United States Department of the Interior
Office of Aviation Services
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Boise, Idaho 83706-3991

DOI OPERATIONAL PROCEDURES MEMORANDUM (OPM) - 35

Subject: Identification of End Product/Service Procurement versus Flight Service Procurement

Effective Date: January 1, 2025

Last Updated: August 10, 2020

Expiration Date: December 31, 2025

1. **Summary of Changes.**

   No changes.

2. **Purpose.** This OPM establishes policy and procedures to identify the proper procurement method for specific projects as either end product/service contracting or flight service contracting.

3. **Introduction.** End Product Contracts are not aircraft flight service contracts. They are used to acquire a product for the Department (i.e., per-acre, per-unit or per-area, or per head basis). The intent of this type of procurement is for the contractor to supply all personnel and equipment in order to provide a "service" or "end-result." Many contractors utilize aircraft (including UAS) to meet the performance objectives of End Product contracts for activities such as: animal capture, seeding, spraying, survey, photography, etc. Since these are not flight services contracts, the AQD does not perform any acquisition service. End Product contracts are administered by the bureau procurement units. Contracting officers, procurement specialists, and aviation managers at all levels must be aware of the requirements outlined within this OPM. Understanding the differences between end product contracts and flight service contracts is important in order to avoid placing the Department with operational control when it is not appropriate. Attempting to exert any influence on certain aspects of the operation conducted under an end product contract exposes the Department to risks that would be appropriately managed under a flight services contract. If the provisions of *353 DM 1.2A (3)* and this OPM are met, the aircraft will be operated as a civil aircraft and the aviation management principles normally required for aircraft under DOI operational control do not apply. End product contracting and administration guidance can be found in Appendix 1.

4. **Authority.** This policy is established by the Director, Department of the Interior, Office of Aviation Services (OAS) in accordance with the provisions of Departmental Manual 112 DM 12, 350 DM 1; and Secretarial Order 3322 dated August 23, 2012.

5. Definitions. This OPM has adopted the criteria within 49 CFR 175.5 to define Operational Control.

A. Operational Control. An aircraft is under the exclusive direction and control of a government when the government exercises responsibility for:

1) Approving crewmembers and determining that they are qualified to operate the aircraft;

2) Determine the airworthiness and directing maintenance of the aircraft; and

3) Dispatching the aircraft, including the times of departure, airports to be used, and type and amount of cargo to be carried.

B. Civil Aircraft. See 14 CFR 1.1.

C. Public Aircraft. See 14 CFR 1.1.

D. Dispatch. To assume operational control through the use of specific times of departure, airports to be used, amounts of people and cargo to be moved, intended time of arrival and/or flight following. Dispatching does not include the specification of windows of opportunity for maximum effect for seeding, spraying, animal capture, or aerial photography.

6. Policy.

A. As stated in 353 DM 1.2A, all "flight services" shall be acquired through DOI AQD with exceptions listed. Transactions to acquire an "end product "or "service" other than "flight services" shall meet all criteria listed in 353 DM 1.2A(3). The following contain examples of flight services projects versus end product projects:

1) Seeding project. The using bureau requires the contractor to wear PPE (operational control, flight service). The same project is completed with no government involvement other than verifying the spread rate of the seed (end product contract).

2) Horse gather. The bureau has a helibase manager on site to manage the heliport (operational control, flight service). Same project with the contractor delivering horses to a bureau-designated location and no government personnel involved other than the inspection of the horses (end product contract).

3) Animal capture, net gun. The bureau has a biologist on board the aircraft (DOI personnel on board, flight service). Same project with all contract personnel and animals delivered to a bureau-designated location (end product contract).

4) Data collection and Photogrammetry. The bureau requires the contractor to utilize a small fixed wing aircraft (or UAS) equipped with camera ports to complete the project or specifies a specific route of flight (operational control). Same project with the bureau requesting data and photo collection only as the final product with no mention of how they are collected (end product contract).

B. The following table provides some guidance to identify whether a project should be contracted as either an End Product or Flight Service procurement. If the answer is **YES** in any block under a project, it is a flight service that must be procured through DOI AQD.

PROJECT

	Photography or remote sensing	Application of product (spray/seed)	Animal inventory	Animal capture (net gun dart	Animal herding/	Your project
Requirement/recommendation to utilize aviation assets						
Set pilot standards						
Direct aircraft maintenance						
Dispatch aircraft (including Flight Following)						
Helibase manager						
Aircraft manager						
Directed Use of PPE						
DOI personnel on board						
Public aircraft						
Other aircraft and pilot requirements						

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Susan E. Bates
Director, Office of Aviation Services

Attachments:
Appendix 1: Guidance for End-Product Contracting

Appendix 1

Guidance for End-Product Contracting

End Product Contract Specifications

Specifications in the contract must only describe the desired quantity or quality of the service or contracted end-result. Contracting officers, procurement specialists, and aviation managers at all levels must be aware of these requirements. DOI contracting officers and resource specialists must consult with their bureau aviation managers if the acceptable language guidelines do not address a specific project requirement or the contract solicitation does not follow the guidelines in *OPM-35*. End Product contracts where contractors could conceivably utilize aircraft should be reviewed by the bureau aviation manager to ensure that specifications and language do not unintentionally imply or determine aircraft operational control.

The following list describes acceptable contract language for end-product contracts.

- No contract language describing aircraft or pilot capabilities, standards, requirements or aircraft specific payment provisions.
- The area of work should be described in terms of: location, scale of area, general topography, elevation, slope, vegetation, and accessibility by roads or off-road vehicles, land use restrictions for mechanized equipment, etc.
- Airspace Coordination - In areas of military airspace it is acceptable to describe coordination agreements with military airspace scheduling or range control authorities and that it is the contractors' responsibility to coordinate their activities with the scheduling office or Range Control. Close coordination is necessary to ensure compliance with applicable airspace coordination agreements that states have with military authorities.
- Aviation Regulations - Acceptable Language: "The Contractor must comply with all applicable federal, state and local regulations and land-use permitting procedures."
- Aircraft Equipment Specifications - Acceptable Language: Delete all reference to aircraft/equipment. Suggested example clause: "...Contractor is required to demonstrate to the government that the equipment can capture the imagery and/or data as specified in the project description."
- Radio/Communication Requirements - Acceptable Language: "Contractor must provide a communication system so that contractor personnel engaged in the project at different locations can communicate at all times with each other, and so that government Project Inspectors may communicate with the contractor at any time to discuss performance matters." (The government VHF-FM radio system may have to be described.)
- Transporting, Passengers and Equipment - Acceptable Language: "Only approved contractor personnel, contractor equipment and government-provided equipment required for performance ... will be transported by contractor vehicles, trailers, animals or equipment."

- Safety Hazards - Acceptable Language: "Any ground or aerial hazards that would pose a danger to Contractor's personnel or operating equipment must be identified and mitigated by the Contractor prior to commencing operations".
- Aircraft Use Reporting - Acceptable Language: Do not mention or require flight hour/aircraft usage reports.

Operational Control: During the performance of End Product contracts, DOI will not exercise operational control of the aircraft in any way. DOI will not direct the contractor as to flight profiles, flight following, landing areas (except for areas that are off limits due to land management restrictions), use of personal protective equipment, etc. DOI personnel assigned to administer End Product contracts will have no aviation management responsibility or authority. Any directions to the contractor must be in terms of the service or end-result being specified; e.g. desired imagery quality, number and disposition of animals surveyed, etc. It is acceptable to inform military airspace scheduling authorities or range control that the contractor plans on performing work during specified time periods and provide the military authorities the contractor contract information. DOI dispatchers will not perform the airspace scheduling service for the contractor. DOI personnel must not become involved in any way with aircraft ground operations such as take-off and landing areas, loading, fueling, etc. They can however, be on site for other support activities such as setting ground control, scale bars, etc. or collection of data for ground truthing to aid in the overall data collection aspects.

Use of Foreign Built UAS: All end-product contracts that could possibly utilize UAS should have a clause that prohibits the use of designated UAS in the fulfillment of that contract. These clauses should; 1. Condition all Department contracts, grants, and cooperative agreements relying on UAS for achieving approved objectives on the requirement that funds will not be expended on Designated UAS, and 2. Condition all parties' operations pursuant to a Department contract, grant or cooperative agreement on the requirement that Designated UAS will not be operated on Department-managed lands. At the time of issuance of this OPM the Department has determined that a "designated UAS" is one that is either manufactured in China or by a Chinese company or a UAS that contains Chinese componentry. Additional definitions may be issued in the future. Bureau personnel should consult their national aviation managers if they have questions regarding UAS use in end-product contracts.

Aircraft Use Reporting: Since aircraft utilized by the contractor under DOI end-product contracts are operating entirely within the applicable 14 CFR as a civil aircraft, and procurement is not through AQD, the Bureau will not submit any billing invoice to AQD in conjunction with End Product contracts. Any flight time incurred by the contractor will not be recorded or reported as DOI or Bureau aviation statistics.

Aircraft Incidents and Accidents: Although aircraft utilized by the contractor under End Product contracts are operating entirely within the applicable 14 CFR as a civil aircraft, mishaps should be reported in accordance with 49 CFR 830. To continue to promote aviation safety, the Bureau will report aviation incidents or accidents incurred by these contractors to OAS. These events should be noted in the Contract Daily Diary and reported through channels as normally required for End Product contracts.

Reconnaissance/Observation Flights: Before, during or after the performance of an End Product contract it may be necessary for Bureau employees to aerially survey or inspect the project area. When flights transporting DOI personnel are required, an AQD aviation "flight service" procurement (completely separate from the End Product contract) is required. Aircraft and pilots must have current OAS approvals for the intended mission and a current DOI contract or Aircraft Rental Agreement must be in place. When a DOI procurement is utilized all DOI and Bureau aviation management policy, procedures and requirements must be applied.

Operations within Military Airspace: If an "End Product" contract project using aircraft is being conducted within Military Airspace (MOA, RA, MTR) it is the responsibility of the contractor to coordinate with the Military Airspace Scheduling Office. DOI Contracting Officers and CORs should inform the contractor of any DOI agreements with the Military organizations regarding airspace. The Bureau may contact the Scheduling Office to alert them of the project and general time frames and provide contractor contact information.