



# NATIONAL HEADQUARTERS CIVIL AIR PATROL

## CAP REGULATION 70-1

1 OCTOBER 2013

### Contracting Management

## CIVIL AIR PATROL ACQUISITION REGULATION

This regulation provides direction for acquisition matters including dealing with vendors, limiting competition, delegation of authority, authorization to negotiate lodging contracts and guidance for negotiating, awarding and administering facility projects. This regulation is applicable to all CAP members and employees.

### SUMMARY OF CHANGES.

Addresses contracting procedures to be followed by wings and regions, provides a definition for the term “obligation” and describes methods for retaining contract files. **Note: Shaded areas identify new or revised material.**

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Supersedes CAPR 70-1, 28 November 2012 cc.

Distribution: National CAP website.

OPR: LGC

Pages: 13

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## Part 1 – General and Administrative

**1-1. Descriptions/Specifications.** Whenever practical, describe technical requirements in terms of desired functions/capabilities including range of acceptable characteristics or minimum acceptable standards. To the extent practical and economically feasible, define requirements using metric system and specify products that conserve natural resources, protect the environment and are energy efficient.

**1-2. Purchases.** Splitting requirements to avoid thresholds noted below is prohibited. CAP employees are not eligible to receive purchase orders (PO) or contracts. This does not extend to CAP members working from their place of business provided they receive no preferential treatment.

**a. Under \$150,000.** Provide NHQ/LGC with description/specification of required item or service together with suggested sources through Navision. NHQ/LGC solicits pricing from one or more sources and makes award using the method most suitable to the purchase, i.e., credit card, purchase order or contract.

**b. Over \$150,000.** Provide NHQ/LGC with description/specification of required item or service together with suggested sources through Navision or, if approved by NHQ/LGC, via e-mail. NHQ/LGC prepares and issues a solicitation to as many sources as practical and allows sufficient time for prospective offerors to prepare and submit their offers.

**c. Construction.** Purchases involving construction, repair, alteration or maintenance to federal Real Property, i.e., buildings, parking lots, etc., using federal funds may require inclusion of the Davis Bacon Act and related provisions.

### 1-3. Processing Purchases.

**a. Corporate Credit Card.** May be used in accordance with NHQ policy.

**b. Simplified Purchases.** (Generally under \$150,000). Routine purchases processed in NHQ/LGC not involving complex requirements or evaluation factors; competition at buyer discretion. Normally completed within 5 - 10 business days using either credit card or purchase orders.

**c. Commercial Off-The-Shelf (COTS).** (Generally between \$150,000 and \$5.0 Million). Routine purchases not involving complex requirements or evaluation factors. Items must be COTS with little or no CAP specific changes; may include computers, printers, office equipment/furnishings, etc. Full and open competition required unless Brand Name or Sole Source is approved. Normally completed in NHQ/LGC within 20-30 business days.

**d. Contract Purchases.** (Generally \$150,000 and up and/or long term procurements). Contain detailed or complex requirements and/or multiple evaluation factors. Also includes Indefinite Delivery – Indefinite Quantity (IDIQ) contracts for recurring requirements. Full and open competition required unless Brand Name or Sole Source is approved. Normally completed in NHQ/LGC within 30-60 business days.

**e. Obligations.** An Obligation (credit card, PO or contract) is required prior to authorizing a vendor to proceed.

**Note:** Completion times do not include either processing time in Navision or delivery time.

**1-4. Requisitioning.** Requestor is responsible for obtaining all required approvals for their purchase request. Requests are submitted to NHQ/LGC in one of two ways.

**a. Navision.** Prepare and submit requisition to NHQ/LGC through Navision. Address questions about the system to NHQ/FMB.

**b. Off – Line.** Generally used with NHQ/LGC concurrence to initiate actions that result in contracts.

**1-5. Advance Planning.** Requestors notify NHQ/LGC as far in advance as possible of upcoming requirements exceeding \$150,000. This allows the parties to meet and work out a procurement strategy, including evaluation method (see Weighted Evaluation Factors for Award).

**1-6. Lease vs. Purchase.** Where appropriate, requestors should conduct lease vs. purchase analysis to determine the most practical and cost effective use of resources. Provide a copy of the analysis to NHQ/LGC.

**1-7. Weighted Evaluation Factors for Award.**

**a.** In some cases, price alone is not sufficient to determine award of a contract. NHQ/LGC and the requestor meet prior to issuing the solicitation and discuss factors which will influence award. Once agreement is reached on the factors, NHQ/LGC and the requestor assign point values to each to represent their importance during the evaluation phase. Among those considered are:

- (1) Price\*
- (2) Past Performance\*
- (3) Business status – small, large, minority or woman owned, etc.\*
- (4) Technical requirements
- (5) Delivery or performance

\*Mandatory

**b.** Once factors are identified, weighted and included in the solicitation, they must be followed to determine which vendor receives the award.

**1-8. Delinquent Supplies or Services.** Requestors notify NHQ/LGC when supplies or services are not received on time. E-mail notification is preferred. Specify the PO number and what is overdue.

**1-9. Receiving Supplies, Services or Equipment.**

**a.** Timely processing of receipt for property or services is essential to maintaining good vendor relations.

**b.** Requestor or designated representative is responsible for receiving actions including:

- (1) Verify quality
- (2) Verify services were correctly performed

- (3) Verify quantities
  - (4) Verify price on invoice to price on order/contract
  - (5) Report problems to NHQ/LGC
- c. To acknowledge receipt of property or services, use signed pdf copy of the PO/contract form furnished by NHQ/LGC, annotate "Received," sign and date, and submit to FM.
  - d. If shipment or service is partial, annotate "Partial Received," circle item(s) received, annotate quantity received, sign and date the PO/Contract form and submit to FM.
  - e. If item(s) received has a unit cost in excess of \$500.00, notify NHQ/LGS.

**1-10. Contract files.** Contracting may maintain files in hardcopy or digital format or a combination of both.

## **Part 2 – Limiting Competition**

**2-1.** Requestors may initiate justification to limit competition. Justification for limited competition is either brand name or sole source.

**2-2. Brand Name.** Use when a request must be restricted to a single brand sold by multiple sources. Prepare justification in e-mail format and include the total estimated amount of the purchase. Submit justification to NHQ/LGC for approval. Possible reasons for limiting a purchase to a single brand include:

- (1) Integration with existing equipment.
- (2) Cost avoidance for training or maintaining a second stock.
- (3) Safety of Flight.
- (4) User familiarity with existing equipment (standardization).
- (5) Other reasons where restriction to a single brand is clearly in the best interests of CAP.

**2-3. Sole Source.** Use when a request must be restricted to a single company. Prepare justification in e-mail format, including the total estimated amount of the purchase and submit to NHQ/LGC for review and submission to NHQ/LG for approval. Possible reasons for limiting a purchase to a single source include those for Brand Name and:

- a. Only known source capable of providing item or service
- b. Continuity of service
- c. Other reasons i.e., time constraints, where restriction to a single brand is clearly in the best interests of CAP, etc.

## **Part 3 – Delegation of Acquisition Authority**

**3-1.** Chief Operating Officer or his/her designee(s) have authority to obligate CAP without regard to dollar limit.

**3-2.** NHQ Chief, Contracting Management has authority to obligate CAP except:

- a. Purchases are limited to \$5.0 Million.

- b. Ratifications
- c. Sole Source approvals

**3-3. NHQ Contracting Technician has authority to obligate CAP except:**

a. Purchases are limited to \$150,000 except limit is \$1.0 Million per transaction for Commercial Items and orders against pre-priced IDIQ contracts.

- b. Ratifications.
- c. Sole Source approvals.
- d. Brand Name approvals.

**3-4.** NHQ Chief Aircraft Maintenance and Chief Transportation Management are authorized to issue purchase orders up to \$25,000 for aircraft and vehicle parts, maintenance and repair work.

**3-5.** CAP Directors and Program Managers are authorized to negotiate contracts for lodging, meals and related services for special events.

- a. Compete contracts to the maximum extent practical.
- b. Submit contracts to NHQ/LGC for review prior to signature.
- c. Contracts requiring payment by NHQ require a funded purchase request through Navision and authorized signature by NHQ/LGC or higher prior to the event.

**3-6.** CAP wing and region commanders are not to be burdened with contracting responsibilities but are instead to focus on mission activities and day-to-day leadership of their regions and wings. In order to facilitate this pursuit, all contracts will be coordinated through NHQ prior to signing.

a. By definition a contract is an agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as consideration. A contract requires the following components: 1) an proposal or offer; 2) acceptance of that offer meaning all parties are in agreement; 3) a pledge to perform; 4) a consideration of value (which could be a promise or payment in some form); 5) a commitment to a time or event when performance occur; 6) terms and conditions for performance, including fulfilling promises; 7) performance.

b. Examples of contracts we might expect to see in CAP include: hangar rent, conference and encampment agreements, storage facilities, catering, annual pest control, internet, DJ service, copier service agreements, building improvements, leases for buildings or repeaters sites, insurance, loans and copier leases. This list is not all inclusive and when in doubt wings are instructed to contact their wing financial analyst or the National Headquarters staff for guidance.

c. Use of a credit card to purchase office supplies or to fund professional development does not represent a contract.

d. To submit proposed contracts to NHQ for centralized review and signing of documents, the wing/region/unit shall submit a copy of the proposal electronically through

*Sertifi* for Finance Committee approval. The approved *Sertifi* document with electronic signatures will then be forwarded, prior to being obligated, (signing of the contract) to General Counsel at [GC@capnhq.gov](mailto:GC@capnhq.gov). General Counsel will coordinate with LGC (Logistics/Contracting) and, when necessary, Financial Management. Finally, after the appropriate centralized NHQ coordination and approval has been accomplished, and at the discretion of the General Counsel, authority to sign the contract may be delegated to the region or wing level on a case-by- case basis. Credit card transactions are not subject to this review.

e. Disputes and disagreement that may arise during the review and approval process will be resolved through consultation between the Chief Executive Officer and the Chief Operating Officer. The resultant decision will be final.

#### **Part 4 – Sale of Assets**

**4-1.** Definition: Assets are items or equipment purchased with government or corporate funds.

**4-2.** CAP may sell assets either through trade-in, auction, broker or bid. NHQ/LGC is the authorized agent and uses one of the methods below:

a. **Trade – In.** When procuring new or replacement items, CAP may use existing assets to reduce the overall price paid.

b. **Auction.** CAP may offer items for sale through various electronic auction sites. The rules of the site are followed.

c. **Broker.** CAP may purchase broker services to dispose of assets.

d. **Bid.** CAP may sell assets through bid sale.

**4-3.** Requestor must submit CAP-USAF approval for sale of grant-funded equipment prior to any action.

#### **Part 5 – Dealing with Vendors**

**5-1.** Use caution when dealing with potential vendors. This is especially true when developing descriptions/specifications for a purchase. Regulations prohibit CAP from soliciting or awarding a contract to a vendor who assists in development of the descriptions/specifications for the procurement. That’s because the vendor will tailor what they prepare to their particular brand.

**5-2.** Vendor websites are excellent sources of information for learning about availability and getting estimated prices without having direct contact.

**5-3.** Refrain from negotiating pricing or “deals” with vendors in advance of the actual purchase.

**5-4.** Refrain from contact with vendors once requirement is in NHQ/LGC.

**5-5.** CAP considers vendor pricing to be proprietary; do not discuss or reveal vendor pricing without prior written approval of the vendor.

**Part 6 – Unauthorized Purchase Actions**

**6-1.** Purchases except those supported by corporate credit card or by personnel other than those listed in Delegation of Authority are not authorized. DO NOT submit a request through Navision for an unauthorized purchase until told to do so by NHQ/LGC. Failure to comply could result in duplicate orders and/or the individual becoming personally liable to the vendor for the incurred cost.

**6-2.** NHQ/LG may ratify unauthorized purchases provided the following conditions are met:

- a. Funds are available.
- b. Required approvals were obtained prior to the purchase.
- c. Price is fair and reasonable.
- d. Purchase was necessary to support a legitimate CAP activity.
- e. Purchase is legal.

**6-3.** To obtain ratification, the individual who made the purchase prepares written justification (e-mail is acceptable) with “Ratification” in the Subject line addressed to their Department Director. Justification must include:

- a. Description of item(s) or services purchased.
- b. Price(s) agreed to with vendor.
- c. Vendor name, address and point of contact.
- d. Detailed explanation for failure to follow established procedures.

**6-4.** The Director forwards the e-mail to NHQ/LGC with the following:

- a. Copies of required approvals attached.
- b. Confirmation that funds are available in the department budget to support the purchase.
- c. A statement that the purchase was necessary to support a legitimate CAP activity.
- d. What disciplinary action was considered or taken.
- e. What action(s) were taken to prevent recurrence.

**6-5.** NHQ/LGC reviews submission, makes recommendation and submits to LG and EX for review and Approval/Disapproval.

a. If approved, department receives approval notice from NHQ/LGC and submits purchase request through Navision.

b. If disapproved, department receives disapproval from NHQ/LGC and the individual makes restitution to the vendor.

**Part 7 – Standards of Conduct**

**7-1.** Standards of Conduct are established by CAP directives.

## **Part 8 – Product Demonstrations**

**8-1.** Definition: A temporary, no-cost or liability loan of an item to CAP to test for suitability.

**8-2.** Any vendor proposing a product demonstration must complete the Save and Hold Harmless Agreement shown at Attachment 1.

**8-3.** As a general rule, limit product demonstrations to a maximum of 30 days. A longer period requires NHQ/LGC or higher review and approval.

**8-4.** Product demonstrations shall not be used to compensate for funding or equipment shortfalls.

**8-5.** Items may be purchased in place after the demonstration, provided they were new when placed or the director signs a waiver.

**8-6.** All product demonstrations require approval by region/wing commanders or those with CAP contracting authority.

## **Part 9 – Facilities Projects**

### **9-1. Definitions.**

**a.** Facilities Projects/Construction: New building or renovation of real property, whether owned or leased.

**b.** Owner: Civil Air Patrol.

**c.** A-E: Architect – Engineer firms that design, bid, and manage projects.

**d.** Fee: The amount charged by the A-E for services; normally expressed as a percentage of the estimated total cost of the project.

**e.** Project File: Folder or binder in which all documents related to the project are filed.

**f.** Additive Items: Desired project features for which funding is uncertain.

**g.** Deductive Items: Prioritized list of bid items to be deducted from the project if sufficient funds are not available.

**h.** Commander: Region/wing commander or designated representative.

**9-2.** Commander submits projects estimated to exceed \$5,000 to the General Counsel for review and recommendation for the Chief Operating Officer's approval and then to NHQ/FM for processing. The dollar limitation includes both the A-E fee and construction cost. Commander must show the following:

**a.** Availability of funds.

**b.** Fund raising promotional materials are accurate, truthful, and comply with the law.

**c.** A reasonable and realistic construction budget.

**d.** A favorable cost/benefit analysis, i.e., a \$1.0 million project on land leased for 5 years with structures reverting to landowner would likely not pass scrutiny.

**e.** CAP personnel responsible for project management are committed, qualified and competent and either have sufficiently qualified volunteers (not associated with either the A-E or construction contractor) to design and manage the project or are supplemented by an A-E contractor.



- f. Funds are available for recurring facility maintenance.

**9-3. Projects less than \$5,000.**

- a. Selecting A-E firm.

(1) The commander contacts at least three firms capable of designing, bidding, and managing the project.

(2) CAP members or their firms need not be excluded from the selection process. They cannot receive favorable treatment. They cannot be the commander, or designee, who will make project selections or project management decisions.

(3) Use local Chamber of Commerce, Yellow Pages, or other means to identify firms.

b. Commander prepares a short summary of the project, including purpose, estimated cost, approximate dimensions, amenities, etc. Summary includes plans of facilities undergoing renovation. Commander delivers them to the selected firms for review.

- c. Commander interviews each firm to determine their capabilities and will:

(1) Get written references from owners of similar projects.

(2) Get fee.

**9-4.** After checking references, commander selects the firm best suited to the project.

**9-5.** Commander documents all actions in writing and retains in project file.

**9-6.** Awarding a contract.

a. Commander has the A-E prepare the contract. The American Institute of Architects AIA document B151 is suitable for this purpose. The contract must include:

(1) Fee and payment schedule.

(2) Completion time for design.

(3) Architect-Engineer Clauses at Attachment 2.

(4) Responsibilities of the parties.

(5) Scope of A-E basic services.

(6) Owner responsibilities.

(7) Provisions covering disputes, terminations, etc.

b. Commander submits contract to NHQ/LGC for contract and legal review.

c. Commander obtains signatures after review is completed.

**9-7. Funding.**

a. Projects containing state or local funds may have restrictions. The A-E can determine what, if any, state or local restrictions exist.

b. Commander cannot award contracts for more than the actual amount of funds available at the time of award.

(1) If full project funding is not available, use Additive/Deductive items. Attachment 3 contains the necessary language.

(2) Include provision allowing Owner to add/restore Additive/Deductive items to the contract should additional funding become available after contract award. This authority should expire at or near but not after contract completion.

c. Commander is responsible for timely payment of all obligations.

#### **9-8. Bonding.**

a. Inclusion of a requirement for Bid, Payment, and Performance Bonds in construction projects is highly recommended. Consult with A-E on whether to include bonding.

b. Bid Bond is submitted by the bidder with their bid. It guarantees bidder will obtain Payment and Performance Bonds if selected for award. Bond is forfeited if bidder fails to secure the required bonds.

c. Payment Bond guarantees payment to workers, subcontractors, and suppliers. It protects Owner from liens in the event of nonpayment by contractor.

d. Performance Bond guarantees contractor performance. In the event of Default, bonding company takes over and finishes the project.

#### **9-9. Contract Administration.**

a. Commander administers contract with A-E firm. A-E firm awards and administers construction contract on behalf of CAP. Commander retains copies of both contracts, including changes, in the project file.

b. Commander should view project site and consult with A-E prior to approving progress payments for the contractor. Commander prepares memo of the inspection and A-E consult and places them in the project file.

c. Commander prepares and files other memos as required to document important contractual events, i.e., meetings, negotiations, etc.

d. Commander files all contract related correspondence in the project file.

e. Commander obtains and files a copy of all warranties.

f. Commander obtains a lien release from the A-E prior to making final payment.

**9-10. Project File.** Retain project files IAW CAPR 10-2, *Files Maintenance and Records Disposition*.

CHARLES L. CARR, JR.  
Major General, CAP  
Commander

**Attachment 1 – Save and Hold Harmless Agreement**

**PRODUCT DEMONSTRATION**

**SAVE AND HOLD HARMLESS AGREEMENT**

*(insert company name)*, hereinafter referred to as vendor, agrees that the Civil Air Patrol, it’s officers, employees and members, hereinafter referred to as CAP, are under no obligation now or in the future to purchase any product covered by this agreement.

The vendor agrees to save and hold harmless CAP from any and all costs associated with the demonstration, including those arising from damage or theft.

The parties agree the demonstration shall commence on *(insert date)* and end on *(insert date)*.  
NOTE: Any period longer than 30 days requires written justification from the receiver and NHQ/LGC approval.

**Description of Product covered by this agreement:**

*(Include make, model and serial number of equipment, condition, i.e., new, reconditioned, used, good, fair, etc., and make note of any dents marks or other flaws or blemishes.)*

\_\_\_\_\_  
**VENDOR SIGNATURE**

\_\_\_\_\_  
**CAP SIGNATURE**

\_\_\_\_\_  
**PRINTED NAME**

\_\_\_\_\_  
**PRINTED NAME**

\_\_\_\_\_  
**ADDRESS**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**CITY, STATE, AND ZIP**

\_\_\_\_\_  
**TELEPHONE NUMBER**

\_\_\_\_\_  
**TELEPHONE NUMBER**

\_\_\_\_\_  
**NHQ/LGC APPROVAL (IF REQUIRED)**

## **Attachment 2 – Architect-Engineer Clauses**

**Liability for Costs Resulting From Design Errors or Deficiencies.** Architect-engineer shall be responsible for the professional quality, technical accuracy, and coordination of all services required under their contracts. A firm may be liable for costs resulting from errors or deficiencies in designs furnished under this contract. Therefore, when a modification to a construction contract is required because of an error or deficiency in the services provided under an architect-engineer contract, CAP shall consider the extent to which the architect-engineer contractor may be reasonably liable. CAP shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in CAP's interest.

### **Design Within Funding Limitations.**

**a.** The architect-engineer shall design the project so that construction costs will not exceed a contractually specified dollar limit (funding limitation). If the price of construction proposed in response to a solicitation exceeds the construction funding limitation in the architect-engineer contract, the firm shall be solely responsible for redesigning the project within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, if the cost of proposed construction is affected by events beyond the firm's reasonable control (e.g., if there is an increase in material costs which could not have been anticipated, or an undue delay by CAP in issuing a construction solicitation), the firm shall not be obligated to redesign at no cost to CAP.

**b.** The amount of the construction funding limitation is established during negotiations between the contractor and CAP. This estimated construction contract price shall take into account any statutory or other limitations and exclude any allowances for CAP supervision and overhead and any amounts set aside by CAP for contingencies. In negotiating the amount, CAP will make available to the contractor the information upon which CAP has based its initial construction estimate and any subsequently acquired information that may affect the construction costs.

**Redesign Responsibility for Design Errors or Deficiencies.** The architect-engineer shall be required to make necessary corrections at no cost to CAP when the designs, drawings, specifications, or other items or services furnished contain any errors, deficiencies, or inadequacies.

**Attachment 3 – Additive/Deductive Items Provision**

1. The low offeror and the items to be awarded shall be determined as follows-

(a) Prior to the opening of bids, the Owner will determine the amount of fund available for the project.

(b) The low offeror shall be the Offeror that-

(1) Is otherwise eligible for award; and

(2) Offers the lowest aggregate amount for the first or base bid item, plus or minus (in the order stated in the list of priorities in the bid schedule) those additive or deductive items that provide the most features within the funds determined available.

(c) The Owner shall evaluate all bids on the basis of the same additive or deductive items.

(1) If adding another item from the bid schedule list of priorities would make the award exceed the available funds for all offerors, the Owner will skip that item and go to the next item from the bid schedule of priorities; and

(2) Add that next item if an award may be made that includes that item and is within the available funds.

2. The Owner will use the list of priorities in the bid schedule only to determine the low offeror. After determining the low offeror, an award may be made on any combination of items if-

(a) It is in the best interest of the Owner;

(b) Funds are available at the time of award; and

(c) The low offeror's price for the combination to be awarded is less than the price offered by any other responsive, responsible offeror.

**3. Example.** The amount available is \$100,000. Offeror A's base bid and four additives (in the order stated in the list of priorities in the bid Schedule) are \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000. Offeror B's base bid and four additives are \$80,000, \$16,000, \$9,000, \$7,000, and \$4,000. Offeror A is the low offeror. The aggregate amount of offeror A's bid for purposes of award would be \$99,000, which includes a base bid plus the first and fourth additives. The second and third additives were skipped because each of them would cause the aggregate bid to exceed \$100,000.