DEPARTMENT OF DEFENSE
Defense Contract Management Agency

INSTRUCTION

Order Issuance and Definitization

Contract Directorate
OPR: DCMA-AQ

DCMA-INST 138
February 28, 2013
Validated current, February 10, 2014

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1. PURPOSE. This Instruction:

a. Incorporates and cancels the DCMA Instruction (DCMA-INST), "Provisioning" (Reference (a)).

b. Establishes policy, assigns responsibilities, and provides procedures for issuing provisioning items orders; issuing orders for overhaul, maintenance, and repair; definitizing unpriced actions; and negotiating prices for an economic price adjustment (EPA).

c. Is established in compliance with DoD Directive 5105.64 (Reference (b)).

2. APPLICABILITY. This Instruction applies to all DCMA activities unless higher-level regulations, policy, guidance, or agreements take precedence (e.g., DCMA International and Special Programs activities).

3. MANAGERS' INTERNAL CONTROL PROGRAM. In accordance with DCMA-INST 710, "Managers' Internal Control Program" (Reference (c)), this Instruction is subject to evaluation and testing. The flowchart process is located at Appendix A.

4. RELEASABILITY – UNLIMITED. This Instruction is approved for public release.

5. PLAS CODES.

a. Process: 034 – Order Issuance
041 – Pricing and Negotiation
048 – Provisioning
049 – Over and Above Work Request Process

b. Programs: ACAT/Other Customers (when applicable)

c. Other National; Training and Travel; Local Programs (when applicable)

6. POLICY RESOURCE PAGE. **https://home.dcma.mil/POLICY/138r**

7. EFFECTIVE DATE. By order of the Director, DCMA, this Instruction is effective immediately.

Timothy P. Callahan
Executive Director
Contracts

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REFERENCES

(a) DCMA-INST, "Provisioning," (hereby canceled)
(b) DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," January 10, 2013
(c) DCMA-INST 710, "Managers' Internal Control Program," September 12, 2011
(d) DCMA-INST 402, "Workload Acceptance," December 2010
(e) DCMA-INST 120, "Pricing and Negotiation – Contracts," July 31, 2012
(f) "Mechanization of Contract Administration Services (MOCAS)" User's Guide
(g) DCMA-INST 103, "Contract Modifications," April 2004
(h) Federal Acquisition Regulation (FAR)
(i) Defense Federal Acquisition Regulation Supplement (DFARS) and Procedures, Guidance, and Information (PGI), (DFARS/PGI)*
(j) "Federal Procurement Data System (FPDS) – (Next Generation) Government User's Manual, Version 1.4," April 2012
(k) DCMA-INST 809, "Records Management," May 2011
(l) DoD Financial Management Regulation (DODFMR) 7000.14R Volume 3, Chapter 8, "Standards for Recording and Reviewing Commitments and Obligations," paragraph 080303, September 2009
(m) Section 2326 of title 10, United States Code

* DFARS/PGI indicates either a DFARS reference or a DFARS reference with a DFARS PGI reference.

CHAPTER 1

POLICY

1.1. POLICY. It is DCMA policy to:

1.1.1. Provide quality and timely contracting support to DCMA customers for provisioning requirements; overhaul, maintenance, and repair requirements; over and above work requests; unpriced change orders; and EPA.

1.1.2. Promptly accept or refuse the delegation of the contract administration function to issue orders and negotiate the definitization of unpriced actions, and over and above work requests.

1.1.3. Issue orders or contract modifications delegated by the procuring contracting officer (PCO) as prescribed in the contracts and agreements between the procuring activity and DCMA.

1.1.4. Provide quality and timely negotiating support to DCMA customers to definitize undefinitized contract actions (UCA) and other unpriced actions regardless of their dollar amount.

1.1.5. Maintain all negotiation support requests for definitization in the Pricing and Negotiation (P&N) eTool. Because of security restrictions, Special Programs maintains negotiation data and contract modifications in the contract files rather than in eTool modules.

1.2. DELEGATION OF RESPONSIBILITIES. The responsibilities listed for each position in Chapter 2 may be delegated by the individual holding that position to an individual of their discretion unless expressly prohibited by this Instruction, another DCMA Instruction, higher-level guidance, regulations, law, or statute. The individual delegated the responsibility does not have the authority to further delegate the responsibility.

CHAPTER 2

RESPONSIBILITIES

2.1. CONTRACT MANAGEMENT OFFICE (CMO) COMMANDER/CMO DIRECTOR. The CMO Commander/Director shall ensure compliance with this Instruction.

2.2. CMO CONTRACTS DIRECTOR. The CMO Contracts Director shall:

2.2.1. Review DCMA-INST 402, "Workload Acceptance" (Reference (d)) for the decision process concerning accepting or refusing a procuring activity's request to delegate the authority to issue orders under provisioning procedures.

2.2.2. Ensure the administrative contracting officer (ACO) receives the appropriate delegation and the required supporting documents for issuing orders.

2.2.3. Ensure the ACO receives the appropriate delegation and the required documents for definitizing an unpriced action.

2.2.4. Ensure the ACO enters all UCAs and any other unpriced actions to be negotiated and definitized into the P&N eTool.

2.3. ADMINISTRATIVE CONTRACTING OFFICER (ACO). The ACO shall:

2.3.1. Ensure all assigned requests for negotiation support to definitize UCAs and any other unpriced actions are entered into the P&N eTool.

2.3.2. Follow the policy and control requirements in DCMA-INST 120, "Pricing and Negotiation – Contracts" (Reference (e)), as applicable, when negotiating supplemental agreements.

2.3.3. Ensure that all contracts containing provisioning requirements are identified in Mechanization of Contract Administration Services (MOCAS) with the Standard ACO Coded Remark (R9) 04, Spares Provisioning, in the MOCAS User's Guide (Reference (f)).

2.3.4. Have an appropriate funding document before issuing an order or a modification.

2.3.5. Issue orders and modifications as delegated with appropriate documentation and authority.

2.3.6. Issue orders and modifications in the Modifications and Delivery Orders (MDO) eTool in accordance with DCMA-INST 103, "Contract Modifications" (Reference (g)).

2.3.7. Comply with the Federal Procurement Data System (FPDS) contract reporting requirements as prescribed in FAR Subpart 4.6 (Reference (h)), DFARS/PGI Subpart 204.6 (Reference (i)), DCMA-INST 103 (Reference (g)), and FPDS User's Manual (Reference (j)).

2.3.8. Comply with the requirements under DFARS/PGI Subpart 217.74 (Reference (i)) for issuing and definitizing UCAs.

2.3.9. Comply with the requirements of the DCMA-INST 809, "Records Management" (Reference (k)).

2.4. EXECUTIVE DIRECTOR, CONTRACTS (DCMA-AQ). The Executive Director, Contracts shall ensure compliance with the undefinitized contract actions plans and reports requirements under DFARS/PGI 217.7405 (Reference (i)).

CHAPTER 3

PROCEDURES

3.1. PROVISIONING REQUIREMENTS.

3.1.1. Provisioning is the process of determining and acquiring the range and quantity of spare and repair parts, and support and test equipment required to operate and maintain an end item for an initial period of service. A provisioned item is any item identified under provisioning procedures.

3.1.1.1. A provisioned items order (PIO) is an undefinitized order issued under a contract that includes the Government's requirements for provisioned items. A PIO may be subject to the requirements under DFARS/PGI Subpart 217.74, Undefinitized Contract Actions (Reference (i)).

3.1.1.2. Provisioned items with firm prices (forward priced) are acquired by a supplemental agreement or separate contract. DFARS/PGI Subpart 217.76 (Reference (i)) prescribes the DoD requirements for contracts with provisioning requirements.

3.1.1.3. Authority to issue orders or supplemental agreements for provisioned items. With the approval of their head of contract activity (HCA), the PCO may delegate the authority to issue orders or supplemental agreements for provisioned items in existing contracts and under basic ordering agreements (BOA) to the cognizant DCMA CMO. The delegation request and the HCA approval must be in writing with the information and documents prescribed under FAR 42.202(a) and DFARS/PGI 217.7601 (References (h) and (i)). If a written delegation request and HCA approval are not received, the Contracts Director shall ensure the PCO is informed the request cannot be processed until it is received in writing. This is an additional contract administration function not normally or specifically delegated as prescribed under FAR 42.302 (Reference (h)) and may be refused by the CMO.

3.1.1.3.1. The CMO's Contracts Director shall review DCMA-INST 402 (Reference (d)) for the decision process concerning accepting or refusing this additional contract administration function. As part of the decision process, the CMO Contracts Directors shall:

3.1.1.3.1.1. Determine whether the CMO has the required resources available to perform this function; obtain a copy of procuring activity's HCA approval document to delegate this function from the PCO to the ACO; and ensure this delegation does not require the ACO to undertake new or follow-on acquisitions (FAR 42.202(c) (Reference (h)).

3.1.1.3.1.2. Ensure the contract with provisioning requirements specifically designates their CMO or ACOs within their CMO to issue orders or supplemental agreements. If more than one activity will issue orders or supplemental agreements under the contract (other CMOs or activities outside of DCMA) the contract must state the requirements for provisioned items of each activity as separate contract line items. The ACO shall verify their designation and

authority prior to issuing orders or supplemental agreements. If not properly designated, the Contracts Director or the ACO shall contact the PCO to resolve.

3.1.1.3.1.3. Ensure the contract with provisioning requirements or BOA for PIOs contains FAR clause 52.216-24, Limitation of Government Liability (Reference (h)), and DFARS/PGI clause 252.217-7027, Contract Definitization, as required by DFARS/PGI 217.7406 (Reference (i)). If not included, the Contracts Director or the ACO shall contact the PCO to resolve. If not resolved, this should be considered when determining whether or not to accept the delegation to issue PIOs.

3.1.1.3.1.4. Ensure the PCO provides a copy of the justification and approval, and determination and findings, if applicable. The competition requirements must be complied with prior to accepting the delegation.

3.1.1.3.2. If the decision is made to accept this delegation, written acceptance shall be sent to the PCO. If the decision is made to refuse this delegation, a written declination letter shall be sent to the PCO explaining the reasons for declining the delegation request. See FAR 42.202(g) (Reference (h)) and DCMA-INST 402 (Reference (d)).

3.1.2. Provisioned Items Order (PIO).

3.1.2.1. Issuing a PIO.

3.1.2.1.1. The ACO shall have an appropriate funding document in the amount of the estimated price of the items ordered and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). If the PCO (or other funding organization) does not provide the funding document within a reasonable period of time (as determined by the ACO), the ACO shall not issue the PIO and shall refer the requirement back to the PCO for action.

3.1.2.1.2. The ACO shall issue the PIO in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements as prescribed in FAR Subpart 4.6 (Reference (h)), DFARS/PGI Subpart 204.6 (Reference (i)), DCMA-INST 103 (Reference (g)), and FPDS User's Manual (Reference (j)). (See paragraph 3.7.)

3.1.2.1.3. The ACO shall determine if the requirements at DFARS/PGI Subpart 217.74, Undefinitized Contract Actions (UCAs) (Reference (i)) are applicable. Paragraph 3.5 of this Instruction addresses UCAs.

3.1.2.1.4. If applicable, the ACO shall comply with FAR Subpart 5.3 and DFARS/PGI 205.3, Synopses of Contract Awards (References (h) and (i)).

3.1.2.1.5. The ACO may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government for certain contract actions, if undefinitized, as prescribed under DFARS/PGI 232.102-70 (Reference (i)). (See paragraph 3.6.)

3.1.2.2. Definitizing a PIO. Negotiating prices and executing supplemental agreements for spare parts and other items selected through provisioning procedures is a contract administration function normally delegated to the CMO unless specifically retained by the PCO (FAR 42.302(a)(23) (Reference (h)). The ACO shall determine if the requirements at DFARS/PGI Subpart 217.74, Undefinitized Contract Actions (UCAs) (Reference (i)), are applicable. Paragraph 3.5 of this Instruction addresses UCAs.

3.1.2.2.1. The ACO shall comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the final price.

3.1.2.2.2. The ACO shall request an appropriate funding document in the amount of the contractor's definitization proposal and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). If the PCO (or other funding organization) does not provide the funding document in the amount of the contractor's proposal within a reasonable period of time (as determined by the ACO), the ACO cancel the negotiation case to definitize the PIO and shall refer the definitization requirement back to the PCO for action.

3.1.2.2.3. The ACO shall issue the definitization modification in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)), and comply with the FPDS contract reporting requirements as prescribed in FAR Subpart 4.6 (Reference (h)); DFARS/PGI Subpart 204.6 (Reference (i)); and FPDS User's Manual (Reference (j)). (See paragraph 3.7.)

3.1.3. Forward Priced Provision Items Requirements. Sometimes CMOs are asked to obtain a proposal for provisioning requirements, negotiate prices, and then issue an order or modification to create a contract requirement. Negotiating prices and executing supplemental agreements for spare parts and other items selected through provisioning procedures is a contract administration function normally delegated to the CMO unless specifically retained by the PCO (FAR 42.302(a)(23) (Reference (h)). The ACO can issue a modification to procure provisioned items identified in the contract exhibits. The ACO shall:

3.1.3.1. Comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the final price.

3.1.3.2. Have an appropriate funding document in the amount of the estimated price of the items ordered and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). The ACO shall not issue the modification until an appropriate funding document is received.

3.1.3.3. Issue the modification in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.1.4. The ACO shall ensure that all contracts containing provisioning requirements are identified in MOCAS with the Standard ACO Coded Remark (R9) 04, Spares Provisioning (Reference (f)).

3.1.5. Records Management. DCMA-INST 809 (Reference (k)) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. The work product will be stored using a naming convention of contract that will allow for its logical retrieval. If documents relating to a case are too large to upload electronically, the uploaded location will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the retention of records conforming to DCMA policy on retention of records. Electronic Document Workflow (EDW) application or an Agency directed replacement is the preferred location.

3.2. OVERHAUL, MAINTENANCE, AND REPAIR (OMR).

3.2.1. Authority to Issue OMR Work Requests and Orders. Issuing work requests under maintenance, overhaul, and modification contracts is a contract administration function normally delegated to the CMO unless specifically retained by the PCO (FAR 42.302(a)(22) (Reference (h)). Issuing, negotiating, and executing orders under a BOA for OMR is a contract administration function that must be specifically authorized in writing by the PCO to the CMO (DFARS/PGI 242.302(b)(S-70) (Reference (i)).

3.2.2. Issuing OMR Work Requests and Orders. The ACO shall:

3.2.2.1. Have an appropriate funding document and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)) prior to issuing the work request or order. If the PCO (or other funding organization) does not provide the funding document within a reasonable period of time (as determined by the ACO), the ACO shall not issue the work request or order and shall refer the requirement back to the PCO for action.

3.2.2.2. Issue the order in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.2.2.3. If applicable, comply with FAR Subpart 5.3, and DFARS/PGI 205.3, Synopses of Contract Awards, if the order was issued under a BOA (References (h) and (i)).

3.2.3. Definitize Unpriced OMR Orders. FAR 42.302(b)(2) (Reference (h)), permits the PCO to specifically authorize an ACO to negotiate prices and execute priced exhibits for unpriced orders issued under a BOA. The ACO must receive written authority from the PCO prior to definitizing an order. The ACO shall determine if the requirements at DFARS/PGI Subpart 217.74, Undefinitized Contract Actions (UCA) (Reference (i)) are applicable. Paragraph 3.5 of this Instruction addresses UCAs.

3.2.3.1. The ACO shall comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the final price.

3.2.3.2. The ACO shall have an appropriate funding document in the amount of the contractor's definitization proposal ordered and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). If the PCO (or other funding organization) does not provide the funding document within a reasonable period of time (as determined by the ACO), the ACO shall cancel the negotiation case to definitize the order and shall refer the definitization requirement back to the PCO for action.

3.2.3.3. The ACO shall issue the definitization modification in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.2.3.4. The ACO may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government for certain contract actions, if undefinitized, as prescribe in DFARS/PGI 232.102-70 (Reference (i)). (See paragraph 3.6.)

3.2.4. Over and Above Work (DFARS/PGI 217.77). Contracts for the performance of maintenance, OMR of various items (e.g., aircraft, engines, ground support equipment, and ships) generally contain over and above work requirements. When they do, a separate contract line item for the over and above work is required. The ACO shall inform the PCO if a separate contract line item is not included.

3.2.4.1. Over and above requirements task the contractor to identify needed repairs and recommend corrective action during contract performance. The contractor submits a work request to identify the over and above work and, as appropriate, the Government authorizes the contractor to proceed.

3.2.4.2. The clause at DFARS/PGI clause 252.217-7028, Over and Above Work, (Reference (i)) requires the contractor and the contracting officer responsible for administering the contract to negotiate specific procedures for Government administration and contractor performance of over and above work requests. The ACO shall ensure this clause is in subject contract. If not, the ACO shall contact the PCO concerning incorporating the clause prior to negotiating an over and above work request.

3.2.4.3. The PCO may issue a blanket work request authorization describing the manner in which individual over and above work requests will be administered and setting forth a dollar limitation for all over and above work under the contract. The blanket work request authorization may be in the form of a letter or contract modification.

3.2.4.4. The ACO shall comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the final price. To the maximum extent practicable, over and above work shall be negotiated prior to performance of the work. Over and above work requests are within the scope of the contract. Therefore, procedures in DFARS/PGI Subpart 217.74, Undefinitized Contractual Actions (Reference (i)), do not apply.

3.2.4.5. The ACO shall have an appropriate funding document in the amount of the final price and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). The ACO shall not issue the modification until an appropriate funding document is received.

3.2.4.6. The definitization modification shall be issued in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.2.5. Records Management. DCMA-INST 809 (Reference (k)) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. The work product will be stored using a naming convention of contract that will allow for its logical retrieval. If documents relating to a case are too large to upload electronically, the uploaded location will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the retention of records conforming to DCMA policy on retention of records. EDW application or an Agency directed replacement is the preferred location.

3.3. UNPRICED CHANGE ORDER.

3.3.1. FAR 42.302(b)(1) (Reference (h)), permits the PCO to specifically authorize, in writing, an ACO to negotiate or negotiate and execute supplemental agreements (modifications) incorporating contractor proposals resulting from change orders issued under the Changes clause.

3.3.1.1. The ACO shall ensure that the PCO has included in the contract documentation the specific authorization(s) for the ACO to take the action(s) requested by the PCO.

3.3.1.2. The ACO shall ensure that contractor requests for equitable adjustments that exceed the simplified acquisition threshold (SAT) are certified prior to payment in accordance with the clause at DFARS/PGI 252.243-7002 (Reference (i)).

3.3.1.3. The ACO may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government for certain contract actions, if undefinitized, as prescribe under DFARS/PGI 232.102-70 (Reference (i)). (See paragraph 3.6.)

3.3.2. DFARS/PGI 243.204-70 (Reference (i)) covers the definitization of an unpriced change order. An unpriced change order is not a UCA. However, the definitization requirements are very similar to those of a UCA. Unpriced change orders for foreign military sales, special access programs, or with an estimated value not exceeding $5 million are not subject to the DFARS/PGI 243.204-70 definitization requirements, but the ACO shall apply the same policy and procedures to them to the maximum extent practicable.

3.3.3. The ACO shall comply with the policies and control requirements DCMA-INST 120 (Reference (e)) for negotiating the final price. The ACO shall not agree to a final price exceeding the amount on the funding document.

3.3.4. The bilateral modification (equitable adjustment) shall be issued in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and include a release similar to the following:

Contractor's Statement of Release

In consideration of the modification(s) agreed to herein as complete equitable adjustments for the Contractor's _____ (describe) _____ "proposal(s) for adjustment," the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustments attributable to such facts or circumstances giving rise to the "proposal(s) for adjustment" (except for_____).

3.3.5. The ACO shall comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.3.6. Records Management. DCMA-INST 809 Reference (k) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. If documents relating to a case are too large to upload electronically, the uploaded location will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the retention of records conforming to DCMA policy on retention of records. EDW application or an Agency directed replacement is the preferred location.

3.3.7. Comply with DFARS/PGI 217.7405 (Reference (i)) reporting requirements for unpriced change orders.

3.4. ECONOMIC PRICE ADJUSTMENT (EPA).

3.4.1. FAR 42.302(b)(7) (Reference (h)) permits the PCO to specifically authorize an ACO to negotiate and definitize adjustments to contract prices resulting from exercise of an EPA clause for fixed-price contracts. Refer to FAR 16.203, Fixed-Price Contracts with Economic Price Adjustment (Reference (h)), concerning the requirements for the adjustment. The ACO shall ensure that the PCO has included in the contract documentation the specific authorization(s) for the ACO to take the action(s) requested by the PCO.

3.4.2. The ACO shall comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the final price. The ACO shall not agree to a final price exceeding the amount on the funding document. The EPA modification shall be issued in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)).

3.4.3. Records Management. DCMA-INST 809 (Reference (k)) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. If documents relating to a case are too large to upload electronically, the uploaded location will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the

retention of records conforming to DCMA policy on retention of records. EDW application or an Agency directed replacement is the preferred location.

3.5. UNDEFINITIZED CONTRACT ACTION (UCA).

3.5.1. DFARS/PGI Subpart 217.74 (Reference (i)) prescribes policies and procedures implementing section 2326 of title 10, United States Code, Undefinitized contractual actions: restrictions (Reference (m)). As defined in this Subpart, a UCA is any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. This section of the instruction and the references above apply to the issuance and definitization of UCAs.

3.5.1.1. Examples of UCAs are letter contracts, orders under BOAand provisioned item orders, for which the price has not been agreed upon before performance has begun.

3.5.1.2. Unpriced change orders (see DFARS/PGI 243.204-70 for definitization), administrative changes, funding modifications, or any other contract modifications that are within the scope and under the terms of the contract (e.g., engineering change proposals, value engineering change proposals, and over and above work requests (as described in DFARS/PGI Subpart 217.77)) do not meet the definition of a UCA and therefore are not subject to DFARS/PGI Subpart 217.74 requirements (Reference (i)).

3.5.1.3. The ACO shall comply with the policies and control requirements in DCMA-INST 120 (Reference (e)) for negotiating the definitization of a UCA.

3.5.2. Exceptions. UCAs issued for foreign military sales, purchases at or below the SAT, and special access programs and congressionally mandated long-lead procurement contracts are exceptions to the requirements in DFARS/PGI Subpart 217.74 (Reference (i)). However, the ACO should apply the same requirements to the maximum extent practicable.

3.5.2.1. Unpriced purchase orders (FAR 13.302-2, Reference (h)) and unpriced orders under existing contracts or BOAs at or below the SAT are exceptions to DFARS/PGI Subpart 217.74 (Reference (i)).

3.5.2.2. Unpriced purchase orders shall have a realistic monetary limitation as prescribed at FAR 13.302-2(c) (Reference (h)). The same monetary limitation shall apply to unpriced orders issued by the ACO under a contract or BOA at or below the SAT. The monetary limitation is the estimated amount of the order and may be established based on a government estimate, the contractor's proposed price, or price analysis based on prior purchases, or by other means as determined and documented by the ACO.

3.5.3. Contract Clauses. The ACO shall ensure the contract, contract order, or BOA order to be definitized contains FAR clause 52.216-24, Limitation of Government Liability (Reference (h)), and DFARS/PGI clause 252.217-7027, Contract Definitization (Reference (i)). If not included, the Contracts Director or the ACO shall contact the PCO to resolve.

3.5.4. Limitations. The ACO shall comply or ensure compliance with the limitations at DFARS/PGI 217.7404 (Reference (i)).

3.5.4.1. Authorization. Prior to accepting a negotiation support request, or prior to beginning the definitization of a UCA if the request has already been accepted as a case, the ACO must receive a copy of the requiring activity's UCA approval package to include their HCA's approval document. The ACO shall also have a written delegation of authority from the PCO to definitize the UCA. The ACO shall contact the PCO to resolve any authorization issues. If unable to resolve, the ACO shall not accept the request or shall cancel the case.

3.5.4.2. Price Ceiling or Not-to-Exceed (NTE) Price. The UCA shall have a NTE price established using an independent government cost estimate, a price analysis based on prior buys, the contractor's proposal (if provided), or other method. The rationale for the NTE price shall be well documented and retained in the contract file. The ACO shall contact the PCO to resolve any price ceiling concerns. If unable to resolve the concerns, the ACO shall not accept the definitization request, or if previously accepted shall cancel the negotiation case.

3.5.4.3. Definitization Schedule. In order to meet the definitization dates, the contracting officer shall closely coordinate and monitor each UCA. Contracting officers should frequently communicate with the program office and requiring officials as appropriate to actively manage the definitization of UCAs. The contracting officer should alert the approval authority if, for any reason, the definitization schedule appears to be in jeopardy (DFARS/PGI 217.7404-3 (Reference (i)).

3.5.4.3.1. UCAs shall contain definitization schedules that provide for definitization by the earlier of the two dates in the following two paragraphs. An explanation for each of these dates is also provided. The definitization date shall be either:

3.5.4.3.1.1. The date that is 180 days after issuance of the action (this date may be extended but may not exceed the date that is 180 days after the contractor submits a qualifying proposal). The UCA issue date, the adequate proposal receipt date, and the definitization date are the only dates used to determine compliance with DFARS/PGI Subpart 217.74 (Reference (i)).

3.5.4.3.1.1.1. In order to be in compliance, the number of days from the UCA issue date to the adequate proposal receipt date cannot exceed 180 days, and the number of days from the adequate proposal receipt date to the definitization date cannot exceed 180 days.

3.5.4.3.1.1.2. Based on the above paragraph, the maximum number of days from the UCA issue date to the definitization date cannot exceed 360 days in order to be in compliance (a maximum of 180 days from the UCA issue date to the adequate proposal receipt date plus a maximum of 180 days from the adequate proposal receipt date to the definitization date).

3.5.4.3.1.2. The date on which the amount of funds obligated under the contract action is equal to more than 50 percent of the NTE price. This is the date when the contractor's costs incurred during contract performance reach the 50 percent obligated amount limitation. The limitation on obligations under DFARS/PGI 217.7404-4 (Reference (i)) provides a condition for obligating more than 50 percent.

3.5.4.3.2. Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the contract. If the contractor does not submit a timely qualifying proposal, the ACO may suspend or reduce progress payments under FAR 32.503-6 (Reference (h)), or take other appropriate action.

3.5.4.4. Limitations on Obligations. The Government shall not obligate more than 50 percent of the NTE price before definitization. However, if a contractor submits a qualifying proposal before 50 percent of the NTE price has been obligated by the Government, then the limitation on obligations before definitization may be increased to no more than 75 percent.

3.5.4.4.1. In determining the appropriate amount to obligate, the contracting officer (PCO or ACO) shall assess the contractor's proposal for the undefinitized period and shall obligate funds only in an amount consistent with the contractor's requirements for the undefinitized period (DFARS/PGI 217.7404-4 (Reference (i)).

3.5.4.4.2. If a request for negotiation support to definitize a UCA is received, and the obligated amount exceeds the limitations on obligations, the ACO shall bring the noncompliance to attention of the PCO.

3.5.4.4.2.1. If the PCO decides to de-obligate funds, then a modification may be issued by either the PCO or the ACO.

3.5.4.4.2.2. If the PCO decides not to de-obligate funds to the appropriate limitation, the ACO shall elevate the issue to the ACO's Contracts Director for resolution. If the de-obligation issue cannot be resolved, the requested negotiation support shall not be provided.

3.5.4.4.3. The ACO may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government for certain contract actions, if undefinitized, as prescribed under DFARS/PGI 232.102-70 (Reference (i)). (See paragraph 3.6.)

3.5.4.5. Allowable Profit. When the final price of a UCA is negotiated after a substantial portion of the required performance has been completed, the ACO shall ensure the negotiated profit rate reflects the contractor's cost risk related to contract performance.

3.5.4.5.1. If the contractor has incurred costs exceeding 40 percent of the price ceiling or the proposal amount (whichever is lower), it shall be considered to have completed a substantial portion of the required performance.

3.5.4.5.2. The contractor's reduced cost risk for costs incurred during contract performance before the negotiation of a final price and for the performance for the remainder of the contract shall be considered when determining an allowable profit. The weighted guidelines method contains factors for determining contract risk. These factors are applied and recorded in DD Form 1547, Record of Weighted Guidelines Application. The risk assessment shall be documented in the contract file.

3.5.4.5.3. To improve the documentation and provide guidance on determining the profit for UCAs with substantial incurred cost, contracting officers shall follow the mandatory instructions at DFARS/PGI 215.404-71-3(d)(2) (Reference (i)), regarding lowering contract type risk assessments for the incurred costs when performing weighted guidelines analysis.

3.5.4.5.4. If an agreed-upon profit rate cannot be negotiated, the ACO shall end negotiations, inform the PCO of the impasse, and cancel the case. The ACO shall provide the PCO with all documents associated with the negotiation process (e.g., contractor's proposal, correspondence between the contractor and ACO, pricing report, pre-negotiation objectives memorandum). The ACO shall discuss issuing a unilateral modification to definitize the requirement with the PCO. If the ACO and PCO cannot reach an agreement on issuing a unilateral modification, the ACO shall refer the requirement back to the PCO for action.

3.5.5. Funding. The ACO shall have an appropriate funding document in the amount of the contractor's definitization proposal and comply with the obligation requirements in DoDFMR 7000.14R (Reference (l)). If the PCO (or other funding organization) does not provide the funding document within a reasonable period of time (as determined by the ACO), the ACO shall cancel the negotiation case to definitize the UCA and shall refer the definitization requirement back to the PCO for action.

3.5.6. The definitization modification shall be issued in the MDO eTool in accordance with DCMA-INST 103 (Reference (g)) and comply with the FPDS contract reporting requirements. (See paragraph 3.7.)

3.5.7. Records Management. DCMA-INST 809 (Reference (k)) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. If documents relating to a case are too large to upload electronically, the uploaded location will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the retention of records conforming to DCMA policy on retention of records. EDW application or an Agency directed replacement is the preferred location.

3.5.8. UCA Plans and Reports. DFARS/PGI 217.7405 (Reference (i)) require DoD departments and agencies to prepare and maintain a Consolidated UCA Management Plan, and prepare semi-annual Consolidated UCA Management Reports addressing each UCA and unpriced change order with an estimated value exceeding $5 million. The reporting requirements also include the submission of a copy of the record of weighted guidelines for each

definitized UCA with a value of $100 million or more. The semi-annual reporting periods are April 1 through September 30, and October 1 through March 31.

3.5.8.1. Each DCMA Component with any semi-annual reporting requirements shall submit them to DCMA Contracts Directorate (DCMA-AQ) within 14 days after the end of the reporting period (April 14 and October 14; if a weekend or holiday, then next business day).

3.5.8.2. In addition to the semi-annual reporting requirements, any Component or Center with any reportable UCAs or unpriced change orders past the due date for definitization date or the extended due date for definitization shall submit a monthly Consolidated UCA Management Plan for each such UCA and/or change order to DCMA-AQ within 10 days after the end of each month until they have been definitized.

3.5.8.3. DCMA-AQ is responsible for preparing and submitting the Consolidated UCA Management Report and Consolidated UCA Management Plan to Office of the Secretary of Defense/Defense Procurement and Acquisition Policy for DCMA.

3.6. PROVISIONAL DELIVERY PAYMENTS.

3.6.1. The ACO shall comply with DFARS/PGI 232.102-70 (Reference (i)) for provisional delivery payments.

3.6.2. The ACO may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government for the following contract actions, if undefinitized:

- Letter contracts contemplating a fixed-price contract
- Orders under BOAs
- Spares provisioning documents annexed to contracts
- Unpriced equitable adjustments on fixed-price contracts
- Orders under indefinite-delivery contracts

3.6.3. Provisional delivery payments shall be used sparingly, priced conservatively, and reduced by liquidating previous progress payments in accordance with the Progress Payments clause.

3.6.4. The provisional delivery payments shall not include profit, exceed funds obligated for the undefinitized contract action, or influence the definitized contract price.

3.7. CONTRACT REPORTING REQUIREMENTS.

3.7.1. The contract reporting requirements under the FPDS are prescribed under FAR Subpart 4.6 (Reference (h)) and DFARS/PGI Subpart 204.6 (Reference (i)).

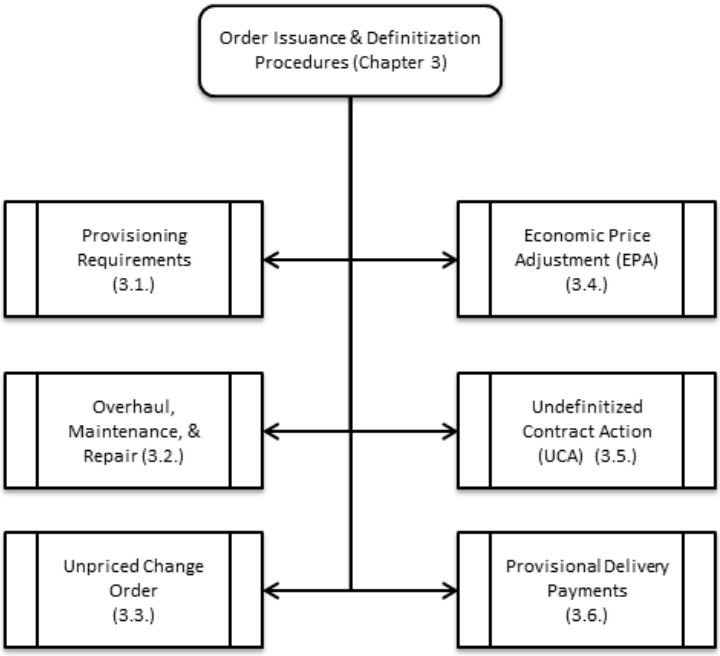
3.7.1.1. Reporting requirements apply to contract actions for purchases exceeding the micro-purchase threshold and modifications (regardless of dollar value) to contract actions previously reported in the FPDS. A contract action report (CAR) contains all the contract action data required to be entered into FPDS.

3.7.1.2. FPDS User's Manual (Reference (j)) provides detailed information concerning FPDS and is linked to the Resource Page of this Instruction.

3.7.2. The DCMA "Modifications and Delivery Orders (MDO), Version 3.1" eTool interfaces with FPDS for automated contract reporting. The MDO eTool is designed to create the CAR.

3.7.3. See DCMA-INST 103 (Reference (g)) for the DCMA policy and procedures for contracting reporting.

APPENDIX A – PROCESS FLOWCHART



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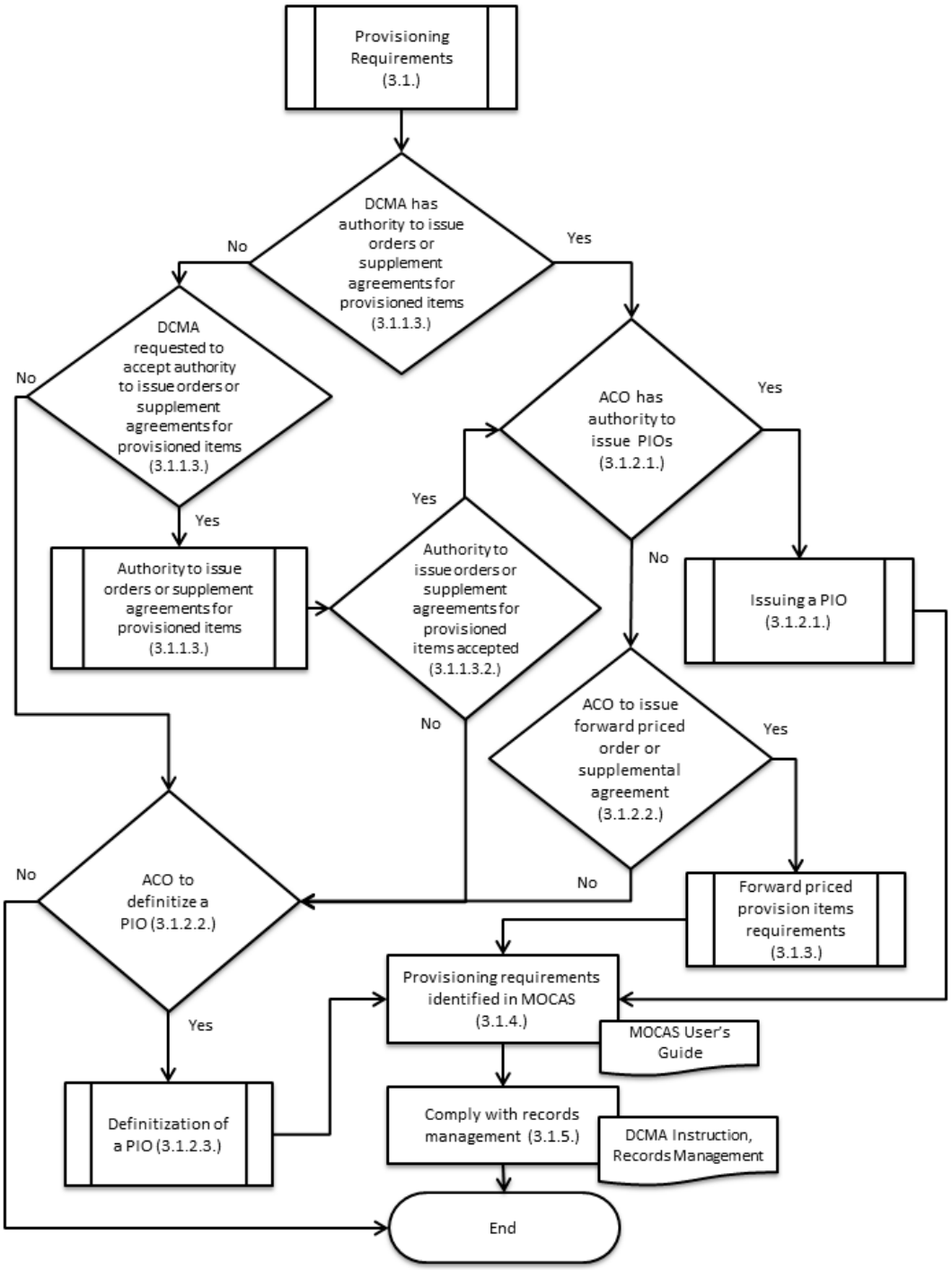

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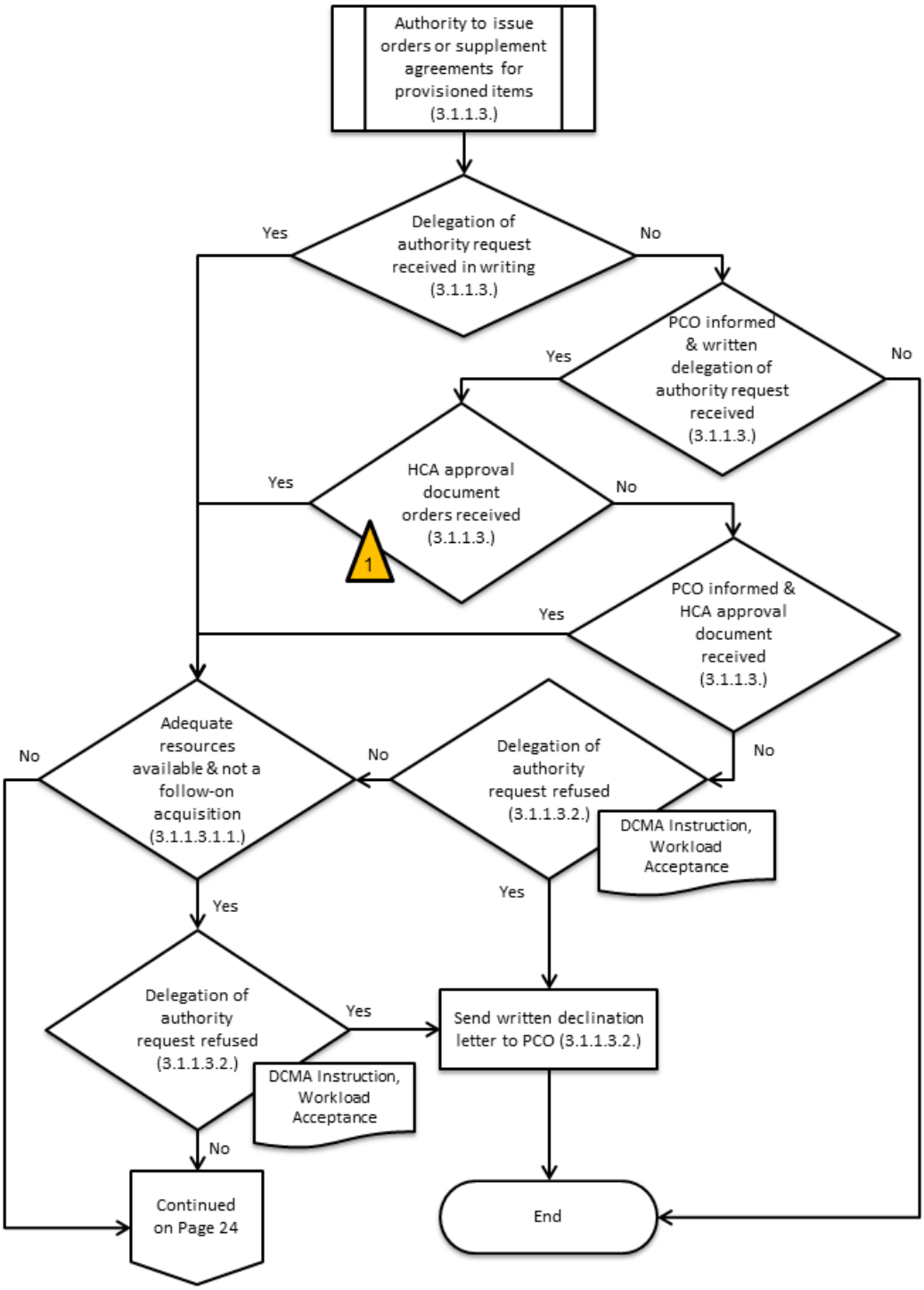

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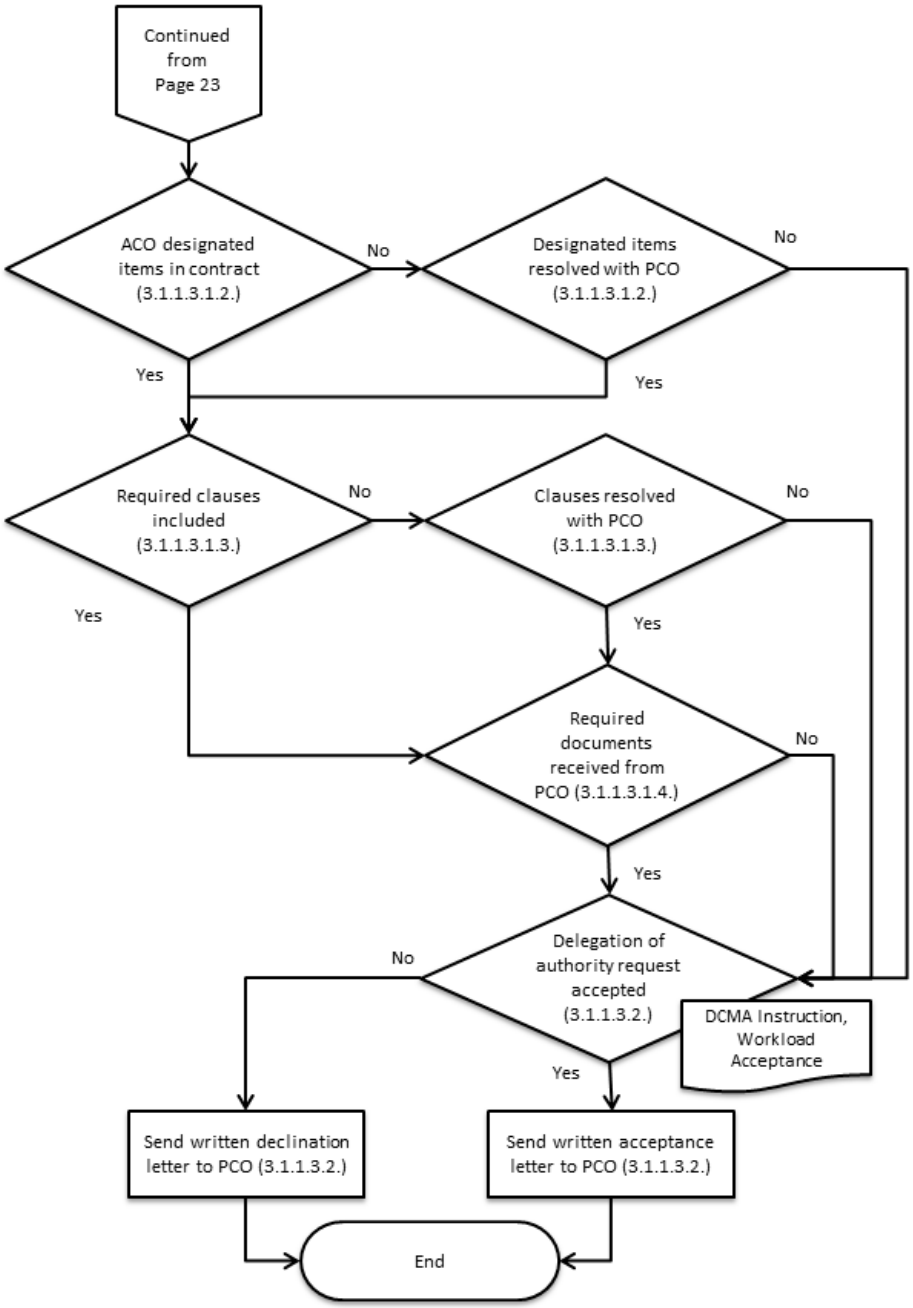

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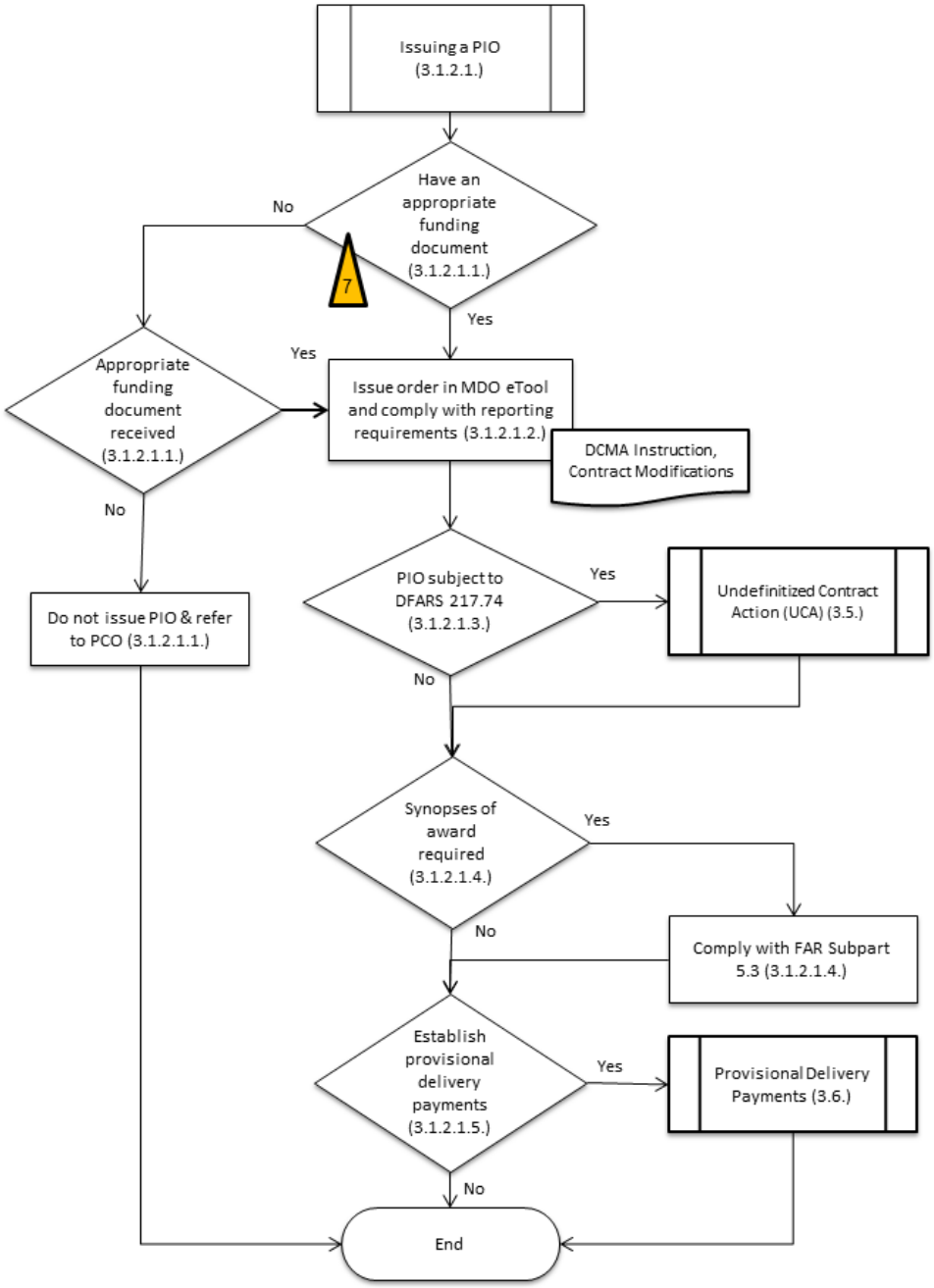

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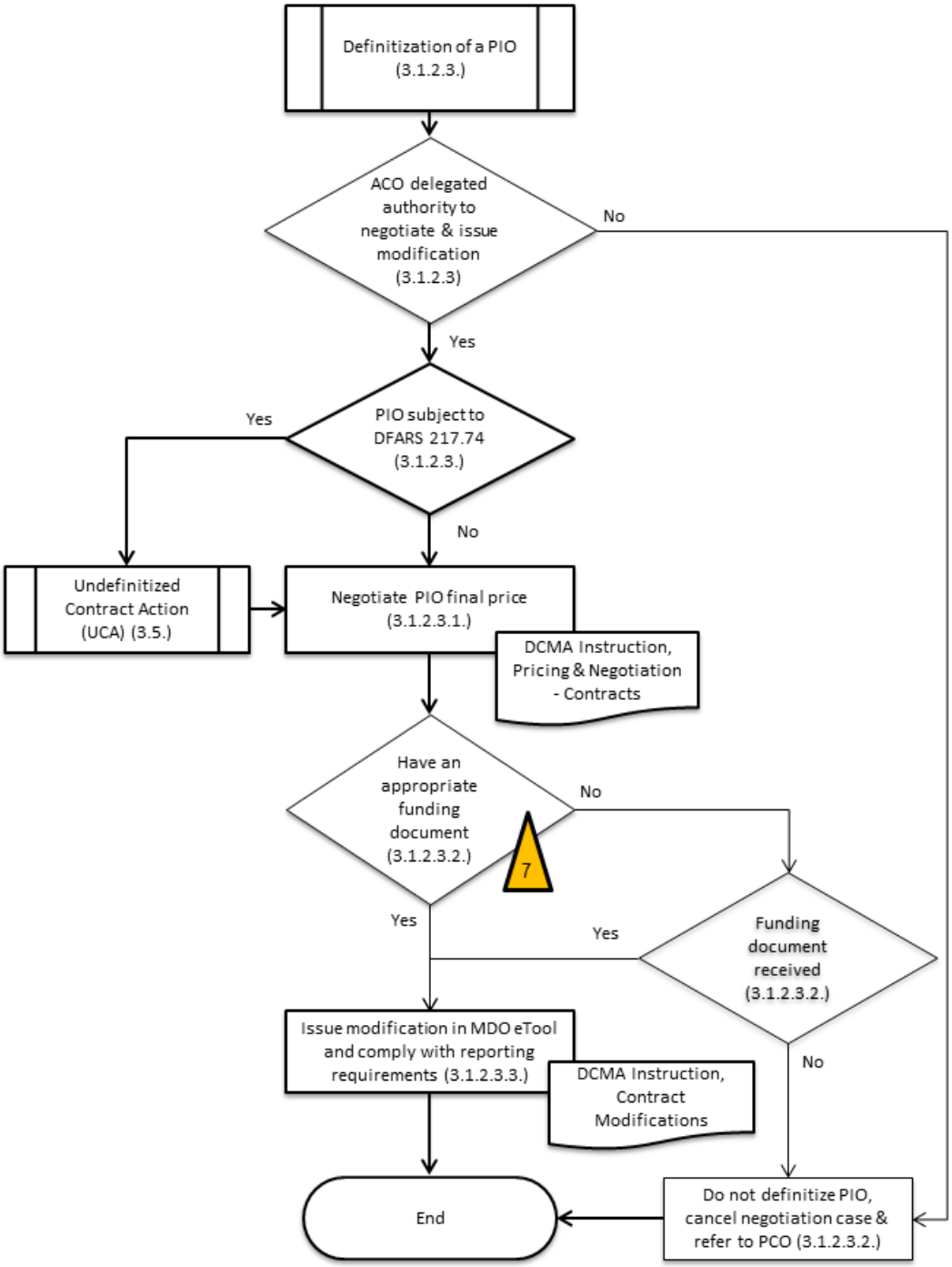

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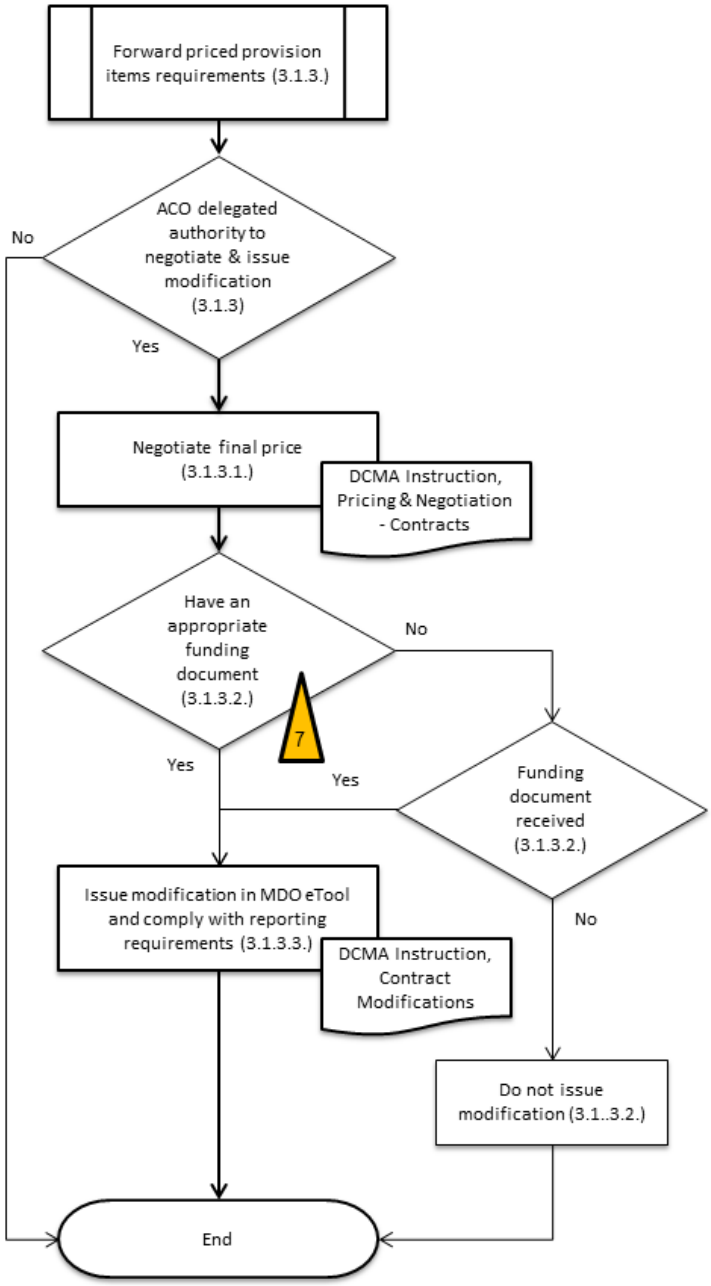

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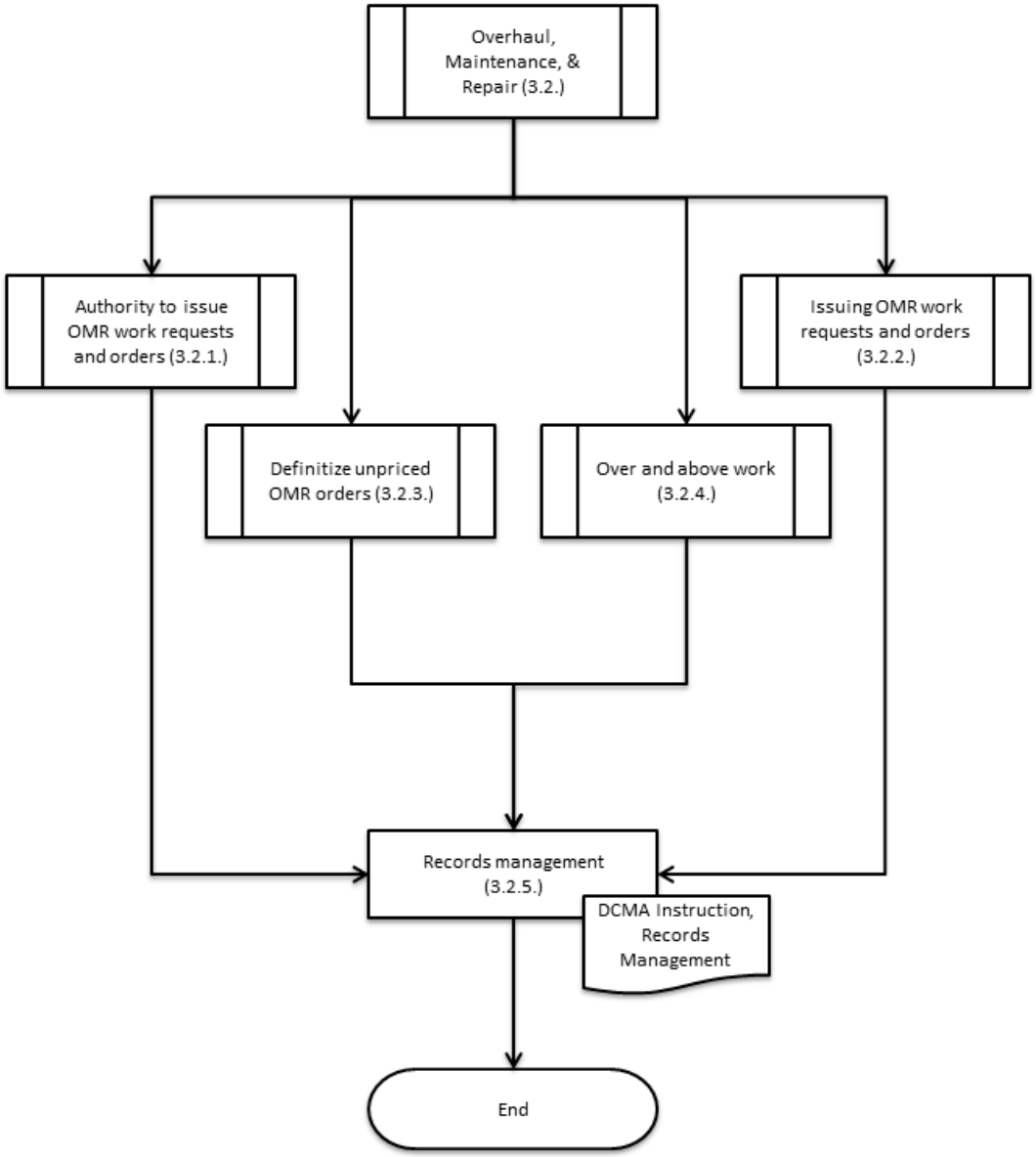

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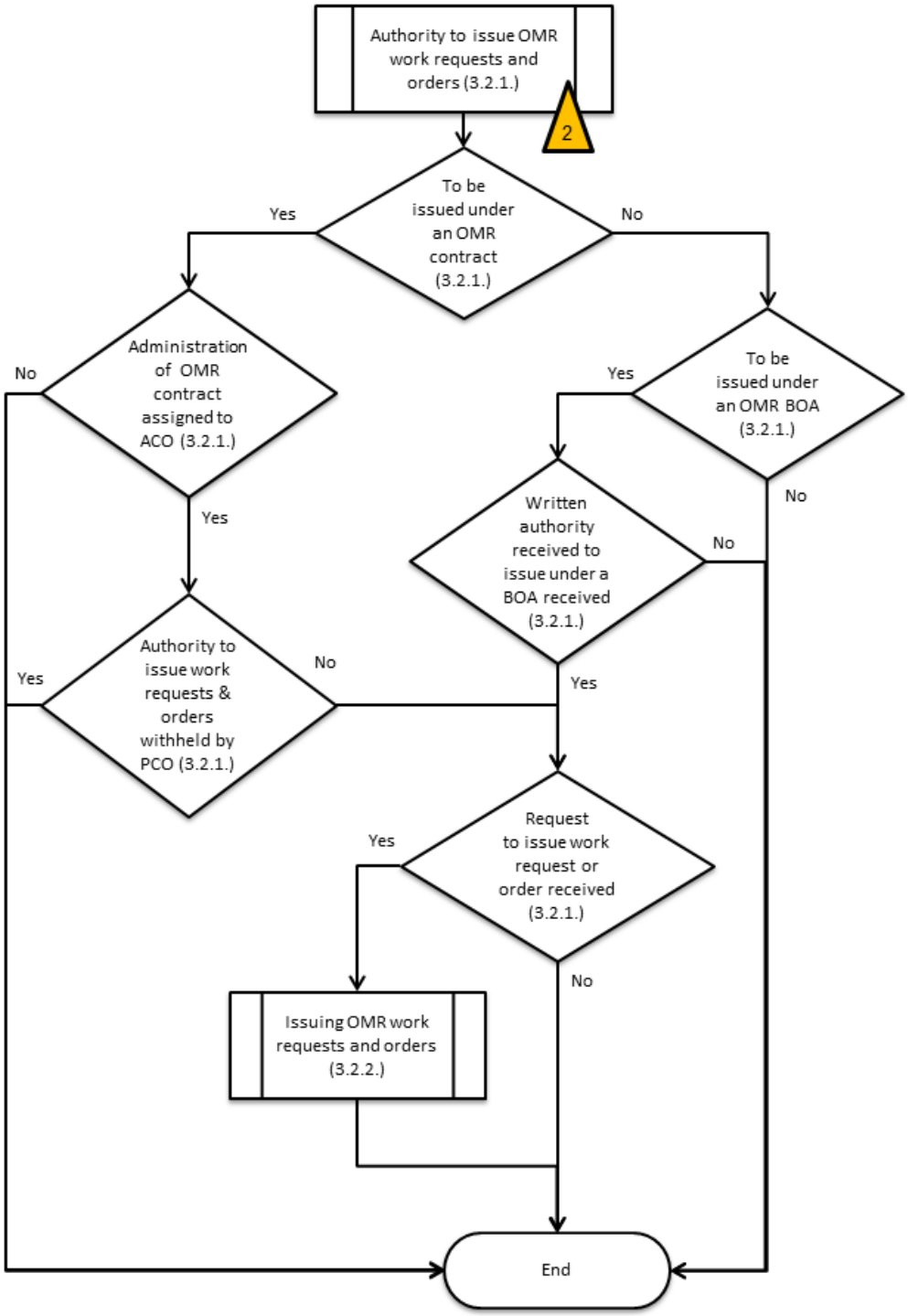

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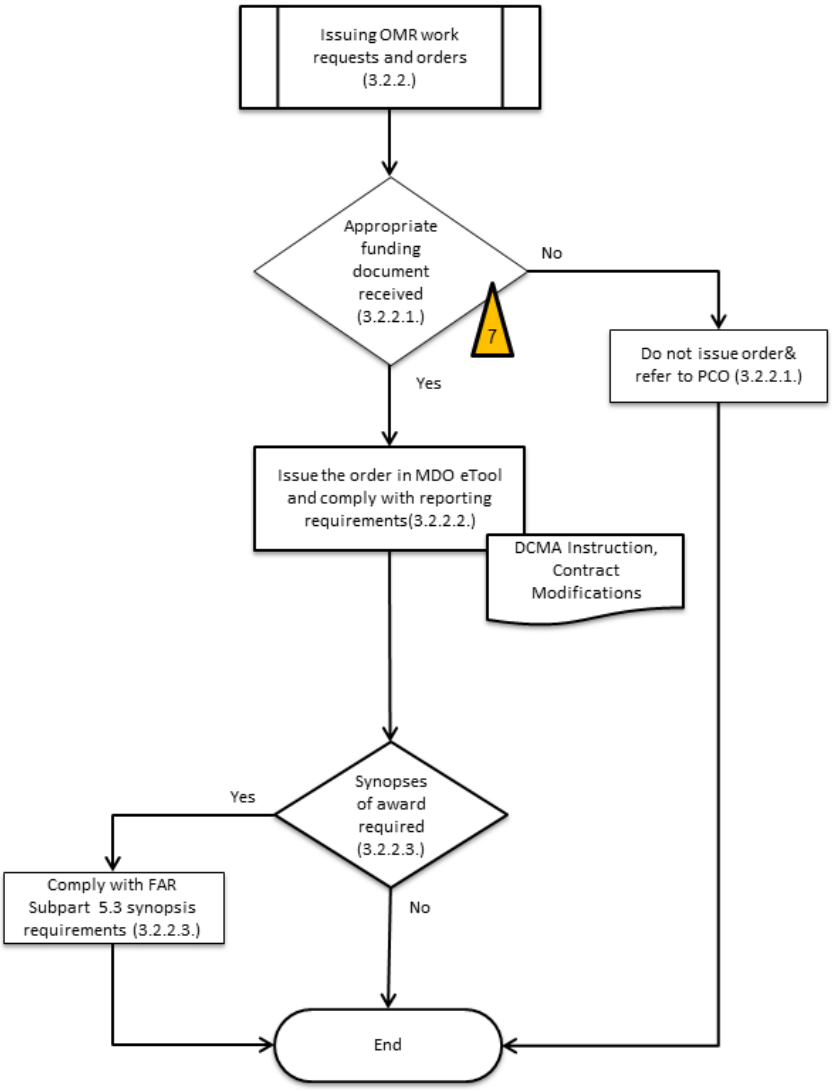

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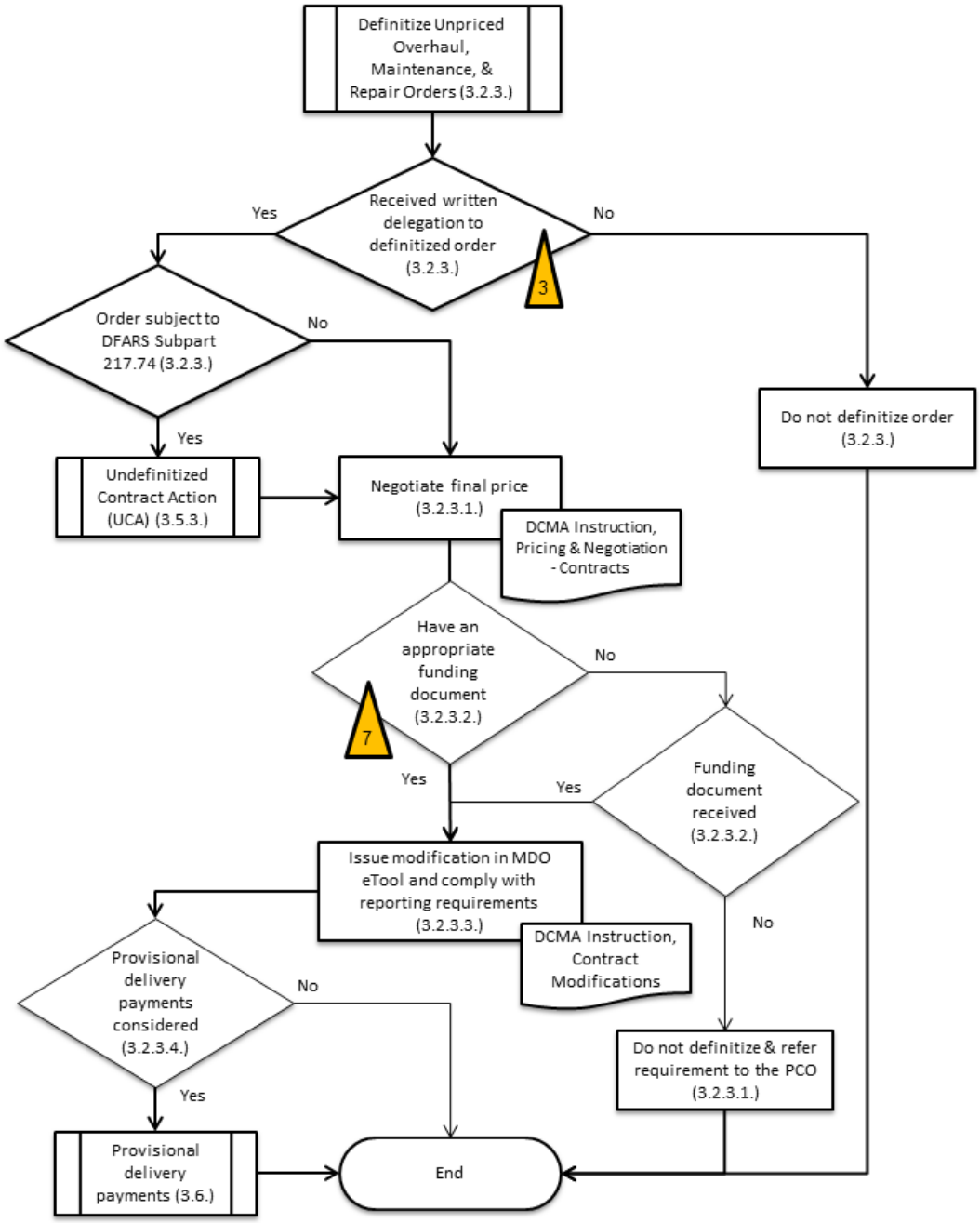

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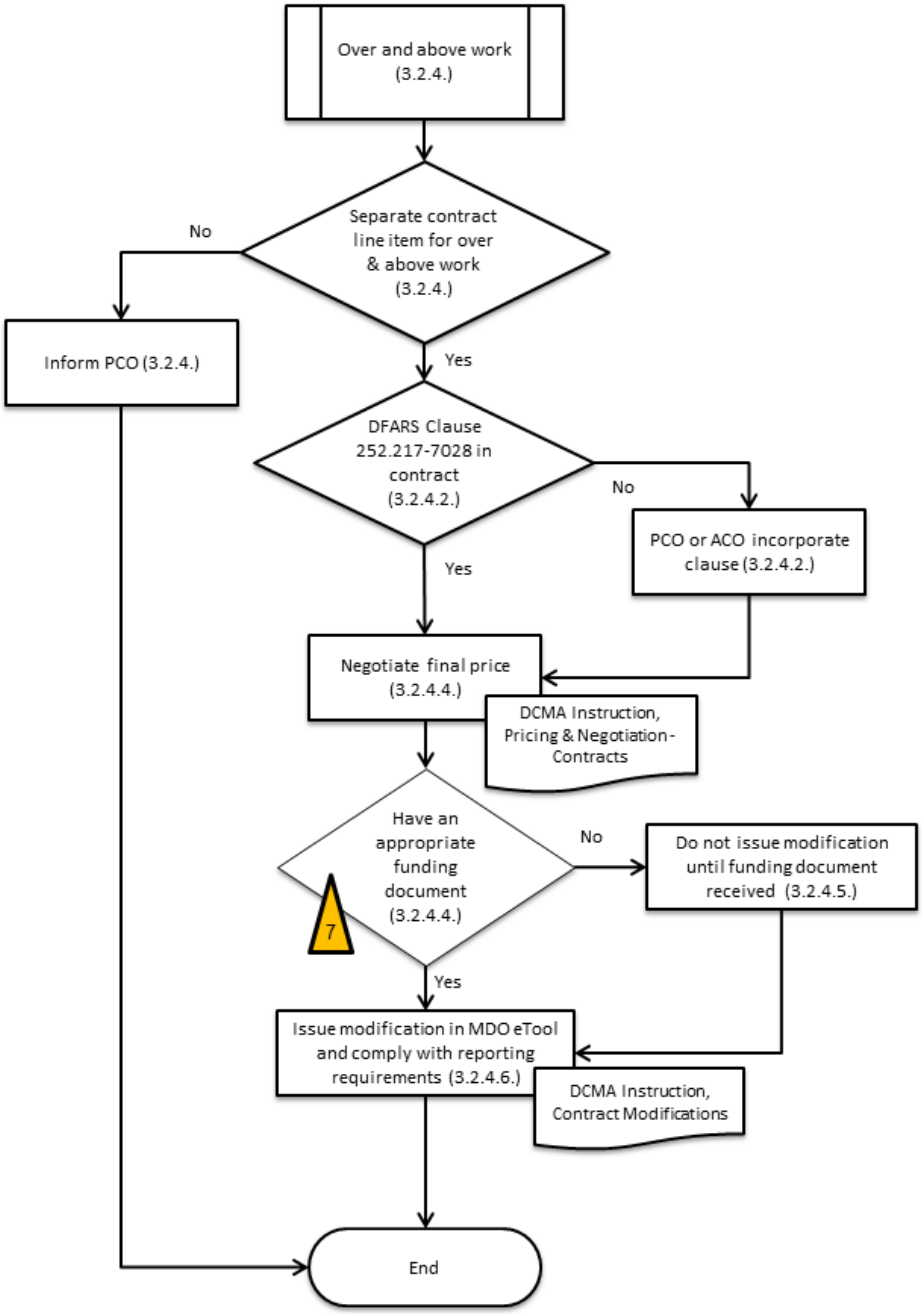

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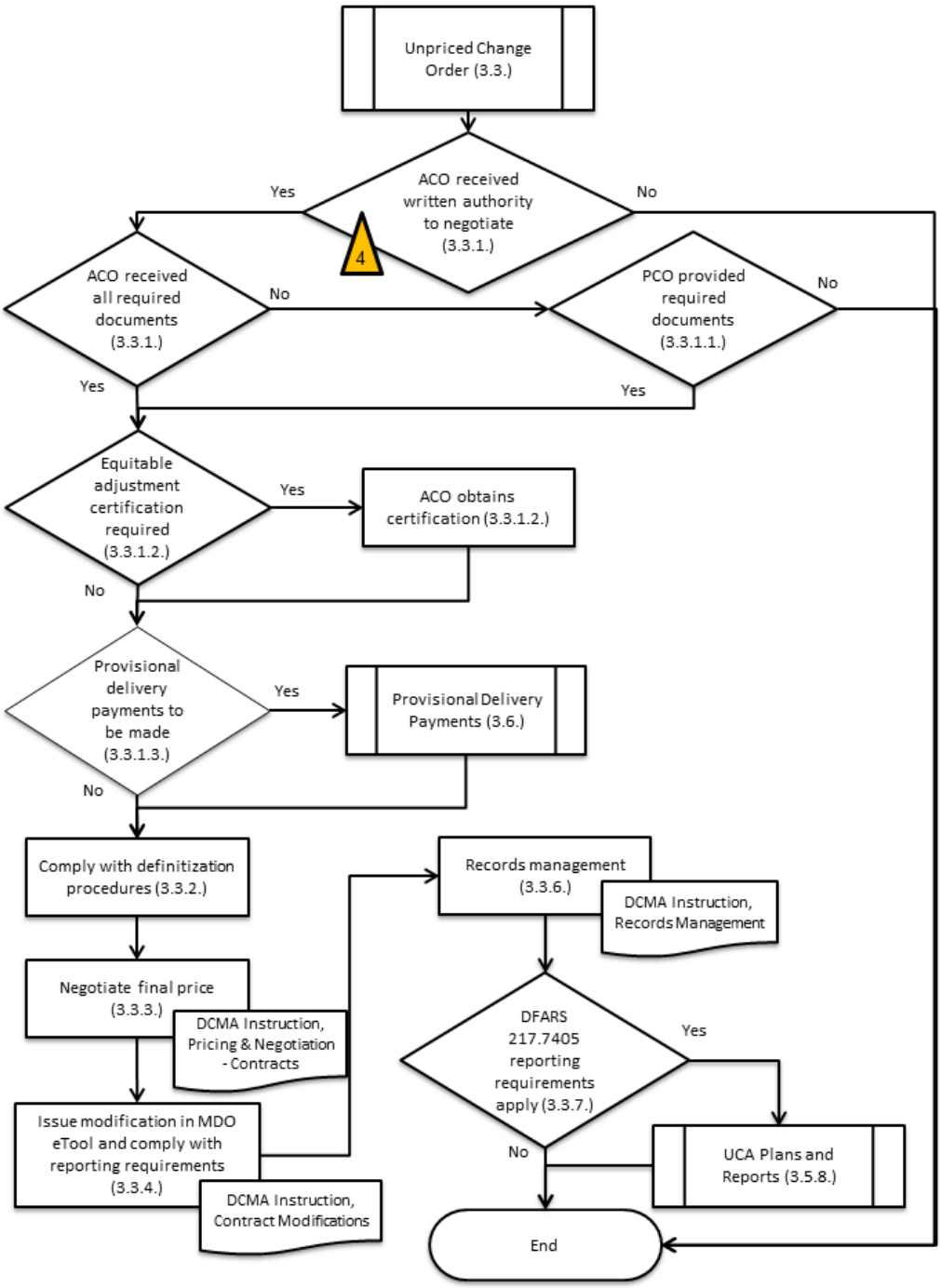

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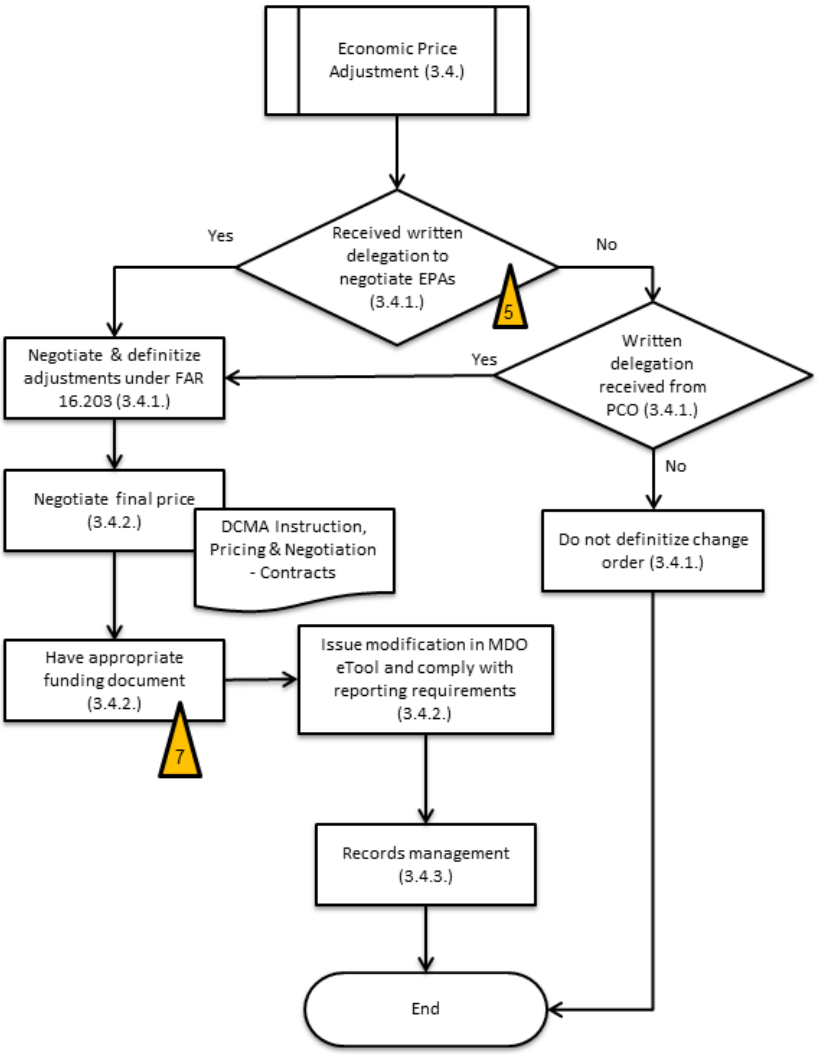

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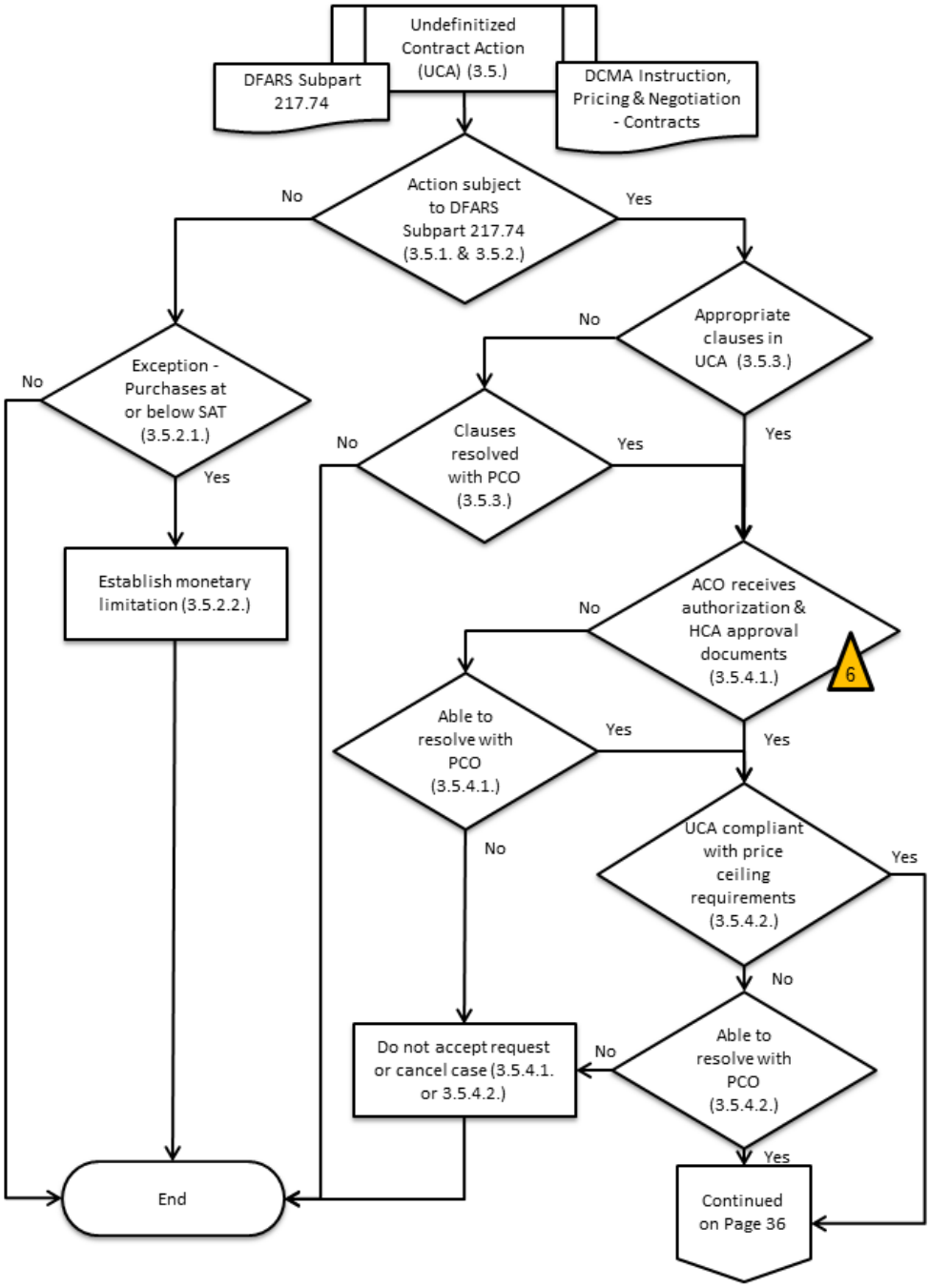

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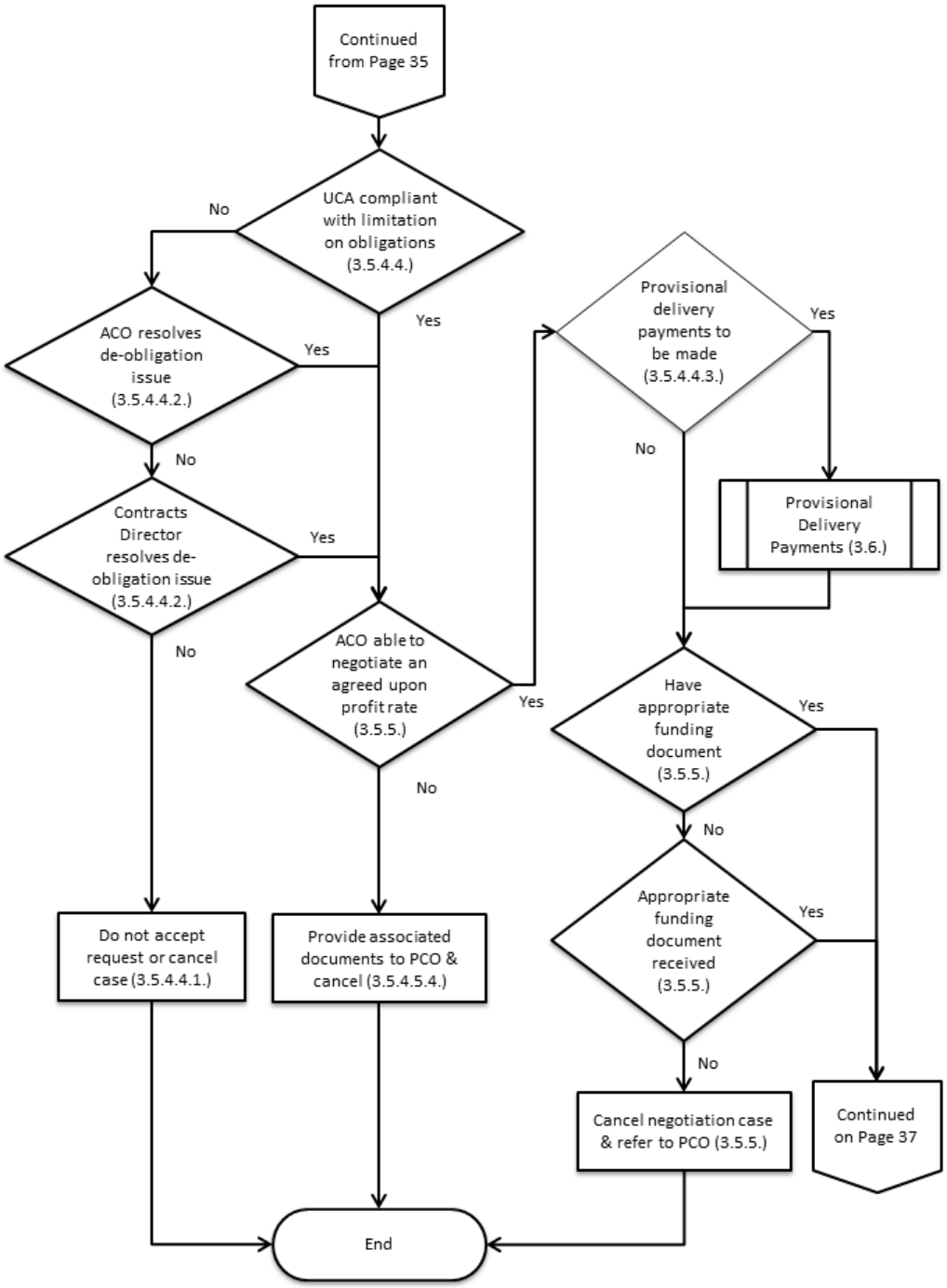

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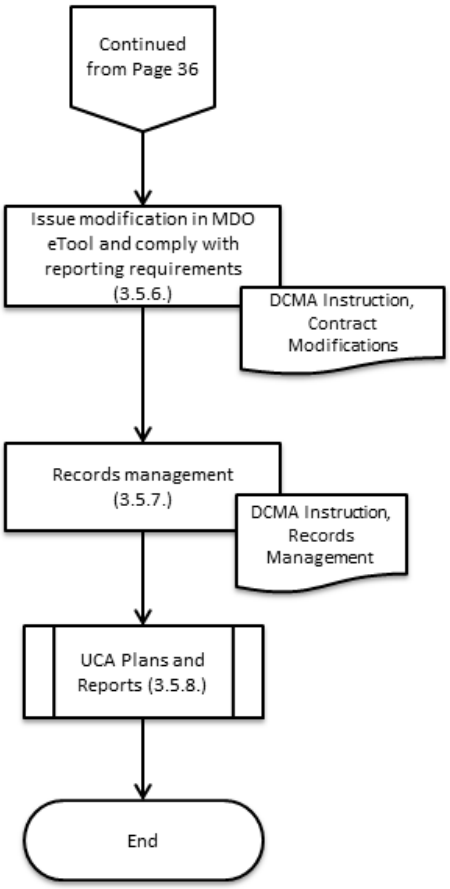

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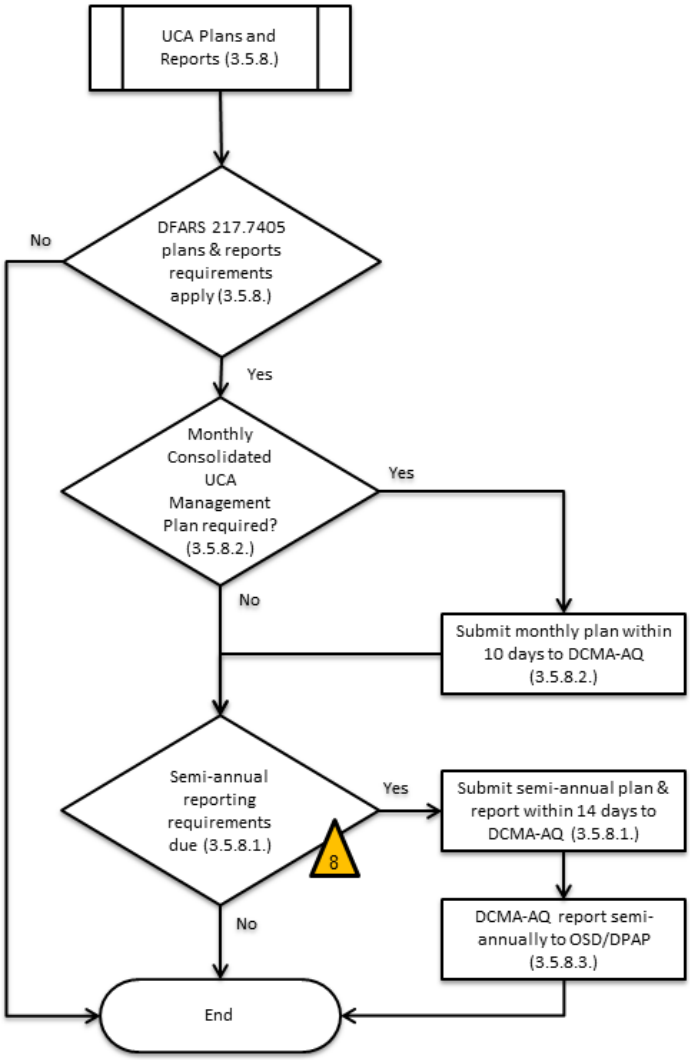

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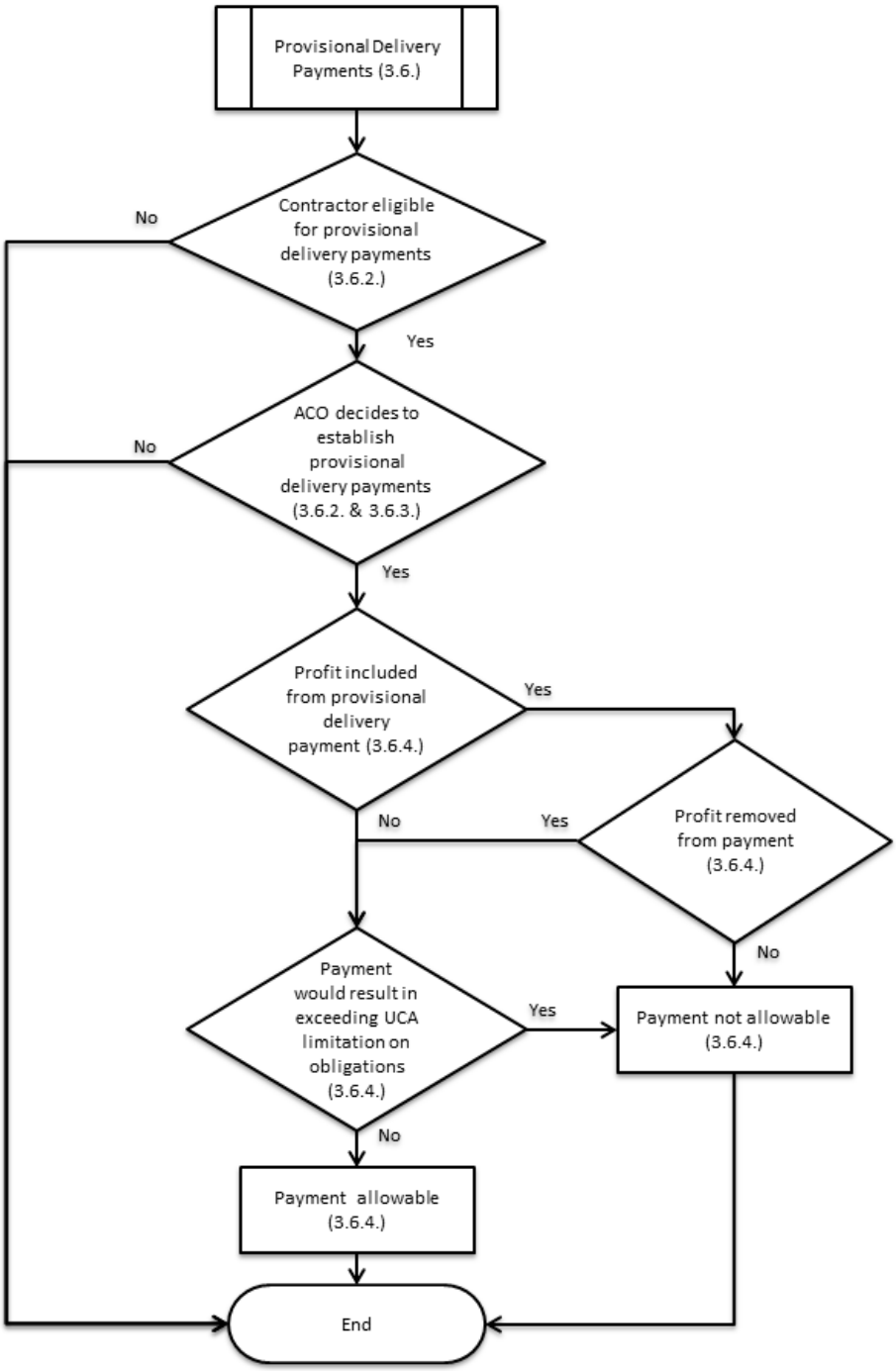

APPENDIX A – PROCESS FLOWCHART

Key Control Chart of Identified Process Risk			
Key Control	**Functional Area**	**Risk**	**Possible Controls**
1	Written delegation request & HCA approval document for ACO to issue orders & supplemental agreements for provisioned items (3.1.1.3.)	• Unauthorized award of contracts & commitment of government funds	• Contracts director ensures ACO receives appropriate documents
2	Written authorization for ACO to issue OMR orders under a BOA (3.2.1.)	• Unauthorized award of contracts & commitment of government funds	• Contracts director ensures ACO receives appropriate documents
3	Written authorization for ACO to definitized un-priced OMR orders (3.2.3.)	• Unauthorized commitment of government funds	• Contracts director ensures ACO receives appropriate documents
4	Written authorization for ACO to definitized un-priced change orders (3.3.1.)	• Unauthorized commitment of government funds	• Contracts director ensures ACO receives appropriate documents
5	Written authorization for ACO to definitized EPA adjustments (3.4.1.)	• Unauthorized commitment of government funds	• Contracts director ensures ACO receives appropriate documents
6	Written delegation request & HCA approval document for ACO to definitize UCAs (3.5.4.1.)	• Unauthorized commitment of government funds	• Contracts director ensures ACO receives appropriate documents
7	Have an appropriate funding document (3.1.2.1.1, 3.1.2.3.2, 3.1.3.2, 3.2.2.1, 3.2.4.4, & 3.4.2.)	• Unauthorized commitment of government funds & anti-deficiency concerns	• ACO validates funding document • Contracting supervisor review of ACO documents • Check in MDO eTool
8	Semi-annual UCA reporting requirements for DCMA-AQ (3.5.8.)	• Non-accountability of UCAs to congress	• DCMA-AQD POC develops report • DCMA-AQD supervisor reviews report • DCMA-AQ Exec. Director signs report

GLOSSARY

DEFINITIONS

The definition of most of the terms below are taken directly from the FAR, DFARS, or DFARS/PGI (References (h) and (i)).

Basic ordering agreement (BOA) is a written instrument of understanding, negotiated between an agency, contracting activity, or contracting office and a contractor, that contains; terms and clauses applying to future contracts (orders) between the Parties during its term; a description, as specific as practicable, of supplies or services to be provided; and methods for pricing, issuing, and delivering future orders under the BOA. A BOA is not a contract.

Change order means a written order, signed by the contracting officer, directing the contractor to make a change that the Changes clause authorizes the contracting officer to order without the contractor's consent.

Contract action, as used in DFARS/PGI Subpart 217.74 – Undefinitized Contract Actions, means an action which results in a contract. It includes contract modifications for additional supplies or services and task orders and delivery orders. It does not include change orders, administrative changes, funding modifications, or any other contract modifications that are within the scope and under the terms of the contract, e.g., engineering change proposals, value engineering change proposals, and over and above work requests as described in DFARS/PGI Subpart 217.77. For policy relating to the definitization of change orders, refer to DFARS/PGI 243.204-70 (Reference (i)).

Contract action, as used in FAR Subpart 4.6 – Contract Reporting, means any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. Contract action does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

Contract action report (CAR) means contract action data required to be entered into the FPDS.

Contract administration office (CAO) means an office that performs assigned postaward functions related to the administration of contracts and assigned preaward functions. For DCMA, a CAO is typically a CMO.

Contracting officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. "Administrative contracting officer (ACO)'' refers to a contracting officer who is administering contracts. "Termination contracting officer (TCO)" refers to a

contracting officer who is settling terminated contracts. A single contracting officer may be responsible for duties in any or all of these areas. Reference in this regulation (48 CFR Chapter 1) to administrative contracting officer or termination contracting officer does not -- (1) Require that a duty be performed at a Particular office or activity or (2) Restrict in any way a contracting officer in the performance of any duty properly assigned.

Definitization means the agreement on, or determination of, contract terms, specifications, and price, which converts the undefinitized contract action to a definitive contract.

Delivery order means an order for supplies placed against an established contract or with Government sources.

Delivery-order contract means a contract for supplies that does not procure or specify a firm quantity of supplies (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of supplies during the period of the contract.

Federal Procurement Data System – Next Generation (FPDS-NG) is the current central repository of information on Federal contracting. The system contains detailed information on contract actions over $3,000 (FY2004 and later data). It is a Government wide system that collects Government contracts information that is used to provide insight to the public and the Government on how and where tax dollars are being spent.

Head of the contracting activity (HCA) means the official who has overall responsibility for managing the contracting activity.

Indefinite delivery contract is a contract that may be used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award. The three types of indefinite-delivery contracts are: (1) definite-quantity contracts, (2) requirements contracts, and (3) indefinite-quantity contracts. Requirements contracts and indefinite-quantity contracts are also known as delivery-order contracts or task-order contracts.

Over and above work requirements task the contractor to identify needed repairs and recommend corrective action during contract performance. The contractor submits a work request to identify the over and above work and, as appropriate, the Government authorizes the contractor to proceed.

Price ceiling is the NTE price for an unpriced change order, unpriced order, or UCA.

Procuring activity means a component of an executive agency having a significant acquisition function and designated as such by the head of the agency. Unless agency regulations specify otherwise, the term “procuring activity” is synonymous with “contracting activity.”

Provisioned item means any item selected under provisioning procedures.

Provisioned items order (PIO) means an undefinitized order issued under a contract that includes the Government's requirements for provisioned items. (Provisioned items with firm prices are acquired by supplemental agreement or by separate contract.)

Provisioning is the process of determining and acquiring the range and quantity of spare and repair Parts, and support and test equipment required to operate and maintain an end item for an initial period of service.

Provisioning activity means the organization responsible for selecting and determining requirements for provisioned items.

Provisioning requirements statement means the contractual document listing the specific provisioning requirements for that contract. The statement normally includes: (A) Instructions, such as the provisioning method to be used; (B) The extent of provisioning technical documentation and data needed (including administrative requirements for submission and distribution); (C) The type and location of provisioning conferences; (D) Sample article requirements; (E) The delivery schedule; (F) Packaging and marking requirements for provisioned items; and (G) Requirements for provisioning screening.

Provisioning technical documentation means the data needed for the identification, selection, determination of initial requirements, and cataloging of support items to be acquired through the provisioning process. It includes such things as provisioning lists and logistics support analysis summaries. Descriptive data such as drawings and photographs are referred to as "supplementary provisioning technical documentation."

Purchase order, when issued by the Government, means an offer by the Government to buy supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures.

Qualifying proposal means a proposal containing sufficient information for the DoD to do complete and meaningful analyses and audits of the information in the proposal and any other information that the contracting officer has determined DoD needs to review in connection with the contract.

Task order means an order for services placed against an established contract or with Government sources.

Task-order contract means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

Undefinitized contract action (UCA) means any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. Examples are letter contracts, orders under BOA, and provisioned item orders, for which the

price has not been agreed upon before performance has begun. (See the definition of "contract action" for additional information.)

Unpriced action, for the purpose of this Instruction, can mean an unpriced change order, an unpriced order, an UCA, and an over and above work request.

Unpriced order, for the purposed of this Instruction, refers to an unpriced delivery order, an unpriced task order, or an unpriced purchase order that meets the definition of an UCA but is exempt from the requirements of DFARS/PGI 217.74 (Reference (i)).

Weighted guidelines is one of three structured approaches for developing a pre-negotiation profit or fee objective on any negotiated contract action when cost or pricing data is obtained, except for cost-plus-award-fee contracts or contracts with Federally Funded Research and Development Centers (FFRDC). (DFARS/PGI 215.404-4(b), Reference (i)).

GLOSSARY

ACRONYMS

ACO	administrative contracting officer
BOA	basic ordering agreement
CAO	contract administration office
CAR	contract action report
CMO	contract management office
DCMA-AQ	DCMA Contracts Directorate
DCMA-INST	DCMA Instruction
DFARS	Defense Federal Acquisition Regulation Supplement
DFARS PGI	DFARS Procedures, Guidance, and Information
DODFMR	DoD Financial Management Regulation
EDW	Electronic Document Workflow
EPA	economic price adjustment
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
HCA	head of the contracting activity
MOCAS	mechanization of contract administration services
MDO	modifications and delivery orders
OMR	overhaul, maintenance, and repair
NTE	not-to-exceed
P&N	pricing and negotiation
PCO	procuring contracting officer
PIO	provisioned items order
PNM	price negotiation memorandum
SAT	simplified acquisition threshold
UCA	undefinitized contract action