

**PROCUREMENT INSTRUCTIONS FOR THE
U. S. HOUSE OF REPRESENTATIVES
As revised, December 1, 2011
(All prior editions are hereby superseded.)**

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SECTION 1
GENERAL PROVISIONS

1.1 References

- a. *“Guidelines for Procurement of Goods and Services for the U. S. House of Representatives,”* Committee on House Administration, U. S. House of Representatives, as amended March 18, 2010, (hereinafter “Procurement Guidelines”).
- b. Letter of the Chairman and Ranking Minority Member, Committee on House Administration, August 2, 1995 (re: responsibilities of the Chief Administrative Officer of the House).
- c. Chief Administrative Officer Memorandum of August 19, 2011, or latest version, (Subj: Delegations of Authority to Approve Certain Contractual Actions and Receivers in PeopleSoft and Certain Non-referencing Vouchers).

1.2 Purpose

This document is the publication of standardized instructions and procedures applicable to the U.S. House of Representatives (hereinafter, “the House”) in the acquisition of goods and services. It is based upon, and issued in accordance with, the Procurement Guidelines approved by the Committee on House Administration (hereinafter, “Committee”), and incorporates certain other policies and directives pertaining to acquisitions as have been issued from time to time.

1.3 Procurement Authority

- a. All goods and services for the House shall be procured in accordance with the Committee’s guidelines.
- b. The Chief Administrative Officer of the House (hereinafter, “CAO”) is responsible for House procurement activity. By memorandum, the CAO has issued Delegations of Authority under the Procurement Guidelines, with the following exceptions:
 - 1. The CAO shall remain responsible (with the exception of any provisions providing for appeals to the Committee) for final settlement of any contractual and administrative issues arising out of procurements, under dispute resolution procedures contained herein.
 - 2. Any reports or submissions to the Committee required by the Guidelines, including all contracts requiring Committee approval, shall be transmitted by the CAO.
 - 3. Any policies or procedures developed to implement the Guidelines shall be subject to approval by the CAO.
- c. The Committee has determined that the CAO shall serve as the Contracting Officer for the House.
 - 1. The CAO shall apply his signature as necessary to facilitate the execution of contracts for goods and services with respect to functions assigned to the CAO, in accordance with the

Procurement Guidelines. By memorandum, the CAO has designated the Chief Acquisitions Officer as Contracting Officer for such contracts. From time to time, the CAO may also delegate approval/Contracting Officer authority for certain purchase orders with respect to functions assigned to him/her.

2. Other House entities, which are authorized in House Rules or Public Law to obligate House funds, may either apply their signature in order to facilitate the procurement of goods and services with respect to functions within their responsibility, or request that the CAO procure the necessary goods and services on their behalf. In such instances, the CAO shall take such steps as may be requested by the relevant Member, Committee, Leadership, Officer or other individual with the authority to obligate such funds.

3. When such House entities choose *not* to have the CAO procure goods and services on their behalf, they remain responsible for such procurements in accordance with Committee guidelines. In such cases, the CAO is available for such advice and assistance as may be requested.

1.4 Definitions

a. Adverse action. Any action or inaction on the part of a Contracting Officer that is prejudicial to the position taken in a protest filed with the Contracting Officer. It may include, but is not limited to, a decision on the merits of the protest; a procurement action such as the award of a contract or the rejection of a bid despite a pending protest; or acquiescence in and active support of continued and substantial contract performance.

b. Agreement. A written instrument of understanding negotiated between the House and another agency or another contracting entity that generally:

1. Contains clauses applying to future contracts/orders between the parties during its term; and
2. Contemplates separate future contracts/orders that will incorporate by reference or attachment the clauses agreed upon in the basic agreement.

c. Contract. A mutually binding, bilaterally signed document that obligates the House to an expenditure of funds. House contracts are normally the result of an Invitation for Bid (IFB), Sealed Bid; a Request for Proposal (RFP); or a Request for Quotation (RFQ). Common types of contracts include: Fixed Price, Cost Reimbursement, Incentive, Level of Effort, Time and Materials, and Indefinite-Delivery/Indefinite-Quantity (IDIQ).

d. Contract Specialist. *See Section 11.4.b.*

e. Contracting Officer. The Contracting Officer is the House-authorized representative who is responsible for overseeing the pre-award process and the overall administration of the contract from point of award through final contract closeout.

f. Contracting Officer's Representative (COR). *See Section 11.4.c.*

g. Contractor. A party to a House contract or agreement other than the House.

h. Days. Calendar days. Except as may otherwise be provided, in computing a period of time prescribed by these Instructions, the day from which the designated period of time begins to run shall not be counted, but the last day of the period shall be counted, unless that day is not a working day of the federal government, in which event the period shall include the next working day. Time for filing any document, prescribed by solicitations or by these Instructions, expires at 5:00 p.m. Eastern Standard Time or Eastern Daylight Savings Time, as applicable, on the last day on which such filing may be made, except as may otherwise be provided in writing.

i. File. With regard to protests, the actual receipt by the Contracting Officer, or other designated official, of the protest and other submissions.

j. Interested Party

1. For the purposes of filing a protest, an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

2. For the purposes of participation in a protest, an awardee, if the award has been made, or, if no award has been made, all bidders or offerors who appear to have a substantial prospect of receiving an award if the protest is denied.

k. Life Cycle Cost. Life Cycle Costs are the total costs of ownership over the expected life of the product and include acquisition costs, maintenance and support costs and disposal costs.

l. Maximum Possible Competition. “Maximum possible competition” is the short form of “maximum possible competition consistent with the government’s interest.” It is the competitive standard established by the Procurement Guidelines. It means the maximum practicable number of sources that are necessary to ensure a competitive procurement and serve the interests of the House. In the effort to achieve maximum possible competition, the CAO and/or his or her designated agent(s):

1. Shall use such applicable competitive procedures as are consistent with the need to efficiently and feasibly fulfill the requirements of the House in accordance with this document; and
2. Shall use the acquisition procedure or combination of procedures that is best suited and most practicable under the circumstances of the procurement, and which is in accordance with the permitted acquisition methods set forth in Section 5, Types of Acquisitions.
3. Shall limit the use of specific suppliers, resellers or manufacturers to those instances where the need for standardization, compatibility and/or interchangeability necessitates less than maximum competition possible.
4. Shall ensure that sole source justifications meet the criteria set forth in the Procurement Guidelines.

m. Misrepresentation of Fact. A false statement of substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

n. Negotiation. Contracting through the use of both competitive or other-than-competitive proposals and discussions. Any contract awarded without using IFB procedures is a negotiated contract.

o. Purchase Order. A Purchase Order is an offer by the House to buy goods or services upon specified terms and conditions. Purchase orders are most frequently used for purchases below the simplified acquisition threshold and for purchases off of General Services Administration (GSA) Supply Schedules or other government-wide contracts at any dollar value. Purchase orders awarded pursuant to the policy and procedures set forth herein should be issued at a fixed price and must contain the following elements:

1. A specific quantity of supplies or scope of service;
2. A determinable date by which delivery of the supplies or performance of the services is required; and
3. Provisions for inspection and acceptance of goods.

p. Single or Sole Source Acquisition. A purchase of goods and/or services that is entered into or proposed to be entered into after soliciting and negotiating with only one source (only one supplier, exclusive control or possession in sale of goods and services). *See Section 5.9.*

q. Task Order. An order for services placed against an established House contract or against a contract with another government source.

1.5 Competition

a. All acquisitions of goods and services for the House shall utilize the maximum possible competition consistent with the government's interest. Inconsistent practices, such as unreasonable qualifications, unreasonably short time frames to submit bids, unnecessary expenses, excessive bonding, or arbitrary actions shall not be utilized.

b. Encourage Small Business Participation. Small, disadvantaged, women-owned, and veteran-owned business concerns shall be afforded an equal opportunity to compete for all requirements that they can perform to the extent consistent with the government's interest. The CAO will ensure these concerns have the maximum practicable opportunity to participate in providing goods and services to the House. To create internal and external awareness of potential procurement and purchasing opportunities for House goods and services, CAO acquisition personnel shall reach out to small, disadvantaged, women-owned, and veteran-owned business concerns through avenues such as, but not limited to, the following:

1. Participating in Congressionally-sponsored vendor outreach events and/or service fairs.

2. Training of House Acquisitions staff on how to conduct market research to locate potential qualified small business concerns.
 3. Requiring prospective contractors to register in the Central Contractor Registration system to identify whether the firm is a small, disadvantaged, women-owned, or veteran-owned business concern.
- c. Encourage that goods and services minimize greenhouse gas emissions and consumption of energy, water, materials and natural resources throughout the life cycle of the product or service.

1.6 Committee Approvals and Notifications

a. Approvals

1. All **contracts** and **purchases** of goods and services in excess of \$350,000 must be approved by the Committee. This approval requirement includes purchase orders and task orders placed against a GSA schedule or other government contract. Proposed modifications to contracts and purchases that would increase their value more than \$350,000 must also be approved by the Committee. Proposed modifications to contracts and purchases that have previously been approved by the Committee need not be approved by the Committee, unless the amount of the modification(s) exceeds \$350,000.
2. All **contracts** with a performance period in excess of one year, including renewal options, must be approved by the Committee. This approval requirement does **not** include purchases with a performance period in excess of one year which utilize other acquisition vehicles such as purchase orders or task orders.
3. Notwithstanding the above provisions pertaining to dollar levels and performance periods of contracts, **all** concessionaire contracts shall be submitted to the Committee for approval.
4. From time to time the CAO may, on behalf of the House, enter into *agreements* which relate to acquisitions, including inter-agency agreements or agreements with contractors for the provision of services (such as maintenance agreements). Although such agreements would not otherwise fall within the parameters of the above provisions, those agreements which exceed the thresholds established in Sections 1.6.a.1 and 1.6.a.2, above, **shall** be submitted to the Committee for approval with the following exception: equipment maintenance agreements.

b. Notifications

1. The CAO must notify the Committee of the intention to exercise a **contract** renewal option or to pursue a **contract** extension 30 days before the end date of the current performance period, except as provided below.
 - (a) In the event the CAO intends to renew or extend a contract with an initial performance period of one year or less, Committee approval is not required, unless the renewal or extension would cause the contract's period of performance to exceed one year.

(b) This notification requirement does **not** include the renewal or extension of purchases which utilize other acquisition vehicles such as purchase orders or task orders. It **does** include agreements subject to Section 1.6.a.4, above.

2. Pursuant to Sections 5.6.c.4 (pertaining to Invitation for Bid) and 5.7.d.7 (pertaining to Request for Proposal), the Committee must be provided copies of IFBs and RFPs.

c. Submissions

1. For acquisitions requiring Committee approval or notification, purchasing offices must prepare and submit to CAO Acquisitions Management a brief abstract containing, at a minimum, a justification, dollar amounts, reason it is being sent to the Committee, action requested, time sensitivity, points of contact, and, as appropriate, the contract number of the acquisition in question. The document should be accompanied by any such other supporting materials deemed pertinent by the purchasing office. The acquisition package will be routed through the Administrative Counsel and the CAO for review prior to submission to the Committee.

2. Offices must allow adequate time for internal review and Committee action in their procurement planning. In particular, to ensure that the 30 day Committee notification requirement for contract renewals and extensions is met, offices should have their submissions for such renewals or extensions to the Office of Acquisitions Management 60 days before the end of the performance period.

d. Nothing in this Section prohibits the voluntary submission of acquisitions or agreements to the Committee for approval or notifications which, although they might not otherwise be required, are nonetheless judged to be appropriate based on the instant circumstances of the acquisition or agreement.

1.7 Furniture and Carpet Purchases

a. All purchases of furniture and carpets by the CAO shall be made pursuant to 2 U.S.C. § 2012 (formerly 40 U.S.C. § 169) and 2 U.S.C. § 2184 (formerly 40 U.S.C. § 170).

b. In accordance with the reference in Section 1.1 above, adoption by the Committee of the Guidelines in such reference constitutes a standing written order from the Chairman of the Committee to the CAO authorizing the purchase of furniture and carpets for the House, consistent with the procedures contained in said reference.

1.8 Report

Each month the CAO shall report all acquisitions exceeding the Small Purchase Threshold (\$70,000) to the Committee. The CAO shall also make available to the Committee any additional information as may be requested regarding the procurement and competitive process for all acquisitions.

1.9 Procurement Planning

The CAO shall develop and implement a systematic and coordinated planning process for procurement activities, to include a Procurement Plan for each Fiscal Year. By September 15th of each year, the CAO shall approve and submit to the Committee a copy of the CAO Procurement Plan for the immediately following Fiscal Year.

SECTION 2
STANDARDS OF CONDUCT

2.1 References

- a. Procurement Guidelines
- b. Rules of the House

2.2 General

- a. The Procurement Guidelines direct the Chief Administrative Officer (CAO) to maintain written standards of conduct governing the performance of employees engaged in the award and administration of contracts.
- b. Employees covered by this Section are expected to familiarize themselves with, and adhere to, House Rule on the Code of Official Conduct, House Rule on the Limitations on Outside Income and Acceptance of Gifts, and such guidance on conduct as may be issued from time to time by the Committee on Ethics.
- c. In 2009, the U.S. House of Representatives imposed in the House Rules the requirement that House employees' of Members, Officers, Committees, and other legislative offices certify to the Committee on Standards of Official Conduct (the Committee name was changed to the Committee on Ethics in the 112th Congress, hereinafter referred to as "Ethics Committee") his or her compliance with the annual ethics training requirement conducted by the Ethics Committee.

2.3 Definitions

- a. Acquisition Personnel. Acquisition Personnel are employees participating personally and substantially in the award and administration of contracts, including, but not limited to, any of the following activities:
 - 1. Drafting, reviewing, or approving a specification or a statement of work;
 - 2. Preparing or developing procurement or purchase requests, including purchase orders;
 - 3. Preparing or issuing a solicitation;
 - 4. Evaluating bids or proposals or selecting a contractor;
 - 5. Selecting sources;
 - 6. Negotiating to establish the price or terms and conditions of a contract or modification;
 - 7. Reviewing and approving the award or modification of a contract/purchase order;

8. Directing or effecting actions undertaken in the administration of contracts, including the development of Contract Administration Plans; and

9. Directing or effecting actions undertaken in the termination or close-out of contracts.

b. Personal and Substantial Participation. Participation in a matter will be considered “personal” if the employee is directly involved in the award and/or administration of contracts. Personal participation will be considered substantial, unless it only involves perfunctory or peripheral involvement in the matter.

c. Gift. Gift means any gratuity, favor, entertainment, or other item having monetary value as defined in House Rule on the Limitations on Outside Earned Income and Acceptance of Gifts.

d. Financial Interest. The term includes any current or contingent ownership, equity, or security interest in real or personal property or a business, and may include indebtedness or compensated interest in real or personal property or a business, and may also include indebtedness or compensated employment relationship. It thus includes, for example, interests in the nature of stocks, bonds, partnership interests, fee and leasehold interests, mineral and other property rights, deeds of trust, and liens, and extends to any right to purchase or acquire any such interest such as a stock option or commodity future. For the purpose of this section “financial interest” does not include an investment in a publicly traded, professionally managed unitized investment product or a Thrift Savings Plan.

1. The term includes service, with or without compensation, as an officer, director, trustee, general partner or employee of any person, including a nonprofit entity, whose financial interests are imputed to the employee.

2. The term does not include a future interest created by someone other than the employee, his spouse, or minor child or any right as a beneficiary of an estate that has not been settled.

e. Arms-Length Relationship. Conduct that maintains the ethical integrity and professionalism in a business relationship. Each party to a contractual relationship must act independently and keep their business association separate from their personal relationship.

2.4 Standards

a. All acquisitions of goods and services for the House shall be conducted in a manner above reproach.

b. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. Acquisition Personnel must be particularly sensitive not only to the possibility of unethical or compromising behavior, but also to the appearance of any unethical or compromising practice in their actions.

c. Acquisition personnel shall refrain from any private or professional activity that would create a conflict between personal interests and the interests of the House. Employees, officers, or agents of

the House shall not participate in the selection, or in the award or administration, of a contract supported by House funds, if a conflict of interest would be involved.

1. A conflict of interest would arise when the following individuals or groups have a financial or other interest in the firm selected for award:

- (a) The employee, officer, or agent;
- (b) Any member of his or her immediate family;
- (c) His or her partner; or
- (d) An organization which employs, or is about to employ, any of the above.

By the same token, a conflict would arise when these same individuals or groups have a financial or other interest in a firm competing, or otherwise being considered, for award.

2. No Acquisition Personnel, their spouses or minor children may acquire or hold a financial interest (in the contractor selected for award or who is competing or otherwise being considered for award), if the acquisition or holding would cause a reasonable person to question the impartiality and objectivity of the employee's decision on a particular matter in which the employee has personal and substantial participation, unless the interest is considered *de minimis*.

3. *De minimis exemption*. An employee may participate in any particular matter involving specific parties in which the disqualifying financial interest arises from the ownership (by the employee, his or her spouse or minor children, his or her partner or any organization that employs any of the above) of securities issued by one or more entities affected by the matter, if:

- (a) The securities are publicly traded, or are long-term Federal Government securities, or are municipal securities; and
- (b) The aggregate market value of the holdings of the employee, his or her spouse, and his or her minor children in the securities of all entities affected by the matter does not exceed a market value of \$7,000 at the time of signing the Procurement Integrity Form as a member of the evaluation committee.

4. Any employee covered by this standard who has assumed, or is about to assume, a financial or other business relationship that might present the possibility of a conflict of interest shall inform CAO Acquisitions Management of such situation in order that a determination may be made by the Chief Acquisitions Officer/Contracting Officer, regarding whether a conflict of interest does exist and, if so, what appropriate action should be taken. The determination might likewise be initiated independently by the Chief Acquisitions Officer.

5. If it is determined that a conflict of interest does exist, the employee must either request a recusal from participation, request a waiver for participation, or dispose of the disqualifying interest prior to participation in the matter.

6. Recusal. An employee may execute a letter of recusal addressed to the Chief Acquisitions Officer removing him or herself from participation in the selection, award or administration of the instant House contract. The Chief Acquisitions Officer may also direct that such action be taken.
7. Waiver. An employee determined to have a conflict of interest, may request a waiver for a particular matter or matters involving an otherwise disqualifying financial interest. (For example, an employee may have a key role in the selection of a contractor for an important project, but his child has stock in the widely-held publicly traded company, and the stock is valued at slightly more than the permitted *de minimis* level.) The CAO may determine that the otherwise disqualifying financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's service. The CAO will notify the Committee on House Administration prior to the issuance of a waiver based on such a determination.
8. Waivers granted by the CAO, following Committee notification, shall comply with the following requirements:
 - (a) The disqualifying financial interest, and the nature and circumstances of the particular matter or matters, must be fully disclosed;
 - (b) The waiver should describe the disqualifying financial interest, the particular matter or matters to which it applies, the employee's role in the matter or matters, and any limitations on the employee's ability to act in such matters;
 - (c) The waiver shall be based on a determination that the disqualifying financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the House. Statements concerning the employee's good character are not material to, nor a basis for, making such a decision;
 - (d) The waiver must be issued prior to the employee taking any action in the matter or matters; and
 - (e) The waiver may apply to both present and future financial interests, provided the interests are described with sufficient specificity.
9. In determining whether a disqualifying financial interest is sufficiently substantial to be deemed likely to affect the integrity of the employee's services, the CAO may consider the following factors:
 - (a) The type of interest that is creating the disqualification (e.g. stock, bonds, real estate, other securities, cash payment, job offer, or enhancement of a spouse's employment);
 - (b) The identity of the person whose financial interest is involved, and if the interest is not the employee's, the relationship of that person to the employee;

(c) The dollar value of the disqualifying financial interest, if it is known or can be estimated (e.g. the amount of cash payment which may be gained or lost, the salary of the job which will be gained or lost, the market value of the stock);

(d) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter.

(e) Other factors which may be taken into consideration include:

(1) The sensitivity of the matter;

(2) The need for the employee's services in the particular matter; and

(3) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that the integrity of the employee's services would be questioned by a reasonable person.

d. Except as permitted by the provisions of the House Rules, and such guidance as may be issued from time to time by the Committee on Ethics, Acquisition Personnel may not accept gifts from any person or organization. To avoid the appearance of impropriety, such personnel should not accept any gift from any vendor, contractor or agent thereof doing business with, or seeking to do business with, the House.

e. Acquisition Personnel are prohibited from accepting any bribe or illegal gratuity, i.e. anything of value, in return for, or as a reward for, official action.

f. Acquisition Personnel shall avoid any action, whether or not specifically prohibited by these standards of conduct that might result in or reasonably be expected to create the appearance of:

1. Using public office for private gain;

2. Giving preferential treatment to any person or entity;

Example: A Contracting Officer accepts a coffee mug with the logo of the ABC Corporation, a prospective bidder on an upcoming contract, which she displays on her desk. A representative from the XYZ Corporation, another prospective bidder on the same contract, visits the Contracting Officer, sees the mug and assumes ABC will receive preferential treatment by the Contracting Officer. Even though the Contracting Officer is not in technical violation of House Rules, there is a probable perception of improper influence. Employees participating in the selection, award, and/or administration of contracts must be sensitive to such perceptions.

3. Impeding House efficiency or economy;

4. Losing independence or impartiality;

5. Making a House decision outside official channels; or

6. Affecting adversely the confidence of the public in the integrity of the House.
- g. Proprietary information shall not be released.
- h. Acquisition Personnel are prohibited from releasing to an individual or to a business concern or its representatives any information concerning future House requirements or a proposed acquisition or purchase by any contracting activity of the House. Such information shall be released to all potential contractors as nearly simultaneously as possible. These releases will be made only through duly designated employees so that one potential source may not be given an advantage over another.
- i. Only Contracting Officers and their duly authorized representatives acting within their authority are authorized to commit the House with respect to award of contracts/purchase orders. Unauthorized discussion and commitments may place the House in the position of not acting in good faith. House employees may not make any commitment or promise relating to award of contract and will not make any representation that would be construed as such a commitment. House employees shall not tell a business representative that an attempt will be made to influence another person or activity or give preferential treatment to his or her concern in the award of future contracts.

2.5 Penalties, Sanctions, and Disciplinary Actions

- a. Officers, Employees or Agents of the CAO. Violation of these standards of conduct by the CAO's officers, employees or agents shall subject the offender to such penalties, sanctions, and/or other disciplinary actions as are provided in the House Personnel Policy. Violations of pertinent House Rules are subject to referral to the Ethics Committee.
- b. Contractors and/or their Agents
 1. Contractors or their agents who violate these standards of conduct are also subject to penalties and sanctions, to include suspension and/or debarment. Such actions shall be imposed to protect the interest of the House and for the causes set forth below, and shall not be imposed for purposes of punishment.
 2. Grounds for action. The CAO or his or her designated representative may take action upon adequate evidence of:
 - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, and/or performing a public contract or subcontract;
 - (b) Violation of any applicable statutes relating to the submission of offers;
 - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibilities of a House contractor or subcontractor; or

(e) Any other cause of so serious or compelling a nature that it affects the present responsibilities of a House contractor or subcontractor.

3. Suspension. Suspension refers to action taken by the Chief Acquisitions Officer to disqualify a contractor temporarily from House contracts and/or House-approved subcontracting, in full or in part.

(a) When a contractor and any specifically named affiliates are suspended, the Chief Acquisitions Officer shall advise them immediately by certified mail, return receipt requested:

(1) That they have been suspended and that the suspension is based on an indictment or other adequate evidence that the contractor has committed irregularities (i) of a serious nature in business dealings with the House, or (ii) seriously reflecting on the propriety of further House dealings with the contractor. Any such irregularities shall be described in terms sufficient to place the contractor on notice without disclosing the House's evidence;

(2) That the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue;

(3) Of the cause(s) relied upon for imposing suspension;

(4) Of the extent and effect of the suspension; and

(5) That, within 30 days after receipt of the notice of suspension, the contractor or its representative may submit, in writing or in person, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over the material facts.

(b) Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings, unless sooner terminated by the suspending official or as provided in this subsection.

(c) If the investigation is not concluded or legal proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated.

4. Debarment. Debarment refers to action by the CAO to exclude a contractor from future House awards and House-approved subcontracting, in full or in part, for a reasonable, specified period.

(a) Upon conclusion of the aforementioned investigation, if the Chief Acquisitions Officer should determine that debarment is in order, he or she shall prepare a report on the investigation along with such recommendations regarding debarment, for submission to the CAO.

(b) A notice of proposed debarment shall be issued by the Chief Acquisitions Officer advising the contractor and any specifically named affiliates, by certified mail, return receipt requested:

- (1) That debarment is being considered;
- (2) Of the reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction(s) upon which it is based;
- (3) Of the cause(s) relied upon for proposing debarment;
- (4) That, within 30 days after receipt of the notice, the contractor or its representative may submit to the CAO, in writing through the Chief Acquisitions Officer or in person, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts;
- (5) Of the effect of the issuance of the notice of proposed debarment; and
- (6) Of the potential effect of an actual debarment.

(c) In the event that the CAO makes a determination to impose debarment, the Chief Acquisitions Officer shall give the contractor and any affiliates involved prompt notice by certified mail, return receipt requested:

- (1) Referring to the notice of proposed debarment;
- (2) Specifying the reasons for debarment;
- (3) Stating the period of debarment, including effective dates; and
- (4) Advising that the debarment is effective throughout the House, unless the CAO determines that limited business dealings between the House and the contractor are justified.

(d) CAO decision. The decision of the CAO on the merits of a debarment shall be final. The CAO's decision may be appealed by the contractor, in writing within 10 days of receipt of notification of the decision, to the Committee on House Administration only in the event that the CAO fails to follow the procedures established herein.

5. Other disciplinary actions. If the situation warrants, the Chief Acquisitions Officer may take actions less than suspension, and the CAO may take actions less than debarment, including imposing a period of probation, or issuing letters of reprimand or censure, and advising House customers of the situation.

6. The CAO shall notify the Committee of disciplinary actions taken regarding contractors and/or their agents, including the issuance of notices of suspension, proposed debarment and debarment.

7. Written submissions by contractors and/or their agents pertaining to disciplinary actions, including procedural appeals to the Committee, must be addressed to the Chief Acquisitions Officer, Office of the Chief Administrative Officer, Room 359, Ford House Office Building, U. S. House of Representatives, Washington, D.C. 20515. Submissions may also be sent electronically to the Chief Acquisitions Officer at OfficeofAcquisitionsManagement@housemail.house.gov. The Chief Acquisitions Officer will forward any procedural appeals, through the CAO, to the Committee along with appropriate documentation pertaining to the dispute.

SECTION 3
REQUIREMENTS AND SPECIFICATIONS

3.1 Reference

Procurement Guidelines

3.2 Requirements and Specifications

a. Selection criteria. In preparing for the acquisition of goods and services for the House, the CAO and/or his/her designated agent(s) for the procurement of such goods and services shall:

1. Specify the House's needs and solicit bids or proposals in a manner designed to achieve maximum possible competition for the acquisition;
2. Utilize adequate procurement planning and market research; and
3. Develop specifications in such manner as is necessary to obtain maximum possible competition with due regard to the nature of the goods or services to be acquired.

b. Each acquisition by the CAO and/or his/her designated agent(s) under these instructions shall include specifications which:

1. Permit maximum possible competition, and
2. Include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the House or as authorized by law.

c. All solicitations:

1. Must present a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description may not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
2. Should avoid excessively detailed product specifications. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or "equal to" description may be used in defining performance. The specific features of the brand name which must be met by offerors shall be clearly stated.
3. Shall identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

d. For the purposes of this Section, the type of specifications included in a solicitation shall depend on the nature of the needs of the House and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of:

1. Function, so that a variety of goods or services may qualify;
2. Performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or
3. Design requirements.

e. The Chief Acquisitions Officer and/or his or her designated agent(s) shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

f. All sealed bids or competitive proposals received in response to a solicitation may be rejected if the Chief Acquisitions Officer determines that such action is in the public interest.

g. Sealed bids shall be opened publicly at the time and place stated in the solicitation. The Chief Acquisitions Officer and/or his or her designated agent(s) shall evaluate the bids without discussions with the bidders and, except as provided in paragraph f. above, shall award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the House, considering only price and other price-related factors included in the solicitation. The award of a contract shall be made by transmitting written notice of the award to the successful bidder. Upon contract award, the Chief Acquisitions Officer and/or his or her designated agent(s) shall promptly notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.

h. The Chief Acquisitions Officer and/or his or her designated agent(s) shall evaluate competitive proposals in accordance with paragraph e. above and may award a contract:

1. After discussions with the offerors, provided that written or oral discussions have been conducted with all responsive offerors within the competitive range; or
2. Based on the proposals received, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification).

3.3. Use of Commercially Available, Environmentally Sustainable Items

The Chief Acquisitions Officer shall, to the maximum extent practicable:

- a. Require prime contractors and subcontractors to provide goods and services that minimize greenhouse gas emissions and consumption of energy, water, materials and natural resources throughout the life cycle of the product or service.
- b. Acquire commercially available, life cycle cost effective goods and services that meet the needs of the House and meet the following environmentally sustainable purchasing standards:

1. Are made from recycled or recovered content;
 2. Are made from products that meet or exceed the minimum U.S. Department of Agriculture (USDA) definition of bio-based;
 3. Conserve energy and water in manufacture, transport, disposal, and general vendor business practices;
 4. Can be reused, recycled or repurposed at the end of life;
 5. Minimize greenhouse gas emissions, including using low emission and alternative fuel vehicles;
 6. Have received a verifiable environmental certification; and
 7. Avoid or minimize use of toxic, hazardous or ozone-depleting materials in manufacture, transport, and disposal.
- c. When acquiring energy-using products, purchase items that comply with standards of Restriction of Hazardous Substances (RoHS), EPEAT (Electronic Product Environmental Assessment Tool), ENERGY STAR[®] or other energy-efficient items listed on the Department of Energy's Federal Energy Management Program (FEMP) Product Energy Efficiency Recommendations product list and for products that consume power in standby mode purchase items that are listed on FEMP's Standby Power Devices product listing.
 - d. Require prime contractors and subcontractors to incorporate commercially available and environmentally sustainable items as components, to the maximum extent practicable.
 - e. Use specifications that enable and encourage bidders and offerors to supply commercially available items.

SECTION 4
RESPONSIBLE PROSPECTIVE CONTRACTORS

4.1 Reference

Procurement Guidelines

4.2 General

Prospective contracts shall be awarded only to responsible contractors.

4.3 Determining Responsibility

In addition to items such as reference and financial checks, evaluation factors listed in solicitations, such as experience, resources and reputation, may be utilized for purposes of determining responsibility. To be determined responsible, a prospective contractor must:

- a. Have adequate financial resources to perform the contract, or the ability to obtain them;
- b. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- c. Have a satisfactory performance record, including in the provision of any such similar required services to other government or commercial entities;
- d. Have a satisfactory record of integrity and business ethics;
- e. Have the necessary organization, experience, accounting and operational controls, and technical capability, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors);
- f. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and
- g. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

4.4 Awards

It is important that goods and services be purchased on the basis of offers that present the “greatest overall value” to the House. The factors determining “greatest overall value” should include items such as overall approach, experience, reputation, price, payment terms, and resources. As part of the cost or price evaluation, a determination must be made whether the offeror’s cost or price is reasonable and reflects the offeror’s understanding of the work and the ability to perform the contract or deliver the goods at the quoted price within the required time frame. Awards based on lowest evaluated price alone

may be a disservice to the House, if subsequently the contractor defaults, is late in his deliveries, or otherwise performs unsatisfactorily, with the result that the House incurs additional procurement or administrative costs, and acceptable supplies or services may not be furnished within the time required. Therefore, a prospective contractor must affirmatively demonstrate his responsibility and, when necessary, the responsibility of proposed subcontractors.

SECTION 5 TYPES OF ACQUISITIONS

5.1 References

- a. Procurement Guidelines
- b. User's Guide to Setting Up an Office

5.2 General

- a. All acquisitions made by the CAO for the House shall be entered into in accordance with one of the methods set forth below in Sections 5.3 through 5.9, or a combination of these methods.

5.3 Federal Supply Schedule and Other Government Sources

- a. The General Services Administration (GSA) directs and manages the Federal Supply Schedule which provides Federal agencies and the CAO with a simplified process for obtaining commonly used supplies, goods and services at prices associated with volume buying. GSA's web site: www.gsa.gov, includes a listing of Federal Supply Schedules and information on their use.
- b. The CAO may also purchase goods or services under contracts entered into or administered by other federal agencies (e.g. NASA, NIH), including Government-Wide Acquisition Contracts (GWACS), and other legislative branch agencies (e.g. U.S. Senate, Library of Congress).
- c. In the interest of promoting maximum competition, and thus facilitating the purchase of goods and services at the best value for the House, CAO offices, when acquiring products and services may seek additional competition outside the GSA Schedules, with a minimum of three quotes. Only one quote is necessary when acquiring goods and services at or below the Small Purchase Threshold of \$70,000, when acquired from a GSA Schedule or other Government-wide contract. However, for significant purchases, generally those for all acquisitions exceeding the Small Purchase Threshold of \$70,000, it is recommended that purchasing offices solicit quotes where more than one source is available in order to seek the most competitive product or service. In such cases, a minimum of three vendors must be solicited, unless only two are engaged in the conduct of such business in which case two would be the minimum. If only one vendor is available, the requesting office must adhere to the single or sole source requirements of Section 5.9 of these Instructions, "Other Procedures." Solicitation of more than three quotes (i.e., four to six, or more) is encouraged, in general, and is recommended, in particular, for higher value items.
- d. GSA schedule vendors may provide pricing below the GSA published price. Furthermore, pursuant to 2 U.S.C. § 111 (and 111b), the CAO may purchase such goods or services at a unit price or under terms and conditions which are more favorable to the House than those offered to the contracting entity of the Federal government.
- e. The above modes of procurement may be used on an optional basis as appropriate, available, and allowable.

5.4 User's Guide to Setting Up an Office

- a. The User's Guide to Setting Up an Office, adopted by the Committee on House Administration, includes the regulations, policies, and procedures applicable to acquisition, transfer, disposal, and maintenance of furnishings, equipment, software, and related services, and applies to offices and subordinate offices of Members, Committees, the Leadership, elected Officers of the House, and all other support offices of the House.
- b. In accordance with the Procurement Guidelines, such purchases should be made through the appropriate CAO Office and are exempt from Sections 5.9 and 5.11.
- c. Offices of the CAO must utilize one of the alternative acquisition methods provided by Section 5 of these Instructions for purchases of equipment, software and related services that are for the direct use and benefit of the CAO office.

5.5 Small Purchases and Other Simplified Purchase Procedures

- a. This Section provides simple and informal procurement methods for securing services, supplies, or other property that do not aggregate to more than \$70,000 in any fiscal year.
- b. When the amount involved for a single purchase order is in excess of \$3,500, but not more than the Small Purchase Threshold of \$70,000, such purchase may be made by documented competitive quotations. In such cases, a minimum of three vendors must be solicited, unless only two are engaged in the conduct of such business, in which case two would be the minimum. If only one vendor is available, the requesting office must adhere to the single or sole source requirements of Section 5.9 of these Instructions, "Other Procedures." Solicitation of more than three quotes (i.e., four to six, or more) is encouraged, where the potential benefits of lower pricing, improved availability or enhanced quality exceed the increased administrative costs of obtaining additional quotes.
- c. Requirements aggregating more than the small purchase dollar limitation shall not be broken down into several purchases that are less than the limit merely to permit the use of small purchase procedures, and every reasonable effort shall be made to anticipate the need for subsequent purchases of such items during the fiscal year in determining the procedures to be followed. In order to ensure that like item orders are aggregated to the maximum extent practicable and to prevent inadvertent multiple orders of like items without aggregation, all small purchase orders shall be reviewed and approved by the CAO or his/her designated agent(s). The Chief Acquisitions Officer shall determine, and put into place, such additional controls as may be necessary to ensure that orders are not split to avoid competitive requirements applied above to the Small Purchase Threshold.
- d. When the amount involved in the procurement in the aggregate is \$3,500 or less, and the CAO or his or her designated agent(s) determines that the price is fair and reasonable, no more than one quote need be obtained, so long as orders are not split to avoid the competitive threshold requirements. Such purchases may be referred to as "micro-purchases."

5.6 Sealed Bidding

a. Sealed bidding is a method of contracting that employs competitive bids, public opening of bids, and awards.

b. Sealed bids may be solicited if:

1. Time permits the solicitation, submission and evaluation of sealed bids;
2. The award will be made on the basis of price and other price-related factors;
3. It is not necessary to conduct discussions with the responding offerors about their bids; and
4. There is reasonable expectation of receiving more than one sealed bid.

c. Sealed bidding rules and procedures

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

2. Publicizing Invitation for Bids. Invitations must be publicized through distribution to prospective bidders, advertising or 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. As a general rule, at least 30 days should be allowed between the public issuance of the invitation for bids and the solicitation closing date.

3. 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. All bids submitted in response to a solicitation shall be kept sealed (except for opening and testing in accordance with House mail processing procedures) until the opening date and time specified in the solicitation. Unless another location is designated in the solicitation, bids shall be submitted to the following address: CAO Acquisitions Management, Room 358, Ford House Office Building, Washington, D. C. 20515, ATTN: Bid Submission [solicitation number]. Late submissions will not be considered, except that the Chief Acquisitions Officer may waive this restriction if he or she determines that the late receipt is due to fault or negligence on the part of the House, or the acceptance of the bid is in the best interest of the House.

4. Bid Openings. Sealed bids shall be publicly opened in the presence of at least three House employees and any prospective bidders and/or members of the public who choose to be present. The offerors shall be notified of the time and place of such bid opening by means of the solicitation document.

5. Evaluation of Bids. Bids shall be evaluated without discussions with bidders. Informalities and minor irregularities in bids received may be waived by the Chief Acquisitions Officer or his or her designated agent.

6. Contract Award. After bids are publicly opened, the Chief Acquisitions Officer and/or his or her designated agent(s) will, consistent with the Procurement Guidelines and Section 3, Requirements and Specifications, determine the winner and make an award with reasonable promptness to that responsive and responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the House, considering price and price-related factors specified in the invitation.

5.7 Competitive Proposals (Negotiated Contracts)

This acquisition method is one which normally employs negotiations, bargaining, and/or discussions with offerors in response to offers solicited by the House. There are two types of negotiated contracts: Request for Proposal (RFPs) or Request for Quotation (RFQs).

- a. Request for Quotations. An RFQ is used to solicit prices against an established GSA Schedule, against a contract with another government source (see Section 5.3, Federal Supply Schedule and Other Government Sources), or in the open market to solicit quotations in accordance with Section 5.5, Small Purchases and Other Simplified Purchase Procedures.
- b. Request for Proposals. RFPs are used in negotiated acquisitions to communicate House requirements to prospective contractors and to solicit proposals or quotations from them. Unless specifically authorized in writing by the Chief Acquisitions Officer or his or her designated agent, Contracting Officers shall issue written solicitations. Contracting Officers shall furnish identical information concerning a proposed acquisition to all prospective contractors. CAO personnel shall not provide the advantage of advance knowledge concerning a future solicitation to any prospective contractor, except in the context of presolicitation notices and conferences and solicitations for information for planning purposes.
- c. Receipt of Proposals. A proposal received in response to an RFP is an offer than can be accepted by the House to create a binding contract. Contracting Officers should normally issue RFPs when they consider it reasonable to expect prospective contractors to respond with offers, even though they anticipate negotiations after receipt of offers. An RFP shall not be used for a solicitation for information or planning purposes.
- d. RFP Procedures
 1. After advertising for a sufficient period of time, competitive proposals submitted in response to solicitations for contracts for goods and services shall be evaluated for an assessment of both the proposal and the offeror's ability to successfully accomplish the prospective contract in accordance with Section 3, Requirements and Specifications.
 2. Contracting Officers shall give offerors sufficient time to prepare offers. As a general rule, at least 30 days should be allowed between the public issuance of a solicitation and its closing date. Contracting Officers should consider the complexity of the RFP and the resultant proposal when determining deadlines for responses by offerors.
 3. The Chief Acquisitions Officer and/or his or her designated agent(s) shall evaluate the proposal for technical quality and price, at a minimum, and shall consider the factors discussed

in Section 3 herein. The Chief Acquisitions Officer is responsible for ensuring that CAO personnel serving on evaluation panels are properly trained and briefed to include, as a minimum, COR training for panel chairpersons.

4. The criteria for evaluating competitive proposals shall be based solely on the factors specified in the solicitation. The solicitation shall also list the relative importance of the evaluation criteria when they are not of equal weight. The Chief Acquisitions Officer and/or his or her designated agent(s) shall conduct a cost or price evaluation to determine whether offeror's cost or price is reasonable and reflects the offeror's understanding of the work and the ability to perform the contract. Specified factors should include items such as overall approach, experience, price, reputation, and resources.

5. The Chief Acquisitions Officer and/or his or her designated agent(s) shall use the procedures detailed in these Instructions to ensure fair and impartial evaluation of all offers and shall document such evaluations. The Chief Acquisitions Officer and/or his or her designated agent(s) shall place a signed written determination in the contract file appropriately discussing how the successful offer was determined and selected.

6. The Chief Acquisitions Officer and/or his or her designated agent(s) shall award a contract resulting from the solicitation to the responsible offeror whose offer, conforming to the solicitation, will be the most advantageous to the House, cost or price, and other factors specified in the solicitation considered.

7. The CAO and/or his or her designated agent(s) shall provide the Committee with a copy of the solicitation prior to its public issuance, and shall advise the Committee of any significant changes not reflected in the original solicitation.

5.8 Oral Solicitations

Under certain circumstances, oral solicitations are the preferred method of obtaining quotes for low dollar contracting actions. Oral quotes may be solicited if:

- a. The acquisition does not exceed the simplified acquisition threshold, and
- b. Oral solicitation is more efficient than soliciting through available electronic commerce alternatives.

Oral solicitations that result in the award of a purchase order or other financially obligating agreement must be fully documented and must clearly set forth the responsibilities and obligations of both parties to the agreement.

5.9 Other Procedures

The Chief Acquisitions Officer and/or his or her designated representative may, by entering written certification in the contracting file, authorize contracting without providing for maximum possible competition only when the award of a contract is not practicable under any of the procedures listed above, *and* one of the following circumstances applies:

- a. The item is available only from a single source (only one supplier, exclusive control or possession in sale of goods and services) and no other supplies or services will satisfy the requirements;
- b. The public exigency will not permit a delay resulting from competitive solicitations;
- c. After solicitation of a number of sources, competition is deemed inadequate by the Chief Acquisitions Officer and/or his or her designated agent; or
- d. It is in the public interest, none of the preceding exceptions apply, and Committee approval has been obtained.

5.10 Negotiations and Award without Maximum Possible Competition

The Chief Acquisitions Officer and/or his or her designated representative shall not commence negotiations for a single source (only one supplier, exclusive control or possession in sale of goods and services) contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for maximum possible competition consistent with the government's interest, unless the Chief Acquisitions Officer and/or his or her designated representative justifies the use of such actions in writing, having first certified a report on the matter prepared by technical and requirements personnel as being accurate and complete, and having the data necessary to support the recommendation for other than maximum possible competition consistent with the government's interest.

5.11 Automated Acquisitions without Maximum Possible Competition

For purchases processed through the House automated acquisition system, the written certifications called for by Sections 5.9 and 5.10, above, shall be deemed to have been approved when the individual with designated approval/contracting officer authority exercises that authority, or in cases of purchases requiring approval at the office of the CAO level, shall have forwarded such purchase and certifications to that level for approval. Such certifications shall be prepared by representatives of CAO Acquisitions Management and attached to the electronic file for the purchase. The electronic file shall also include the report prepared, in accordance with Section 5.10, by the pertinent technical and requirements personnel.

5.12 Use of Brand Name Product Descriptions

An acquisition that uses a brand name description or other purchase description to specify a particular brand name product or feature of a product, peculiar to one manufacturer, shall not be made unless accomplished pursuant to the same written justification and reports as outlined in Section 5.10 above. Cost analysis, i.e., verifying the proposed cost data, the projections of this data, and the evaluation of the specific elements of cost and profit, may also be required.

5.13 Negotiation

The process leading to contract award, under Sections 5.4, 5.5.b., 5.7, 5.8 and 5.9, may allow for negotiations, a procedure that includes the receipt of proposals from offerors, permits bargaining, and usually affords offerors an opportunity to revise their offers before award of a contract. In the event that

a Best and Final Offer (BAFO) is pursued, a negotiation strategy must be in writing, equal for all offerors, and be approved by the Chief Acquisitions Officer. Bargaining (in the sense of discussion, persuasion, alteration of initial assumptions and positions and give-and-take) may apply to price, schedule, technical requirements, type of contract or other terms of a proposed contract.

5.14 Sources Sought (Market Surveys)

- a. From time to time it is necessary in the course of business for offices to seek information from vendors in the market place in order to make informed decisions regarding anticipated or potential acquisitions of goods and services for the House. When the nature of the acquisition requires that such information be sought by means of written communication in any form, as matter of course offices should be consulting with CAO Acquisitions Management, and any other appropriate office, to ensure that the document is properly constructed and in compliance with House rules, regulations, policies and procedures, including the Procurement Guidelines.
- b. In order to ensure that written information requests regarding anticipated or potential acquisitions are, in fact, properly vetted prior to their public issuance, any such requests must be forwarded to CAO Acquisitions Management for review and clearance prior to their public issuance. Information requests issued without such clearance shall be considered null and void.
- c. A Request for Information (RFI) can be considered to be a market survey. RFIs are used to gather information on products or services (e.g. available products on the market, estimated prices and delivery times of goods or services) or to develop bid lists or sources that may be used for some future procurement or for budgetary purposes.
- d. A response received in answer to an RFI is not an offer and cannot be accepted by the House to create a binding contract. It is informational in character. An RFI can be posted in Federal Business Opportunities (FedBizOpps) in its entirety or be issued to responsive vendors within the market area. An RFI should contain a background statement, purpose, and a general description of the information being sought and instructions on the submission procedures, including the point of contact. Essentially, an RFI may be used when the House does not intend to award a contract on the basis of a solicitation, but wishes to obtain price, delivery or other market information for planning purposes.
- e. Market surveys can also be effected without the use of a written RFI or other written communication. Offices may request quotes by phone for appropriate purchases, and gather market data through meetings or conversations with vendors and other sources. In the latter case, however, care must be taken not to unfairly disadvantage, or provide advantage to, possible awardees of anticipated or potential acquisitions. Consult the CAO Acquisitions Management for guidance, as needed.

SECTION 6 PROTESTS

6.1 Reference

Procurement Guidelines

6.2 Protests Before or After Award

- a. The Chief Administrative Officer shall consider all protests and/or objections, whether submitted before or after contract award. All protests and/or objections shall be in writing, and the protester shall be notified in writing of any final decisions regarding them.
- b. The above reference states that all acquisition of goods and services for the House of Representatives shall utilize the maximum possible competition consistent with the government's interest. Inconsistent practices, such as unreasonable qualifications, unreasonably short time frames to submit bids, unnecessary expenses, excessive bonding, or arbitrary actions shall not be used. Contracts will be awarded to a responsible bidder or offeror whose bid or offer conforms to the solicitation and is the most advantageous to the House when all relevant factors are considered. Violation of the aforementioned practices shall be considered grounds for protest.

6.3 Filing of Protest and Appeal

- a. An interested party may protest to the CAO a solicitation issued by or for the CAO and/or his/her designated agent(s) for the procurement of goods and services, or the proposed award, or the award of such a contract. The decision of the CAO on the merits of the protest shall be final.
- b. The decision of the CAO may be appealed to the Committee on House Administration within 10 days of receipt of formal notification of the decision. Such appeal shall be limited to the question of whether the CAO properly followed the procedures established herein.
- c. Protests and appeals must be in writing and addressed to the Chief Acquisitions Officer, Office of the Chief Administrative Officer, Room 359, Ford House Office Building, U. S. House of Representatives, Washington, D.C. 20515. ATTN: Protests and Disputes. Protests and appeals may also be sent electronically to the Chief Acquisitions Officer at OfficeofAcquisitionsManagement@housemail.house.gov. Such addresses shall also be used for all other written communications pertaining to protests and appeals.
- d. The initial protest filed shall:
 1. Include the name, address, and telephone number of the protester;
 2. Include an original signed by the protester or its representative, and at least one copy;
 3. Identify the contracting activity and the number of the solicitation and/or contract;

4. Set forth a detailed statement of the legal and factual grounds of protest including copies of relevant documents;
 5. Specifically request a ruling by the CAO; and
 6. State the form of relief requested. The grounds for protest must be fully supported to the maximum extent practicable.
- e. No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, direct and logically arranged.

6.4 Time for Filing

- a. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for receipt of initial proposals. In procurements where proposals are requested, alleged improper changes to an RFP which do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested not later than the next closing date for receipt of proposals following the incorporation.
- b. In cases other than those covered in Section 6.4.a, protests shall be filed with the CAO not later than 10 days after the basis of protest is known or should have been known, whichever is earlier.
- c. The CAO, for good cause shown, or where he or she determines that a protest raises issues significant to the procurement system, may consider any protest which is not timely filed.

6.5 Notice, Report, and Comments

- a. The Contracting Officer shall immediately give notice of the protest to the contractor if award has been made or, if no award has been made, to all bidders or offerors who appear to have a substantial and reasonable prospect of receiving an award. Material submitted by a protester may be released to any interested party.
- b. The Contracting Officer shall submit a report to the CAO, responsive to the protest, as expeditiously as possible (generally within 30 days). The report shall contain copies of relevant documents including, as appropriate: the protest; the bid or proposal of the firm which is being considered for award, or whose bid or proposal is being protested; the solicitation, including the specifications of portions relevant to the protest; and the Contracting Officer's statement setting forth findings, actions, recommendations, and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be responsive to all allegations of the protest which the Contracting Officer contests. A copy will be furnished to the protester.
- c. For purposes of this Section, the Contracting Officer shall be as specified under the Delegation of Authority.

d. If a 30 day extension to respond to a protest or appeal is required, then the Contracting Officer will determine, in writing, whether the specific circumstances of the protest require a period longer than 30 days for the submission of the report and, if so, will set a new date for the submission of the report. Extensions are to be considered exceptional and will be granted sparingly. Approval of such an extension must be submitted to the CAO.

e. A protester shall file any written comments on the Contracting Officer's report within 10 days of receipt of such report. The failure of a protester to comply with such time limit may result in resolution of the protest without consideration of any comments untimely filed.

f. Notwithstanding any other provision of this Section, when on its face a protest does not state a valid basis for protest or is untimely, the CAO shall dismiss the protest without requiring the submission of a Contracting Officer's report. If the propriety of a dismissal becomes clear only after information is provided by the Contracting Officer, the CAO shall dismiss the protest at that time. Among the protests which may be dismissed without consideration of the merits are those concerning the following:

1. Contract administration. Disputes between a contractor and the CAO and/or his/her agents are resolved pursuant to the disputes clause of the contract and the Disputes Section of this document.

2. Subcontractor protests. The CAO and/or his/her agents will not consider subcontractor protests except where the subcontract is by or for the House.

6.6 Withholding of Award and Suspension of Contract Performance

a. When a protest is timely received prior to contract award, a contract may not be awarded while the protest is pending unless the CAO determines, based on written input from the contracting officer that the item being procured is urgently needed or other compelling circumstances exist. The CAO shall place a memorandum detailing the basis of such a determination in the contract file for the instant procurement.

b. When a protest is received after award of a contract, but within 10 days of the date of contract award, the contractor may be directed to cease contract performance and to suspend related activities that could result in additional obligations being incurred by the House under that contract while the protest is pending. Contract performance may be authorized notwithstanding the pending protest if the CAO determines in writing, based on written input from the contracting officer that performance of the contract is in the best interest of the House, or that the item being procured is urgently needed or other compelling circumstances exist. A memorandum from the CAO detailing the basis of such a determination shall be placed in the contract file for the instant procurement.

6.7 Conference

A request for a conference with the CAO may be made in writing by the protester, an interested party who has responded to the notice under Section 6.5 herein or the Contracting Officer. The request shall set forth the reasons why a hearing is needed for the particular protest and should also identify any specific factual disputes essential to the resolution of the protest which the requester believes cannot be

resolved without oral testimony. The request should be made at the earliest possible time in the protest proceeding, and in no event later than 45 days after the date the protest is filed. The determination to hold a conference will be at the discretion of the CAO.

6.8 Remedies

a. If the CAO determines that a solicitation, proposed award, or award does not comply with the rules contained herein, he or she shall recommend that the Contracting Officer implement any one or combination of the following remedies deemed appropriate under the circumstances:

1. Refrain from exercising options under the contract;
2. Terminate the contract;
3. Recompete the contract;
4. Issue a new solicitation;
5. Award a contract consistent with the guidance contained herein and in accordance with the House Procurement Guidelines; or
6. Such other recommendations as the CAO determines necessary to promote compliance.

b. In determining the appropriate recommendation, the CAO shall, except as specified in Section 6.5, consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the competitive procurement, the good faith of the parties, the extent of performance, cost to the House, the urgency of the procurement, and the best interest of the House.

6.9 Decision on Protest

The CAO shall issue a decision on a protest within 60 days from the date the protest is filed with his or her office. For complex procurements, the time may be extended to 90 days at the discretion of the CAO.

SECTION 7 DISPUTES

7.1 Reference

Procurement Guidelines

7.2 General

- a. The CAO is responsible for settlement of contractual and administrative issues arising out of procurements of goods and services by the House. This Section provides the procedures and instructions developed to handle and resolve disputes and claims relating to procurements. For purposes of this Section, the terms “disputes” and “claims” shall have the same meaning.
- b. Unless otherwise specifically provided herein, this Section applies to any express or implied contract entered into for the acquisition of goods and/or services.
- c. It is the policy of the CAO that, to the fullest extent practicable, disputes over matters, such as terms and conditions, should be informally and expeditiously resolved between the contractor and the Contracting Officer. Any dispute, the resolution of which might result in the expenditure of additional funds by the House, however, must be filed in accordance with the provisions of Section 7.3.

7.3 Filing

- a. Disputes, other than those resolved pursuant to Section 7.2.c, and appeals must be in writing and addressed to the Chief Acquisitions Officer, Office of the Chief Administrative Officer, Room 359, Ford House Office Building, U. S. House of Representatives, Washington, D.C. 20515. ATTN: Protests and Disputes. Disputes may also be sent electronically to the Chief Acquisitions Officer at OfficeofAcquisitionsManagement@housemail.house.gov. Such addresses shall also be used for all other written communications pertaining to disputes and appeals, including appeals to the Committee on House Administration.
- b. The initial dispute filed shall:
 1. Include the name, address, and phone number of the contractor filing the dispute;
 2. Include an original signed by the contractor or its representative, and at least one copy;
 3. Identify the contracting activity and the number of the solicitation and/or contract;
 4. Set forth a detailed statement of the legal and factual grounds of the dispute, including copies of relevant documents. The grounds of dispute must be fully supported to the maximum extent practicable;
 5. Specifically request a ruling by the Contracting Officer; and

6. State the form of relief requested.
- c. If appealing the decision of the Contracting Officer, the dispute shall specifically request a ruling by the Chief Acquisitions Officer.
- d. If appealing the decision of the Chief Acquisitions Officer, the dispute shall specifically request a ruling by the CAO.
- e. No formal briefs or other technical forms are required, but a dispute and other submissions should be concise, logically arranged and direct.

7.4 Decision by the Contracting Officer

- a. All written claims filed by a contractor against the House, or by the House against a contractor, relating to a contract shall be the subject of a written decision by the Contracting Officer. A representative of CAO Acquisitions Management will mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons on which it is based and inform the contractor of his or her rights as provided herein. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding(s). This Section shall not authorize any officer, agent, or employee of the House to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- b. The Contracting Officer's decision on the claim shall be final and conclusive, unless an appeal is timely commenced as authorized herein. Pending final resolution of a claim, dispute, appeal, action or settlement, a contractor shall proceed diligently with performance of the contract and in accordance with any decision of the Contracting Officer.
- c. Claims less than \$100,000. The Contracting Officer shall issue a decision on any submitted claim of \$100,000 or less within 60 days from receipt of a written request from the contractor that a decision is rendered within that period.
- d. Claims equal to or greater than \$100,000. For claims of more than \$100,000, the contractor shall *certify* that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, that the amount requested accurately reflects the contract adjustment for which the contractor believes the House is liable, and that the certifier is duly authorized to certify the claim on behalf of the contractor. The Contracting Officer shall, within 60 days of receipt of such a submitted certified claim:
 1. Issue a decision; or
 2. Notify the contractor of the time within which a decision will be issued.
- e. The decision of the Contracting Officer on submitted claims shall be issued within a reasonable time, in accordance with guidelines contained herein, taking into account such factors as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the contractor.

f. Any failure by the Contracting Officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the Contracting Officer denying the claim and will authorize the commencement of an appeal on the claim as otherwise provided herein.

7.5 Contractor's Right of Appeal

- a. Within 30 days from the date of receipt of a Contracting Officer's decision, the contractor may appeal such decision to the Chief Acquisitions Officer and offer evidence in support of its appeal. The Chief Acquisitions Officer shall provide, to the fullest extent practicable, informal and expeditious resolution of disputes and shall issue a decision in writing or take other appropriate action on each appeal submitted, and shall mail or otherwise furnish a copy of any written decision to the contractor and the Contracting Officer. In those cases where the Contracting Officer and the Chief Acquisitions Officer are one in the same, the contractor will proceed directly, in lodging any desired appeal, to the CAO.
- b. Within 30 days from the date of receipt of notification of the decision of the Chief Acquisitions Officer, the contractor may appeal such decision, and offer evidence in support of its appeal, to the CAO, who shall be the final appeal authority on the merits of the dispute. The CAO shall provide, to the fullest extent practicable, informal and expeditious resolution of disputes, and shall issue a decision in writing or take other appropriate action on each appeal submitted, and shall mail or otherwise furnish a copy of any written decision to the contractor, the Contracting Officer, and the Chief Acquisitions Officer.
- c. The contractor may request an opportunity to be heard in support of its appeal at each step in the resolution process pertaining to the merits of the dispute. The determination on granting such request shall be at the discretion of the appropriate official.
- d. The decision of the CAO may be appealed by the contractor to the Committee on House Administration within 10 days of the date of receipt of notification of the decision. Such appeal shall be limited to the question of whether the CAO properly followed the procedures established herein. The Chief Acquisitions Officer will forward any such appeal (through the CAO) to the Committee along with appropriate documentation pertaining to this dispute.

SECTION 8 BONDS

8.1 Reference

Procurement Guidelines

8.2 Bonds

Performance or payment bonds are not required, except when necessary to protect the interest of the House. Such bonds should be used sparingly.

- a. The following situations may warrant the posting of a bond:
 1. House property or funds are to be provided to the contractor for use in the contract;
 2. A contractor sells assets to or merges with another concern and the House, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable of performance; or
 3. Substantial progress payments are made before delivery of an item starts.
- b. When a bond is required, the solicitation shall specify the requirement for the bond; the penal sum of each bond (expressed as a fixed sum or percentage of the contract price) or penal coverage required in case of annual bonds; and the deadline for submitting acceptable bonds.

SECTION 9
CONTRACT PERFORMANCE PERIODS

9.1 Reference

Procurement Guidelines

9.2 Contract Performance Periods

- a. The general rule is that no contract shall have a performance period in excess of one year.
- b. The CAO may, however, include renewal options in contracts for one or more periods, when it is in the interest of the House, or may execute multi-year contracts for certain categories, such as telecommunications, automatic data processing, leases and others, that lend themselves to longer periods.
- c. All contracts with a performance period in excess of one year, including renewal options, must be approved by the Committee. *See Section 1.6, Committee Approvals and Notifications.*

SECTION 10
EXAMINATION OF CONTRACTOR RECORDS AND AUDITS

10.1 Reference

Procurement Guidelines

10.2 Examination of Contractor Records and Audits

- a. The CAO, acting through an authorized representative, may audit the records of a contractor or subcontractor performing at any time for any/all contracts with the House.

- b. For audits that are less likely to be complex and time-consuming efforts, internal personnel may be utilized to accomplish the audit. The Chief Acquisitions Officer is authorized by the CAO to conduct such audits, and may designate other appropriate personnel, such as the COR, to assist him or her.

- c. For complex and potentially time-consuming audits, the CAO may elect to request assistance from the House Inspector General and/or to pursue appropriate means for requesting assistance from the U. S. Government Accountability Office (GAO). In the event that the CAO elects such an approach, the request must be in writing and must clearly state the level of assistance required in sufficient specificity to allow for an accurate assessment of resources required to accomplish the task. In addition, a CAO point of contact shall be designated for coordination between the CAO and the auditing activity.

SECTION 11 CONTRACT ADMINISTRATION

11.1 Reference

Procurement Guidelines

11.2 General

- a. This Section provides policies and procedures for the administration of House contracts.
- b. Contract administration consists of those activities that occur between award of a contract to final payment and closeout. Contract administration encompasses all relationships which grow out of the performance of a contract. The objectives of contract administration are to ensure that the House receives the specified product or service on time and at a level of quality required by the contract. The specific nature and extent of contract administration varies from contract to contract. It can range from the minimum of acceptance of delivery and payment to the contractor, in purchase order situations, to extensive involvement by program and procurement officials throughout the contract term (e.g., the utilization of Contract Administration Plans and/or Contracting Officer's Representatives Manuals). Factors influencing the degree of administration include the nature of the work and the type of contract. All contracts must be administered in accordance with applicable House Procurement policies and instructions.
- c. Day-to-day administration responsibility for a contract, depending on its complexity, does not necessarily mean that action must be taken on a *daily* basis to ensure contractor compliance or to appropriately protect the interests of the House. Following administrative procedures, as well as any applicable contract provisions, Contract Administration Plans and/or Contracting Officer's Representatives appointment letters, will guide those responsible for contract administration in the frequency of their actions.

11.3 Sources Guiding Contract Administration

The sources of guidance for contract administration come from many areas and can be found in the Legislative, Executive and Judicial Branches of the Federal Government. Common sources include statutes, oversight, regulations, court decisions and industry best practices.

11.4 Contract Administration Roles, Authorities and Responsibilities

- a. Contracting Officer: The Contracting Officer is the House authorized representative who is responsible for overseeing the pre-award process and the overall administration of the contract from point of award through final contract closeout. The Contracting Officer may utilize the services of Contract Administrators, Contracting Officer's Representatives (CORs), and Assistant Contracting Officer's Representatives (ACORs) in the day-to-day administration of the contract. The Contracting Officer's contract administration responsibilities include:
 1. Notifying the contractor to begin work;

2. Restricting any change to the scope of the contract;
3. Maintaining contract documentation;
4. Monitoring the contract to ensure compliance with all contract terms and provisions;
5. Issuing modifications, option renewals or extensions to the period of performance;
6. Monitoring subcontractors and/or the substitution of subcontractors;
7. Verifying contractor's fulfillment of contract deliverables/services and effecting contract closeout;
8. As appropriate at time of award, identifying the COR in the body of the contract and issuing a letter of appointment for the COR which delineates his/her roles, responsibilities and authorities;
9. Designating CORs and/or ACORs;
10. Providing issues to technical experts for opinion/recommendation; and
11. Providing for internal audit, especially for critical compliance issues.

b. Contract Specialist: The CAO Acquisitions Management staff member assigned by the Chief Acquisitions Officer to assist the Contracting Officer on a day-to-day basis in his/her contract administration responsibilities, primarily liaison with the COR as needed. The Contract Specialist is the administrative focal point within CAO Acquisitions Management for the COR and the Contractor. Specific duties of the Contract Specialist, in support of the Contracting Officer, include the following:

1. Ensuring the maintenance of contract documentation;
2. Monitoring the contract to ensure compliance with contract terms and provisions;
3. Preparing and documenting contract modifications, option renewals or extensions to the period of performance;
4. Monitoring subcontractors and/or the substitution of subcontractors;
5. Verifying contractor's fulfillment of contract deliverables/services and assisting with contract closeout;
6. As appropriate at time of award, preparing the letter of appointment for the COR which further delineates his/her roles, responsibilities and authorities;
7. Providing issues to technical experts for opinion/recommendation;

8. Providing for internal audit, especially for critical compliance issues;
9. Attending periodic review meetings with CORs and, as appropriate, with contractors. Frequency of meetings will be based on value, complexity and visibility of the contract, unless specified in contracts, Contract Administration Plans, COR appointment letters or otherwise in writing;
10. Training and advising CORs on general and specific contract award and administration procedures, using a variety of instructional techniques and augmenting formal training, as necessary, with one-on-one training;
11. Preparing Contract Administration Plans and/or Quality Assurance Surveillance Plans, where applicable, within the prescribed timeline;
12. Reporting to the Chief Acquisitions Officer/Contracting Officer on a periodic basis regarding contract administration issues, as required.

c. Contracting Officer's Representative (COR): The individual appointed by the Contracting Officer to monitor day-to-day contract performance and contractor compliance with terms and conditions of the contract. The COR's role, responsibilities and authorities are governed by the contract terms and the written letter of appointment from the Contracting Officer. A primary duty of the COR is to ensure that all of the technical requirements under the contract are met by the delivery date or within the period of performance, and at the price/estimated cost stipulated in the contract. The COR remains in close communications with the Contract Specialist and relays any information that may affect contract scope, price, terms and conditions and period of performance.

1. Typical COR responsibilities include:
 - (a) Coordinating entry for contractor personnel into work spaces within the House and controlling and retrieving contractor badges upon contract completion and personnel changes;
 - (b) Identifying contractor deliverables and ensuring satisfactory delivery, to include verification that the contractor performs the requirements of the contract in accordance with its terms, conditions and specifications;
 - (c) Monitoring progress, especially for quality and performance deadlines, including performing inspections necessary to verify the contractor has corrected any deficiencies, and reviewing any required monthly progress reports;
 - (d) Scheduling, conducting and documenting, as appropriate, periodic reviews, meetings and site visits with the contractor and/or Contract Administrator;
 - (e) Accepting services/reports/deliverables due under the contract;
 - (f) Reviewing invoices for contract compliance, accuracy and prompt payment;

(g) Monitoring contract expenditures and funding levels to ensure that sufficient funds exist to pay for all services rendered as required by the contract and identifying low spending levels and reassigning funds if applicable;

(h) Identifying contractor performance problems; and

(i) Assisting in contract closeout (i.e., acceptance of final deliverable, certification of final payment, return by the contractor of any House-furnished property and completion of the Past Performance Information Survey. (*See Section 11.13*).

2. The COR shall develop a Quality Assurance Surveillance Plan for use in monitoring contractor performance on all Time and Materials contracts in excess of the simplified acquisition threshold and for other contracts as deemed appropriate and as directed by the Contracting Officer.

3. The COR is **required** to maintain documentation of his/her contractor oversight and evaluation activities. For contracts requiring Contract Administration Plans, documentation of contractor oversight and evaluation activities shall include, at a minimum, the date, description of the inspection or activity performed and a summary of results. *See also, Sections 11.6.b.1 and 11.7.d.*

4. The COR is **not** authorized to make any commitments or changes that affect the price, quality, quantity or delivery performance of the contract. This includes oral or written changes.

5. The COR must refrain from the following actions which are not within his/her scope of responsibility:

(a) Instructing the contractor to start work prior to contract execution or to stop work (except in case of health or safety risk);

(b) Directing the contractor to perform work not within the scope of the contract;

(c) Authorizing payments for work not performed;

(d) Extending the period of performance without the execution of a contract modification; or

(e) Allowing the contractor to incur costs over those set forth in the contract without executing a contract modification.

6. Training. The COR is responsible for meeting training requirements as established by the CAO.

(a) CAO Acquisitions Management is responsible for managing COR training, including ensuring that adequate courses are made available and that CORs are informed as to scheduled courses.

(b) All first-time CORs are required to complete online COR training before assuming duties as a COR. This training is designed to provide comprehensive instructions on the duties and responsibilities of a COR. For current CORs, annual training is required to maintain COR certification.

(c) CAO CORs must include COR training in their annual Training Plans. CORs who do not maintain their training certification are not eligible for continued or future appointment as CORs. COR status will be revoked by issuing a letter of revocation signed by the Contracting Officer. The COR database will be updated to reflect the changed status of the COR.

(d) CORs are also encouraged to complete COR training courses offered by non-House entities in order to further increase their knowledge and abilities.

7. Security. Staff appointed as CORs must undergo background checks or security clearances, at a level appropriate for the position.

8. Standards of Conduct. As is the case with all Acquisition personnel, CORs must maintain the highest ethical standards and conduct themselves beyond reproach when dealing with contractor personnel. Violations of ethical standards will result in the removal of the COR designation and subject the individual to penalties, sanctions and/or disciplinary action as set forth in Section 2, Standards of Conduct. The contract file will be documented to the greatest extent possible to include the basis for revocation of COR status.

d. Assistant Contracting Officer's Representative (ACOR): On large contracts, it may be necessary for the Contracting Officer to designate one or more ACORs to assist the COR in the performance of his/her duties. In such cases, the designation shall be in writing in the contract and shall delineate the roles, responsibilities and authorities of the ACOR versus the COR.

11.5 Protests, Disputes and Claims

- a. For protests of a contract award, see Section 6 of these Instructions, Protests.
- b. For disputes and claims under a contract, see Section 7 of these Instructions, Disputes.

11.6 Contract Files and Tracking

a. Official Contract Files. CAO Acquisitions Management shall maintain records detailing the significant history of a procurement, including at a minimum, the solicitation, bids or proposals received, any applicable evaluation process documentation, the contract award, and any modifications thereto.

1. Maintenance

(a) Official contract files shall be maintained in accordance with CAO Acquisitions Management internal office procedures for Official Contract Folders.

(b) Files shall be consolidated in a central CAO Acquisitions Management area and maintained under an effective indexing system to permit timely and convenient access. Files shall be organized alphabetically by vendor in three main divisions: (1) contracts currently in force, (2) expired contracts and (3) archived contracts.

2. Availability

(a) Documents contained in the Official Contract Folders shall be available for review by the Committee on House Administration, the CAO, Deputy CAO and Administrative Counsel of the CAO, the Inspector General of the House and his/her staff, auditors under contract with the House, CORs, Acquisitions Management staff, and such others for whom access has been determined appropriate on a case-by-case basis by the Chief Acquisitions Officer. Any requests from Member offices to access official House contract files will be referred to the Chief Acquisitions Officer who, in turn, will await the decision of the Committee on House Administration (CHA). Except as otherwise provided herein, documents in official contract files, including the contract itself, shall not be released without the approval of the Chief Acquisitions Officer.

(b) Ongoing Procurements. Files of procurements in the pre-award phase shall only be available for review by CAO Acquisitions Management staff, individuals who have been named in the Source Selection Plan, and others for whom access has been determined appropriate on a case-by-case basis by the Chief Acquisitions Officer.

(c) Persons with access to the Official Contract Folders are cautioned against the disclosure of any proprietary information contained in the files or of any information pertaining to a pre-award procurement action.

3. Removal

(a) Only CAO Acquisitions Management personnel are authorized to remove contract file information from the central file storage areas. On removal of a file, the responsible staff member shall fill out a file checkout form (noting the date, file removed, and their name) and insert the form in the space for the removed file.

(b) To prevent loss of records and safeguarding of proprietary and/or procurement sensitive information, files removed from the central storage areas, as well as copies of files containing such information, shall, when not in use, be kept secured in locking cabinets or desks, or the room itself shall be locked.

4. Retention and Disposal

(a) Contract files shall be maintained for the life of the contract, plus three years. This requirement includes files subject to pending legal action which are to be retained until resolution of the action and closeout occurs.

(b) Contract files shall not be retained after expiration of the retention period.

b. COR Files

1. In addition to the official contract file maintained by CAO Acquisitions Management, the COR should create and maintain his/her own file with adequate records to sufficiently describe the performance of his/her duties. At a minimum, the COR file should contain the following documentation: (a) the COR appointment letter from the Contracting Officer, (b) a copy of the contract and all modifications thereto, and (c) any correspondence initiated concerning performance of the contract including status and payment reports.
2. A review of the COR file should be performed, as needed, to ensure that any official documents in that file are transferred to the official contract file maintained in CAO Acquisitions Management. A final review should be conducted prior to close out of the contract to ensure that the transfer of any official documents is complete.

c. Procurement Tracking System

An important tool in managing House contracts is the Procurement Tracking System (PTS) administered by CAO Acquisitions Management. Policies and procedures governing the PTS can be found in CAO Acquisitions Management internal policy and procedure: Procurement Tracking System.

11.7 Performance

- a. To facilitate measurement of achievement and quality of contractor performance, the following administrative procedures will be followed for contracts exceeding \$100,000 in value or those pertaining to privatized House operations:
 1. A post award or “kick-off” meeting will be held. This meeting should consist of House (e.g., COR, Contract Specialist) and contractor personnel directly involved with contract performance. The meeting affords an opportunity to discuss any anticipated problems, review the SOW and deliverables, and discuss any award and incentive provisions. A record of this meeting will be included in the official contract file.
 2. A Contract Administration Plan (CAP) will be prepared. A CAP provides definition to the continuing relationship between the parties during the life of the contract and should address such items as preparation and submission of reports, and ground rules for meetings between the parties. The CAP should be prepared within 30 days of contract award. CAP requirements are normally met by Section G of House contracts. A Quality Assurance Surveillance Plan, similar to a project plan, may be required for those contracts that significantly impact House processes.
- b. The contractor must prepare such status reports as are required by the contract. These reports should include the following items:
 1. Work accomplished during the period;
 2. Key events during the period (e.g., meetings, prototyping sessions, training sessions, key briefing sessions);

3. Anticipated work to be accomplished in the following reporting period;
4. Outstanding or other issues identified during the period; and
5. Overall status of the program, to include expenditures.

c. It is the responsibility of the COR to monitor the contractor's performance and review any required progress reports. *See Section 11.4.c.*

d. When the contractor's performance under a contract is unsatisfactory, the COR must document the problem in writing and promptly notify the Contracting Officer. The COR shall take the following steps with the contractor:

1. Explain why the work is not satisfactory and what corrective action is expected; give a specified period of time in which to satisfactorily perform the work and document it, with a copy to the Contracting Officer. (The contractor should not be paid for any effort to re-perform unacceptable work.)
2. As warranted, prepare a written notification from the Contracting Officer to the contractor that a breach of contract has occurred. The notification should inform the contractor that if the problems are not corrected, or if performance does not satisfactorily improve, the House may terminate the contract, have the work finished by another contractor, and hold the original contractor liable for any additional and/or return costs, including administration and re-procurement costs.
3. If the contractor does not correct the problems specified the Contracting Officer may start the termination procedure.

11.8 Inspection and Acceptance

All products received should be verified to ensure that each item is consistent with the terms of performance in the contract. The contractor shall cooperate in performing acceptance testing as specified by the COR. Once the product has been tested and determined to be in operational condition, the House should certify acceptance and notify the contractor in writing of the acceptance. It is important to let the contractor know that an inspection does not automatically constitute an acceptance.

11.9 Delivery

a. Schedule

1. Most contracts require the contractor to submit a schedule. This schedule is used to manage delivery of products and/or services within the agreed-upon timeframes and budgets, to administer the work efficiently and effectively (both by the House and the contractor), and to gauge/monitor performance as work progresses. Since costs can be tied to time, a schedule is an important element of contract administration.

2. By observing the schedule, the impact of a delay upon a project may be determined. When assessing time lost to delays, the contractor may be in default because he or she is failing to make progress. The Contracting Officer may accept the delay, adjust the contract accordingly, penalize the contractor monetarily per the liquidated damages clause of the contract, or initiate termination action. If re-procurement is required, however, the time assessed for contract fulfillment will also include the time from the original delivery date until the actual delivery from the new contractor.

b. Inexcusable Delays. The contractor is responsible for inexcusable delays and is required to bear the costs associated with the delay through accelerated performance or liquidated damages to the House.

c. Excusable Delays

1. The contractor is entitled to get extra time for excusable delays but cannot get additional dollar compensation from the House. There are delays which occur through no fault of the contractor or the House; therefore, the House is flexible about allotting additional time, but at no additional cost.

2. Examples of excusable delays are: acts of God; acts of the Government; weather; strikes; subcontractor delays (must be beyond the control, and without fault or negligence of the contractor and all intervening contractors including the delayed subcontractor); fire; and/or flood.

3. Excusable delays may require time extensions which must be explained. The contractor must show the cause of delay and must identify the impact of the delay on the overall completion date of the contract. The delay must be measurable to determine the length of the time extension. While providing the burden of proof, the contractor must give written notice to the Contracting Officer.

d. The contractor shall furnish written notice of any delay or potential situation that may cause delay in its capability to meet the delivery and/or performance schedule set forth in the contract. Such notice may be provided verbally to the COR and Contracting Officer, then followed-up in writing within 48 hours after the verbal notice. The notification shall fully describe the cause for delay, the expected date of delivery and/or performance, and any remedies the contractor proposes to mitigate the delay. This notification does not relieve the contractor of its obligation to meet the delivery and/or performance schedule of the contract, nor should the notification be construed as a waiver by the House of any delivery schedule or date, or any rights or remedies provided under the contract.

11.10 Stop-work Orders

a. Stop-work orders may be used, when appropriate, if work stoppage may be required for reasons such as advancement in the state-of-the-art, production or engineering breakthroughs or realignment of programs.

b. Generally, a stop-work order will be issued only if it is advisable to suspend work pending a decision by the House and a supplemental agreement providing for the suspension. Issuance of a

stop-work order shall be approved at a level higher than the Contracting Officer. Stop-work orders shall not be used in place of a termination notice after a decision to terminate has been made.

c. Stop-work orders should include:

1. A description of the work to be suspended;
2. Instructions concerning the contractor's issuance of further orders for material or services;
3. Guidance to the contractor on action to be taken on any subcontracts; and
4. Other suggestions to the contractor for minimizing cost.

d. Promptly after issuing the stop-work order, the Contracting Officer should discuss the stop-work order with the contractor and modify the order, if necessary, in light of the discussion.

e. As soon as practicable after a stop-work order is issued, but before its expiration, the Contracting Officer shall take the appropriate actions:

1. Terminate the contract either for default or for convenience as appropriate;
2. Cancel the stop-work order (any cancellation of a stop-work order shall be subject to the same approvals as were required for its issuance); or
3. Extend the period of the stop-work order if it is necessary and if the contractor agrees (any extension of the stop-work order shall be by a supplemental agreement).

11.11 Termination

a. When a Contracting Officer determines that it is necessary to terminate a contract, the termination provisions of the contract provide the authority to terminate and to make a settlement with the contractor. A contract may generally be terminated for one of two reasons:

1. Convenience – The product or service is no longer required; or
2. Default – The contractor fails to perform or make satisfactory progress.

b. The contractor must be given written notice of the termination, and any settlement should be negotiated. The following items should be included in the termination notice:

1. The clause of the contract authorizing the termination;
2. The effective date of termination;
3. The extent of the termination, full or partial (partial instructions must be specific); and
4. Any special instructions to the contractor.

- c. The contractor has the following responsibilities in the termination of a contract:
 1. Stop all work;
 2. Immediately terminate subcontractors;
 3. Advise the Contracting Officer of any circumstances precluding work stoppage;
 4. Act to protect House assets;
 5. Advise the Contracting Officer if there is a legal impact; and
 6. Submit a settlement proposal.
- d. If the termination is for convenience, the Contracting Officer must determine an equitable adjustment as appropriate, negotiate as appropriate, prepare a bilateral final settlement, and close out the contract. If the termination is for default, the Contracting Officer must effect re-procurement, determine equitable adjustment for liquidated damages and advise the defaulting contractor.

11.12 Contractor Bankruptcy

When notified of bankruptcy proceedings, the Contracting Officer shall, as a minimum:

- a. Furnish the notice of bankruptcy to the CAO Administrative Counsel and other appropriate offices;
- b. Determine the amount of the House's potential claim against the contractor;
- c. Take actions necessary to protect the House's financial interests and safeguard the House's property;
- d. Furnish pertinent contract information to legal counsel representing the House; and
- e. Consult with the CAO Administrative Counsel, whenever possible, prior to taking any action regarding the contractor's bankruptcy proceedings.

11.13 Closeout

- a. Contract closeout begins when the contract is physically completed (i.e., all services have been performed and products delivered). Closeout is realized when all administrative actions have been completed, any House assets returned, any disputes settled and final payment has been made. The process can be simple or complex depending on the contract type. For example, an internal audit will be required for cost-reimbursement contracts to verify the actual final costs and indirect overhead charges. The process requires close coordination between CAO Acquisitions Management, CAO Office of Finance, the program office and the contractor. It is the responsibility of CAO Acquisitions Management to initiate the closeout process. The COR, in response to CAO

Acquisitions Management, will confirm that all contract deliverables and/or services have been delivered and are acceptable and that the final invoice/voucher has been paid.

b. As a final step before closeout, the COR will complete a contractor Performance Survey and provide it to CAO Acquisitions Management. This documentation will serve as a useful reference tool for possible future contract awards.

c. When final payment is approved and released, and all House property has been returned, the contract may be closed. Closeout of contracts will be completed within one year from contract completion or final payment, whichever is later, with consideration given to resource limitations, higher priority work or other extenuating circumstances.

SECTION 12 CONTRACT MODIFICATIONS

12.1 Reference

Procurement Guidelines

12.2 Definition

A contract modification is the formal documentation of any change to a contract. Changes may address price, delivery schedule, period of performance, deliverables, terms and conditions or any other requirement set forth in the contract. Any change to a contract must be within the general scope of the contract with respect to the requirements, quantity, period of performance and/or amount.

12.3 Policy

House contracts are subject to all applicable statutes and House Rules. It is the policy of the House to document changes to the contract in the form of a contract modification. Only duly appointed contracting officers acting within their delegated contracting authority may issue a contract modification or a change order.

12.4 Types of Contract Modifications

- a. Bilateral. A bilateral modification is a contract modification that is signed by both the contractor and the Contracting Officer. Bilateral modifications are used to:
 1. Make negotiated equitable adjustments resulting from the issuance of a change order; or
 2. Reflect agreements of the parties that change the period of performance, the price, deliverables or any other terms or requirements of the contract.

- b. Unilateral. A unilateral modification is a contract modification that is signed only by the contracting officer. Unilateral modifications are used to:
 1. Make administrative changes;
 2. Issue change orders;
 3. Make changes authorized by clauses other than a changes clause; or
 4. Issue termination notices (both convenience and default).

12.5 Change Orders

A Change Order is a written order to the contractor signed by the Contracting Officer directing a contract change within the general scope of the contract. Only duly appointed Contracting Officers

acting within their delegated contracting authority may issue a contract order to the contract. Within 60 days from issuance of a change order, the contractor may submit a proposal to the Contracting Officer requesting an equitable adjustment in contract terms that will be incorporated in a mutually agreeable contract modification.