



# Ames Policy Directive

**APD 5000.1**

Effective Date: 8/16/2017

Expiration Date: 8/16/2022

**COMPLIANCE IS MANDATORY**

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**SUBJECT:** Procurement Authority and Delegations

**RESPONSIBLE OFFICE:** Code JA/Acquisition Division/Ext 4-3136, Mail Stop 241-1

## DOCUMENT CHANGE LOG

Status (Baseline /Revision/Cancelled)	Document Revision	Effective Date	Description
Baseline	0	April 7, 2003	Initial
Revision	1	November 17, 2009	Formerly titled "Delegation of Authority/Approval for Procurement Matters"; other changes include updating FAR/NFS references; adding Procurement Officer delegation authority to appoint Fee Determination Officials; expanded definition of "Unauthorized Commitment";
Revision	2	March 10, 2015	Updating FAR/NFS references, update of responsible office telephone number, correction of typo, and minor changes to phrasing for purposes of clarity.
Revision	3	March 9, 2016	Title changed to "Procurement Authority and Delegations."

			Updating the FAR/NFS references and making minor changes for purposes of clarity.
Revision	4	August 16, 2017	Making minor change for purpose of clarity and compliance.

## 1. POLICY

This directive sets out key delegations of authority for procurement matters at ARC. The Head of the Contracting Activity (HCA) delegates these authorities. This directive also identifies approval authority for contracting with Government employees.

## 2. APPLICABILITY

This directive applies to all Ames Research Center (ARC) civil service and contractor employees. It supplements NASA guidance and provides ARC-specific policy and delegations of authority for procurement matters.

## 3. AUTHORITY

National Aeronautics and Space Act, 51 U.S.C. § 20113(e).

Federal Grant and Cooperative Agreements Act of 1977, 31 U.S.C § 6301, et seq.

Service, Supply, and Procurement, 10 U.S.C § 2303, et seq.

Office of Federal Procurement Policy Act, as amended, 41 USC 403, et seq.

## 4. APPLICABLE DOCUMENTS AND FORMS

- a. Federal Acquisition Regulation (FAR,) 48 Code of Federal Regulations (C.F.R.), Chapter 1
- b. NASA FAR Supplement (NFS), 48 C.F.R., Chapter 18
- c. NPD 5101.32, Procurement, Financial Assistance

## 5. RESPONSIBILITY

- a. Center Competition Advocate. The person responsible for performing the duties and responsibilities of FAR 6.502, NFS 1806.502, and NFS 1806.304-70. Pursuant to NFS 1806.501(2), this APD designates the ARC Deputy Director as the Center Competition Advocate.
- b. Contracting Officer. A person, appointed in accordance with the FAR and NFS, with the authority to enter into, administer, terminate contracts, grants, and cooperative agreements, and/or make related determinations and findings.
- c. Fee Determination Official (FDO). An individual appointed to determine the amount of award fee payable to a contractor in accordance with the terms specified in an approved Performance Evaluation Plan (PEP). The FDO is organizationally senior to the Performance Evaluation Board (PEB) membership.
- d. Government Property. All property owned or leased by the Government and includes both Government-furnished property and contractor-acquired property. (See FAR 45.101 for expanded definitions.)
- e. Head of Contracting Activity (HCA). Pursuant to NFS 1802.101, the HCA is the Ames Center Director who delegates to the Procurement Officer the authority to perform the actions in paragraph 6.
- f. Justification for Other than Full and Open Competition (JFOOC). A document that identifies and supports the statutory authority for contracting without providing for full and open competition (FAR 6.302 and 6.303). Approval authority is stipulated in NFS 1806.304-70.
- g. Procurement Officer. The Chief of the Ames Acquisition Division (Code JA).
- h. Ratification of Unauthorized Commitment. The act of approving an unauthorized commitment, as set forth in FAR 1.602-3 and NFS 1801.602-3.
- i. Small Business Specialist. The central point of contact to which small business concerns may direct inquiries concerning Ames small business matters and participation in NASA acquisitions, as set forth in NFS 1819.201(e).
- j. Special Government Employee. As defined in 18 U.S.C. §202, an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis. For purposes of FAR Subpart 3.6, special Government employees performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees unless (1) the contract arises directly out of the individual's activity as a special Government employee; (2) in the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or (3) another conflict of interest is determined to exist.

*[Note: Contracting with Government Employees: As set forth in FAR 3.601, a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees. In accordance with NFS 1803.602, the Assistant Administrator for Procurement has been delegated as the authority to authorize an exception to the policy stated in FAR 3.601. The Assistant Administrator for Procurement has re-delegated this authority to the HCA for individual actions in the aggregate of \$100,000 and below, inclusive of follow-on acquisitions, with concurrence by the HCA's Office of Chief Counsel. All requests above the HCA's authority shall be forwarded to the Assistant Administrator for Procurement for approval.]*

*The initiating organization shall prepare the request for approval and submit it with concurrence by the cognizant organizational director, the Procurement Officer, and the ARC Office of Chief Counsel. Requests for approval of an award above \$100,000 shall be similarly prepared with the concurrence of the aforementioned individuals as well as the Center Director. Then, it shall be submitted to Headquarters in accordance with NFS 1803.602.]*

k. Unauthorized Commitment. An agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government. Examples of unauthorized commitments include (1) placing orders with contractor(s) without a valid contractual instrument in place; (2) directing contractors to do additional work in excess of the contract value, or working beyond the period of performance; (3) authorizing new work to the contract without having a modification in place; and (4) directing the contractor in any way that could change the terms and conditions of the contractual instrument or be deemed outside of the scope of work.

## **6. DELEGATION OF AUTHORITY**

a. The Assistant Administrator for Procurement may re-delegate authority in accordance with applicable laws and regulations (NPD 5101.32E, paragraph 6b). As such, the ARC Procurement Officer has the authority to:

(1) Enter into and take other actions for purchases, contracts, grants, cooperative agreements, and other procurement and assistance transactions subject to applicable procurement and assistance-related policies and procedures, with the exception of agreements based on NASA's other transactional authority.

(2) Designate source selection officials, contracting officers, grant officers, Ombudsmen, and representatives of contracting officers. The official designated Ombudsman will not assume any duties or responsibilities as a source selection official, member of a source evaluation board, or act in the capacity of a contracting officer.

(3) Make determinations and decisions for procurement, grants, and cooperative agreement matters where such authority has been delegated to the Assistant Administrator for Procurement.

b. The Procurement Officer is delegated authority to approve or disapprove ratifications of unauthorized commitments as the Ames Ratifying Official (FAR 1.602-3(b)(3)).

c. The Procurement Officer is delegated authority, as the Small Business Specialist, to perform specific duties related to Small Business matters (NFS 1819.201 (e)(i) and (ii)). The Procurement Officer may re-delegate this authority as necessary.

d. The Procurement Officer is delegated authority to approve any determinations and findings (D&F) required to provide contractors with Government Property, as may be required by FAR Part 45 or NFS Part 1845.

e. The Procurement Officer is delegated authority to appoint the Fee Determination Official (FDO) for individual contracts containing an approved Performance Evaluation Plan.

f. The Deputy Director, as the designated Competition Advocate at ARC, is delegated authority to approve Justifications for Other than Full and Open Competition (JOFOCs) over \$700,000 but not to exceed \$13.5 million (NFS 1806.304-70(a)). The Center Director shall retain authority to approve JOFOCs over \$13.5 million but not exceeding \$93 million (NFS 1806.304(b)). A JOFOC exceeding \$93 million shall be submitted to NASA Headquarters in accordance with the procedures identified in NFS 1806.604-70(c)(2).

## **7. MEASUREMENT/VERIFICATION**

None

## **8. CANCELLATION**

APD 5000.1, REVISION 3 DATED MARCH 9, 2016

/S/

Dr. Eugene Tu  
Director