

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE MANUAL 64-302

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Contracting

**NONAPPROPRIATED FUND (NAF)
CONTRACTING PROCEDURES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This manual implements DODI 4105.67, *Nonappropriated Fund (NAF) Procurement Policy and Procedure*, and AFPD 64-3, *TheitectNonappropriated Fund Contracting System*, by providing guidance and procedures for Air Force NAF contracting. Major command (MAJCOM), field operating agency (FOA), and direct reporting unit (DRU) supplements are coordinated through Air Force Nonappropriated Fund Purchasing Office (AFNAFPO) and approved by Deputy Assistant Secretary (Contracting), SAF/AQC. The authorities to waive wing/unit level requirements in this publication are identified with Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, Table 1.1 for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance item. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 33-363, *Management of Records*, and disposed of in accordance with the AF Records Disposition Schedule (RDS) located in the Air Force Records Information Management System (AFRIMS). This publication requires the collection and or maintenance of information protected by the Privacy Act (PA).

Purchases with nonappropriated funds are authorized in AFI 34-201, *Use of Nonappropriated Funds (NAFS)*, Paragraph 1.7 and AFI 65-106, *Appropriated Fund Support of Morale, Welfare and Recreation (MWR) and Nonappropriated Fund Instrumentalities (NAFIS)*.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. This revision reformats the AFMAN in accordance with AFI 33-360, incorporates tier references, replaces all references to the Simplified Acquisition Threshold (SAT) with \$150,000, adds the requirement to report claims and default terminations over \$500,000, clarifies supporting legal office review and coordination requirements, removes “HQ” from all references to AFSVA/SVC, and removes all references to DODI 4105.7.

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Chapter 1

PURPOSE, APPLICABILITY, AND RESPONSIBILITIES

1.1. Purpose. This manual describes contracting policies and procedures for AF NAF Contracting Officers.

1.2. Applicability. This manual applies to all AF NAF contracting units, Air Force Reserve Command (AFRC) Units, and to the Air National Guard (ANG) upon mobilization. This publication does not apply to the Civil Air Patrol (CAP). This instruction creates no rights or remedies and may not be relied on by any person, organization, or other non-governmental entity to allege a denial of any rights or remedies.

1.3. Roles and Responsibilities.

1.3.1. SAF/AQC.

1.3.1.1. Responsible for approving NAF contracting policies and procedures and oversees the AFNAFPO.

1.3.1.2. The protest appeal authority for AFNAFPO awarded acquisitions.

1.3.1.3. The approval authority for requests for waivers to NAF contracting policy.

1.3.1.4. Oversees NAF claims exceeding \$500,000.00

1.3.2. AFSVA/SVC. The Directorate of NAF Purchasing, Air Force Services Activity, also known as AFNAFPO

1.3.2.1. Issues NAF Contracting Officer warrants.

1.3.2.2. Provides NAF contracting training and administers the NAF Contracting Officer warrant program.

1.3.2.3. Approves ratification actions above the threshold established for base level.

1.3.2.4. Represents the Air Force on DoD Subcommittee for NAF Contracting.

1.3.2.5. Conducts periodic reviews of installation NAF purchasing programs.

1.3.2.6. Manages the NAF Purchase Card (P-Card) Program, including determining the purchasing thresholds for the NAF P-Card.

1.3.2.7. Manages the NAF Electronic Purchasing Systems and E-Commerce.

1.3.2.8. Manages the Commanders Smart Buy Program (CSBP) which includes:

1.3.2.8.1. Purchasing interior design projects.

1.3.2.8.2. Providing direct or individual support for NAF requirements that exceed base-level warrant authority.

1.3.2.8.3. Managing on-site Trade Show purchase teams.

1.3.2.8.4. Managing all marketing of AFNAFPO programs via brochures, catalogs, and web presence.

1.3.2.9. Acts as the appeal authority for protests filed on base-level acquisitions.

1.3.3. Mission Support Group (MSG) Commander or Equivalent. Assists the installation Wing Commander in overseeing NAFIs at the installation by:

1.3.3.1. Authorizing demonstration of commercial products. The Mission Support Group Commander will ensure such demonstrations are properly controlled to prevent violations of the Joint Ethics Regulation (JER) and Air Force policy. (T-0) NAF Contracting Officer participation is required for all demonstrations of commercial products and contractor capability briefings. (T-2)

1.3.3.2. Approving concessionaire contracts.

1.3.4. Force Support Squadron (FSS) Commander or Equivalent. Directs services activities at an installation, including the following NAF contracting responsibilities. The FSS Commander (or equivalent) will:

1.3.4.1. At least annually, preside over a meeting of key NAF procurement personnel to identify methods of improving NAF contracting procedures.

1.3.4.2. Certify on an annual basis, that adequate controls are in place and NAF contracting is being conducted in accordance with current directives. (T-2) Certifications for the previous fiscal year are submitted to AFSVA/SVC, NLT 30 Nov each year. The SCO may be requested to perform a review of NAF purchasing to serve as the basis for the certification.

1.3.4.3. The FSS Commander (or equivalent) will ensure NAF personnel receive adequate procurement training to support the NAF Contracting Officer in NAF procurements.

1.3.4.4. Ensure adequate acquisition planning.

1.3.4.5. Ensure compliance with the CSBP.

1.3.4.6. Approve ratification actions IAW paragraph 12.7 of this manual.

1.3.5. Resource Manager (RM) or Equivalent. The RM (or equivalent) is responsible for ensuring NAF purchases, including NAF P-Card purchases, are made in accordance with current directives and guidance.

1.3.6. NAF Contracting Officer. This manual authorizes the NAF Contracting Officer to make purchases using NAFs. The NAF contracting office shall keep a current copy of this manual on file, either electronically or in hard copy. NAF Contracting Officers:

1.3.6.1. Delegate purchasing authority in accordance with paragraph 3.8.2.

1.3.6.2. Execute orders or contracts within the limits of their warrants.

1.3.6.3. Use the Commander's Smart Buy Program (CSBP) as the primary source of supply (except as otherwise required) for acquiring products/services.

1.3.6.4. Comply with the Essential Products Program (EPP).

1.3.6.5. Resolve protests filed at base level.

1.3.6.6. Settle contract disputes.

1.3.6.7. Seek legal coordination and review as outlined in this manual, AFI or otherwise appropriate.

1.3.6.8. Interpret and ensure compliance with the terms and conditions of contracts and safeguard the interests of the NAFI in its contractual relationships.

1.3.6.9. Ensure that sufficient funds are available for obligation.

1.3.6.10. Ensure that prices offered are fair and reasonable prior to award and document appropriately.

1.3.6.11. Identify and evaluate potential organizational conflicts of interest when awarding contracts to government employees or business organizations substantially owned or controlled by government employees. Coordinates with the servicing legal office Staff Judge Advocate (SJA) or Contract Attorney.

1.3.6.12. Ensure all requirements packages for NAF projects and procurements that will, or have the potential to, modify, alter, connect to and/or add to Air Force real property and/or utility systems, includes evidence of Base Civil Engineer (BCE) approval (typically AF Form 332 or DD Form 1891) prior to acceptance. (T-2)

1.3.7. Servicing Contracting Office (SCO). The SCO coordinates with NAF Contracting Officers to ensure an effective NAF contracting program. The SCO will:

1.3.7.1. Provide NAF contracting support in accordance with DoDI 4105.67 and this manual.

1.3.7.2. Purchase NAF requirements not specifically assigned to the AFNAFPO or the local NAF Contracting Officer.

1.3.7.3. Include NAF requirements in acquisitions for services common to both appropriated and nonappropriated fund supported activities when cost effective to the NAFI.

1.3.8. Servicing Staff Judge Advocate (SJA) or Contract Attorney. The servicing SJA or Contract Attorney shall provide legal oversight of all NAF contracting activities and conduct annual ethics briefings or other authorized training in compliance with the Joint Ethics Regulation (JER). (T-0) If the servicing SJA requires additional guidance/direction on a NAF contracting issue, they should contact the Air Force Services Activity Legal Office (AFSVA/JA). The Air Force General Counsel (SAF/GCQ) will advise SAF/AQC on all matters regarding their authority as outlined in DoDI 4105.67 and this manual.

The SJA or Contract Attorney shall:

1.3.8.1. Determine if NAF contracting actions comply with this manual and AFPD 64-3.

1.3.8.2. Determine if proposed ratifications are legally sufficient.

1.3.8.3. Determine if proposed resolution of a contract dispute is legally supportable.

1.3.8.4. Determine the legal sufficiency of proposed contracting actions including novation agreements and any proposed termination action.

1.3.8.5. Provide advice on potential organizational conflicts of interest

1.3.8.6. Provide advice on resolution of protests.

1.3.8.7. Provide legal advice on contracting actions as outlined in para 2.7.

Chapter 2

NAF REQUIREMENTS

2.1. AF NAF Policy. NAF procurements shall be accomplished by trained procurement personnel in a fair, equitable and impartial manner, and in the best interest of the NAFI. (T-0) NAF or Appropriated Fund (APF) personnel may procure NAF requirements. NAF procurements shall use competitive negotiation procedures to the maximum extent practicable. (T-0) Offers shall be solicited from a reasonable number of sources except when non-competitive procurement is justified. (T-0) NAF contracts shall be awarded to responsible offerors who offer the best value to the NAFI. (T-0) NAF Activities shall ensure existing NAF and APF contracts and agreements are used to satisfy NAF requirements when available, cost effective, and meet the needs of the requiring activity. (T-2) NAFIs shall authorize other DoD NAFI organizations to place delivery orders against their contracts to the maximum extent possible. (T-0) Procurement methods and procedures that result in firm fixed-price contracts are preferred; however, price adjustment provisions may be used when the Contracting Officer determines it is in the best interest of the NAFI. In executing NAF procurements, Contracting Officers shall comply with the requirements of applicable statutes, regulations, or directives. (T-0) Contracting Officers will ensure each NAF contract:

2.1.1. Contains clauses governing: changes, examinations of records, dispute resolutions, and terminations. (T-2) Required NAF Contracting Clauses/Provisions are located in the NAF electronic purchasing system and can also be found at <https://www.afnafpo.afsv.net>.

2.1.2. Applies the Buy American Act and Trade Agreements Act to the procurement of non-resale supplies and equipment. (T-0)

2.2. Waivers to NAF Procedures. Field activity waivers to NAF procedures must be obtained from AFNAFPO. (T-2) AFNAFPO requests for waivers to NAF procedures set forth in this manual must be approved by SAF/AQC.

2.3. Master Library. Each NAF purchasing office shall have available a complete set of the Commander's Smart Buy Program (CSBP) catalogs. (T-2) NAF purchasing personnel are responsible for ensuring that the appropriate activity managers have access to these catalogs.

2.4. Review Meetings. The head of the installation Services function (e.g., squadron commander, director, or equivalent) will meet at least annually or more frequently, if desired, with operating personnel to identify ways and means of improving NAF contracting procedures and to review the CSBP and purchasing reports generated through the NAF electronic purchasing system. (T-2) Minutes of the meeting will be taken, distributed to all attendees and kept on file.

2.5. NAF Purchasing Training. Personnel delegated purchasing duties must receive formal training from the delegating authority. (T-2) NAF P-Card cardholders will receive training by the issuing authority. (T-2) The RM will maintain records of such training. (T-2) The RM will ensure NAF purchases are made in accordance with current directives and guidance. (T-2)

2.6. Suspended or Debarred Firms. Contracting Officers must be sure that firms or individuals named in the entity exclusion records are not solicited for offers or quotations or

awarded contracts. (T-0) Information on parties excluded from receiving Federal contracts is located on the System for Award Management (SAM) located at <https://www.sam.gov>.

2.7. Legal Review. Contracting Officers should obtain legal advice from the servicing SJA Office or Contract Attorney during all phases of the acquisition. In particular, Contracting Officers shall obtain legal advice, coordination, and review for the following:

2.7.1. Regardless of dollar amount:

- 2.7.1.1. Concessionaire, no-cost, and entertainment contracts;
- 2.7.1.2. Source selections;
- 2.7.1.3. Contracts involving licensing, technical data rights and patents;
- 2.7.1.4. Protests before and after award (see paragraph 12.5);
- 2.7.1.5. Terminations (see paragraph 12.3);
- 2.7.1.6. Contract disputes;
- 2.7.1.7. Novation agreements;
- 2.7.1.8. Contract claims (see paragraph 12.6);
- 2.7.1.9. Changes to NAF contract templates;
- 2.7.1.10. Ratifications (see paragraph 12.7);
- 2.7.1.11. Potential organizational conflicts of interest;
- 2.7.1.12. Deviations (see paragraph 8.8);
- 2.7.1.13. Any other legal issue at the discretion of the CO.

2.7.2. All brand name and sole source justification requests for actions expected to exceed \$150,000 (see paragraph 6.8).

2.8. Team Approach. A successful NAF procurement requires a team approach. The team is composed of key stakeholders, and each has a vital role to play in the procurement process. The team, at a minimum, consists of the requiring activity, finance, the Contracting Officer, and the individual responsible for receiving the end-item or service. For all work involving the modification or addition to Air Force real property, the team shall have a representative from the BCE office. Although the team supports the various members, individuals possess the expertise to complete their area of responsibility. When the separation of duties is not practicable, the FSS Commander will ensure the circumstances are clearly documented in the NAF electronic purchasing system. (T-2) The roles and responsibilities include:

2.8.1. Requiring Activity:

- 2.8.1.1. Preparation of the purchase request
- 2.8.1.2. Approval of the purchase request
- 2.8.1.3. Receipt of goods and services

2.8.2. Resource Manager (RM) or Designated Funds Custodian: Certification of funds availability

2.8.3. Contracting Officer:

2.8.3.1. Execution of a contract document

2.8.3.2. Resolution of issues related to the contract

2.8.3.3. Contract Modifications

2.8.4. NAF Accounting Office/Shared Service Center (SSC): Issuance of payment for the goods or services.

2.8.5. Base Civil Engineer: Approve all work affecting Air Force real property. (T-3)

2.8.6. Servicing Staff Judge Advocate (SJA) or Contract Attorney.

2.9. NAF Procurement Exemptions. The following do not apply to NAF procurements:

2.9.1. Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), or DoD Component supplements.

2.9.2. Small Business Act. Public Law 85-536, Small Business Act of 1958, and FAR guidance relative to small business and other award-preference programs do not apply to NAF contracting. NAF contracts are awarded to the firm whose proposal is most advantageous to the NAFL.

2.9.3. Federal Property and Administrative Services Act and the Federal Information Requirements Management Regulation.

2.9.4. The Buy American Act and section 2512 of the Trade Agreements Act of 1979 do not apply to purchases of resale items.

2.10. Audit Review. The Air Force Audit Agency may audit selected activities IAW AFPD 65-3, *Internal Auditing*, and may also conduct audits requested by management. As provided in DoDI 7600.6, Defense Contract Audit Agency (DCAA) may provide audit services to evaluate price proposals, to audit contracts, and to review NAF contract pricing claims against contractors.

Chapter 3

NAF CONTRACTING OFFICER TRAINING AND PURCHASING AUTHORITY

3.1. NAF Contracting Training. NAF Contracting Officers will complete the required training listed below: (T-2)

3.1.1. AFNAF Purchasing Course. This course provides comprehensive training in Air Force NAF Contracting Policies and Procedures and hands-on training in the NAF electronic purchasing system. It provides students with the knowledge needed to effectively perform as a NAF Purchasing Agent or Contracting Officer and is a prerequisite for obtaining a NAF Contracting Officer warrant.

3.1.2. Contracting courses offered through the Defense Acquisition University (DAU) or other commercial providers. These courses offer additional training needed to qualify for a \$25,000 (and above) warrant. Equivalent college courses from an accredited university may be substituted for the DAU courses if they specifically relate to contracting.

3.2. Contracting Officer Warrants. At the installation, warrants are limited to \$10,000 and \$25,000 on open market non-resale purchases. Warrants that exceed \$25,000 are reserved for AFNAFPO employees. Requests for warrants at the installation that exceed \$25,000 may be considered on a case-by-case basis.

3.2.1. \$10,000 NAF Contracting Officer appointment. To qualify, the applicant must have at least 1 year of Services experience or 1 year of contracting experience with the government or industry. (T-2) In addition, the individual must complete the AFNAF Purchasing Course offered by AFNAFPO. (T-2)

3.2.2. \$25,000 NAF Contracting Officer appointment. The applicant must meet the criteria set forth in paragraph 3.2.1. and complete two additional contracting courses. In addition, the applicant must have held a \$10,000 warrant for at least six months before becoming eligible to apply for a \$25,000 warrant. (T-2)

3.3. Unlimited Contracting Officer Authority. Individuals holding a NAF Contracting Officer warrant have unlimited authority (no monetary limit) to purchase the following (subject to funds availability):

3.3.1. Resale/Rental items. Examples: Sporting goods for pro shops; bowling balls and shoes; automotive care products, aviation fuel, recreational vehicles, tents, etc. See paragraph 6.7 for additional documentation requirements.

3.3.2. Prizes. Examples: Bingo prizes, door prizes, or any other items that would fall under the category of prizes.

3.3.3. Delivery orders issued against AFNAFPO contracts, or other Indefinite Delivery/Indefinite Quantity (ID/IQ) type contracts where allowed subject to the limitations in para 3.4. Contracting Officers must review delivery orders issued against GSA contracts to the maximum extent possible determine price reasonableness. (T-2)

3.3.4. Purchases from government entities, e.g., commissaries, exchanges, other Air Force Services or Department of Defense (DoD) activities.

3.3.5. Transportation associated with purchases of supplies or services when shipped Free on Board (FOB) origin.

3.3.6. Concessionaire contracts for commodities, open house events, and tickets and tours.

3.3.7. Purchases for bonafide emergencies outside of normal operational hours or away from the installation (e.g., aero club aircraft repair).

3.3.8. Direct buys for transportation tickets (airlines, bus, etc.) and all lodging facilities including any food requirements associated with lodging. (Contracting Officers seek best value for the NAFI.)

3.3.9. Individual service contracts.

3.3.10. Consignment contracts.

3.3.11. Purchases of tickets associated with events and tours.

3.3.12. Aircraft lease agreements.

3.3.13. Flight and Ground Instructor contracts.

3.3.14. Non-personal Service Awards for Overseas Special Events: Overseas NAF Contracting Officers have authority to procure elements in conjunction with special events, i.e. tours. Purchases must be competed, and price reasonableness documented. Ticket purchases are considered resale and thus are unlimited. All pertinent documentation will accompany the subsequent award in NAF electronic purchasing system.

3.3.14.1. Rental of bus, boat, ferry, airline, or train for passenger transportation.

3.3.14.2. Hotel or other lodging, accommodations (may include meals).

3.3.14.3. Entrance/admissions, tickets to theme parks, museums, castles, historic sites, etc.

3.3.14.4. Tour guide services.

3.3.14.5. Meals, which may include breakfast, lunch, dinner, buffet, and/or snacks.

3.4. Warrant Limitations: Dollar Limitation on a NAF Contracting Officer warrant are based on the total award value.

3.4.1. NAF CO has an unlimited authority to issue delivery orders against prepriced NPAs and/or IDIQ contracts as authorized. The exception is where these ordering agreements contain unpriced services subject to Service Contract Labor Standards Act (SCLSA) or Construction Wage Rate Requirements Statute then they are subject to the warrant limitations IAW 3.4.2. and 3.4.3.

3.4.2. Construction limit is \$2,000 when the Construction Wage Rate Requirements applies. (**Note:** The Construction Wage Rate Requirements Statute applies within the 50 states (including all U.S territories) and the District of Columbia).

3.4.3. Non-personal services limit is \$2,500 when the Service Contract Labor Standards Act applies. (**Note:** The Service Contract Labor Standards Act applies in the 50 states (including all U.S territories) and the District of Columbia. On contracts performed both inside the U.S and outside the U.S., the Act applies only to the portion of the contract performed inside the U.S).

3.4.4. Entertainment contracts are limited to \$500,000 at installation level. Contracts that exceed \$500,000 must be sent to the Base SCO or AFNAFPO for award.

3.4.5. Concessionaire contracts for services (including Amusement/Vending Machine and Charter Flight & Tour Desk) limit is \$2,500 when the Service Contract Labor Standards Act applies.

3.4.6. Contact the applicable regional AF Labor Advisor's office if there is any doubt about the applicability of the Service Contract Labor Standards Act or Construction Wage Rate Requirements Statute. A directory of regional Labor Advisors is available at: <http://ww3.safaq.hq.af.mil/Contracting>.

3.4.7. Limited use of the NAF P-Card (see [chapter 9](#)).

3.4.8. Personal services contracts are prohibited, as defined in DoD 1401.1-M, Personnel Policy Manual for Nonappropriated Fund Instrumentalities.

3.4.9. Transportation, postage, and insurance charges are not considered in computing the total cost of an award.

3.5. Requesting a Warrant. NAF Contracting Officers are required to have a NAF Contracting Officer warrant for contracting authority. (T-2) Personnel must complete the requirements at paragraph 3.2 to qualify for a Contracting Officer appointment. (T-2)

3.6. NAF Contracting Officer Nominations. At the installation, the FSS Commander (or equivalent) recommends and provides complete written justification for the appointment of a NAF Contracting Officer. The FSS Commander (or equivalent) must submit the request for appointment in writing and include the person's name, grade, position title, phone and fax number, duty address, and documentation concerning the completion of course requirements. (T-2) The FSS Commander (or equivalent) must forward the request for appointment to AFNAFPO. (T-2)

3.6.1. In nominating Contracting Officers, the FSS Commander (or equivalent) considers the complexity and dollar value of the acquisitions to be assigned and the individual's experience, training, education, business acumen, judgment, character, and reputation (T-2)

3.6.2. The FSS Commander (or equivalent) will review the Contracting Officer Appointments annually. (T-2) The FSS Commander (or equivalent) will forward requests for termination to AFNAFPO when the appointment is no longer needed. (T-2)

3.7. Appointment of Contracting Officers. Contracting Officers shall be appointed by AFNAFPO, in writing, by means of a certificate of appointment. (T-0) Warrant appointment limits are set forth in paragraphs 3.2., 3.3 and 3.4. The certificate will state and define the scope of the Contracting Officer's authority with respect to dollar limitations, legal or regulatory limitations, and types of contracts which the Contracting Officer is authorized to enter into. (T-0) Certificates will be posted in public view or made available on request. Warranted Contracting Officers at the SCO are not required to have a NAF certificate of appointment to obligate nonappropriated funds. (T-2) The appointing official is the authority for terminating a Contracting Officer's appointment. Terminations may be for reasons such as reassignment, termination of employment, or unsatisfactory performance.

3.8. Authority of Contracting Officers and Their Representatives. Contracting Officers are the only individuals authorized to enter into NAF contracts. Contracting Officers are allowed wide latitude to exercise sound business judgment and have the authority to:

3.8.1. Negotiate, award, administer, or terminate contracts and make related determinations and findings. Contracting Officers shall bind the NAFI only to the extent of the authority delegated to them. (T-2)

3.8.2. Delegate, in writing, purchasing authority for the following:

3.8.2.1. ITT resale when using the NAF P-Card.

3.8.2.2. Calls against Blanket Purchase Agreements (BPAs) and Blanket Delivery Orders (BDO).

3.8.2.3. NAF P-Card purchases (see [chapter 9](#)).

3.8.2.4. Execution of Entertainment Contracts.

3.9. Restrictions. Contracting Officers shall not:

3.9.1. Award a purchase order or contract that has a total price (including options) over the dollar limitations authorized by his/her warrant. (T-2)

3.9.2. Modify a purchase order or contract if it increases the total price of the award (including options) to an amount that exceeds the dollar limitations authorized by his/her warrant, even though the amount of the modification may be within the dollar limitation of the warrant. (T-2)

3.9.3. Delegate their signature and/or decision-making authority as Contracting Officer, except as authorized by this manual.

3.9.4. Obligate appropriated funds of the United States. (T-0) Procurements that combine APF and NAF dollars are accomplished by an APF Contracting Officer using APF contracting procedures.

3.9.5. Award a NAF project requiring connection to or modification of Air Force real property prior to BCE approval (typically via AF Form 332 or DD Form 1392). (T-3)

3.9.6. Award a concessionair or other “no-cost” contract or agreement that may create a contingent liability requiring appropriated funds.

3.10. Ethics. All individuals involved directly or indirectly in the acquisition process for NAF shall abide by the requirements of the Joint Ethics Regulation (JER) (DOD 5500.7-R). (T-0) Contracting Officers and other personnel are responsible for reporting any suspected violations of law or regulation to the proper authorities. IAW the JER, individuals involved in the NAF acquisition process shall receive ethics training. (T-0) Contracting Officers and other personnel involved with the NAF acquisition process may be required to file financial disclosure reports.

3.11. Splitting Requirements. The total dollar value of a contract is based on the aggregate sum whether it includes revenues or expenses of the NAFI. Contracting Officers and requirements generating personnel shall not split requirements into smaller dollar amounts to circumvent the dollar limitations set forth in this manual. (T-2)

3.12. Emergency Purchases. If bonafide emergencies arise outside of normal business hours, individuals may execute emergency purchases to mitigate loss, damage, or interruption in service. Individuals must document the reason for the emergency and notify the NAF Contracting Officer the first working day after the purchase. (T-2) (**Note:** IAW AFI 34-201, paragraph 4.1.6., Installation Commanders must certify and identify the emergency in writing and approve waivers to use NAFs instead of APFs when APFs are authorized for the purchase of equipment for MWR activities). (T-2)

3.13. Warrants not Required. Warrants are not required to make Special Morale and Welfare (SM&W) purchases under the commander's SM&W expenditure authority, petty cash purchases, or purchases from other intra-base NAFIs.

3.14. Annual Review. On an annual basis, the NAF Contracting Officer prepares the NAF Surveillance Checklist for certification by the FSS Commander (or equivalent). (T-2) Certifications for the previous fiscal year are submitted to AFSVA/SVC, NLT 30 Nov each year. The SCO may be requested to perform a review of NAF purchasing to serve as the basis for the certification.

3.15. AFNAFPO Review. The AFNAFPO may conduct periodic reviews of installation NAF purchasing programs to augment installation-level reviews. These can be conducted by on-site visits or a review of documents in the NAF electronic purchasing system.

3.15.1. On-site Field Training Visits (FTV). A FTV is conducted at the request of the individual installation. The intent of the on-site FTV program is to provide guidance and training to installation NAF activities and provide recommendations for improving their purchasing program. At the conclusion of the FTV, the installation FSS Commander is provided a summary of the visit, if requested.

3.15.2. NAF Electronic Purchasing Systems Reviews. AFNAFPO periodically conducts installation-level reviews of contracts and other documentation loaded in the NAF Electronic Purchasing Systems. The main purpose is to assist the base by identifying specific problem areas and offering recommendations for improvement. No formal report is provided to the base with this review.

Chapter 4

NAF PURCHASING PROCEDURES USING THE COMMANDER'S SMART BUY PROGRAM (CSBP)

4.1. Commander's Smart Buy Program. The CSBP is a cooperative purchasing program between installation level NAF activities and the AFNAFPO. The program assists all commanders, regardless of service component, to acquire quality products at favorable prices.

4.1.1. Essential Products Program (EPP). Essential Products Program (EPP) is for standardizing common-need products; if an item is on an EPP contract, any purchase of that item must be from that contract. NAF CO has an unlimited authority (funds permitting) to issue delivery orders. Competition is not required. Contracting Officers will submit requests for waivers to an EPP contract in writing to AFNAFPO. (T-2)

4.1.2. Nonappropriated Fund Purchasing Agreements (NPAs). Contracting Officers will use NPAs where EPP is not applicable. NAF COs have unlimited authority (funds permitting) to award pre-priced delivery orders against NPAs. Competition is not required. CO warrant limitations IAW 3.4.2 and 3.4.3 apply to NPA orders requiring negotiation, such as those with service requirements subject to Service Contract Labor Standards Act (SCLSA) or Construction Wage Rate Requirements Statute. (T-2)

4.1.3. Interior Design Projects. Interior design projects change the design of a room or building. Interior design projects are purchased by AFNAFPO. A requirement is considered an interior design project when a minimum of three elements of a room are changed (e.g., carpeting, draperies, lighting, wall art, furniture). Contracting Officers will forward interior design projects and furniture requirements that involve Customer's Own Material (COM) to AFNAFPO for purchase. (T-2) All projects modifying Air Force real property (e.g. carpet, wall coverings, painting, electrical outlet moves, etc) shall be approved by the BCE. (T-3)

4.1.4. Trade Shows. This program presents an opportunity each year for installation level managers to receive direct support from AFNAFPO while attending various trade shows. Working in concert with our NPA vendors, special discounts are offered during these shows that are ordinarily not offered during any other time of the year. AFNAFPO may perform leverage buying in support of programs and installations during trade shows, i.e. Professional Golfers Association (PGA) Show; Hospitality Design Expo; National Restaurant Association (NRA) Show; Bowl Expo, etc.

4.1.5. Consolidated Buys. Consolidated buys create an opportunity for Services operations worldwide to participate in unique purchasing opportunities by consolidating common requirements under one order issued by AFNAFPO. Consolidated buys focus on generating volume to create additional discounts from the NPA pricing program. Golf carts and ski equipment are a few examples of bulk purchases being made under the consolidated buy initiative.

4.1.6. Product Bulletins. This program works very successfully for our NPA contractors who want to market their programs aggressively to our customer base. AFNAFPO works with our trading partners to promote and market various products in their product line. It is a simplified process distributed via product bulletin format announcing pricing specials, closeouts, new products, and various other applications that complement our trading partners'

annual marketing strategy. In addition to distributing these bulletins to our worldwide Services customers, AFNAFPO posts these special buying opportunities on the AFNAFPO websites.

Chapter 5

SERVICING CONTRACTING OFFICE (SCO)

5.1. Contracting Support. The SCO must use the guidance and procedures of this manual as the method of contracting in support of local NAF requirements to the fullest extent possible. When FAR clauses are used in NAF contracts, the Contracting Officer deletes references to “Government” and substitutes “NAFI”. The SCO provides contracting support for the following:

5.1.1. Contracts that exceed NAF Contracting Officer purchasing authority.

5.1.2. Nonpersonal services contracts that exceed NAF Contracting Officer purchasing authority when the Service Contract Labor Standards Act applies. Nonpersonal services limit is \$2,500 CONUS where the Service Contract Labor Standards Act applies and up to the NAF Contracting Officer warrant overseas. This limitation applies to requirements containing goods and services where the service exceeds the NAF Contracting Officers warrant. A purchase request and statement of work are provided to the SCO when establishing a nonpersonal service contract. The value of a recurring services contract and or agreement is measured not by the amount of an individual award or call but by the total value of the award or calls when considered together.

5.1.3. Construction contracts that have received approval through the civil engineer work order/requirements review board process and exceed NAF Contracting Officer purchasing authority when the Construction Wage Rate Requirements Statute applies. Limit for NAF Contracting Officer is \$2,000 CONUS and up to the NAF Contracting Officer warrant overseas.

5.1.4. Concessionaire contracts for services. Limit for NAF Contracting Officer is \$2,500 CONUS, up to the NAF Contracting Officer warrant overseas. While many are zero dollar contracts, it is the total monetary value of the relationship that determines the appropriate warrant level to execute. Prior to award/execution of any concessionaire contracts, CE coordination is required to ensure compliance with utility provision and infrastructure codes.

5.1.5. NAF requirements placed against APF indefinite-delivery contracts where cost effective.

5.1.6. Special requests for contracting support or technical assistance.

5.1.7. Purchases combining both NAF and APF dollars. FAR procedures will be followed.

5.2. General Provisions. Attach NAF General Provisions to all open market purchases.

5.3. Appropriated Fund (APF) Purchases. Delivery orders citing APFs cannot be issued against NAF Contracts and Agreements. However, the Contracting Officer may use a NAF Contract or Agreement holder as a source for APF requirements.

5.4. Repair of Aero Club Aircraft. The SCO will obtain at least two repair cost estimates for aircraft repair from Federal Aviation Administration (FAA) licensed aircraft repair firms. (T-0) The solicitation advises offerors that no award is made if it is determined the aircraft is not economical to repair or if a decision is made to accomplish repairs in-house. The SCO will provide the repair estimates, including price and terms or conditions, to the local aero club

manager. (T-2) The manager submits the estimates and required photographs of the damage to the AFSVA, Directorate of Programs for repair authorization.

Chapter 6

SPECIAL NAF REQUIREMENTS

6.1. NAF Contracting Requirements. The FAR, Defense FAR Supplements (DFARS), and Air Force FAR Supplements (AFFARS) do not apply to NAF procurement. Only those clauses required by law or otherwise stated in this manual are mandatory. FAR procedures may be used as guidance in support of NAF purchasing processes.

6.2. NAF Renovation, Repair and Construction Contracts. The process for acquiring construction is based upon standard commercial practices. Contracting Officers will not split construction requirements to circumvent dollar limitations set forth in Chapter 3. (T-2) Government or NAFI furnished supplies and equipment is not included when determining the contract value. Construction services must be approved by the Base Civil Engineer (BCE) prior to issuing an award. When necessary, make arrangements for BCE inspectors to inspect and accept the work.

6.3. NAF Sources of Supply. Before considering open market commercial suppliers, Contracting Officers shall consider the following sources in the following order of precedence:

6.3.1. Essential Products Program (EPP).

6.3.2. Nonappropriated Fund Purchasing Agreement (NPA).

6.3.3. General Services Administration (GSA) contracts.

6.3.4. OCONUS. Some of these contract instruments may not provide coverage overseas. In the event that an activity has a recurring requirement they should work with the Base SCO or AFNAFPO, in this order, to determine an appropriate solution.

6.4. Other Sources. Contracting Officers also consider the following sources of supply:

6.4.1. AbilityOne. The Javits-Wagner-O'Day Act requires the Government to purchase supplies or services from the mandatory AbilityOne Procurement List if the supplies or services are available within the period required. The Procurement List is located at the AbilityOne website at <http://www.abilityone.org>.

6.4.2. Federal Prison Industries (FPI) Inc. (FPI), also referred to as UNICOR, is a self-supporting, wholly owned Government corporation. Contracting Officers are encouraged to purchase FPI supplies and services to the maximum extent practicable. FPI supplies and services are located at <http://www.unicor.gov>.

6.5. Buying Products Containing Recovered Materials. Where procuring cumulatively more than \$10,000.00 of certain products not for resale that can contain recovered materials, Contracting Officers should consult the Environmental Protection Agency list at <http://www.epa.gov/wastes/conserve/tools/cpg/products/index.htm> and 40 CFR 247.3. Such products are procured where they meet performance standards, are competitively and reasonably available, and not unreasonably priced.

6.6. Competition Requirements for Open Market Purchases. Competition, not otherwise required, shall be obtained when the Contracting Officer cannot make a determination of price reasonableness. Contracting Officers shall not engage in the practice of auctioning one

company's proposal against another company's proposal in an attempt to obtain a lower price. (T-2) Contracting Officers will determine price fair and reasonableness on all purchases when required and document the determination in the contract file and/or attach it in the NAF electronic purchasing system. (T-2)

6.6.1. Purchases up to and including \$5,000. Competition is not required for purchases up to and including \$5,000. The Contracting Officer's signature constitutes certification that prices are fair and reasonable. Price lists or other public offerings of products and services (including past orders) should be reviewed by the Contracting Officer when there is doubt that prices are fair and reasonable. (See chapter 9 for limitations concerning the use of the government purchase card.)

6.6.2. Purchases exceeding \$5,000. Contracting Officers will solicit at least two sources for requirements estimated over \$5,000 and up to and including \$150,000. (T-2) If only one proposal is received then the Contracting Officer shall include a written pricing memorandum outlining the basis of price reasonableness. (T-2)

6.6.3. Purchases exceeding \$150,000. When possible, Contracting Officers will issue written or electronic solicitations to a minimum of three qualified sources when practicable. (T-2) If only one proposal is received then the Contracting Officer shall include a written pricing memorandum outlining the basis of price reasonableness. (T-2)

6.7. Resale/Rental (Open Market). Competition is not mandatory for resale or rental items. When competition is not obtained, the Contracting Officer will prepare a determination of price reasonableness and include the determination in the contract file and/or attach it in the NAF electronic purchasing system. (T-2)

6.7.1. Food purchases under resale. Standard commercial practices concerning the purchase of food items apply to NAF purchasing. Branding is a commonly accepted concept in food services. Brand name food items may be purchased without further competition and established as standard presentations (e.g., core menus and core recipes) within food operations. Food items in general (whether they are directly provided to the consumer or they are part of the recipe) may be considered items for resale; however, competition may be in the best interest of the NAFI in certain cases. Price reasonableness must be determined when purchases are made outside the NAF Prime Vendor program. Eighty percent (80%) of NAFI food purchases must be purchased from the respective Prime Vendor in the region. The 80% is calculated using the total purchases for the NAF FSS food and beverage operations.

6.7.2. Rental item purchases without competition. The decision to purchase brand name items for rental without competition is made by the Contracting Officer in coordination with the requesting activity. Contracting Officers are required to seek competition for rental items not driven by brand name preference only if it is in the best interest of the NAFI. (T-2)

6.7.3. Items that generate revenue by virtue of their function, such as amusement machines, vending machines, and bingo prizes may be purchased without competition. When competition is not obtained, the Contracting Officer will determine price reasonableness and include this determination in the contract file and attach it in the NAF electronic purchasing system. (T-2)

6.8. Brand Name and Sole Source. Brand Name is used when only one particular manufacturer's product, and not a substitution or equivalent, meets the essential requirements of the NAFI. Requirements are generally based on customer preference and/or demand. Sole Source implies that there is only one person or company that can provide the contractual services needed and that any attempt to obtain proposals would only result in one person or company being available to meet the need. Contracting Officers must receive written justification for brand name and sole source purchases from the requesting activity along with the purchase request. (T-2) Contracting Officers will ensure the justification states what specific or unusual need makes the required brand name product(s)/sole source necessary. (T-2) Personal preference is not sufficient justification for a sole source purchase. The Contracting Officer determines whether there is sufficient justification to purchase the brand name or from the sole source. A brand name only purchase may be competed to determine if the item can be procured at various discounts from the manufacturer or from authorized distributors. Sole source requests may be validated by publicizing the requirement. The Contracting Officer determines price reasonableness and includes the determination in the contracting file.

6.9. Brand Name or Equal. The brand name or equal method is another procedure for describing a requirement. The purchase description should set forth those salient characteristics of the brand name product that are essential to the needs of the NAFI. The make or model number or other appropriate nomenclature and all other known acceptable brand name products, should be listed as a part of the description. The Contracting Officer shall require the offerors to submit information that establishes that the product offered meets the NAFI requirement. Brand name or equal procurements are not accomplished on a sole-source basis. (T-2) Therefore, no justification or approval is needed other than documentation in the file showing that competition was sought, and a determination of fair and reasonable pricing was made, with subsequent award of the contract.

6.10. Determination of Responsibility. Before award of any contract, the Contracting Officer must determine the responsibility of the firm that is being considered for award. Contracting Officers will use the standards listed below as a guide in determining contractor responsibility. (T-2) To be determined responsible, a prospective contractor must demonstrate they:

- 6.10.1. Have adequate financial resources to perform the contract, or the ability to obtain them. (T-0)
- 6.10.2. Are able to comply with the required or proposed delivery or performance schedule. (T-2)
- 6.10.3. Have a satisfactory performance record. (T-2)
- 6.10.4. Have a satisfactory record of integrity and business ethics. (T-2)
- 6.10.5. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them. (T-2)
- 6.10.6. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. (T-2)
- 6.10.7. Are not presently suspended or debarred from government-wide procurement (See excluded parties list at www.sam.gov). (T-2)

6.11. Design Inclusion Provision. A firm that designs or specifies projects (or its subsidiaries or affiliates) cannot compete for a contract to provide items for that project. This is not to be confused with a competed design build contract.

6.12. Performance Period of NAF Contracts or Agreements. Contracts subject to the Service Contract Labor Standards Act are restricted to 5 years. Maximum time for contracts not subject to the Service Contract Labor Standards Act is limited to 10 years. Contracting Officers will ensure that Blanket Purchase Agreements (BPAs) and Nonappropriated Fund Purchase Agreements (NPAs) state the beginning and ending dates of the basic period. (T-2) BPAs and NPAs may include option periods to extend their duration; however, they cannot exceed ten years. For AFNAFPO issued contracts that exceed 10 years, the Contracting Officer must provide a written determination that demonstrates the extended performance is in the best interest of the NAFI and be approved by the Director of NAF Purchasing. (T-2)

6.13. Purchase of Hazardous Materials. Contracting Officers will ensure that awards which include the purchase of hazardous materials include the FAR clause 52.223-3, *Hazardous Material Safety Data*, by reference or in full text. (T-2) Contracting Officers will ensure orders identify where safety hazardous sheets should be submitted. (T-2) Requester will ensure that all purchases of hazardous material are coordinated in advance with the Hazardous Materials Pharmacy and the Contracting Officer will ensure the coordination is documented in the file (see AFI 32-7086, *Hazardous Materials Management*). (T-2) Awards which include hazardous waste removal must require that removal be conducted IAW the installations' HAZWASTE plans. (T-1)

6.14. Information Technology Coordination. All AFNAFPO awards for Automated Information Systems (AISs), and Information Technology (IT) equipment and services must be coordinated through the Air Force Services Activity, Directorate of Systems prior to award. (T-2) Installation-level requirements for AIS and IT will be coordinated with the supporting Communications Directorate or Communications Squadron prior to submittal to contracting to ensure compliance with Air Force IT criteria and standards. (T-2)

6.15. NAF Vehicles. All NAF vehicles for CONUS installations must be purchased by AFNAFPO unless a waiver has been approved in advance by AFNAFPO for local purchase through the installation SCO. For OCONUS installations, because of the unique vehicle requirements, NAFIs may utilize the local SCO to make vehicle purchases on their behalf without requesting a waiver from AFNAFPO. However, all requirements outlined in AFI 34-204, Property Management, **Chapter 6**, must be complied with before any vehicles can be purchased, either CONUS or OCONUS.

Chapter 7

PURCHASE REQUEST (PR)

7.1. PR Guidance. Contracting Officers shall ensure purchase requests as a minimum identify the requesting NAFI (e.g., Offutt AFB Morale Welfare & Recreation (MWR) fund), the requirement, and requested delivery date. (T-2) PRs must be submitted with a realistic delivery schedule and the appropriate requirement documents (i.e. performance work statement (PWS), statement of work (SOW), Independent Government Estimate (IGE), market research, suggested sources, BCE coordination. (T-2)

7.2. Numbering PRs. Numbering of PRs should be configured to identify base name, branch of service, fiscal year, and a unique number that identifies the particular PR. Contracting Officers shall ensure the PR numbers are compatible with NAF electronic purchasing system. (T-2) Exception will be a base SCO generated PR number.

7.2.1. Purchase Request Register. A register for purchase requests and resulting purchase orders is maintained electronically in the NAF electronic purchasing system. If the electronic purchasing system is not available, Contracting Officers shall ensure a manual register is maintained until the system becomes available and is updated with the information. (T-2)

7.2.2. Funds Availability. Contracting Officers shall ensure all purchase requests contain certification of funds availability (signed by an individual with fund certification authority) before purchasing action is initiated. (T-2)

7.2.3. Distribution of Purchase Requests. The preferred method of distribution is through the NAF electronic purchasing system.

7.3. Green Procurement. Contracting Officers will ensure all purchase requests for non-resale products or services includes written statement from the requisitioner that requirements comply with the Green Procurement Program. (T-2) Training on green procurement is available at Defense Acquisition University.

7.4. Authorization of Additional Funds against Original PRs. Any contracting action (modifications, claims, equitable adjustments, etc.) that requires more funds than originally authorized cannot be executed without certification that funds are available.

Chapter 8

SOLICITATIONS AND AWARD

8.1. Solicitations. Contracting Officers will provide any information that would be necessary for the preparation of proposals to all prospective offerors in the bidding process in order to avoid creating an unfair competitive advantage. (T-2) Written solicitations may be structured as a request for quotation (RFQ) or a request for proposal (RFP). Responses to RFQs are not binding on the offeror. The Contracting Officer will issue an RFP when a binding offer is needed and bears the signature or electronic certification of an official in the company authorized to commit the firm. (T-2) The offer becomes a binding contract when accepted and signed by the Contracting Officer. Solicitations may be transmitted and received electronically and have the same binding effect as a written solicitation. The NAF electronic purchasing system, which is located at www.afnafpo.com provides necessary formats to forward to prospective offerors electronically or manually.

8.1.1. Contracting Officers will use written solicitations for open market purchases exceeding \$150,000. (T-2)

8.1.2. Change in NAFI requirements. If there are changes in the requirement before or after receipt of quotations or proposals, the Contracting Officer will notify offerors of the change. If the quotations or proposals are not yet due, an amendment will be sent to all firms that received the solicitation. If the deadline for quotations or proposals has passed, send the amendment only to those firms that responded. The Contracting Officer will make a written determination if the changes are significant enough to warrant canceling the entire solicitation and resoliciting. (T-2)

8.2. Synopsis. Synopsis is not a requirement for NAF purchases. However, the AFNAFPO Contracting Officer may synopsisize requirements when it is determined to be in the best interest of the NAFI only after obtaining written approval from the Director of AF NAF Purchasing. If synopsis is deemed appropriate, the Contracting Officer will use the Government-wide Point of Entry system and determines the length of time for publicizing NAF requirements. (T-2) Contracting Officers will ensure solicitation and contract award notices for synopsisized NAF purchases include the following as the last part of the notice to be published (T-2): *“This is a nonappropriated fund purchase and it does not obligate appropriated funds of the United States Government. Nonappropriated funds are generated by the military community through the sale of goods and services and the collection of fees and charges for participation in military community programs. This purchase does not involve federal tax dollars.”* Contract award notices are not a mandatory requirement for NAF purchases. However, AFNAFPO will send written notification to all unsuccessful offerors that outlines their right to request a debriefing IAW para 8.4 below. (T-2)

8.3. Source Selection (Applies to AFNAFPO Only). Source selections require written proposals. Contract award will be made to the offeror whose proposal represents the best value to the NAFI. (T-0) The source selection approach and evaluation factors are specific to each acquisition and the Contracting Officer will ensure they are identified in the solicitation. (T-2) An acquisition strategy is developed prior to the drafting of the solicitation to determine the most effective source selection approach for the requirement, to establish evaluation criteria, to

identify the source selection evaluation team evaluating proposals, and develop the documents to support the Source Selection Authority (SSA) decision. The SSA will determine if a formal acquisition plan is required. Contracting Officers will ensure solicitations inform offerors of the format required for the submission of a proposal and will elicit from offerors only the material needed to fairly evaluate offers. (T-2) Contracting Officers will use, at minimum, cost and past performance as evaluation factors. (T-2) Poor past performance ratings may disqualify an offeror from receiving an award. Offerors are required to meet all solicitation requirements, such as terms and conditions, representations and certifications, and technical requirements, in addition to those identified as evaluation factors or subfactors. (T-2) Failure to meet a requirement may result in an offer being ineligible for award. Contracting Officers will require non-disclosure agreements from source selection team members during the source selection process. (T-2) The Director of AF NAF Purchasing, or designee, is the SSA. The SSA is responsible for the proper and efficient conduct of the entire source selection process encompassing proposal solicitation, evaluation, selection, and contract award.

8.3.1. When using source selection procedures, the Contracting Officer will identify the evaluation factors in the solicitation with their order of importance in selecting an offer for award. (T-2)

8.3.2. The Contracting Officer will document the source selection decision with the rationale for making award to a particular contractor. (T-2)

8.4. Debriefings. An offeror, upon its written request received by the agency within 3 days after the date on which that offeror received notification of contract award, shall be promptly debriefed and furnished the basis for the selection decision and contract award. The Contracting Officer will ensure the debriefing does not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors and is not a forum for debate regarding the subjective judgment of the SSA and shall not reveal any information exempt from release under the Freedom of Information Act or other applicable law or regulation. (T-0) At a minimum, the debriefing information should include:

8.4.1. The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable.

8.4.2. The overall evaluated cost or price (including unit prices), and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror.

8.4.3. The overall ranking of all offerors, when any ranking was developed by the agency during the source selection.

8.4.4. A summary of the rationale for award.

8.4.5. For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

8.4.6. Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

8.5. Pricing Summaries and Price Negotiation Memorandums (PNM). After the receipt of offers, the Contracting Officer may make an award based on the initial quotations/proposals, or

conduct negotiations. The Contracting Officer will ensure that discussions, if held, are conducted openly and fairly without affording any offeror a competitive advantage and that the discussions are documented in the PNM. (T-2) The Contracting Officer will prepare a PNM or pricing summary to document the price analysis and to establish the fairness and reasonableness of the proposed pricing. (T-2) When price reasonableness is based upon adequate competition (two or more technically acceptable offers), no further supporting documentation is needed. When only one offer is received or found to be technically acceptable, the Contracting Officer will include in the file documents that support the reasonableness of the offer (i.e. price catalog references, price lists, previous prices for similar goods or services, a brief statement of facts regarding the anticipation of competition, or other documents.). (T-2) Price reasonableness addresses the issue of whether the offered price is too high and may be determined based on one or more of the following considerations: market research, comparison with previous competitive purchase of same or similar item, current catalog/published price list/advertisement, buyer's personal knowledge of item.

8.6. Award Types.

8.6.1. Purchase Orders (PO). POs are offers to buy items on the open market at specified prices and other terms and conditions. POs are binding when the firm accepts the offer either by signing the order or initiating performance. Use the template provided in the NAF electronic purchasing system. If automated ordering is not available, then utilize the, Nonappropriated Fund Order for Supplies or Services, available on the AFNAFPO website. Commercial vendor literature, business agreements and licenses may be attached as part of the order; however, the Contracting Officer will ensure commercial business agreements are reviewed by the local SJA/Contract Attorney prior to including them in any order or contract. (T-2) Contracting Officers will add the NAF General Provisions to all open market purchase orders. (T-2)

8.6.2. Confirmation Orders. Orders may be issued orally with follow-on written orders confirming the oral requirements. Contracting Officers will ensure the written order contains the date and individual with whom the verbal order was placed. (T-2) Confirmation Orders should be used only in an emergency situation. See paragraph 3.12.

8.6.3. POs Outside the United States. In the event of inconsistency in the translation between terms of a contract written outside the United States, the English definition takes precedence.

8.6.4. Delivery Orders (DO). A DO is an order written against an existing contract or agreement. Terms and conditions set forth in the basic contract apply to delivery orders issued.

8.7. Numbering of Contracts/Orders. Contracting Officers will ensure the numbering system is consistent with the NAF electronic purchasing systems to provide an audit trail of contracts/orders issued against individual purchase requests. (T-2) Contracts or Orders issued by the SCO will be consistent with the SCO numbering system. (T-2)

8.8. Clauses and Certifications. Contracting Officers will ensure contracts, orders, and agreements funded exclusively with NAFs contain only those clauses and certifications required for the purpose of complying with Federal law, DoD requirements, and protecting the interests of the NAFL. (T-2) The NAF electronic purchasing system contains the approved contract formats

and general provisions to be used for NAF purchases. Any deviations including the incorporation of proposed contractor clauses, commercial literature, business agreements and licenses may be incorporated as part of NAF contracts and orders providing they do not conflict with a federal requirement or immunity. Contracting Officers will obtain a legal review when any of the aforementioned documents are proposed to be incorporated into NAF contracts. (T-2)

8.9. Payment Terms. Contracting Officers will specify payment terms on orders/contracts. (T-2) The Contracting Officer may choose from the payment terms available in the electronic purchasing systems. Deviations must be approved by AFNAFPO.

8.10. Contract Approvals. Within AFNAFPO, a contract review committee will review solicitations estimated to exceed \$150,000 to ensure all actions comply with the applicable rules and regulations, including this manual and AFNAFPO Office Instructions (OIs). (T-2) The following actions are taken by AFNAFPO during the review process:

8.10.1. The Director of AFNAF Purchasing, or designee, will administratively review solicitations and contracts, exceeding \$150,000. (T-2) This includes amendments and modifications that affect price and scope, excluding those that are administrative in nature.

8.10.2. AFNAFPO Contracting Officer will obtain a legal review for solicitations and contracts/agreements and amendments or modifications exceeding \$150,000. (T-2)

8.10.3. Contracts, agreements and amendments or modifications that exceed \$500,000 require approval by the Director of AFNAF Purchasing, or designee. The Director of AFNAF Purchasing, or designee, will review and approve any contract or agreement awarded as a result of the competitive proposal process through Request for Proposal and Source Selection. (T-2)

8.10.4. The Director of AFNAF Purchasing, or designee, and legal will review all termination actions, including cure notices, show cause notices, notices of terminations and termination settlement agreements.

8.11. Base SCO Contract Approvals. All solicitations, contract, amendments and modifications executed by the Base SCO will be administered by the Base SCO.

Chapter 9

NAF PURCHASE CARD (P-CARD)

9.1. Introduction. The NAF P-Card is used to make purchases for official government use. The purchasing thresholds for the card are determined by AFNAFPO. The NAF P-Card is the preferred method of acquiring standard commercial items within the dollar thresholds set forth in this manual. All cardholders shall be familiar with the requirements of this manual, AFI 34-275, and other instructions pertaining to the NAF P-Card Program. (T-2)

9.2. Dollar Limitations/Restrictions. The RM is responsible for overseeing the execution of purchasing transactions to ensure they do not exceed the individual cardholder's dollar limitations and that the card is being used only for authorized government transactions. The limitations set at installation level cannot exceed the overall thresholds established by AFNAFPO.

9.2.1. The NAF P-Card card may be used to purchase supplies, equipment, and non-personal services. Individual transactions may not exceed \$5,000 except as follows:

9.2.1.1. For purchases from the Commissary, the Army and Air Force Exchange Service (AAFES), Naval Exchange Service (NEX), Prime Vendor, and printing services from the Defense Automated Printing Service (DAPS), the limit is \$25,000 per transaction.

9.2.1.2. Cardholder accounts may be established by training and education program managers with a single purchase limit up to \$25,000. The NAF P-Card does not replace the SF 182, *Request, Authorization Agreement, Certification of Training and Reimbursement*.

9.2.2. NAF Contracting Officers may specify the NAF P-Card as a method of payment on agreements, purchase and delivery orders, and contracts up to the limit of their warrant authority. The Contracting Officer can specify any NAF P-Card cardholder at their installation, except themselves, as the payer. Card limits can be adjusted by the local card approving authority to meet mission needs and maximize use of the NAF P-card.

9.2.3. Cardholders shall not use the NAF P-Card for the following: (T-0)

9.2.3.1. Personal Purchases.

9.2.3.2. Use as a travel card for official government travel.

9.2.3.3. Cash Advances.

9.2.3.4. Rental or lease of land or buildings.

9.2.3.5. Purchase of hazardous/dangerous items such as explosives, toxins. Exception: The purchase of ammunition and firearms used for resale in Rod & Gun Clubs or on skeet ranges is authorized if proper purchase authorization is obtained from applicable base, local, state and/or federal agencies.

9.2.3.6. Items designated for purchase with APFs.

9.2.3.7. Purchase any goods or services requiring modification to Air Force real property without BCP approval. (T-3)

9.2.4. AFI 65-107, *Nonappropriated Funds Financial Management Oversight Responsibilities*, requires the Nonappropriated Fund Financial Analyst (NAFFA) conduct an annual review of the NAF P-Card program.

Chapter 10

BLANKET PURCHASE AGREEMENTS (BPA) AND BLANKET DELIVERY ORDERS (BDO)

10.1. BPAs. BPAs provide a method of purchasing supplies and services on a recurring basis on the open market when the use of the NAF P-Card card is not practicable. NAF Contracting Officers negotiate BPAs. A PR is not required to create a BPA for resale. Contracting Officers will accomplish BPAs by using the templates provided in the NAF Electronic Purchasing System and will include the NAF General Provisions. (T-2) NAF Special Provisions are also added on BPAs for perishable items. Contracting Officers will ensure the BPA numbering is compatible with the NAF electronic purchasing system. (T-2) Contracting Officers will ensure the agreement contains as a minimum: pricing, identification of items covered, delivery terms, Contracting Officer's signature, dollar call limitations, individuals or positions authorized to place calls against the BPA, and mandatory clauses identified in this manual, i.e., NAF General Provisions and Special Provisions. (T-2)

10.1.1. Description of Agreement. A statement that requires the supplier to furnish supplies or services, described in general terms, if and when requested by the Contracting Officer (or the authorized representatives of the Contracting Officer) during a specified period and within a stipulated aggregate amount, if any. BPAs should be for a basic period of one year. Option years cannot exceed nine year(s), so that the total duration of this agreement does not exceed ten years from the date of its inception.

10.1.2. Extent of the Obligation. A statement that NAF is obligated only to the extent of authorized purchases actually made under the BPA.

10.1.3. Purchase Limitation. A statement that specifies the dollar limitation for each individual under the BPA.

10.1.4. Individuals Authorized to Purchase Under the BPA. The Contracting Officer will furnish to the supplier a statement with a list of individuals authorized to purchase under the BPA identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each title or individual. (T-2)

10.1.5. Delivery Tickets. The Contracting Officer will include a requirement that all shipments under the agreement, except those for newspapers, magazines, or other periodicals, are accompanied by delivery tickets or sales slips that contain the following minimum information: (T-2)

10.1.5.1. Name of supplier

10.1.5.2. BPA number

10.1.5.3. Date of purchase

10.1.5.4. Purchase number

10.1.5.5. Itemized list of supplies or services furnished.

10.1.5.6. Quantity, unit price, extension of each item, less applicable discounts (unit prices and extensions need not be reflected with the use of automated systems, provided the invoice is itemized.)

10.2. Prepriced and Unpriced BPAs. The Contracting Officer is responsible for determining whether a prepriced or unpriced BPA should be established. Products or services that fluctuate in price on a frequent basis are usually established as an unpriced BPA. The Contracting Officer should attempt to ensure adequate competition is available when establishing sources that qualify for BPAs.

10.2.1. The Contracting Officer shall approve price lists or negotiate firm fixed pricing for prepriced BPAs. (T-1) The Contracting Officer will ensure the approved price lists contain the effective dates, and a copy is maintained with the BPA. (T-2)

10.2.2. Distribution. The Contracting Officer will ensure copies of the price list or negotiated prices for services are dated and distributed to the applicable activities. (T-2) The activities shall not solicit additional pricing discounts against the pre-negotiated prices. (T-2) However, voluntary price reductions are acceptable if offered by the contractor.

10.2.3. Items not covered by the BPA are not eligible for purchases under the BPA. Requirements for these items should be referred to the Contracting Officer for inclusion under the BPA.

10.2.4. Documenting Calls. Calls against BPAs should be documented by the activity using the Call Register located in the NAF electronic purchasing system. Other controls may be established by the Contracting Officer as necessary. Sales slips, invoices, delivery tickets, and other commonly accepted documents may be used by the activity to verify receipt of goods. Discrepancies are noted. Authorized BPA Callers ensure call registers are documented in NAF electronic purchasing system.

10.2.5. Administration of BPA Calls. The activity that placed the call is responsible for follow-up action as it relates to delivery, cancellation, and other related matters. Problems that cannot be resolved are referred to the Contracting Officer.

10.2.6. Payment. Consolidated payments are made on a monthly basis. The specific time and conditions of payment are established within the terms of the BPA. Contracting Officers will ensure BPAs for commodities subject to accelerated payment under the Prompt Payment Act contain appropriate payment provisions. (T-0)

10.3. BDOs. A BDO provides a way of ordering undetermined quantities of supplies and services through prepriced contracts using the call process similar to a BPA. A PR is required to create a BDO. The total estimated dollar amount to be used during the specified time is identified on the order. The BDO is created against an existing contract using a purchase order form.

10.3.1. The order should specify a time frame in which calls are valid against the BDO. However, the performance period of the BDO has to fall within the performance period of the source contract.

10.3.2. The Contracting Officer shall provide the contractor a list of individuals or position titles authorized to place calls against the BDO and maximum call limitations. (T-2) BDOs

are accomplished by using the same format as delivery orders. BDO numbering will be compatible with the NAF electronic purchasing system. (T-2)

10.3.3. Documenting Calls. Calls against BDOs should be documented by the activity using the Call Register located in the NAF electronic purchasing system. Other controls may be established by the Contracting Officer as necessary. Sales slips, invoices, delivery tickets, and other commonly accepted documents may be used by the activity to verify receipt of goods. Discrepancies are noted. Documentation is forwarded to the appropriate paying office to support payment.

10.3.4. Administration of BDO Calls. The activity that placed the call is responsible for follow-up action as it relates to delivery, cancellation, and other related matters. Problems that cannot be resolved are referred to the Contracting Officer.

10.3.5. Payment. Consolidated payments are made on a monthly basis. The specific time and conditions of payment are established within the terms of the BPA. Contracting Officers will ensure BPAs for commodities subject to accelerated payment under the Prompt Payment Act (meat, perishables, etc.) contain appropriate payment provisions. (T-0)

10.4. Reviews. The Contracting Officer will perform an annual review of BPAs and BDOs to monitor compliance and to determine if continuance of the agreement is warranted. (T-2)

Chapter 11

SPECIAL TYPE CONTRACTS AND AGREEMENTS

11.1. Formats. Formats for all special NAF contracts and agreements are maintained in the NAF electronic purchasing system and on the AFNAFPO website: <https://www.afnafpo.afsv.net>. Apply the guidance on the special contracts and agreements discussed in this chapter. Contracting Officers will obtain legal review when a change is made to any of the contract templates. DO NOT include the contractor social security number as a part of the contract or store in the NAF electronic purchasing system. The Privacy Act precludes open access to certain information such as social security numbers. (T-0)

11.2. Entertainment Contracts. Commercial entertainment may be entered into noncompetitively. Contracting with booking agents utilizes the same format prescribed for contracting directly with entertainment acts. Legal review must be obtained for contracts entered into with an agent.

11.3. Aircraft Lease Agreement. The Aero Club cannot operate the leased aircraft until written approval is obtained from AFSVA/SVPC. When approval has been obtained, the Contracting Officer will submit a copy of the completed lease agreement to AFSVA/SVPC for inclusion in the Air Force Insurance Program. (T-2) Extension of leases should be forwarded to AFSVA/SVPC.

11.4. Aero Club Instructor and Mechanic Contracts. These contracts include flight and ground instructors, aircraft and power plant (A&P) mechanics, and inspection authorization inspectors. These contracts may be entered into noncompetitively and paid on an hourly basis.

11.5. Individual Service Contracts (ISC). These contracts may be entered into noncompetitively. Insurance should be considered where unique risks are associated with the services to be performed. These contracts are awarded to specified individuals for their unique skills, experience, or knowledge in performing a service for the NAFI. Consider the Twenty Common Law Factors in **Attachment 2** to determine whether an employer-employee relationship results. Contracts for individual services to a Federal agency are generally exempt from the requirements of the Service Contract Act.

11.5.1. The Contracting Officers will ensure the ISC meets, as a minimum, the following criteria:

11.5.1.1. Only the individual specified on the contract performs the service. Substitutes and/or assistants are not allowed.

11.5.1.2. Payment should be based on a fixed amount or per job basis. Do not pay on a per hour basis or specify a percentage of the fees (except as authorized in paragraph 11.4).

11.5.1.3. The ISC cannot exceed one year.

11.5.1.4. The ISC must not create an employer/employee relationship (e.g., supervision by a government employee).

11.5.2. Rights, benefits, and privileges that NAFI payroll employees accrue do not apply to a person who furnishes services under an ISC.

11.5.3. Do not use ISCs in the following situations:

11.5.3.1. For services that the individual is obligated to provide the NAFI as a result of his or her military or civilian employee position.

11.5.3.2. For construction services.

11.5.3.3. For services by an employee of the activity where performance of the service would create a conflict of interest. Consult with the base legal office for conflict of interest issues.

11.6. Nonpersonal Services. A nonpersonal service contract is negotiated with a contractor (individual, corporation, etc.) for services that do not require unique skills and the individual or individuals performing the service are not specified within the performance work statement of the contract. The Service Contract Labor Standards Act may apply to nonpersonal services (see paragraph 3.4.3). For service contracts that do not exceed \$2,500, the contractor must pay its employees at least minimum wage. (T-0) Service contracts that exceed \$2,500 may require wage rate determinations for various types of service employees. Therefore, service requirements greater than \$2,500 in the aggregate are forwarded to the local Servicing Contracting Office for purchase. The purchase request form and the statement of work are provided to the SCO when establishing nonpersonal service contracts.

11.7. Consignment Contract, Charter Flight/Tour Desk Concessionaire Contract, and Ticket Consignment Agreement. Contracting Officers will obtain a legal review if the prescribed format is changed on any of these contracts. (T-2)

11.8. Concessionaire Contract. One level above the FSS Commander (or equivalent) must approve concessionaire contracts. (T-2) (See AFI 34-101, *Air Force Morale, Welfare, and Recreation (MWR) Programs and Use Eligibility*, paragraph 2.5, for additional guidance.) Concessionaire contracts stipulate a fixed return to the NAFI or provide for a percentage of the income. The gross amount (includes income of both the NAFI and contractor) is used in determining the contract amount. Contracting Officers shall obtain advance approval from the appropriate AFSVA Program Manager before awarding a contract to operate any services activities, or any part thereof. (T-2) All modifications to Air Force real property to meet concessionaire contract operations shall have BCE approval. (T-3)

11.9. Contracting for Training and Education. When NAFs are authorized to contract for vocational training and part-time college level education of NAF personnel, compete training and education needs in excess of \$25,000 among commercial firms or educational institutions, unless a sole source justification is included in the contract file.

11.10. Contracts with Government Employees. Contracts or lease agreements are authorized with military personnel, government employees, or business organizations substantially owned or controlled by government employees, when such contracts or leases are funded solely with NAFs. However, Contracting Officers will obtain a legal review prior to the execution of any such contracts or agreements. (T-2)

11.11. Donations. NAF contracts funded completely with donations do not require competition if the donor specifies the source to be used.

11.12. Purchasing of Advertising. See AFI 34-108, *Commercial Sponsorship and Sale of Advertising*.

11.13. Public-Private Ventures (PPV). PPV contracts/agreements are considered as alternative methods of satisfying capital requirements in excess of \$1 million for Category C MWR activities. PPV arrangements may be used to provide only those services and activities that are within the mission and scope of Morale, Welfare, and Recreation (MWR) programs as authorized in DoDI 1015.13, *Department of Defense Procedures for Implementing Public-Private Ventures (PPV) for Morale, Welfare, and Recreation (MWR), and Armed Services Exchange Category C Revenue-Generating Activities*. MWR services and activities provided through PPV arrangements are limited to authorized patrons (AFI 34-101, *AF MWR Programs and Use Eligibility*).

Chapter 12

CONTACT ADMINISTRATION

12.1. Contract Administration. Contract administration covers actions necessary to ensure compliance with the terms and conditions of the order or contract. It includes, but is not limited to monitoring contractor compliance and the resolution of problems associated with shipments (lost or damaged goods), processing claims, payments, modifications and terminations. A contract generally is considered to be completed when final payment has been made under the contract. Contracting Officers will not modify expired contracts. (T-2) The Contracting Officer is responsible for ensuring contract closeout is accomplished within the electronic purchasing systems. (T-2) NAFIs will notify the AFNAFPO of any contractor associated with the CSBP whose goods or services do not conform to contract terms and conditions. (T-2)

12.2. Inspection, Acceptance, and Receiving Reports. The receiving activity is the authorized representative of the Contracting Officer for the purpose of conducting oversight and acceptance of supplies and services when the contract provides for acceptance and/or inspection at final destination. The receiving activity will accomplish acceptance of goods and services in the NAF electronic purchasing systems within the first business day after delivery. (T-2) When delivery did not occur, the Contracting Officer will perform follow up within a reasonable time (maximum 7 days) after the original delivery date to determine the cause of delay and establish an acceptable delivery date and contractor consideration, as applicable. (T-2) For overseas activities, follow-up requests should be made within 30 days after the delivery date to the stateside port. The delivery date identified on the order/contract for shipments overseas is the required delivery date to the port and not the final destination. If defective or nonconforming supplies are not rejected within the time allowed by the contract, or in the absence of such provision, within a reasonable length of time, the NAFI is considered to have accepted them. If a contractor fails to make delivery after follow-up action, cancellation of the order/contract may be executed if it is in the best interest of the NAFI.

12.2.1. The following actions should be taken whenever a shipment is received:

12.2.1.1. The receiving official should be present when goods are received.

12.2.1.2. The Receiving Official must examine all boxes, cartons, packages, containers, etc., for damage before opening. (T-2) Outside damage may consist of cave-ins, holes, water marks, etc.

12.2.1.3. Inspection of actual goods should consist of at least matching stock numbers, quantity, kind, color, etc., with the contract and any modifications thereto. See [Attachment 3](#) to file claims for the loss of or damage to in-transit NAF property.

12.2.2. The receiving official shall ensure receiving reports include acceptance by signature and date either electronically or manually. (T-2) Sales slips, delivery tickets, Material Inspection and Receiving Report, electronic formats established for receiving, or other forms used commercially or internally are acceptable to verify receipt and acceptance of goods or services. Partial shipments should be processed in a timely manner to ensure payment to the contractor. The receiving official shall ensure payments are made for partial deliveries when authorized by the terms of the award. (T-2)

12.2.3. Proof-of-Shipment Procedure (Overseas only). Under the proof-of-shipment procedure, acceptance occurs when the shipment is received by the common carrier or the government representative at the Consolidation Containerization Point (CCP) or Port of Embarkation (POE). Inspection of goods is waived until receipt at final destination. Payment is made upon receipt of a proper invoice and proof of shipment.

12.3. Termination of Orders or Contracts. Only Contracting Officers are authorized to terminate orders or contracts. The Contracting Officer will obtain legal coordination/review when any termination action is contemplated. (T-2) There are two types of terminations: Termination for Convenience (T for C) and Termination for Default (T for D).

12.3.1. Termination for Convenience occurs when the Contracting Officer determines that such termination is in the best interest of the NAFL. A termination for convenience may involve costs. Any termination costs exceeding the Contracting Officer's warrant authority should be forwarded to the SCO or AFNAFPO for termination action. The parties may mutually agree to a no cost termination or cancellation.

12.3.2. Termination for Default is warranted when the contractor fails to deliver supplies or perform services within the time specified in the contract, when the contractor fails to perform any other provision of the contract, or when the contractor fails to make progress so as to endanger performance of the contract. A termination for default requires sufficient documentation to validate the termination. Before proceeding with a termination for default, the contractor should be issued a cure notice or show cause notice as appropriate. If, after compliance with the procedures in paragraphs 12.3.2.1 or 12.2.3.2, the Contracting Officer determines that a termination for default is proper, the Contracting Officer must refer the proposed final decision to the cognizant legal office for legal advice and coordination with AFLOA/JAQ. Notice of termination must include the contract number and date; the acts or omissions constituting the default; a statement that the contractor's right to proceed further under the contract (or a specified portion of the contract) is terminated; that the supplies or services terminated may be purchased against the contractor's account, and that the contractor is held liable for any excess costs; that the NAFL reserves all rights and remedies provided by law or under the contract, in addition to charging excess costs; and that the contractor has the right to appeal the termination to AFNAFPO. (T-1). The NAFL shall provide a copy of the notice of termination (electronically or in writing) to AFNAFPO. (T-2) A copy of any notice of termination for default with estimated re-procurement costs greater than \$500,000 shall be provided to SAF/AQCA.

12.3.2.1. Cure notice. If a contractor fails to perform other provisions of the contract (such as not furnishing a required performance bond, required certifications, etc.) or so fails to make progress as to endanger performance of the contract, the Contracting Officer shall give the contractor written notice specifying the failure and provide a period of 10 days (or longer period as necessary) in which to cure the failure. (T-2) The Contracting Officer shall issue cure notices by certified mail, return receipt requested. (T-2) Upon expiration of the 10 days (or longer period), the Contracting Officer may issue a notice of termination for default unless it is determined that the failure to perform has been cured.

12.3.2.2. Show cause notice. If the contractor has failed to make delivery of the supplies or to perform the services within the specified time, a notice of failure or notice of the possibility of termination for default is not required to be sent to the contractor before the

actual notice of termination. However, the contractor may be issued a show cause notice. This show cause notice should be sent immediately upon expiration of the delivery period and should state that failure of the contractor to present an explanation may be taken as an admission that no valid explanation exists. The Contracting Officer shall issue show cause notices by certified mail, return receipt requested. (T-2)

12.4. Changes to Award Documents. Only Contracting Officers are authorized to issue modifications to award documents. However, NAF activity personnel who have been delegated the authority by the Contracting Officer to place calls can make changes to calls against BPAs/BDOs provided the change is within the scope of the BPA/BDO. NAF Activity Personnel must ensure NAFs are available or obtained when additional funding is needed. (T-2)

12.4.1. Use the NAF electronic purchasing system to issue modifications or amendments to purchasing documents. If the electronic system is not available, then utilize the, **Amendment of Solicitation/Modification of Contract**, available on the AFNAFPO website. Only the contracting office that issued the order/contract will make all modifications/amendments unless the written authority is delegated to another contracting office. (T-2)

12.4.1.1. Contracting Officers will number modifications/amendments sequentially. (T-2) Contracting Officers will ensure modification/amendment numbering is compatible with the NAF electronic purchasing system. (T-2) Any downward adjustments do not require a modification unless the Contracting Officer deems it is in the best interest of the NAFI.

12.4.1.2. Unilateral/bilateral modifications are determined based on the nature of the change to the order/contract. Unilateral modifications require only the Contracting Officer's signature whereas bilateral modifications require the signature of the Contracting Officer and the contractor's authorized representative. Administrative changes usually can be accomplished with a unilateral modification whereas significant changes such as change in quantity, dollar adjustments, or changes in the delivery schedule require a bilateral modification. Bilateral modifications are prepared and forwarded to the contractor for signature prior to signing by the Contracting Officer.

12.4.2. In the event a NAF contractor makes an allegation of frustration of purpose or breach of contract, that information should be immediately communicated to the chain of command and the servicing legal office with a notification to AFLOA/JAQ.

12.5. Protests. Protests involving NAF contracts (except when issued by an APF buying office) are not subject to the jurisdiction of the U.S. Government Accountability Office (GAO) or courts. AFNAFPO makes determinations on protests for contracts executed centrally. The NAF Contracting Officer will resolve all protests of base level contracts. (T-2) All protests will be reviewed by the servicing legal office prior to a final decision being issued. (T-2)

12.5.1. Protests should be concise and logically presented to facilitate review by the agency. Failure to substantially comply with any of the requirements in the subparagraphs below may be grounds for dismissal of the protest.

12.5.1.1. Protests include the following information:

12.5.1.1.1. Name, address, and fax and telephone numbers of the protester;

12.5.1.1.2. Solicitation or contract number;

12.5.1.1.3. Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester;

12.5.1.1.4. Copies of relevant documents;

12.5.1.1.5. Request for a ruling by the agency; and,

12.5.1.1.6. Statement as to the form of relief requested.

12.5.1.1.7. All information establishing that the protester is an interested party for the purpose of filing a protest.

12.5.1.1.8. All information establishing the timeliness of the protest.

12.5.1.2. All protests filed are addressed to the Contracting Officer or other official designated to receive protests.

12.5.2. Protests prior to award. Protests based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals are filed prior to the time set for receipt of initial proposals. All other protests are filed not later than 10 calendar days after the basis of protest is known or should have been known.

12.5.2.1. When a protest is received prior to the award of a contract, the award will be delayed until the protest (including appeals) is resolved, unless one of the following applies (such determination will be made at one level above the Contracting Officer):

12.5.2.1.1. The supplies or services to be contracted for are urgently required.

12.5.2.1.2. Delivery or performance will be unduly delayed by failure to make a prompt award.

12.5.2.1.3. Expiration of current contract is imminent and continued service is required.

12.5.2.1.4. A timely award will otherwise be advantageous to the NAFI.

12.5.2.2. Before awarding a contract under the above-cited circumstances, written advice of legal counsel shall be obtained and placed in the contract file.

12.5.2.3. The Contracting Officer will determine the merits of the protest as expeditiously as possible. If the Contracting Officer finds that a protest has merit (for example, ambiguous specifications, flawed evaluation process), he or she will promptly take appropriate corrective action. Such possible actions include, among others, the rejection of all proposals and issuance of a new or amended solicitation or using revised specifications or evaluation criteria. In the event of amended solicitations, the scheduled date for receipt of proposals will be extended accordingly. If the resolution of the protest makes previously ineligible offers eligible for award, appropriate notification will be given to the offerors concerned.

12.5.3. Protests after award. To be considered, a protest shall be lodged within 10 calendar days of notification of contract award. When a protest is received by the Contracting Officer after the contract has been awarded, the contract normally will not be terminated. If the

Contracting Officer finds merit in the protest, he or she shall seek legal advice to determine the most appropriate course of action.

12.5.4. The protestor may appeal a protest decision within 10 calendar days of its issuance by AFNAFPO or the base NAF Contracting Officer. Comptroller General decisions and this manual are primary sources of authority for deciding protests.

12.5.5. Decisions issued by NAF Contracting Officers may be appealed to AFNAFPO. AFNAFPO is the final protest appeal authority for protests to the NAF Contracting Officer. Decisions made by AFNAFPO may be appealed to Deputy Assistant Secretary (DAS) (Contracting), SAF/AQC. SAF/AQC is the protest appeal authority for AFNAFPO awarded acquisitions. SAF/AQC's address: 1060 Air Force Pentagon, Washington D.C. 20330-1060.

12.5.6. Appeals of decisions issued by a base NAF Contracting Officer are filed with the executing base's NAF contracting office. The base NAF contracting office will forward the appeal to AFNAFPO, accompanied by a background paper outlining the facts, a copy of the contract and all related documents, and a proposed reply. (T-1) The Director of AF NAF Purchasing is the decision authority on appeals of decisions issued by the base NAF Contracting Officer.

12.6. Claims. The Contracting Officer is responsible for processing contract claims filed against the NAFI. A claim by the contractor must be in writing and submitted to the Contracting Officer for a written decision. Where the claim exceeds \$100,000, the claim shall be certified and signed by a person authorized to bind the contractor. The content of the certification is prescribed by the Disputes Clause in the contract. The Contracting Officer must immediately notify the funds custodian and the Staff Judge Advocate in writing when a claim is filed by a contractor. (T-2) Include in the notification the amount claimed by the contractor. The Contracting Officer must obtain additional funds from the funds custodian before commitment of funds to settle a claim when the amount of available funds on the purchase request would be exceeded. (T-1)

12.6.1. A claim by the Contractor shall be made in writing and submitted to the NAF Contracting Officer for a written decision. A claim by the NAFI against the Contractor shall be subject to a written decision by the NAF Contracting Officer.

12.6.2. For contract claims less than \$100,000, the NAF Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request.

12.6.3. For Contractor-certified claims over \$100,000, the NAF Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made. Prior to making a final decision on a claim, the Contracting Officer must refer the matter to the servicing legal office for advice, ADR suitability, and appropriate dispute resolution strategies. Contracting Officers must use ADR to the maximum extent practicable. (See AFPD 51-12, *Alternative Dispute Resolution*). All proposed final decisions must be reviewed by AFLOA/JAQ.

12.6.4. The NAF Contracting Officer's final decision on claims may be appealed by submitting a written appeal to Armed Services Board of Contract Appeals (ASBCA) with a copy to the Contracting Officer, within 90 days of receipt of the Contracting Officer's final decision. ASBCA decisions are final and are not subject to further appeal.

12.6.4.1. AFLOA/JAQ represents the Air Force in appeals to the ASBCA.

12.6.4.2. If the contractor files an appeal with the ASBCA, the Contracting Officer must notify AFNAFPO and forward to AFLOA/JAQ and the servicing legal office a copy of any notice of appeal to the ASBCA, along with the envelope in which the notice was received. If the contractor files an appeal with the Contracting Officer instead of the ASBCA, the Contracting Officer must immediately notify AFLOA/JAQ of the date the appeal was received and forward to AFLOA/JAQ and the servicing legal office a copy of the appeal and a copy of the envelope in which the appeal was received. The Contracting Officer must forward the original appeal and envelope to AFLOA/JAQ, which will then forward the appeal and envelope to the ASBCA, as necessary.

12.6.4.3. The Contracting Officer must prepare a "Rule 4 file" for any appeal to the ASBCA in accordance with Rule 4 of the ASBCA rules (see DFARS Appendix A, Part 2). The Contracting Officer must consult with AFLOA/JAQ before including in the Rule 4 file any legal opinions or intra-governmental or inter-governmental documents as described in DoD Regulation 5400.7, DoD Freedom of Information Act Program, and FAR 24.2.

12.6.4.4. While an appeal is pending, the Contracting Officer along with the customer and servicing legal office will support the assigned trial attorney as required including; identifying and locating government witnesses, gathering contractual documents and other physical evidence for conferences and hearings necessary to defend or otherwise dispose of an appeal.

12.6.4.5. Once the Rule 4 file is complete, AFLOA/JAQ will file it with the ASBCA on behalf of the Contracting Officer.

12.6.5. All claims will be reported to the Director of NAF Purchasing within 5 business days and AFNAFPO will maintain a record of each claim submitted. NAF Contracting Officers will provide periodic updates to the Director of NAF Purchasing until the claim is settled or appeals have expired.

12.6.6. AFNAFPO must promptly notify SAF/AQC with all known information relating to any proposed final decision on a claim over \$500,000, and provide periodic updates to SAF/AQCA until the claim is settled or appeals have expired.

12.7. NAF Ratification Procedures. At base level, the FSS Commander (or equivalent) may approve ratifications up to and including \$50,000. Ratifications that exceed that amount are forwarded to AFNAFPO for approval. At a minimum, the ratification package will contain the following:

12.7.1. The individual who committed the unauthorized purchase will prepare a detailed statement of facts and a purchase request, then forward to his/her supervisor for review and action. (T-2)

12.7.2. The supervisor will review the statement of facts for adequacy and certify that the item(s)/services were received and used for an authorized purpose; that funds were available at the time the commitment was made; and indicate what actions were taken to prevent recurrence. (T-2) The supervisor will forward all documentation (Employee's Statement of Facts, Supervisor's Certification, Invoice, and funded Purchase Request) to the NAF

Contracting Officer. (T-2) In the event a signed statement from the individual who made the unauthorized commitment cannot be obtained, the supervisor of the individual will explain in writing why the statement is unavailable. (T-2)

12.7.3. The NAF Contracting Officer will review the ratification package for adequacy, prepare the necessary contractual documents, and forward to the servicing legal office for review. (T-2) After legal review, the package is forwarded to the ratifying authority for consideration. If approved by the ratifying authority, the Contracting Officer will sign the contract and make appropriate distribution. (T-2) If the action is not ratified the file includes the method used to resolve the matter.

Chapter 13

ELECTRONIC COMMERCE (EC) IN NAF CONTRACTING

13.1. Electronic Commerce (EC). EC as it applies to NAF contracting means the exchange of contracting information electronically between the NAFI and the private sector. NAF Activities will use the NAF electronic purchasing systems approved by AFNAFPO for purchases. (T-2) All users requiring access to the electronic purchasing systems must be submitted through the NAF base system administrator to verify that the access and authority levels requested in the system correspond to their job duties. Personnel without a specific need to access the electronic purchasing systems will not be granted access.

13.2. Contracting Officer's Signature. Contracting documents generated by automated procurement systems may use an electronic signature to represent the Contracting Officer's authorization of the contract action. This authorization applies to all electronically generated contracting documents, even when EC cannot be completely executed (e.g., some contractors may not be capable of accepting EC). In this situation, the contracting office mails the electronically generated contracting document with the option to sign the hard copy. Contractors may use an electronic signature on contracting documents where applicable. NAF Activities will use EC only if the following conditions are met: (T-2)

13.2.1. Use of personal identification codes to control access to electronic generation software and to permit only the signer use of the digital signature.

13.2.2. Transmission and storage of a discrete electronic symbol to represent the Contracting Officer's signature.

13.2.3. Use of a discrete authentication intended to bind, as a means of verifying the identity of the individual originating the contracting action and to validate transaction content.

13.2.4. The electronic signature is linked to the data in the signed document in such a way that modification of the data would invalidate the signature.

13.2.5. Entering documents by proxy. The NAF electronic purchasing system allows documents such as PRs, orders, and contracts to be created and entered by proxy. Before using this function, Contracting Officers must ensure that documents with original signatures are electronically scanned and attached in the NAF electronic purchasing system. (T-2)

13.3. Electronic Commerce Distribution. EC contracting systems may be used to distribute contractual documents if they transmit all the information contained in the input to the reviewing system and provide an electronic signature in accordance with paragraph 13.2.

13.4. Electronic Creation and Storage of Contract Files. Contracting activities shall create and store contractual documents and files electronically and ensure: (T-2)

13.4.1. Access to document creation software and applications are controlled.

13.4.2. Audit trails of transactions and significant events are maintained.

13.4.3. Electronic documents and files are executed by individuals acting within their authority.

13.4.4. Dates and times of all records and modifications are defined and recorded.

DARLENE J. COSTELLO
Principal Deputy, Office of the Assistant Secretary
of the Air Force (Acquisition & Logistics)

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-12, *Alternative Disputes Resolution*, 9 January 2003

AFPD 64-3, *Nonappropriated Fund Contracting System*, 1 December 2005

AFPD 65-3, *Internal Auditing*, 21 August 2014

AFI 32-1032, *Planning and Programming Appropriated Fund Maintenance, Repair and Construction Projects*, 24 September 2015

AFI 32-7086, *Hazardous Materials Management*, 1 November 24 March 2008

AFI 33-360, *Publication and Forms Management*, 1 December 2015

AFMAN 33-363, *Management of Records*, 1 March 2008

AFI 34-108, *Commercial Sponsorship and Sale of Advertising*, 12 October 2011

AFI 34-201, *Use of Nonappropriated Funds*, 17 June 2002

AFI 34-204, *Property Management*, 27 August 2004

AFI 34-275, *Air Force NAF Government Purchase Card Program*, 23 June 2011

AFI 65-106, *Appropriated Fund Support of Morale, Welfare and Recreation and Nonappropriated Fund Instrumentalities*, 06 May 2009

DoD Directive 4105.67, *Nonappropriated Fund (NAF) Procurement Policy and Procedures*, 26 February 2014

DoD 1401.1-M, *Personnel Policy Manual for Nonappropriated Fund Instrumentalities*, 12/1988

DoD 5500.7-R, *Joint Ethics Regulation*, 17 November 2011

DoDI 7600.6, *Audit of Nonappropriated Fund Instrumentalities (NAFI) and Related Activities*, 5 November 2012

FAR, *Federal Acquisition Regulation*, 2 July 2015

Adopted Forms

SF 182, *Federal Procurement Data System (FPDS) Summary Contract Action Report (\$25,000 or less)*

DD Form 361, *Transportation Discrepancy Report*

DD Form 470, *Cargo Outturn Report*

DD Form 1992, *Message Form*

AF Form 332, *Base Civil Engineer Work Request*

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AAFES—Army and Air Force Exchange Service
AFFARS—Air Force Federal Acquisition Regulation Supplement
AFNAFPO—Air Force Nonappropriated Fund Purchasing Office
AFSVA—Air Force Services Activity
AMC—Air Mobility Command
APF—Appropriated Fund
BCE—Base Civil Engineer
BDO—Blanket Delivery Order
BPA—Blanket Purchasing Agreement
CCP—Consolidation Containerization Point
CSBP—Commander’s Smart Buy Program
DAPS—Defense Automated Printing Service
DFARS—DoD Federal Acquisition Regulation Supplement
DISREP—Discrepancy Report
DO—Delivery Order
DRU—Direct Reporting Unit
EC—Electronic Commerce
EPP—Essential Products Program
FAA—Federal Aviation Administration
FAR—Federal Acquisition Regulation
FOA—Field Operating Agency
FOB—Free On Board
FSS—Force Support Squadron
GAO—Government Accountability Office
GSA—General Services Administration
ISC—Individual Service Contract
MAJCOM—Major Command
MSC—Military Sealift Command
MWR—Morale Welfare & Recreation
NAF—Nonappropriated Fund
NAFI—Nonappropriated Fund Instrumentality

NPA—Nonappropriated Fund Purchasing Agreement

PNM—Price Negotiation Memorandum

PO—Purchase Order

POD—Port of Debarkation

POE—Port of Embarkation

PR—Purchase Request

SAF/AQC—Deputy Assistant Secretary for Acquisitions (Contracting)

SCA—Service Contract Act

SCO—Servicing Contracting Office

SM&W—Special Morale and Welfare

SOW—Statement of Work

Terms

Best Value—The expected outcome of a procurement that, in the NAFI’s estimation, provides the greatest overall benefit in response to the requirement.

Branding—The term and business approach used to enhance an existing concept or operation. Three types of branding include; National Retail Brands, In-house or Signature Brands, and Manufacturer’s Brands. As referenced in this manual, branding is a method or business relationship where a product or service is obtained from a vendor with an identifiable brand name attached. The brand name may be identified with the vendor or the NAFI. Branding may include purchase incentives and ancillary support programs.

Commander's Smart Buy Program—A cooperative purchasing program between installation level NAF activities and the Air Force Nonappropriated Fund Purchasing Office.

Concessionaire Contract—A contract to furnish predetermined goods or services for sale. The concessionaire agrees to pay the NAFI a negotiated percentage of gross sales or set fees.

Construction—The term “construction” means construction, alteration, or repair (including paving, dredging, excavating, and painting) of buildings, structures, or other real property. It does not include the installation of carpet, wall covering, or draperies. Also, it does not include the manufacture, production, furnishing, construction, alteration, repair, processing or assembling of products or other kinds of personal property.

Continental United States (CONUS)—The 48 contiguous states and the District of Columbia, further defined as the United States territory, including adjacent territorial waters, located within the North American Continent between Canada and Mexico.

Contract—An agreement that creates a legal obligation. The elements of a contract are: (1) a mutual agreement; (2) between competent parties; (3) for a legal purpose; (4) involving the exchange of legal consideration; (5) which creates a mutuality of obligation to perform between the parties. The term contract as used in this manual includes, without limitation, formal bilateral contracts, purchase orders, agreements, and modifications as well as other agreements entered into by an authorized Contracting Officer acting within his/her authority.

Contracting Officer—A person authorized in writing, either by appointment or by position, to execute and administer contracts on behalf of a NAFI.

Delivery Order—An order issued against an existing contract.

Essential Products Program (EPP)—Mandatory contracts issued by AFNAFPO.

FOB (Free On Board) Destination—Freight charges are included in the costs of supplies or figured separately as a lump sum. The contractor or carriers are responsible for the risk of loss or damage during shipment.

FOB (Free On Board) Origin—Freight is prepaid and billed separately on invoice by the contractor. Claims for risk of loss or damage are between the NAFI and carrier.

Interior Design Project—A design project involving changes to at least three elements of a room (e.g., carpeting, draperies, lighting, wall art, furniture).

Nonappropriated Fund Instrumentality (NAFI)—An integral DoD organizational entity that performs a government function. It acts in its own name to provide or assist DoD components in providing morale, welfare and recreational programs for military personnel and authorized civilians. As a fiscal entity, it maintains custody and control over its nonappropriated funds. It is not incorporated under the law of any state or of the District of Columbia and it enjoys the legal status of an instrumentality of the United States.

Nonappropriated Fund Purchasing Agreement (NPA)—A fixed priced agreement, against which delivery orders are issued using nonappropriated funds.

Petty Cash—A cash fund of a fixed amount set through an advance of funds, for immediate cash payment of relatively small amounts for authorized buys of goods and services.

Purchase Order—A simplified method to buy goods or services. All necessary terms and conditions are included in the order form, and the price is obtained based on oral or written solicitations. A unilateral purchase order is where the NAFI issues an order for goods or services without express written acceptance of the terms by the vendor. Acceptance occurs when and if the vendor performs according to the order, at which time a binding contract is formed. A bilateral purchase order is where both parties expressly agree to enter into mutual obligations (for NAF contracting, this involves obtaining a vendor's signature on a contract document before performance).

Procurement—Includes, without limitation: purchasing, renting, and leasing of real or personal property; construction (including third party financed projects), renovation and alteration of real property; and obtaining goods, equipment, and services for either direct use of the NAFI or for resale to authorized patrons. Procurement also includes functions such as selection and solicitation of sources, preparation of award of contracts, and all phases of contract administration. Procurement does not include the determination of requirements.

Qualified Source—A contractor who is normally engaged in the type of work or sells, markets, or distributes the product or service requested and from whom a valid quote could be reasonably expected.

Ratification—The act of validating an unauthorized commitment for the purpose of paying for the supplies or services provided to the government as a result of the unauthorized commitment. Unauthorized commitment as used in this document means an agreement that is not binding

solely because the government representative who made it lacked the authority to enter into a contract on behalf of the government.

Real Property—Includes land and any buildings, facilities or improvements thereon.

Request for Proposal (RFP)—A request made to suppliers which communicates NAFI requirements and solicits offers which can be accepted by the Contracting Officer to form a binding contract.

Request for Quotation (RFQ)—Written or oral request for the purpose of obtaining price, delivery, and related information from suppliers.

Resale Item—An item or service purchased to generate revenue, including items whose form may be changed before it is sold to a customer (e.g., carcass beef). Consignment items, prizes, and other revenue generating purchases are treated as resale items as used in this manual.

Servicing Contracting Office (SCO)—A base, central, or regional appropriated fund contracting office supporting one or more installations.

Sole Source—There is only one known source that can provide the goods or services requested.

Source Selection—Formal process employed in procurement of goods and services, consisting of a request for proposal, evaluation of the responses received, short-listing of the most suitable sources, and award of contract or order.

Supplies—All property, except land or interest in land. “Supplies,” as used in this regulation, means the same as “property,” “goods,” or “equipment.”

Synopsis—The publicizing of NAF purchases in the “Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards.”

United States—The “United States” is defined to include any State of the United States, the District of Columbia, Puerto Rico, the US Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnson Island, and Canton Island, but does not include any territory under the jurisdiction of the United States or any US base or possession within a foreign country.

Attachment 2

TWENTY COMMON LAW FACTORS IN INDIVIDUAL SERVICE CONTRACTS

A2.1. Instructions. A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions.

A2.2. Training. Training the worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.

A2.3. Integration. Integration of the worker's services into the overall business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

A2.4. Services Rendered Personally. If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results, and the control factor is satisfied.

A2.5. Continuing Relationship. A continuing and regular relationship between the worker and the person or persons for whom the services are performed indicates that an employer/employee relationship exists. A continuing and regular basis may exist where work is performed at frequently recurring, although irregular intervals.

A2.6. Set Hours Of Work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating and showing necessary control.

A2.7. Doing Work On Employer's Premises. If the work is performed on the premises of the person or persons for whom the services are being performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premise of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvas a territory within a certain time, or to work at specific places as required.

A2.8. Order Or Sequence Set. If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so.

A2.9. Oral Or Written Reports. A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control appropriate for an employee.

A2.10. Payment Of Business And/Or Traveling Expenses. If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

A2.11. Furnishing Of Tools And Materials. The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer/employee relationship.

A2.12. Right To Discharge. The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.

A2.13. Right To Terminate. If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer/employee relationship.

A2.14. Significant Investment. If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from a related party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for which the services are performed for such facilities and accordingly, the existence of an employer/employee relationship. Special scrutiny is required with respect to certain types of facilities such as home offices.

A2.15. Realization Of Profit Or Loss. A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that the worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

A2.16. Working For More Than One Firm At A Time. If a worker performs more than minimal services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.

A2.17. Making Services Available To General Public. The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship.

A2.18. Hiring Supervising, And Paying Assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.

A2.19. Full Time Required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and thereby restricts the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses.

A2.20. Payment By Hour, Week, Month. Payment by the hour, week, or month generally points to an employer/employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor.

Attachment 3

FILING CLAIMS FOR LOSS OF OR DAMAGE TO INTRANSIT NAF PROPERTY

A3.1. Applicability. These instructions apply only to property in transit that is lost or damaged. This refers to the period of time before receipt of the property by the servicing base transportation office or by the NAFI to which the shipment is intended.

A3.2. General Information.

A3.2.1. Claim Exemptions. A claim cannot be filed against:

A3.2.1.1. The government for damage, shortage, or loss of goods when transportation is provided by a DoD military component (for example, US owned vessel, aircraft, or vehicle).

A3.2.1.2. An Air Mobility Command (AMC) contract carrier, unless loss or damage occurs due to willful negligence by the aircraft crew, as provided in the contract with the contract air carrier.

A3.2.2. Free on Board (FOB) Origin Shipments. Transportation charges for FOB origin shipments are prepaid by the contractor and billed as a separate item on the invoice. Title passes to the NAFI when the goods are turned over to the common carrier (freight company) at the point of the carrier's first receipt. Any claims for loss of or damage to goods on this type of shipment are filed against the common carrier (freight company) by the requiring NAFI. The Contracting Officer and the servicing legal office provide assistance in filing such claims. Payment for the goods, including any invoiced contractor prepaid transportation charges, regardless of loss of or damage, are made to the contractor pending settlement of the claim, particularly in any case where delay may result in the loss of any discount.

A3.2.3. FOB Destination Shipments. Transportation charges for FOB destination shipments may be included in the cost of items, quoted as a lump sum amount, or prepaid and billed as a separate item on the invoice for payment. Risks of loss of or damage to goods on this type of shipment are filed against the common carrier by the contractor. The contractor is advised, in writing, through the Contracting Officer, of any discrepancies so that a timely claim can be filed. The NAFRMS must make prompt payment on goods accepted, particularly in any case where delay may result in the loss of a discount. (T-1) The NAFRMS will not make payment for goods before acceptance. (T-1)

A3.3. Claims by Continental United States (CONUS) Activities.

A3.3.1. Claims on FOB-Origin Shipments. Responsibilities of the manager or representative:

A3.3.1.1. Note any damage, shortage, or loss that is not of a concealed nature on the reverse of the carrier's delivery receipt or freight bill, then sign and date the document and obtain the signature of the carrier's representative. Such notations include specific identification of the items determined to be over, short, or damaged, and indicate the current date. A notation, "OVER", "SHORT", or "DAMAGED", with a statement "SEE REVERSE", are stamped or marked on the front of the carrier's delivery receipt or freight bill. The notations also are made and signed on the reverse of the consignee's copy of the carrier's delivery receipt or freight bill.

A3.3.1.2. Contact the common carrier and request inspection of the damaged goods. The carrier may waive inspection of the damaged goods based on the information furnished concerning the extent of observed damage. If inspection is waived, request the carrier to confirm the waiver in writing, and document the file. Obtain a copy of the inspection report when the common carrier sends a representative to inspect the goods. In any event, request disposition instructions from the freight company for the damaged goods when they cannot be used to satisfy the requirement for which they were purchased.

A3.3.1.3. Process claims with the carrier delivering the goods. A copy of the delivery receipt and any inspection report is furnished the carrier (freight company) along with the claim.

A3.3.1.4. Advise the Contracting Officer when replacement items are needed.

A3.3.2. Claims on FOB-Destination Shipments. Responsibilities of the manager or representative:

A3.3.2.1. Indicate any damage, shortage, or loss of goods.

A3.3.2.2. Contact the delivering carrier and request inspection of damaged goods. Obtain a copy of the inspection report when the common carrier sends a representative to inspect the goods. The carrier may waive inspection of the damaged goods based on the information furnished concerning the extent of observed damage. If inspection is waived, request the carrier confirm this waiver in writing, and document the file.

A3.3.2.3. Furnish the contractor through the Contracting Officer, a copy of the carrier's delivery receipt (freight bill) and inspection report or carrier's letter waiving inspection (if available) so the firm can file a claim against the carrier.

A3.3.2.4. The Receiving Official advises the Contracting Officer when replacement items are needed.

A3.3.2.5. Request that the Contracting Officer secure disposition instructions for the damaged goods from the contractor.

A3.4. Claims by Overseas Activities.

A3.4.1. Claims on Overseas Shipments. The ultimate consignee (requiring NAFI) must obtain documentary evidence from DoD transportation personnel to satisfy legal requirements for successful prosecution of valid loss or damage claims. (T-1) Obtain legal assistance from the servicing legal office.

A3.4.2. Claims on FOB Origin Shipments to POE or CCP. A government representative at the POE CCP:

A3.4.2.1. Indicates any damage, shortage, or loss of goods.

A3.4.2.2. Contacts the common carrier, requests inspection and disposition instructions of the damaged goods, and obtains a copy of the inspection report if the common carrier sends a representative to inspect the goods. The carrier may waive inspection of the damaged goods based on the information furnished concerning the extent of observed damage. If inspection is waived, request the carrier confirm the waiver in writing and document the file.

A3.4.2.3. Prepares DD Form 361, **Transportation Discrepancy Report** ("DISREP"), and makes distribution. If a discrepancy reported on a DISREP concerning an overage, shortage, or astray freight is not resolved after 60 calendar days, puts the DISREP package together and makes distribution.

A3.4.2.4. Furnishes a copy of the carrier's delivery receipt, any inspection report, and DISREP, as applicable, to the requiring NAFI so a claim can be filed against the common carrier.

A3.4.3. Claims on FOB-Destination Shipments to POE or CCP. A government representative at the POE or CCP:

A3.4.3.1. Indicates any damage, shortage, or loss of goods.

A3.4.3.2. Contacts the common carrier, requests inspection and disposition instructions of the damaged goods, and obtains a copy of the inspection report if the common carrier sends a representative to inspect the goods. The carrier may waive inspection of the damaged goods based on the information furnished concerning the extent of observed damage. If inspection is waived, request the carrier confirm the waiver in writing and document the file.

A3.4.3.3. Prepares Transportation Discrepancy Report and makes distribution pursuant to AFJI 24-228, Report of Transportation Discrepancies In Shipments. A copy of the common carrier's delivery receipt, any inspection report of damaged goods, and discrepancy report are given to the contractor so the firm can furnish disposition instructions on damaged goods and file a claim against the carrier.

A3.4.4. Military Sealift Command (MSC) Shipments.

A3.4.4.1. Claims for loss of or damage to goods against MSC contract carriers are mainly limited to bulk cargo and break-bulk-type container shipments that are broken down at the port and goods shipped to more than one consignee. Other ocean cargo sea van containers seldom are opened at the Port of Debarkation (POD) unless (i) damage results during shipment, (ii) a broken seal indicates pilferage, or (iii) damage results during off-loading:

A3.4.4.1.1. If a loss of or damage to goods occurs after acceptance at the POE during storage, handling, or loading, DoD transportation personnel prepare and distribute Transportation Discrepancy Report.

A3.4.4.1.2. If a loss of or damage to goods occurs during shipment from the POE or POD or during off-loading, handling, or storage at the POD, DoD transportation personnel prepare and distribute DD Form 470, **Cargo Outturn Report**, and DD Form 361, **Transportation Discrepancy Report**.

A3.4.4.1.3. If loss of or damage to goods is discovered at the base after opening a sealed container and DoD transportation personnel determine that it did not occur during shipment from the POD, then DoD transportation personnel prepare a Transportation Discrepancy Report and make distribution as specified in the regulation.

A3.4.4.2. The ultimate consignee (requiring NAFI) uses the DISREP to document its claim against the MSC contract carrier, stevedoring contractor, or contractor that packed

the container. Claims against a MSC contract carrier or stevedoring contractor are sent to the address provided by the servicing base transportation office.

A3.4.4.3. If loss or damage is due to faulty packaging by the contractor, a claim should be placed against the contractor for the damage, by trained purchasing people, in a fair manner, showing favor to no one person, or group, or business firm, and to the best advantage of the NAFI.