Memorandum

Date: October 31, 2018

From: Deputy Senior Procurement Executive

Subj: VA Procurement Policy Memorandum (PPM) 2018-07 (Revised OCT 2018) – Acquisition of Utility Services (VIEWS 00106798)

To: Heads of the Contracting Activities

1. Purpose. The purpose of this PPM is to provide guidance to the VA acquisition community on acquiring utility services in accordance with the Federal Acquisition Regulation (FAR) part 41.

2. Background. FAR part 41 prescribes standard policies, procedures, and contract format for the acquisition of utility services for the federal government. This PPM provides guidance to enable VA-wide consistency and FAR compliance when acquiring both regulated and unregulated utilities. In all cases, purchase of utilities must be made using contract vehicles as prescribed in FAR part 41, and FAR part 13 when applicable as described below in paragraph 6 (unless circumstances in FAR 41.202(c)(2) apply).

3. Effective Date. Immediately.

4. Expiration Date. This PPM expires once incorporated into the VA Acquisition Regulation (VAAR) or the VA Acquisition Manual (VAAM), or unless otherwise rescinded.

5. Applicability. This policy applies to all actions to acquire utility services from regulated and unregulated suppliers, including connection charges and termination liabilities as prescribed in FAR 41.102.

6. Action Required. VA Contracting Officers (CO) and other VA acquisition professionals involved in acquisition of utility services shall comply with this PPM.

   a. COs shall ensure compliance with the procedures and requirements of FAR subpart 41.2, to include acquisition planning, market research, use of the appropriate specified contracting method found at FAR 41.202(b) and (c), as well as compliance with other statutory programs, as appropriate.

   b. If the utility company has an existing General Services Administration (GSA) Areawide Public Utility Contract (AWPUC), agencies shall use the AWPUC and place orders (authorizations) in accordance with FAR 41.204(c), unless the service is available from more than one supplier, or the head of contracting activity determines that use of AWPUC is not advantageous to the Government. Orders (authorizations) may be issued for up to ten years, regardless of when the AWPUC expires.
c. A delegation of authority request to GSA shall be completed for any utility requirement, excluding connection charges, with a performance period exceeding one year, but not exceeding ten years, when no AWPUC is available, pursuant to FAR 41.103(b). Contracting pursuant to this delegated authority (i.e., GSA or for connection charges) shall be consistent with the requirements of FAR part 41 and this PPM. No delegation of authority is necessary for orders placed against AWPUCs, or for requirements with a performance period of one year or less.

d. In accordance with FAR 41.205, in the absence of an AWPUC or interagency agreement, agencies shall acquire utility services by separate contract subject to FAR part 41.

e. For utility services with an annual cost estimated above the simplified acquisition threshold (SAT), COs shall acquire the utility service by a bilateral written contract, pursuant to FAR 41.201(b). The CO shall review and complete the documents submitted by the customer, to include the applicable market research, acquisition plan, and justification and approval. If a utility supplier refuses to sign or execute a tendered contract, then pursuant to FAR 41.202(c)(1), and in accordance with FAR 13.302, a purchase order shall be issued to not require a contractor’s written acceptance.

f. For utility services with an annual cost estimated to be at or below the SAT, COs shall issue a purchase order to the utility provider for the annual estimated cost, in accordance with FAR Part 13. The documentation requirements at FAR 41.202(c), (d), and (e), do not apply.

g. All solicitations and contracts for utility services shall contain the provisions and clauses as prescribed at FAR 41.501, and any other applicable provisions and clauses. See FAR 52.301 Solicitation provisions and contract clauses (Matrix).

h. Contracts, purchase orders, and modifications shall contain the applicable rate schedule, pursuant to FAR 41.601(b).

i. When a utility supplier refuses to execute a tendered contract as outlined in 41.201(b), COs will ensure compliance with FAR 41.202(c), (d), and (e) requirements.

j. COs shall use the appropriate forms prescribed in FAR 41.601, and create the applicable form in the department’s contracting writing system to ensure proper Federal Procurement Data System-Next Generation reporting.

k. COs shall conduct monthly and/or annual reviews of utilities acquisition invoices in accordance with the requirements of FAR 41.401, shall document findings, and take corrective action as needed.
7. Questions or Concerns. Please direct questions regarding this Procurement Memorandum to the Office of Acquisition and Logistics, Procurement Policy and Warrant Management Service (003A2A), at (202) 632-5288, or email at: VA.Procurement.Policy@va.gov.

/S/

D. Edward Keller, Jr.