.)

- Did the contractor adequately assess and dispose of subcontractors' alternate proposals, if offered?
- Does the contractor have a sound basis for selecting and determining the responsibility of the particular subcontractor?
- Has the contractor performed adequate cost or price analysis or price comparisons and obtained certified cost or pricing data and data other than certified cost or pricing data?
- Is the proposed subcontract type appropriate for the risks involved and consistent with current policy?
- Has adequate consideration been obtained for any proposed subcontract that will involve the use of Government-provided equipment and real property?
- Has the contractor adequately and reasonably translated prime contract technical requirements into subcontract requirements?
- Does the prime contractor comply with applicable cost accounting standards for awarding the subcontract?
- Is the proposed subcontractor in the Excluded Parties List System (see [Subpart 9.4](#))?

# Consent to Subcontracts

## FAR 52.244-2

- The Contractor shall notify the Contracting Officer reasonably in advance of placing any, including the following information:
  - A description of the supplies or services to be subcontracted.
  - Identification of the type of subcontract to be used.
  - Identification of the proposed subcontractor.
  - The proposed subcontract price.
  - The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
  - The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

# Consent to Subcontracts

## FAR 52.244-2 (cont.)

- A negotiation memorandum reflecting:
  - The principal elements of the subcontract price negotiations;
  - The most significant considerations controlling establishment of initial or revised prices;
  - The reason certified cost or pricing data were or were not required;
  - The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;
  - The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
  - The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
  - A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

# Past Performance

## CPARS/ PPIRS

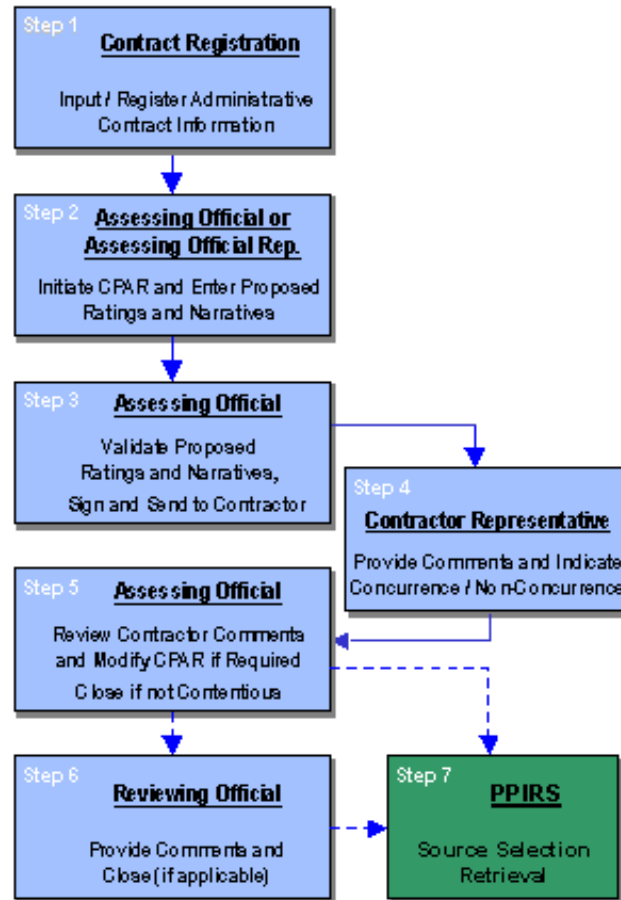
- FAR 42.15 – Contractor Performance Information
- The Administrator of the Office of Federal Procurement Policy identified the Contractor Performance Assessment Reporting System (CPARS) as the Federal Government-wide solution for collection of contractor performance information.
- CPARS – Contractor Performance Assessment Reporting System.
  - <https://www.cpars.gov/>
  - <https://www.cpars.gov/cparsfiles/pdfs/CPARS-Guidance.pdf>

# Past Performance

## CPARS/ PPIRS (cont.)

- Evaluation of Contract Performance
  - Quality of Product or Service
  - Schedule
  - Cost Control
  - Business Relations; Management of Key Personnel
  - Utilization of Small Business (if applicable)
- Evaluation of Utilization of Small Business
- Past Performance Information Retrieval System

# CPARS Basic Workflow





# Contract Close Out

- Critical to HHS' fulfillment of acquisition and fiscal responsibilities
- Requires close coordination between contracting, program, finance office, as well as the cognizant audit agency and the contractor
- Closeout process can be simple or complex based on the type of contract and dollar value of the award
- Simplified procedures:
  - FAR 4.804-1(a)(1): CO receives evidence of completion of delivery of property or services
  - FAR 4.804-1(a)(1): CO receives evidence of final payment
- Closeout procedures unique to Cost Reimbursable contracts
  - FAR 4.804-5(a)(7): All interim or disallowed costs are settled
  - FAR 4.804-5(2)(10): Prior year indirect cost rates are settled
  - FAR 4.804-5(a)(12): Contract audit is completed
  - FAR 4.804-5(a)(14): Contractor's completion voucher has been submitted
  - FAR 4.804-5(a)(15): Contract funds review is completed and excess funds are deobligated
  - FAR 52.216-7: Contractor's assignment of refunds, rebates, credits and other amounts

# Contract Close Out (cont.)

- Contractor is responsible for the following per FAR 4.804-5:
  - Furnishing indirect cost rate proposals for all years in which a proposal was not previously submitted for Cost Reimbursable contracts
  - Submitting a final property inventory (excluding intellectual property)
  - Settling all subcontract costs and any issues thereunder
  - Submitting subcontracting compliance reports for all years to the electronic subcontract reporting system at [hht://www.esrs.gov](http://www.esrs.gov) (formerly Forms 294 and 295)
  - Submitting the final patent and royalty reports
  - Submitting a contractors release of claims
  - submitting a Contractor's Assignment of Refunds, Rebates, and Credits preparing
  - Submitting Certifications
  - Submitting a final invoice or completion voucher