HUD OCIO FEDERAL INFORMATION TECHNOLOGY ACQUISITION REFORM ACT (FITARA) GUIDANCE

Standard Operating Procedure

December 1, 2016

BACKGROUND

The Office of the Chief Information Officer (OCIO) in coordination with the Deputy Secretary and the Office of the Chief Procurement Officer (OCPO) has established policy and guidance to ensure the Department of Housing and Urban Development initiates implementation of the recently signed National Defense Authorization Act legislation, in particular, Subtitle D (Sections 831-837) – Federal Information Technology Acquisition Reform Act (FITARA). http://www.gpo.gov/fdsys/pkg/BILLS-113hr3979enr/pdf/BILLS-113hr3979enr.pdf

FITARA mandates specific authorities for Agency Chief Information Officers, which build upon the responsibilities outlined in the Clinger-Cohen Act of 1996.

Signed on December 14, 2014, the FITARA legislation outlines the roles, responsibilities, and expectations for the Chief Information Officer (CIO) for all covered Departments within the Federal Government. Among others, Section 831 (Chief Information Officer Authority Enhancements) requires the CIO to review and approve contracts and other agreements for all Information Technology (IT) related acquisitions.

Additional guidance was provided under OMB Memorandum, Management and Oversight of Federal Information Technology, M-15-14, dated June 10, 2015. This memorandum provided FITARA implementation guidance to Agencies to allow them to develop their individual Agency instructions and processes.

PURPOSE

The purpose of this HUD OCIO FITARA guidance is to:

1) **Define Information Technology (IT) in relationship to acquisition of IT.**
2) **Publish OCIO/HUD policy to initiate acquisition review compliance with FITARA.**
3) **Provide guidance to HUD Program Areas regarding the procurement of IT products and services.**
4) **Provide OCIO procedures to authorize OCPO Contracting Officers to initiate procurement of IT products and services as defined in this guidance.**

This guidance is provided with the understanding that guidance is continually being developed by the Office of Management and Budget (OMB) and this guidance is subject to change pursuant to receipt of any additional guidance.

DEFINITION OF INFORMATION TECHNOLOGY

The following definition is from the OMB Memo dated June 10, 2015:

Information technology (IT), as used throughout this guidance includes:

Any services or equipment or the personnel that support any part of the lifecycle of those services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

For purposes of this definition, equipment is used by an agency if the equipment is used by the agency directly or is used by a contractor under a contract with the agency that requires:

• Its use; or

• To a significant extent, its use in the performance of a service or the furnishing of a product.

The term "information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services and cloud computing), and related resources.

The term "information technology" does not include any equipment that:

• Is acquired by a contractor incidental to a contract; or

• Contains imbedded IT that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment, such as thermostats or temperature control devices, and medical equipment where IT is integral to its operation, are not information technology.

This definition is based on the definition of information technology found in the Clinger-Cohen Act of 1996.6 Additional definitions used in this memorandum are available in Attachment A.

To establish consistency across IT management and acquisition policies, OMB Circular A-130, OMB Circular A-ll, and the Federal Acquisition Regulation (FAR) will be updated to reflect these definitions of "information technology resources" and "information technology," as appropriate.

Additional Information Technology Identifiers

Federal acquisition processes require that when an entity wishes to sell products/services to the Federal Government they must identity and establish when registering for the System for Acquisition Management (SAM) which NAICS codes the products and services they want to offer are categorized. The North American Industry Classification System (NAICS) was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the United States. NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the old Standard Industrial Classification (SIC) system.

If an acquisition is categorized under a NAICS associated with Information Technology the requirement should be considered an information technology acquisition that must comply with this guidance.

Common Information Technology NAICS include, however this list is not inclusive and Information Technology requirement could be acquired utilizing other NAICS. In addition, non-primary NAICS could be applicable and therefore the overall action may not state a NAICS that listed in this group. Program areas must be cognizant of any Information Technology that may be required in the acquisition, even if it is not the primary reason for the acquisition.

Common IT NAICS

511210/511811/ 518210	IT TECHNICAL CONSULTING SERVICES
541330	ENGINEERING SERVICES
541511	CUSTOM COMPUTER PROGRAMMING SERVICES
541512	COMPUTER SYSTEMS DESIGN SERVICES
541513	COMPUTER FACILITIES MANAGEMENT SERVICES
541519	OTHER COMPUTER RELATED SERVICES
541611	ADMINISTRATIVE MANAGEMENT AND GENERAL MANAGEMENT CONSULTING SERVICES
541618	OTHER MANAGEMENT CONSULTING SERVICES
541690	OTHER SCIENTIFIC AND TECHNICAL CONSULTING SERVICES

Product Service Codes (PSC) is 4 character designators that must also be assigned to each acquisition to support the Federal Procurement Data System (FPDS) to categorize the products and services that are procured by the Federal Government. Information Technology Products and Services PSC's usually begin with a D. However some IT procurements for Professional Support Services may begin with a R. If a PSC that begins with a D is assigned the acquisition is definitely considered Information Technology related. Some PSCs that begin with R may be Information Technology related.

The information on NAICS and PSCs is provided because they can provide further identification indicators and verification that an acquisition is IT related.

IT Service Catalog: Products or services matching descriptions listed in the OCIO IT service catalog (oppservicecenter.hud.gov) are defined as Information Technology.

GUIDANCE

If a requirement is determined under the definitions provided above to be Information Technology related or **include** Information Technology and total contract value is at or above $500,000.00, the Office of the Chief Information Officer (OCIO) must approve the procurement of the requirement and that approval shall be obtained utilizing the procedures established by this guidance. However, Program Organization leadership will be responsible for the review and approval of all actions with an IT component less than $500K and shall document in the Acquisition Plan that the acquisition is in the best interest of the Government and consistent with the stated IT goals and directives of the Agency.

OCIO Review and Approval of IT Related Procurements

The CIO is required under FITARA to review and approve all IT related acquisitions. This includes acquisition by contract, task order, or Inter Agency Agreement (IAA). Requirements defined as information technology or including information technology and total contract value is at or above $500,000.00 shall be submitted to the OCIO for review and approval. If the requirement is approved for procurement the approval shall be considered OCIO clearance and verification of compliance with FITARA requirements and will authorize OCPO to proceed with the procurement. During the Annual Strategic Acquisition Planning (ASAP) process, program offices will identify all Annual Procurement Plans (APPs) that include any IT component by checking the FITARA box. The Contracting Officer will invite an OCIO representative, normally the Customer Relationship Coordinator (CRC) to all OCIO Integrated Acquisition Team (IAT) meetings and all Program Office (IAT) meeting that meet the review criteria stated above.

OCIO review should be facilitated in the planning process through the Customer Relationship Coordinator (CRC). The CRC should be consulted during the program office requirement determination process. The CRC representative should help the program determine the best overall solution, including review of the IT service catalog prior to acquisition document development. If an acquisition solution is required, the CRC shall help the customer prepare the package for formal submission. This should prevent the submission of incomplete packages and facilitate the development of an optimal solution.

When a Program Area develops an IT requirement which will be satisfied through an acquisition and exceeds the established threshold the Program area shall prepare a requisition and submit the following documents in ARC PRISM and shall check the FITARA box in ARC PRISM indicating that the procurement has an Information Technology component that exceeds the established threshold. This also includes unplanned actions that were not included in the ASAP process. Documents to be submitted to OCIO for review and clearance:

1. Statement of Work (SOW)/Performance Work Statement (PWS)/Statement of Objectives (SOO; and/or Commercial Item Quote)
2. Independent Government Cost Estimate (IGCE) that includes estimate with a breakdown of the IT portion dollar value
3. Acquisition Plan (if required by OCPO) or proposed acquisition strategy (if AP is not required)
4. Market Research Report
5. Request for CIO approval (Attachment A)

ARC PRISM will route the requisition to the appropriate personnel in OCIO who will review the documents with the objective to determine the following:

1. Appropriateness of the IT related portion of work statement
2. Appropriateness of the IT related requirements with respect to the mission and business objectives supported by the IT Strategic Plan
3. Appropriateness of contract type for IT related resources
4. Suitability/compatibility, affordability, security, and IT governance compliance
5. Application of suitable incremental development principles (if applicable)

The CIO will be the approving authority; however the following positions have been delegated approval authority:

1) Deputy Chief Information Officer (DCIO)
2) Customer Relationship Coordinator

These personnel may utilize additional OCIO staff to provide subject matter expertise (SME) to determine if the requirement should be approved; however, this utilization shall be minimized to limit competition sensitive information to as few individuals as necessary to properly review and the proper non-disclosure documents should be obtained and provided to the contracting officer. Contractor personnel shall not be utilized to review requirements unless the appropriate non-disclosure certifications have been properly obtained and advance approval is obtained from the Contracting Officer.

The OCIO central point of contact will be Esseck Martin or Janice Ausby.

Upon review, if OCIO determines the acquisition is compliant and can proceed, OCIO will approve the requirement in ARC PRISM which signifies to the Contracting Officer that formal contracting procedures by OCPO can begin.

If the OCIO determines that the acquisition does not meet the standards for approval they shall inform the requesting organization and if necessary schedule a review meeting with the appropriate personnel from the OCIO and the requesting organization. The OCIO will ensure they can support this meeting within 10 business days of non-approval. Concerns and alternatives shall be discussed during this review to determine what changes, if possible, that must occur for the procurement to meet the required standards for OCIO approval.   If the issues that resulted in non-approval are mitigated, the requisition will be re-routed in ARC PRISM with the appropriate mitigation changes detailed in the acquisition documents. OCIO will then approve the requisition in ARC PRISM within 10 business days of receipt of the new documents with the corresponding changes that mitigated the concerns that resulted in non-approval.

If the requirement is not approved by OCIO the requisition shall not be formally submitted to OCPO in ARC PRISM and OCPO shall not initiate procurement actions on the requirement.

OCPO shall not process an IT acquisition as defined in this guidance without approval from OCIO.

OCIO approval is not required for specific steps in the contracting process such as the evaluation of offers, including price reasonableness, the responsibility of sources, or selection of an awardee.

OCPO REQUEST ROR OCIO REVIEW

If the contracting officer reviews a non-FITARA designated requisition and has reason to believe the requirement does contain an IT component exceeding the SAT threshold the CO will route the requisition in ARC PRISM to OCIO for determination and if appropriate approval. OCIO will follow the same review process established previously in this document.

Attachment A

<p style="text-align:center;">**REQUESTING CIO APPROVAL FOR IT ACQUISITION**</p>

<p style="text-align:center;">**MEMO TEMPLATE**</p>

MEMORANDUM FOR: [**Name**], Chief Information Officer

FROM: [**Name**], General Deputy Assistant Secretary or Equivalent

SUBJECT: Request for CIO Approval of IT Acquisition

In accordance with the Office of the Chief Information Officer (OCIO) and the Office of the Chief Procurement Officer's (OCPO's) Acquisition Instruction (AI) entitled Implementing FITARA, this memorandum formally requests approval from the Chief Information Officer (CIO) to proceed with the following acquisition that contains Information Technology (IT) components exceeding the $500,000 threshold.

The following represents a description of the IT components of the acquisition (work statement is attached):

[**Provide a narrative write-up here that describes the IT components of the acquisition and attach the work statement for the acquisition.]**

The Government estimate associated with the IT components of the acquisition is **$_____.**

The following represents the compelling reason(s) this acquisition should be approved and is necessary to the mission of the Department:

[**Provide a narrative write-up here of the compelling reasons and other alternatives considered.]**

The following explains the program office's plan to:

- Monitor the risk associated with the IT component(s) of the acquisition;
- Notify the CIO when risk elevates to medium/high; and
- Mitigate risk so that it does not reach a rating of high.

(NOTE: In responding to the above, please consider the following:

Risk is usually identified under technical, cost, and schedule. The basic determination of risk level can be identified utilizing the following (probability should also be applied based on risk plan of requirement):

> *LOW: Minimal or low impact or minor reduction in performance or schedule slip, or cost increase is less than 1%;*

MEDIUM: Moderate reduction in performance, or 1 to 2-month schedule slip, or 1 to 4% cost increase;

HIGH: Significant degradation in performance, or greater than a 2-month schedule slip or greater than 5% cost increase.)

Please find below the response by the CIO associated with this request:

Approved:_____ _____

          Name, Chief Information Officer   Date

FUNDING SOURCE (circle one): IT FUND   PROGRAM FUND

Disapproved: _____ _____

          [Name], Chief Information Officer   [Date]

REASON FOR DISAPPROVAL:

Internal OCIO Distribution:						
Identification Lines:						
Comment:						
Correspondence Code	Originator OCIO CRC	Concurrence OCIO CTO	Concurrence OCIO EA	Concurrence OCIO Security	Concurrence OCIO ITIM	Concurrence
Name						
Date						