

Attachment -- DEAR Deviation Text - Final

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 901.1—Purpose, Authority, Issuance

901.101 Purpose.

The Department of Energy Acquisition Regulation (DEAR) in this chapter establishes uniform acquisition policies which implement and supplement the Federal Acquisition Regulation (FAR), including applicable Department of Energy (DOE) and the National Nuclear Security Administration (NNSA) deviations.

901.103 Authority.

The DEAR and amendments thereto are issued by the Senior Procurement Executives (SPEs) of DOE and NNSA. The SPEs may also approve deviations from the DEAR, together and individually. The DOE SPE delegation is pursuant to a delegation from the Secretary of Energy in accordance with the authority of section 644 of the Department of Energy Organization Act

(42 U.S.C. 7254), section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 121(c)(2)), and other applicable laws. The NNSA SPE delegation is pursuant to a delegation from the Administrator of the NNSA, in accordance with section 3212 of the National Nuclear Security Administration Act (50 U.S.C. 2402), section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 121(c)(2)), and other applicable laws. Except for the authorities designated as non-delegable, the SPEs are delegated the authorities assigned to the Agency Head in the FAR. A reference to the SPE refers to the DOE SPE and the NNSA SPE, unless otherwise indicated.

901.105 Issuance.

901.105-1 Publication and code arrangement.

The DEAR and its subsequent changes are published in the Federal Register, cumulative form in the Code of Federal Regulations (CFR), and the Government Printing Office's Electronic CFR.

901.105-2 Arrangement of regulations.

The DEAR is divided into parts, subparts, sections, subsections and paragraphs that correspond to the FAR. The DEAR numbering is preceded with a 9 or a 90. Material which supplements the FAR will be assigned the numbers 70 and up.

901.106 OMB approval under the Paperwork Reduction Act.

The Office of Management and Budget (OMB) control number for the collection of information under 48 CFR chapter 9 is 1910-4100.

Subpart 901.4—Deviations From the DEAR

901.401 Definition.

A deviation from the DEAR is defined as the issuance or use of a policy, procedure, solicitation provision, contract clause, method, or practice of conducting acquisition actions that is inconsistent with the DEAR.

901.403 Individual deviations.

Requests for individual deviations from the FAR or the DEAR shall be submitted to the cognizant Senior Procurement Executive (SPE), that is DOE or NNSA, (or designee) for approval. Requests shall cite the specific part of the FAR or DEAR from which it is desired to deviate, shall set forth the nature of the proposed deviation(s), and shall give the reasons for the action requested.

901.404 Class deviations.

Requests for class deviations from the FAR or the DEAR shall be submitted to the cognizant SPE, that is DOE or NNSA, (or designee) for processing in accordance with FAR 1.304 (as implemented by DOE/NNSA class deviation) and this section. Requests shall include the same information prescribed in 901.403 for individual deviations.

Subpart 901.6—Career Development, Contracting Authority, and Responsibilities

901.601 General.

(a) Contracting authority for DOE vests in the Secretary of Energy, and for NNSA in the Administrator.

(1) The Secretary has delegated this authority to the DOE Senior Procurement Executive. The DOE Senior Procurement Executive has redelegated this authority to the DOE Heads of Contracting Activities (HCA). These delegations are formal written delegations containing specific dollar limitations and conditions. Each DOE HCA, in turn, makes formal contracting officer appointments for its contracting activity.

(2) Contracting authority for NNSA vests in the Under Secretary for Nuclear Security, also known as the NNSA Administrator. The NNSA Administrator has delegated this authority, with specific dollar limitations and conditions to the NNSA Senior Procurement Executive. The NNSA Senior Procurement Executive has redelegated this authority to the NNSA Head of the Contracting Activities (HCA). Each NNSA HCA in turn makes formal contracting officer appointments for its contracting activity.

(b) The Senior Procurement Executives have been authorized, without power of redelegation, to perform the functions set forth at FAR 1.401 (as implemented by DOE/NNSA class deviation) regarding the assignment of contracting functions and responsibilities to another agency, and the creation of joint or combined offices with another agency to exercise acquisition functions and responsibilities.

901.602-3 Ratification of unauthorized commitments.

(b)(2) The Senior Procurement Executives are authorized to ratify unauthorized commitments.

(3) The ratification authority of the DOE and NNSA Senior Procurement Executives in paragraph (b)(2) of this section is delegated to the Head of the Contracting Activity (HCA) for individual unauthorized commitments of \$250,000 or under. The ratification authority of the HCA is nondelegable.

901.603 Selection, appointment, and termination of appointment.

901.603-1 General.

The DOE Order 361.1, Acquisition Career Management Program, or its successor order, sets forth the requirements and responsibilities for the DOE and NNSA Acquisition Career Development Program.

901.603-70 Appointment of contracting officers and contracting officer's representatives.

See the DOE Order 541.1, Appointment of Contracting Officers and Contracting Officer Representatives, or its successor order, for procedures on the appointment of contracting officers and contracting officer's representatives.

