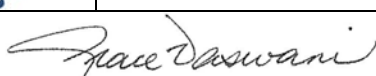




Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 1 of 34

1.0 POLICY/PURPOSE

Santa Barbara Applied Research (SBAR), Inc. controls the purchase of goods and services that affect the quality of products. Purchased goods and services are verified (inspected and accepted) against documented and specified requirements. The system described in this procedure outlines the methods for ensuring that purchased products conform to specified requirements.

2.0 SCOPE/TABLE OF CONTENTS

This procedure and supplementing work instructions (WIs) apply to all SBAR, Inc. operations.

3.0 REFERENCES AND DEFINITIONS

3.1 References

ISO 9001: Quality Management Systems-Requirements, Third Edition (2000-12-15)

- ISO 9001, Element 7.4: Purchasing

SBAR Documentation

- Quality Manual (QAP 2000)
- *Documents and Data Control Procedure (CP-00-9005)*
- *Inspection and Testing Procedure (CP-00- 9010)*
- *Control of Nonconforming Product and Services/ Corrective and Preventive Action Procedure (CP-00-9013/14).*

Federal Acquisition Regulation (FAR) <http://www.arnet.gov/far/>

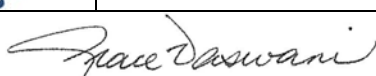
Department of Defense Federal Acquisition Regulations (DFAR)

3.2 Definitions

Acquisition: The acquiring of supplies or services by contract. Acquisition begins at the point when customer needs are established and includes the description of requirements to satisfy customer needs, solicitation and selection of sources, award of contracts/purchase orders, financing, contract/purchase order performance, contract/purchase order administration, and those technical and management functions directly related to the process of fulfilling customer needs.

Program / Project Manager: A generic term used to describe the SBAR employee who, on a daily basis, oversees the performance of a subcontractor (regardless of the product or service the



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 2 of 34

subcontractor is providing) and reports status back to the senior SBAR manager and purchasing agent administering the subcontract.

Contract: A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and SBAR to pay for them. It includes all types of commitments that obligate SBAR to an expenditure of funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.* (**NOTE:** For discussion of various types of contracts, see FAR Part 16.)

Customer: Recipient of a product provided by SBAR. A customer may be a commercial firm, an individual, or a government agency such as the U.S. Navy or Air Force.

Micro-Purchase: An acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold of \$2,500. (**NOTE:** There are two exceptions, (1) \$2,000 for construction subject to the Davis Bacon Act; and (2) \$7,500 for acquisitions of supplies or services used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, except for construction subject to the Davis Bacon Act. Additionally, for humanitarian and peacekeeping operations, the threshold is \$15,000.) See Paragraph 5.4.2

Procurement: See acquisition.

Purchase Order (PO): A type of contract that satisfies the agreement between SBAR and the supplier providing supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures. When issued, a purchase order is an offer that becomes a contract when formally acknowledged and accepted by a responsible representative of the supplier (or when work is initiated). Purchase orders may be in electronic or paper format. See Paragraph 5.10

Purchase Requisition (PR): A record, paper and/or electronic, that authorizes the procurement of goods and services. PRs (or Requisitions) may be in electronic or paper format. Unless otherwise specified, PRs are approved by a SBAR manager, prior to submission to the purchasing/procurement staff. See Paragraph 5.8

Purchasing Agent (PA): A SBAR employee specifically authorized in writing by SBAR, Inc. to commit company funds in the form of contracts, subcontracts, purchase orders, etc. Purchasing agents, or procurement personnel, include contract managers, subcontract managers, subcontract administrators, buyers, etc. See Paragraph 4.3

Simplified Acquisition Procedures: The methods prescribed in FAR Part 13 for making purchases of supplies or services. See Paragraph 5.4



Quality Assurance Procedure		CP-00-4000
Approved: <i>Shane Daswani</i>	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 3 of 34

Sole Source Acquisition: A contract for the purchase of supplies or services that is entered into or proposed to be entered into by SBAR after soliciting and negotiating with only one source.

Subcontractor: A supplier of products and services to SBAR. Normally, subcontractors provide their products and services via a contract.

Supplier: A person or firm who provides a product or service to SABR. Interchangeable with vendor, seller, subcontractor, etc.

Surety: An individual or corporation legally liable for the debt, default, or failure of a principal (e.g., SBAR, SBAR subcontractor) to satisfy a contractual obligation.

Team Member: A firm or individual for which SBAR has established a mutual supportive relationship. The duties and responsibilities to each of the parties are defined within the terms of the agreement and/or subcontract.

Vendor: A supplier of products and services to SBAR. Normally, vendors provide their products and services via a Purchase Order. (**NOTE:** For purposes of the Approved Vendor List, the term “vendor” includes all individuals and firms who provide products and services to SBAR.)

(**NOTE:** See FAR Part 2.101 for other definitions associated with federal acquisitions.)

4.0 RESPONSIBILITIES

4.1 Director of Finance

The Director of Finance is responsible for this procedure and provides guidance and direction to the various Purchasing Agents throughout the company.

4.2 SBAR Contract Manager

The SBAR Contract Manager complies with the provisions of this procedure, the FAR, DFAR, and applicable customer purchasing requirements. For larger contracts when a contract/purchasing/procurement manager is authorized, this individual is the “designee” for the Contract Manager.

4.3 Purchasing Agents (PA)

Purchasing Agents comply with the provisions of this procedure, the FAR, DFAR, and applicable customer purchasing requirements. (**NOTE:** For larger contracts when a contract/purchasing/procurement manager is authorized, this individual becomes the Contract Manager’s “designee” as explained throughout this procedure.)

4.4 Managers

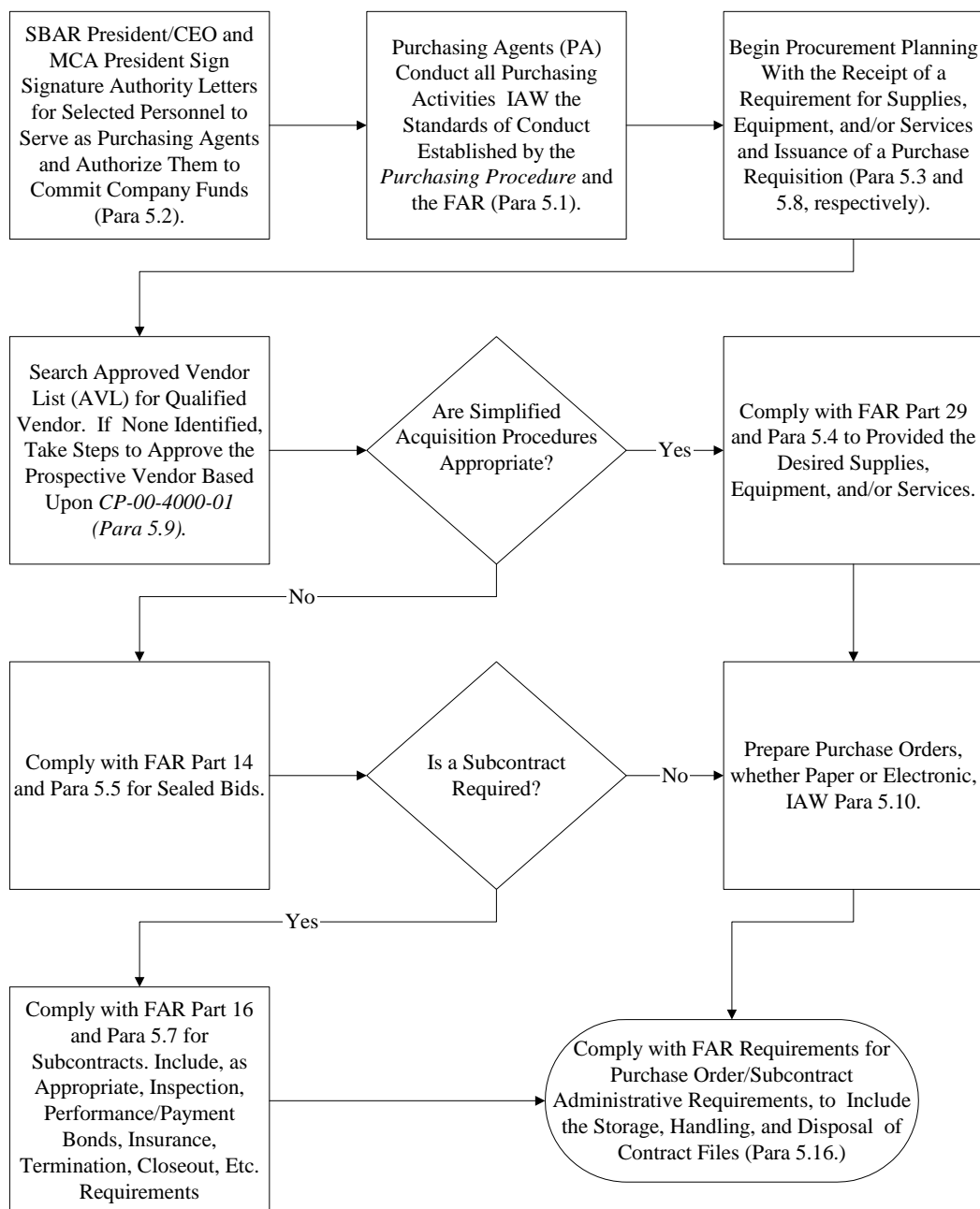
Managers’ duties include:

- Ensuring requisitions are properly completed and submitted to the purchasing and procurement staff in-time to meet customer needs.
- Review and approve requisitions prior to submittal to the purchasing/procurement staff.

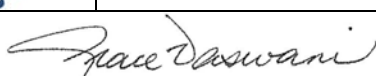
**Approved:****Date: 17 November 2004****Title: Purchasing Procedure (ISO Element 7.4)****REV
N/C****Page 4 of 34**

5.0 REQUIREMENTS/PROCEDURES

Figure 1--Process Flow for Purchasing Process





Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 5 of 34

5.1 Standards of Conduct (FAR Part 3)

See FAR Part 3, Improper Business Practices and Personal Conflicts of Interest, for details.

5.1.1 General

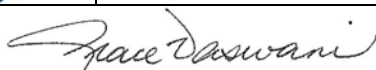
SBAR considers salespeople, suppliers or contractors as important components of the procurement process. Purchasing Agents (PA) select vendors/contractors that are responsible and competent to serve the company's needs. Procurements are made with complete impartiality based on the merits of supplier/contractor proposals and applicable related considerations.

5.1.2 Procurement Policies and Objectives

Purchasing Agents are responsible for all functions related to the acquisition of supplies, services or construction and for the administration of such purchase orders and subcontracts. In performing these functions, PAs adhere to the following objectives:

- Make all purchases in the best interest of the company and the customer.
- Obtain the quality of supplies, services or construction needed and ensure delivery or completion at the time and place required.
- Buy/contract from responsible sources.
- Obtain the maximum value for all expenditures.
- Develop a competitive procurement environment compatible with the company's requirements.
- Avoid favoritism. Deal fairly and impartially with all vendors/contractors.
- Maintain a list of dependable suppliers, i.e., an Approved Vendor List.
- Document each transaction as required by company and customer acquisition regulations (e.g., FAR).
- Do not solicit personal favors. Refuse all gifts, entertainment and anything of monetary value from suppliers. Report such "offers" to the appropriate level of management.
- Procure a fair share of supplies/services from small, minority, women-owned, and labor-surplus-area concerns.
- Be above suspicion of unethical behavior at all times. Avoid any conflict of interest or even the appearance of a conflict of interest in all company-supplier/contractor relationships.
- Report any identical bids and suspected violations of antitrust statutes to the appropriate manager for review and possible referral to the customer.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 6 of 34

5.1.3 Treatment of Salespeople, Suppliers, and Contractors

Treat salespeople, suppliers or contractors courteously, fairly, and equally. In this regard, PAs adhere to the following general practices:

- Maintain relationships with suppliers in a professional, businesslike, and cordial manner.
- Make every effort to see each salesperson/supplier or contractor who comes to solicit company business. Receive supplier/contractor representatives promptly and courteously.
- Give each supplier/contractor an equal opportunity to quote on the company's needs.
- Do not ask a supplier/contractor to make a second quotation unless each vendor solicited is given an opportunity to rebid.
- You may divulge the successful vendor's name upon request. Prices, specifications, delivery, and other confidential data is *not* revealed to competing suppliers or to others who do not have a need to know.
- Cooperate with suppliers/contractors where possible and do not take advantage of obvious supplier/contractor errors or unnecessarily increase supplier/contractor expenses.

5.1.4 Policies Regarding Gratuities and Kickbacks

Procurement actions are conducted in a manner above reproach and with complete impartiality. Transactions involving customer funds (e.g., federal government) require the highest degree of trust and standards of conduct. In this regard:

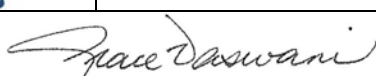
- Purchasing Agents avoid any action or circumstances--such as a gratuity (a payment or gift to obtain favorable treatment or influence the award of an order), family relationship, or financial interest--that might conflict with the proper performance of their duties or compromise the company's acquisition process.
- SBAR employees are prohibited from soliciting or accepting, directly or indirectly, any gift, favor, entertainment, loan, or anything of monetary value from anyone who is seeking to obtain business from the company.
- At all times, PAs conduct themselves in a manner that maintains trust and confidence in the integrity of the company's procurement process.

5.1.5 Safeguards

To assure compliance with the above policies, the following procedures are applicable:

- All Purchasing Agents have a prior approved signature authority letter in their possession signed by the SBAR President/CEO or MCA President. See Paragraph 5.2
- PA procurement assignments are periodically rotated, where feasible.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 7 of 34

- The Director of Finance reports any purchasing irregularities to the President/CEO.
- Any complaint of unfair treatment, request for a gratuity or kickback, conflict of interest, or other unethical or dishonest behavior is immediately reported to the President/CEO. When appropriate, the President/CEO appoints a disinterested party to investigate the allegations. (**NOTE:** To the maximum extent possible, complainant remains anonymous.)
- When appropriate, unethical conduct of a serious nature, or repetition of minor infractions, is reported to the customer. The parties involved are required to make restitution of any gain resulting from such actions.

5.2 Signature Authority

5.2.1 General

The SBAR President/CEO and MCA Engineers President are solely authorized to designate procurement and management personnel for signature authority and to assign signature authority limits for committing SBAR funds. The authority is normally based on specific job requirements (see *Organization Manual*), the experience level of the individual, and is always confirmed by letter. The letter outlines the limits and applications of authority under which the individual may commit funds and/or accept goods and services.

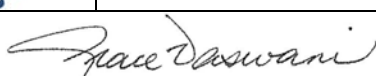
5.2.2 Signature Authority

For corporate personnel, the President/CEO issues a signature authority letter to the personnel that are authorized to commit SBAR funds. At locations other than corporate offices, signature authority and level is issued on a project-by-project basis.

Upon assignment of procurement personnel, the project manager sends a memo/e-mail to the President/CEO or MCA President, as applicable, requesting signature authorities for those personnel that require approval authority and/or those that will commit SBAR to procurement actions. The President/CEO or MCA President, as applicable, then issues a signature authority letter detailing the dollar amount and under what conditions (if any) the individual is authorized to commit funds.

Procurement personnel are authorized to sign purchase orders, change orders, modifications, or subcontracts on their assigned projects up to their authorized signature authority level. When the commitment is greater than the authorized level, the appropriate level of authority, based on the amount of the commitment, must ultimately approve the commitment. This process may be handled verbally if an individual within the same project has the appropriate level of authority. If the required level of authority is not within the same project, the project manager obtains permission (e.g., e-mail) from the President/CEO or MCA President, as appropriate, to commit funds. Further, in certain instances, the President/CEO or MCA President may authorize someone within the project “one time authority” to sign the procurement document. This “one time” authorization is also recorded.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 8 of 34

5.2.3 Delivery Tickets

Procurement and receiving department personnel are *not* authorized to sign delivery tickets or any other document committing SBAR to vendor, supplier, or subcontractor terms and conditions. If personnel must sign delivery tickets or other documents in order to receive delivery of the goods, the individual receiving the goods documents the delivery ticket stating that they are only signing for the receipt of the goods and are not accepting the terms and conditions on the delivery ticket.

5.3 Procurement Planning

5.3.1 General

Procurement planning begins when a requirement is received for supplies, equipment, materials, and/or services. The appropriate SBAR senior manager is ultimately responsible for ensuring that all procurement requirements are identified and a requisition, statement of work, preliminary cost estimate, and other procurement planning documents are prepared.

5.3.2 Planning Documents

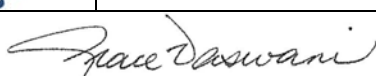
Typically, the following documentation, as appropriate, is developed as part of the procurement planning process:

- List of services, materials, and equipment required (e.g., Statement of Work or SOW)
- Schedule with required completion dates for subcontracted work
- Field/engineering need dates for material and equipment purchases
- Special instructions to bidders
- Technical and commercial evaluation criteria
- Type of procurement agreement recommended
- Single or sole source justification, if applicable
- Recommended list of bidders
- Special Flow-down Contract requirements

5.3.3 Prioritizing Requirements

Purchasing Agents (PAs) prioritize all procurement requirements. High priority requirements occur when contractual or project schedules specify a date that does not allow for normal Procurement Lead Time (PLT). Normal priority requirements can be met in normal or greater lead times.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 9 of 34

High priority requirements do not eliminate the need for adequate competition, proper procurement procedures, and client notification and consent. In fact, some schedule benefit can be realized if certain elements of the procurement planning and paperwork requirement are in place. Terminology relative to priorities may vary from contract to contract. The various project work instructions unique to a given contract incorporate priorities based on terminology used in the prime contract.

5.3.4 Typical Procurement Steps

Typical procurement steps, accomplished within the PLT, include:

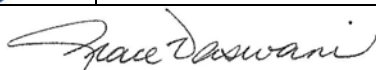
- Synopsis in the Commerce Business Daily (CBD), if applicable
- Issuance of solicitation (IFB or RFP)
- Development of an independent estimate
- Receipt of offers/proposals
- Technical evaluation
- Commercial evaluation
- Competitive range determination, if applicable
- Documentation of oral discussions, if applicable
- Receipt of best and final offer (BAFO)
- Source selection
- Negotiations and memoranda, if applicable
- Transmittal of "advanced notification" and "request for consent to subcontract" to the government agency, if applicable
- Receipt of consent from customer agency
- Award of the subcontract

5.3.5 Lead Times

Lead times are calculated from the actual milestones that are tracked during the procurement process. The following lead times are tracked for status purposes:

Procurement Lead Time (PLT)	PLT is calculated from the time of receipt of an approved requisition by the PA until award of a procurement agreement. Sufficient PLT, to the extent practicable, must be provided to ensure that all contractual requirements are satisfied. It is essential that the PLT be established for all procurements in advance because government purchases often require advance consent by the customer's contracting officer.
Supplier Lead Time	Supplier lead-time is the time required by the supplier from receipt of order award to delivery at the final destination.
Shipping Lead Time	Shipping lead-time is the delivery time from the point of origin to the final destination.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 10 of 34

5.3.6 Make or Buy Decisions

In the case of services or construction, to ensure the lowest overall cost and technical risk to the client, project managers determine if the capability can be provided by in-house qualified SBAR personnel or Team Member personnel (“make or buy”). This may require a formal make-or-buy decision to evaluate the advantages and disadvantages. The factors considered by management to support this decision are:

- To provide the capability at reasonable prices,
- To achieve top quality performance, and/or
- To support the customer’s (e.g., the government) socioeconomic policies, if applicable.

5.3.7 Intra-Company Transactions

All intra-company transactions on federal government cost-reimbursement prime contracts that involve affiliated companies are to be invoiced at cost including G & A, to the business unit responsible for the purchase. **This practice avoids the pyramiding of profit that is prohibited by the FAR.** The Government Accounting and Administration Department will determine the appropriate cost-based rates for affiliated companies.

The FAR does *not* preclude any SBAR business unit from competing on an equal basis with companies outside of SBAR for another business unit’s subcontracted requirements. Even under a cost-reimbursement prime contract, a SBAR business unit that is successful in obtaining a subcontract through full and open competition from another SBAR business unit is entitled to a reasonable profit. Further, on fixed-price federal government prime contracts, compensation to the performing business unit conforms to the established SBAR internal practices for payment.

5.3.8 Taxes (FAR Part 29)

The issue of sales and use taxes vary depending on the geographic location of a project and the structure of the prime contract. Before the purchasing cycle of a project begins, the SBAR Contract Manager (or designee) determines how sales and use taxes are to be handled. See FAR Part 29 for details.

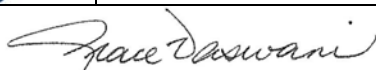
5.4 Simplified Acquisition Procedures (FAR Part 13)

5.4.1 General

SBAR uses simplified acquisition procedures, FAR Part 13, to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases at or below the micro-purchase threshold). This policy does not apply if SBAR can meet its purchasing requirements using:

- Required sources of supply such as Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts;
- Existing indefinite delivery/indefinite quantity contracts; or



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 11 of 34

- Other established contracts.

Acquisitions of supplies or services that have an anticipated dollar value ranging from \$2,500 to \$100,000 are reserved exclusively for small business concerns. Exceptions to these two values involve terrorism, nuclear, biological, chemical, or radiological attack, humanitarian, and/or peacekeeping operations and, therefore, will most likely not apply to SBAR.

5.4.2 Micro-Purchases (Less than \$2,500)

5.4.2.1 Solicitation, Evaluation of Quotations, and Award

To the extent practicable, micro-purchases are distributed equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the price is considered reasonable. Additionally, the administrative cost of verifying the reasonableness of the price for purchases may more than offset potential savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need only be taken if:

- There is reason to believe that the price quoted may not be reasonable (*e.g.*, comparison to the previous price paid or personal knowledge of the supply or service); or
- Purchasing a supply or service for which no comparable pricing information is readily available (*e.g.*, a supply or service that is not the same as, or is not similar to, other supplies or services that have recently been purchased on a competitive basis).

5.4.2.2 Documentation

If competitive quotations were solicited and award was made to other than the low quoter, documentation to support the purchase may be limited to identification of the solicited concerns and an explanation for the award decision.

5.4.2.3 Fast Payment Procedure

Normally, not utilized. See FAR Part 13 for details.

5.5 Sealed Bidding (FAR Part 14)

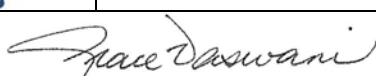
5.5.1 General

Sealed bidding is a method of contracting that employs competitive bids, public opening of bids, and awards. Firm-fixed-price contracts, unless otherwise provided by FAR Part 16, are used when the method of contracting is sealed bidding. The following paragraphs describe the process.

5.5.2 Preparation of Invitation for Bids

Invitations must describe the requirements of the Government clearly, accurately, and completely. Unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders are prohibited. The invitation includes all documents (whether attached or incorporated by reference) furnished prospective bidders for the purpose of bidding.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 12 of 34

5.5.3 Publicizing the Invitation for Bids

Invitations must be publicized through distribution to prospective bidders, posting in public places, and such other means as may be appropriate. Publicizing must occur a sufficient time before public opening of bids to enable prospective bidders to prepare and submit bids.

5.5.4 Submission of Bids

Bidders must submit sealed bids to be opened at the time and place stated in the solicitation for the public opening of bids.

5.5.5 Evaluation of Bids

Bids shall be evaluated without discussions.

5.5.6 Contract Award

After bids are publicly opened, an award will be made with reasonable promptness to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the customer and SBAR, considering only price and the price-related factors included in the invitation.

5.5.7 Additional Requirements

Refer to FAR Part 14 for requirements for bid solicitations, opening of bids and contract awards, and the sealed bidding process.

5.6 Contracting by Negotiations (FAR Part 15)

5.6.1 General

The two types of negotiated acquisitions are:

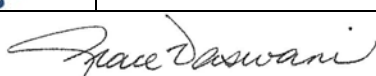
- **Sole Source Acquisitions.** When contracting in a sole source environment, the request for proposals (RFP) should be tailored to remove unnecessary information and requirements; *e.g.*, evaluation criteria and voluminous proposal preparation instructions.
- **Competitive Acquisitions.** When contracting in a competitive environment, the procedures of this part are intended to minimize the complexity of the solicitation, the evaluation, and the source selection decision, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to selection of the proposal representing the best value to the Government (see FAR Part 2.101).

5.6.2 Source Selection Process and Techniques

Some of the acquisition processes and techniques that may be used to design competitive acquisition strategies suitable for the specific circumstances of the acquisition are:

- Best value continuum.
 - o Tradeoff process.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 13 of 34

- o Lowest price technically acceptable source selection process.
- Oral presentations.

5.6.3 Solicitation and Receipt of Proposals and Information (FAR Part 15.2)

This subpart prescribes policies and procedures for:

- Exchanging information with industry prior to receipt of proposals.
- Preparing and issuing requests for proposals (RFPs) and requests for information (RFIs).
- Receiving proposals and information.

5.6.4 Source Selection (FAR Part 15.3)

This subpart prescribes policies and procedures for selection of a source or sources in competitive negotiated acquisitions. The following topics are addressed:

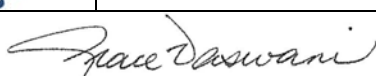
- Source selection objective.
- Responsibilities.
- Evaluation factors and significant subfactors.
- Proposal evaluation.
- Exchanges with offerors after receipt of proposals.
- Proposal revisions.
- Source selection decision.

5.6.5 Contract Pricing (FAR Part 15.4)

This subpart prescribes the cost and price negotiation policies and procedures for pricing negotiated prime contracts (including subcontracts) and contract modifications, including modifications to contracts awarded by sealed bidding. Key concepts include:

- Pricing policy.
- Obtaining cost or pricing data.
- Proposal analysis.
- Price negotiation.
- Documentation.
- Special cost or pricing areas.
- Solicitation provisions and contract clauses.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 14 of 34

5.6.6 Preaward, Award, and Postaward Notifications, Protests, and Mistakes (FAR Part 15.5)

This subpart applies to competitive proposals as contains the following guidance/direction:

- Notifications to unsuccessful offerors.
- Award to successful offeror.
- Preaward debriefing of offerors.
- Postaward debriefing of offerors.
- Protests against award.
- Discovery of mistakes.
- Forms.

5.6.7 Unsolicited Proposals (FAR Part 15.6)

This subpart sets forth policies and procedures concerning the submission, receipt, evaluation, and acceptance or rejection of unsolicited proposals.

5.7 Subcontract Types, Selection, and Approval (FAR Part 16)

5.7.1 General

A wide selection of contract types is available to the Government and contractors in order to provide needed flexibility in acquiring the large variety and volume of supplies and services required by agencies. Contract types vary according to:

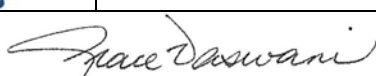
- The degree and timing of the responsibility assumed by the contractor for the costs of performance; and
- The amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals.

The contract types are grouped into two broad categories: fixed-price contracts and cost-reimbursement contracts. The specific contract types range from firm-fixed-price, in which the contractor has full responsibility for the performance costs and resulting profit (or loss), to cost-plus-fixed-fee, in which the contractor has minimal responsibility for the performance costs and the negotiated fee (profit) is fixed. In between are the various incentive contracts, in which the contractor's responsibility for the performance costs and the profit or fee incentives offered are tailored to the uncertainties involved in contract performance.

5.7.2 Factors in Selecting Contract Types (FAR Part 16.104)

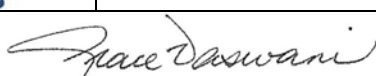
There are many factors that the contracting officer should consider in selecting and negotiating the contract type. They include the following:



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 15 of 34

- Price competition. Normally, effective price competition results in realistic pricing, and a fixed-price contract is ordinarily in the Government's interest.
- Price analysis. Price analysis, with or without competition, may provide a basis for selecting the contract type. The degree to which price analysis can provide a realistic pricing standard should be carefully considered. (See 15.404-1(b).)
- Cost analysis. In the absence of effective price competition and if price analysis is not sufficient, the cost estimates of the offeror and the Government provide the bases for negotiating contract pricing arrangements. It is essential that the uncertainties involved in performance and their possible impact upon costs be identified and evaluated, so that a contract type that places a reasonable degree of cost responsibility upon the contractor can be negotiated.
- Type and complexity of the requirement. Complex requirements, particularly those unique to the Government, usually result in greater risk assumption by the Government. This is especially true for complex research and development contracts, when performance uncertainties or the likelihood of changes makes it difficult to estimate performance costs in advance. As a requirement recurs or as quantity production begins, the cost risk should shift to the contractor, and a fixed-price contract should be considered.
- Urgency of the requirement. If urgency is a primary factor, the Government may choose to assume a greater proportion of risk or it may offer incentives to ensure timely contract performance.
- Period of performance or length of production run. In times of economic uncertainty, contracts extending over a relatively long period may require economic price adjustment terms.
- Contractor's technical capability and financial responsibility.
- Adequacy of the contractor's accounting system. Before agreeing on a contract type other than firm-fixed-price, the contracting officer shall ensure that the contractor's accounting system will permit timely development of all necessary cost data in the form required by the proposed contract type. This factor may be critical when the contract type requires price revision while performance is in progress, or when a cost-reimbursement contract is being considered and all current or past experience with the contractor has been on a fixed-price basis.
- Concurrent contracts. If performance under the proposed contract involves concurrent operations under other contracts, the impact of those contracts, including their pricing arrangements, should be considered.
- Extent and nature of proposed subcontracting. If the contractor proposes extensive subcontracting, a contract type reflecting the actual risks to the prime contractor should be selected.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 16 of 34

- Acquisition history. Contractor risk usually decreases as the requirement is repetitively acquired. Also, product descriptions or descriptions of services to be performed can be defined more clearly.

5.7.3 Contract Types (FAR Part 16)

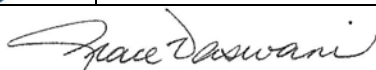
The FAR, Part 16, lists the following contract types:

- Fixed-Price. Fixed-price types of contracts provide for a firm price or, in appropriate cases, an adjustable price. Fixed-price contracts providing for an adjustable price may include a ceiling price, a target price (including target cost), or both. Unless otherwise specified in the contract, the ceiling price or target price is subject to adjustment only by operation of contract clauses providing for equitable adjustment or other revision of the contract price under stated circumstances. The contracting officer (PA) shall use firm-fixed-price or fixed-price with economic price adjustment contracts when acquiring commercial items.
- Cost-Reimbursement: 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 (except at its own risk) without the approval of the contracting officer (PA).
- Incentive: Incentive contracts are appropriate when a firm-fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs and, in certain instances, with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.
- Indefinite-Delivery: There are three types of indefinite-delivery contracts:
 - o Definite-quantity contracts,
 - o Requirements contracts, and
 - o Indefinite-quantity contracts.

The appropriate type of indefinite-delivery contract may be used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award.

- Time-and-Materials, Labor-Hour, and Letter Contracts: A time-and-materials contract provides for acquiring supplies or services on the basis of:
 - o Direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and
 - o Materials at cost, including, if appropriate, material handling costs as part of material costs.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 17 of 34

A time-and-materials contract may be used only when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.

- **Agreements:** A basic agreement is a written instrument of understanding, negotiated between an agency or contracting activity and a contractor, that (1) contains contract clauses applying to future contracts between the parties during its term and (2) contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. A basic agreement is *not* a contract.

A basic agreement should be used when a substantial number of separate contracts may be awarded to a contractor during a particular period and significant recurring negotiating problems have been experienced with the contractor. Basic agreements may be used with negotiated fixed-price or cost-reimbursement contracts.

Purchasing Agents choose the appropriate contract type as the pending procurement dictates.

5.7.4 Subcontract Management (FAR Part 42)

FAR Part 42, Contract Management, has a wealth of information concerning contract management. The paragraphs below are of a general nature and give an overview of the process.

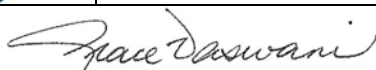
5.7.4.1 Subcontract Management

Primary and ultimate responsibility for contract management of active subcontracts rests with the cognizant SBAR program manager and /or the delegated Purchasing Agent (PA), e.g., Subcontract Administrator. All management issues related to the FAR, issues involving legal or contractual obligations, subcontract change or amendment requirements fall within the responsibility of the program manager or designees.

5.7.4.2 Financial Management

Overall financial management of an active subcontract is the responsibility of the cognizant program manager and/or delegated designee. The SBAR program manager, or designated PA monitors the financial status of each subcontract. The PA monitors all incoming subcontractor invoices and, along with accounting and finance, ensures that invoices approved for payment do not exceed budgeted funds. The program manager is ultimately responsible for remaining within budget. However, it is the responsibility of the PA to validate all invoices including validation of percent complete by the Program / Project manager with the contract manager providing final approval. Approval decisions are based upon subcontract funding, the funding balance remaining, and information from the technical staff concerning the percent completion of the given project. Financial management will vary within the corporate office and from project to project. Procedures shall be developed unique to each project.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 18 of 34

5.7.4.3 Technical Management

The technical management of active subcontracts at SBAR is the ultimate responsibility of the cognizant program manager. It is their responsibility to ensure that the subcontractor is performing the required services in accordance with the Statement of Work/Purchase Order, and that subcontractor deliverables are on time and of an appropriate quality. Except in special cases, all subcontractor deliverables are received and inspected by the SBAR program manager or designee prior to submission to the customer. Program / Project managers; environmental, health and safety (EH&S) personnel; quality assurance/control evaluators; and the PA keep the SBAR program manager informed concerning the performance of subcontractors and immediately report any actions that might constitute a breach of contract.

5.7.4.4 Program / Project Management

Subcontractors are responsible for and maintain control of their personnel. During pre-program / Project meetings, subcontractors are briefed on SBAR's oversight program, which is subcontract and location dependent.

Upon award of a subcontract, responsibility for control of the subcontract shifts to the Program / Project manager. The Program / Project manager, as designated by the program manager, is responsible for scheduling, assuring mobilization in a timely manner, assuring the subcontractor meets scheduled milestones, completion of the project not later than the required completion date, assuring submittal of all deliverables and maintaining control of the work site, but short of managing subcontractor personnel. The Program / Project manager represents the program manager and the PA however, only the PA is authorized to give contractual direction.

SBAR quality and EH&S personnel work closely with subcontractor disciplines to assure subcontractor personnel are aware and familiar with all policies and procedures given the location of the project relative to quality, safety, and environmental rules and regulations. The above SBAR disciplines represent the program manager at the project site and report back findings and irregularities of a serious nature. The findings and irregularities are documented in the subcontractor file for rating purposes and, when appropriate, are reflected in the subcontractor's Vendor Profile Form, located in the Approved Vendor List.

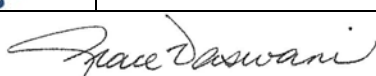
In closing, based on the coordinated efforts of PA/contracting, Program / Project management, accounting and financial, quality, and EH&S personnel, SBAR is able to maintain control of all aspects relative to subcontract activity.

5.8 Purchase Requisitions (PR)

With few exceptions, the use of Purchase Requisitions (PR) is required regardless of the value of the requirement. Those exceptions may vary from project to project, but are documented in the project's WIs. Further, POs are issued to ensure only necessary and authorized purchases are made, to facilitate cost tracking, and to remain within budgetary constraints.

After identification of a requirement to acquire goods/services, a PR is completed to document the request and subsequent approvals to commit SBAR funds. In the vast majority of



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 19 of 34

cases, someone other than a Purchasing Agent initiates the PR. Further, a completed and approved PR does *not* constitute an obligation of the Company to a vendor, but only represents the approval to incur an obligation on behalf of the Company. Additionally, all project specific PR forms are tailored and approved by the SBAR Contract Manager or designee. See the Sample Purchase Request Form, [Form CP-00-4000-A](#).

The requestor initiates the PR and forwards to their supervisor for review and the supervisor forwards the PR to management for approval. A PR must be entirely completed, except for assignment of the Purchase Order number, before a Purchase Order is executed. (NOTE: The PA completes the PR by including sales tax (if applicable) and all other incidental costs to include freight charges, etc.)

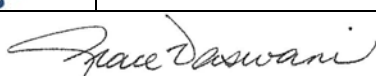
The PR, and when necessary the accompanying Statement of Work (SOW), is completed and includes an *explicit* description of the item(s) to be purchased. Examples include:

- What is to be purchased (e.g., Trane 3400 Packaging Unit).
- How many are to be purchased.
- Specifications (e.g., 5 HP, 215 volt, 3 phase, 20 amps).
- Whether or not substitutions are authorized.
- Drawings are identified by title, control number, revision status, etc.
- Inspections and witness points are identified (e.g., Level II inspector certifies the welds after Phase 1 welding).
- Type of inspection/certification (e.g., magnetic particle, liquid penetrant, radiographic).
- Personnel qualifications (e.g., certified welder), if required during manufacture or performance of a Program or Project.
- The fabricator/contractor may be tasked to provide a procedure to the Purchasing Agent who is responsible for obtaining review and approval from a SBAR qualified employee or subcontractor. (NOTE: Normally, the procedure is approved before work can start, a fact that is identified in the PR/SOW.)
- The quality standard, if applicable, is included as part of the quality requirements (e.g., ANSI A17.1-XX) . A fabricator's system may be required to meet a specific quality level. Whatever quality level is required is plainly stated in the SOW and/or PR.

The completed and approved PR, along with associated documents such as a SOW, is retained in the PO file.

(NOTE: Exceptions to this requirement are purchases made by using petty cash or use of company credit cards. Items purchased through base or government supply accounts do not require issuance of a PO. Purchases made by use of petty cash and company credit cards must be clearly documented by the PA when transmitting receipts to the paying office.)



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 20 of 34

5.9 Approved Vendor List

Prior to completing a Purchase Order or issuing a subcontract, the Purchasing Agent refers to the Approved Vendor List (AVL) to determine if the vendor is “pre-approved” to receive SBAR’s business. If the vendor is *not* on the AVL, the PA takes action to place the vendor on the AVL. [See Approved Vendor List WI \(CP-00-4000-01\).](#)

5.10 Purchase Orders (PO)

5.9.1 General

The following describes procedures for completion, approval, and distribution of Purchase Requisitions (PR) and Purchase Orders (PO). The only exceptions to these procedures are travel expenditures or individual items under (\$50) fifty dollars purchased by an employee using personal funds, who will seek reimbursement via their expense report or through petty cash funds. Approval authority may vary from contract to contract and project to project. When appropriate, purchase approvals are explicitly defined in each project’s WIs.

5.9.2 Purchase Order (PO)

A completed “signed” and vendor accepted PO represents an incurred obligation by SBAR to that vendor. POs may be electronically generated by a computerized maintenance management system (CMMS), such as Datastream’s MP2, or a paper version of an approved SBAR PO. Additionally, all project specific, paper PO forms are tailored and approved by the SBAR Contract Manager or designee. See Sample Purchase Order Form, [Form CP-00-4000-B.](#)

Only those individuals with signature authority, see para 5.2, are authorized to issue POs, whether they are CMMS generated or in paper form. Additionally, POs are only issued after a properly completed and approved PR is received. Further, the PO must reflect the items, descriptions, amounts and terms and conditions of the PR. Also, the PO must be typed or formalized by a computer-based program, not handwritten.

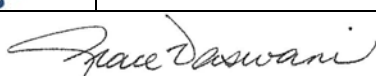
Purchasing Agents maintain PO logs, the format of the PO number being unique to the given contract. Further, PO numbers are assigned from the log in consecutive order. (**NOTE:** For CMMS generated POs, this function is normally automatically performed by the software.)

A unique Terms and Conditions letter that includes all appropriate flow down clauses and/or other terms required by the prime contract are developed for each contract. The SBAR Contracts Manager (or designee) approves these letters, which are made part of each PO and subcontract. The example provided as [Form CP-00-4000-C.](#)

Completed POs are NOT to be altered. Amendments to POs go through the PR process and a change order issued to the original PO. The PO log also references the modification.

Purchasing Agents are authorized to place on order goods and services after first obtaining required approvals followed by the confirming purchase order. Awards made in this manner include the following statement on the face of the purchase order: "CONFIRMING



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 21 of 34

ORDER OF (DATE), DO NOT DUPLICATE.” A copy of the PR should be sent to the requestor indicating the PO number and order date.

5.11 Procurement Records Retention and Administration (FAR Part 4)

See FAR Part 4 for details.

5.11.1 Retention

The following FAR clauses are followed when maintaining and retaining purchasing/procurement records:

- 4.703: Policy
- 4.704: Calculation of Retention Periods
- 4.705: Specific Retention Periods

The above establish retention procedures for both government and commercial purchases, unless otherwise specified by the customer.

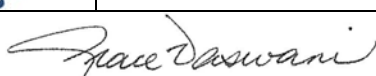
5.11.2 Contract Files

- Prime contract files are maintained and contain the following documents, as appropriate:
 - o Brief Project Description
 - o Terms and Conditions with appropriate flow down requirements
 - o Prime Contract Process Flow Charts
 - o Request for Proposals and completed Questions and Answers
 - o SBAR’s proposal
 - o Special contract conditions
 - o Project specific procedures, work instructions, and checklists (see *Document and Data Control Procedure (CP-00-9005)*)
 - o Project organization chart
 - o Purchase order logs (may be paper and/or electronic)
 - o Purchase orders (may be paper and/or electronic)
 - o Subcontracts (may be paper and/or electronic)
 - o Project schedules
 - o List of approved vendors (see Approved Vendor List at SBAR/MCA web site)
 - o General correspondence files (may be paper and/or electronic)
 - o SBAR and subcontractor Certificates of Insurance
 - o Contract closeout/termination records
 - o Additional information necessary to accurately document the contract

This information is roughly arranged in a chronological manner.

- Subcontract file folders contain the following information, as appropriate, and are also roughly maintained in chronological order:



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 22 of 34

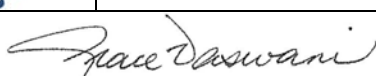
- o Government Request for Proposal
- o The Requisition/ Statement of Work
- o Bidders List
- o Request for Proposal with attachments
- o Subcontractor Proposals
- o Bid Tabulation
- o Procurement Summary
- o Negotiations Memorandum
- o Advance Notification to the Contracting Officer
- o Sole-source documentation
- o Request for Consent to Subcontract
- o Consent Letter from the Contracting Officer
- o Results of Technical and Commercial Analysis
- o Subcontract – Fully Executed with all attachments
- o Change Orders with all appropriate documentation and requisition
- o Negotiations memorandum for Change Orders
- o Invoices from subcontractor documented by the Program / Project Manager relative to the percent completed
- o Copies of deliverables, when the subcontract is for data deliveries
- o DD-250 indicating closure of the Task Assignment (TA) or Work Request
- o Acceptance/Rejection Notices (relative to walk-down for final acceptance)
- o Warranties as applicable
- o Claims documentation
- o Test Reports
- o Safety/ Quality Documentation
- o Punch List items
- o Schedules
- o General Correspondence

5.12 Inspection of Purchased Supplies and Equipment

5.12.1 General

SBAR inspects purchased supplies and equipment prior to customer delivery. These inspections are necessary to ensure the vendor has complied with the terms of the purchase order/contract and that the received supplies and equipment will fulfill their intended purpose. Further, the degree and type of receiving inspections is dependent upon the item(s) that are being procured.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 23 of 34

5.12.2 Inspection Requirements

[See Inspection and Testing Procedure \(CP-00- 9010\), Figure 1 and Paragraph 5.2.](#)

5.12.3 Inspection at the Source

Verification of purchased goods may be required at the source (manufacturing or fabricating plant). Certain products purchased may require inspection and witness at hold points. For procurements requiring inspection and witness of certain tests, the procurement document incorporates those hold points and the purpose of the hold point (e.g., witness radiographic examination, dimensional examination). Further, the procuring document specifies the percent of the items to be source inspected.

For those procurements requiring source inspection, the manufacturer is normally required to provide documented evidence (test reports, results of dimensional examination and NDE, etc.) of the results of its own inspection. Results of the manufacturer's inspection must be explicitly documented indicating that its inspection was performed on 100% of the items produced. It is the SBAR inspector's responsibility to review and approve all documentation required by the purchase order or subcontract.

The items requiring source inspection are not released for shipment until the SBAR Inspector has signed off on all inspection points required by the Statement of Work and has reviewed and approved all required documentation. Further, when all requirements are verified as a result of SBAR's inspection and the Purchasing Agent has been informed of acceptance, only then is shipment authorized. Authorization to ship is the responsibility of the Purchasing Agent.

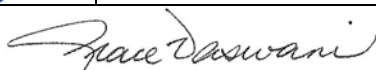
All SBAR purchase orders and subcontracts shall include a statement that all hold points and documentation must be approved and signed off by the SBAR inspector and released for shipment by the Purchasing Agent.

When SBAR's customers require access to the manufacturer's facilities and worksites for verification of goods and services, the applicable Purchasing Agent ensures these requirements are specified in the appropriate procurement document. Purchasing Agents provide advance notice and accompany the customer representative. Customer representatives have right of access for the purpose of witnessing inspections and testing and have the right to review all documentation required by the procurement documents. The vendor/subcontractor does not use customer witness of performance of testing and inspection as evidence of effective control of quality. Verification by our customers does *not* absolve SBAR of its responsibility to provide quality services and supplies, nor shall it preclude subsequent rejection of supplies or services by our customer.

5.12.4 Non-conforming Supplies and Equipment

The procedures for controlling non-conforming supplies and equipment are found in [Control of Nonconforming Product and Services/ Corrective and Preventive Action Procedure \(CP-00-9013/14\).](#)



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 24 of 34

5.13 Performance and Payment Bonds (FAR Part 28)

5.13.1 General

SBAR, either by choice or by direction in the prime contract, secures the bond to ensure the principal's obligations are met. If the obligations are not met, the bond ensures completion of the work and payment of any loss sustained by the obligee to the extent stipulated in the bond. Accordingly, when tasked to perform certain construction or other projects, Purchasing Agents contact the SBAR Contract Manager for the name of the surety and other information relative to purchase of the bonds. See FAR Part 28, Bonds and Insurance, for details.

5.13.2 Performance Bonds

Prime contracts may require that SBAR obtain performance bonds for certain construction or other projects. If required by the contract or by SBAR, the performance bond is in a penal amount adequate to protect the customer and SBAR. Generally, the penal amount of a performance bond is 100% of the subcontract price. Additional, performance bond protection may be required if a modification results in an increase in the subcontract price. The penal amount is generally increased to cover 100% of the revised subcontract price.

5.13.3 Payment Bonds

Prime contracts or SBAR may require a payment bond. If required, the penal amount of the bond meets the following general guidelines/thresholds:

- When the subcontract price is not more than \$1,000,000, the penal sum is 50% of the subcontract price.
- When the subcontract price is more than \$1,000,000 but not more than \$5,000,000, the penal sum is 40% of the subcontract price.

Modifications incorporating new or additional work are subject to the thresholds stated above.

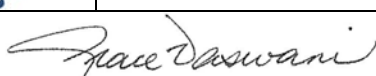
5.13.4 Administration

Performance and payment bonds are required and cannot be waived if the prime contract requires such bonds. When the subcontract terms require performance and payment bonds and the subcontractor does not furnish the bonds within the specified time, the subcontractor is notified that the subcontract may be terminated for default according to the subcontract clause providing for such termination. Purchasing Agents (PA) require that subcontractors furnish required bonds within ten working days after award of the subcontract.

When a subcontractor is performing in such a manner that might lead to default, timely notification to the surety may result in action by the surety that will avoid a default. Therefore, on all such subcontracts, the PA promptly notifies the surety of the subcontractor's failure to perform.

5.13.5 Withholding Payment



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 25 of 34

During performance of a subcontract, if a lower tier subcontractor or supplier notifies SBAR that it has not been paid for work performed or supplies delivered, the PA immediately withholds payments to the first tier subcontractor and notifies the SBAR Contract Manager (or designee) of the complaint. The SBAR Contract Manager (or designee) determines the validity of the complaint and takes action as deemed necessary.

If the Contract Manager determines that the first tier subcontractor has not paid lower tier subcontractors or suppliers for work performed or supplies delivered, payments to the first tier subcontractor continue to be withheld pending agreement between the parties to the issuance of joint checks payable to the first tier subcontractor and each lower tier subcontractor or supplier in the amounts that are validly owed.

5.14 Insurance (FAR Part 28.3)

5.14.1 General

For all U.S. Government prime contracts, SBAR requires that all subcontractors performing work on any project site, or client owned facility where SBAR is either operating the facility or performing work on the facility, have the minimum insurance required by the subcontract and as stipulated in:

- FAR Clause 52.228-5, Insurance – Work on a Government Installation,
- FAR Clause 52.228-7, Insurance – Liability to Third Persons, and
- With the limits specified in FAR Part 28.307-2, Liability, and equivalent commercial policies and requirements.

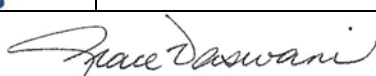
Insurance requirements must flow down to all subcontractors and lower tier subcontractors. A certificate of insurance must be obtained from all subcontractors and lower tier subcontractors and made a part of the subcontract file.

5.14.2 Insurance Procedure

The Purchasing Agent (PA) reviews the certificate(s) and verifies the limits are in compliance before the subcontractor/vendor is allowed to begin work at the project site. The following general principles are followed:

- If the insurance does not meet requirements of the subcontract: 1) contact the subcontractor and attempt to resolve the matter, 2) if the subcontractor can not or will not satisfy the insurance requirements and the work is of average or high risk, advise the subcontractor of such and make award to the next low bidder, assuming the appropriate limits are met.
- If the vendor cannot or will not satisfy insurance requirements and the work is of minimal risk (for example, janitorial services, furnishing portable toilets, etc.) approval must first be obtained from the SBAR Contract Manager (or designee), who will determine if further approval is required.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 26 of 34

- If a subcontractor is performing work where an automobile or truck is incidental to the work, consideration is given to lesser limits for vehicle requirements. The full limits must be met when the subcontractor is driving, hauling, transporting, or performing like efforts that are an integral part of the work performed.
- The vendor and lower tier subcontractor Certificates of Insurance are maintained in the subcontract file with renewal as required.

See FAR Part 28.3 for details.

5.15 Termination (FAR Part 49.1)

5.15.1 General

FAR Part 49.1 contains the general principles involved in subcontract terminations. Normally, the SBAR Contract Manager or designee is the individual tasked with terminating subcontractors.

5.15.2 Notice of Termination

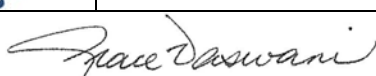
The SBAR Contract Manager or designee terminates contracts for convenience or default *only* by a written notice to the subcontractor. When the notice is mailed, it is sent by certified mail, return receipt requested. When SBAR arranges for hand delivery of the notice, a written acknowledgement is obtained from the subcontractor. The notice states:

- That the contract is being terminated for the convenience of SBAR/customer (or for default) under the contract clause authorizing the termination;
- The effective date of termination;
- The extent of termination;
- Any special instructions; and
- The steps the contractor should take to minimize the impact on personnel if the termination, together with all other outstanding terminations, will result in a significant reduction in the subcontractor's work force.

5.15.3 Methods of Settlement

Settlement of terminated cost-reimbursement contracts and fixed-price contracts terminated for convenience may be effected by (a) negotiated agreement; (b) determination by the customer's contracting officer (CO), (c) costing-out under vouchers using SF 1034, Public Voucher for Purchases and Services Other Than Personal, for cost-reimbursement contracts, or (d) a combination of these methods. When possible, the Contract Manager (or designee) negotiates a fair and prompt settlement with the subcontractor. The Contract Manager settles a settlement proposal by determination only when it cannot be settled by agreement.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 27 of 34

5.15.4 SBAR's Duties as Prime Contactor After Receipt of Notice of Termination

In the unlikelihood where SBAR receives a notice of termination as the prime contractor, SBAR complies with the notice and the termination clause of the contract, except as otherwise directed by the customer's contracting office. The notice and clause applicable to convenience terminations generally requires SBAR to:

- Stop work immediately on the terminated portion of the contract and stop placing subcontracts there under;
- Terminate all subcontracts related to the terminated portion of the prime contract;
- Immediately advise the customer's contracting officer (CO) of any special circumstances precluding the stoppage of work;
- Perform the continued portion of the contract and submit promptly any request for an equitable adjustment of price for the continued portion, supported by evidence of any increase in the cost, if the termination is partial;
- Take necessary or directed action to protect and preserve property in the contractor's possession in which the customer has or may acquire an interest and, as directed by the CO, deliver the property to the customer;
- Promptly notify the CO in writing of any legal proceedings growing out of any subcontract or other commitment related to the terminated portion of the contract;
- Settle outstanding liabilities and proposals arising out of termination of subcontracts, obtaining any approvals or ratifications required by the CO;
- Promptly submit the contractor's own settlement proposal, supported by appropriate schedules; and
- Dispose of termination inventory, as directed or authorized by the CO.

5.15.5 Duties of SBAR After Issuance of Notice of Termination

FAR Part 49.105 requires the SBAR Contract Manager or designee to take certain actions depending upon the fact surrounding the termination. Those actions include termination status reports, release of excess funds, a termination case file, site cleanup, etc.

5.15.6 Fraud of Other Criminal Conduct

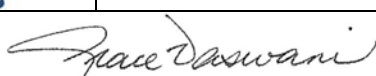
If the SBAR Contract Manager or designee suspects fraud or other criminal conduct related to the settlement of a terminated contract, the Contract Manager discontinues negotiations and reports the facts to the President/CEO for appropriate action.

5.15.7 Additional Requirements

Additional requirements found in FAR Part 49.1 are:

- Audit of Prime Contract Settlement Proposals and Subcontract Settlements



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 28 of 34

- Settlement of Subcontract Settlement Proposals
- Settlement Agreements
- Settlement Negotiation Memorandum.
- Review of Proposed Settlements.
- Payment.
- Cost principles
- Unsettled Contract Changes
- Settlement of Terminated Incentive Contracts.

The above are enacted on a case-by-case basis.

5.15.8 Termination for Default

Terminations for default requirements are found in FAR Part 49.4. Termination for default is generally the exercise of the SBAR's contractual right to completely or partially terminate a contract because of the subcontractor's actual or anticipated failure to perform its contractual obligations.

If the subcontractor can establish, or it is otherwise determined that the subcontractor was not in default or that the failure to perform is excusable; *i.e.*, arose out of causes beyond the control and without the fault or negligence of the subcontractor, the default clauses prescribed in Subpart 49.503 and located at Subpart 52.249 provide that a termination for default will be considered to have been a termination for the convenience of SBAR, and the rights and obligations of the parties governed accordingly.

SBAR may, in appropriate cases, exercise termination or cancellation rights in addition to those in the contract clauses (see for example, paragraph (h) of the Default clause at Subpart 52.249-8).

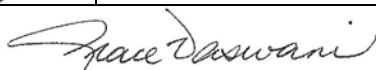
See Subpart 8.4., for default terminations of orders under Federal Supply Schedule contracts,

Notwithstanding the provisions of Subpart 49.401, the SBAR Contract Manager (or designee) may, with the written consent of the subcontractor, reinstate the terminated contract by amending the notice of termination, after a written determination is made that the supplies or services are still required and reinstatement is advantageous to SBAR and SBAR's customer. Again, review Subpart 49.4 for specific details as they relate to specific subcontract terminations by default.

5.15.9 Contract Termination Clauses

FAR 49.5 prescribe the principal contract termination clauses. This subpart does *not* apply to contracts that use the clause at Subpart 52.213-4, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items). For contracts for the acquisition of commercial



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 29 of 34

items, this part provides administrative guidance which may be followed when it is consistent with the requirements and procedures in the clause at Subpart 52.212-4, Contract Terms and Conditions-Commercial Items. In appropriate cases, agencies may authorize the use of special purpose clauses, if consistent with this chapter.

The remainder of FAR 49.5 is divided into four clauses and those clauses are:

- Termination for convenience of the Government
- Termination for convenience of the Government and default.
- Termination of fixed-price contracts for default.
- Other termination clauses

Again, the SBAR Contract Manager or designee consults this section of the FAR with contract termination clauses are addressed.

5.16 Closeout (FAR Subpart 4.804)

5.16.1 General

FAR Subpart 4.804 discusses the closeout of contract files and pertains to contracts where SBAR is the prime contractor, when SBAR is the prime contractor with subcontractors, and when SBAR is a subcontractor. Accordingly, these provisions are tailored to the specific contract/subcontract.

Time standards, with two exceptions, for closing out contract files are as follows:

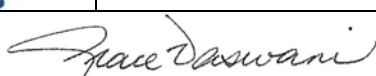
- Files for contracts using simplified acquisition procedures should be considered closed when the contracting officer receives evidence of receipt of property and final payment, unless otherwise specified by agency regulations.
- Files for firm-fixed-price contracts, other than those using simplified acquisition procedures, should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion.
- Files for contracts requiring settlement of indirect cost rates should be closed within 36 months of the month in which the contracting officer receives evidence of physical completion.
- Files for all other contracts should be closed within 20 months of the month in which the contracting officer receives evidence of physical completion.

The two exceptions when a contract is *not* closed:

- The contract is in litigation or under appeal; or
- In the case of a termination, all termination actions have not been completed.

When closing out the contract files at Subpart 4.804-1(a)(2), (3), and (4), the SBAR Contract Manager or designee uses the closeout procedures at Subpart 4.804-5. However, these



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 30 of 34

closeout actions may be modified to reflect the extent of administration that has been performed. Quick closeout procedures (see Subpart 42.708) should be used, when appropriate, to reduce administrative costs and to enable deobligation of excess funds.

5.16.2 Physically Completed Contracts

The following are the directives for when contracts/subcontracts are considered to be physically completed:

- The subcontractor has completed the required deliveries and the customer/SBAR have inspected and accepted the supplies;
 - o The subcontractor has performed all services and the customer/SBAR has accepted these services; and
 - o All option provisions, if any, have expired; or
- The customer/SBAR has given the subcontractor a notice of complete contract termination.
- Facilities subcontracts and rental, use, and storage agreements are considered to be physically completed when:
 - o The customer/SBAR have given the subcontractor a notice of complete contract termination; or
 - o The contract period has expired.

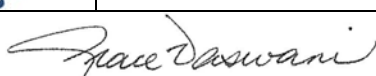
Again, these provisions are tailored depending upon if SBAR is a prime contractor, a prime contractor with subcontracts, or a subcontractor.

5.16.3 Procedures for Closing Out Contract Files

The SBAR Contract Manager or designee is responsible for initiating (automated or manual) administrative closeout of the contract/subcontract after receiving evidence of its physical completion. At the outset of this process, contract administration and finance/accounting review the contract/subcontract funds to determine if there are any excess funds that might be de-obligated. When complete, the administrative closeout procedures, as appropriate, ensure that:

- Disposition of classified material is completed;
- Final patent report is cleared;
- Final royalty report is cleared;
- There is no outstanding value engineering change proposal;
- Plant clearance report is received;
- Property clearance is received;



Quality Assurance Procedure		CP-00-4000	
Approved: 		Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)		REV N/C	Page 31 of 34

- All interim or disallowed costs are settled;
- Price revision is completed;
- Subcontracts are settled by SBAR;
- Prior year indirect cost rates are settled;
- Termination docket is completed;
- Contract audit is completed;
- Subcontractor closing statements are completed;
- Subcontractor final invoices has been submitted; and
- Contract/subcontract funds review is completed and excess funds deobligated.

5.16.4 Storage, Handling, and Disposal of Contract Files

SBAR is required to properly handle, store, and dispose of contract files. Accordingly, procedures to accomplish this must take into account documents held in all types of media, including microfilm and various electronic media. Further, SBAR may change the original medium to facilitate storage as long as the requirements of FAR Part 4, law, customer requirements, and other regulations are satisfied. The process used to create and store records must record and reproduce the original document, including signatures and other written and graphic images completely, accurately, and clearly. Data transfer, storage, and retrieval procedures must protect the original data from alteration.

If administrative records are mixed with program records and cannot be economically segregated, the entire file should be kept for the period of time approved for the program records. Similarly, if documents described in the following table, Subcontract File Documentation Retention Periods, are part of a subject or case file that documents activities that are not described in the table, they should be treated in the same manner as the files of which they are a part. The retention periods for acquisitions at or below the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used small purchase procedures. The retention periods for acquisitions above the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used other than small purchase procedures.

Subcontract File Documentation Retention Periods

Document	Retention Period
(1) Records pertaining to Contract Disputes Act actions.	6 years and 3 months after final action or decision for files created prior to October 1, 1979. 1 year after final action or decision for files created on or after October 1, 1979.
(2) Contracts (and related records or documents,	6 years and 3 months after final payment.

**Quality Assurance Procedure****CP-00-4000****Approved:****Date: 17 November 2004****Title: Purchasing Procedure (ISO Element 7.4)****REV
N/C****Page 32 of 34**

Document	Retention Period
including successful proposals) exceeding the simplified acquisition threshold for other than construction.	
(3) Contracts (and related records or documents, including successful proposals) at or below the simplified acquisition threshold for other than construction.	3 years after final payment.
(4) Construction contracts:	
(i) Above \$2,000.	6 years and 3 months after final payment.
(ii) \$2,000 or less.	3 years after final payment.
(iii) Related records or documents, including successful proposals, except for contractor's payrolls (see (b)(4)(iv)).	Same as contract file.
(iv) Contractor's payrolls submitted in accordance with Department of Labor regulations, with related certifications, anti-kickback affidavits, and other related papers.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date.
(5) Solicited and unsolicited unsuccessful offers, quotations, bids, and proposals:	
(i) Relating to contracts above the simplified acquisition threshold.	If filed separately from contract file, until contract is completed. Otherwise, the same as related contract file.
(ii) Relating to contracts at or below the simplified acquisition threshold.	1 year after date of award or until final payment, whichever is later.
(6) Files for canceled solicitations.	5 years after cancellation.
(7) Other copies of procurement file records used by component elements of a contracting office for administrative purposes.	Upon termination or completion.
(8) Documents pertaining generally to the contractor as described at 4.801(c)(3).	Until superseded or obsolete.
(9) Data submitted to the Federal Procurement Data System (FPDS). Electronic data file maintained by fiscal year, containing unclassified records of all procurements other than simplified acquisitions, and information required under 4.601.	5 years after submittal to FPDS.



Quality Assurance Procedure		CP-00-4000
Approved: <i>Shane Daswani</i>	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 33 of 34

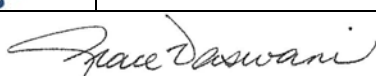
Document	Retention Period
(10) Investigations, cases pending or in litigation (including protests), or similar matters.	Until final clearance or settlement, or, if related to a document identified in (b)(1) - (9), for the retention period specified for the related document, whichever is later.

5.16.5 Additional Considerations

When prime contracts have ended, SBAR is required to continue to support closeout even after the contract has formally ended. The following considerations/provisions are made, on a case-by-case basis:

- Receiving vendor invoices and paying legitimate invoices.
- Producing customer required financial reports such as the Cost Performance Report (CPR) and Contract Funds Status Report (CFSR).
- Processing DD Forms 250, Material Inspection and Receiving Report.
- Securing storage space to store the contract files.



Quality Assurance Procedure		CP-00-4000
Approved: 	Date: 17 November 2004	
Title: Purchasing Procedure (ISO Element 7.4)	REV N/C	Page 34 of 34

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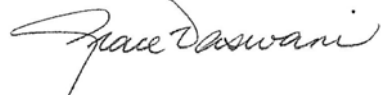
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