

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

Sec.

13.000 Scope of part.

Subpart 13.1—General

- 13.101 Definitions.
- 13.102 Purpose.
- 13.103 Policy.
- 13.104 Procedures.
- 13.105 Small business set-asides.
- 13.106 Soliciting competition, evaluation of quotes, and award.
- 13.106-1 Purchases at or below the micro-purchase threshold.
- 13.106-2 Purchases exceeding the micro-purchase threshold.
- 13.107 Solicitation forms.
- 13.108 Legal effect of quotations.
- 13.109 Agency use of indefinite delivery contracts.
- 13.110 Federal Acquisition Streamlining Act of 1994 (FASA) list of inapplicable laws.
- 13.111 Inapplicable provisions and clauses.
- 13.112 Use of options in acquisitions using simplified acquisition procedures.

Subpart 13.2—Blanket Purchase Agreements

- 13.201 General.
- 13.202 Establishment of blanket purchase agreements (BPAs).
- 13.203 Clauses.
- 13.204 Purchases under blanket purchase agreements.
- 13.205 Review procedures.
- 13.206 Completion of blanket purchase agreements.

Subpart 13.3—Fast Payment Procedure

- 13.301 General.
- 13.302 Conditions for use.
- 13.303 Preparation and execution of orders.
- 13.304 Responsibility for collection of debts.
- 13.305 Contract clause.

Subpart 13.4—Imprest Fund

- 13.401 General.
- 13.402 Agency responsibilities.
- 13.403 Conditions for use.
- 13.404 Procedures.

Subpart 13.5—Purchase Orders

- 13.501 General.
- 13.502 Unpriced purchase orders.

13.503 Obtaining contractor acceptance and modifying purchase orders.

13.504 Termination or cancellation of purchase orders.

13.505 Purchase order and related forms.

13.506 Provisions and clauses.

Subpart 13.6—Test Program for Certain Commercial Items

13.601 General.

13.602 Special documentation requirements.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42163, Sept. 19, 1983, unless otherwise noted.

13.000 Scope of part.

This part prescribes policies and procedures for the acquisition of supplies and services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold (see 2.101). Section 13.601 provides special authority for acquisitions of commercial items exceeding the simplified acquisition threshold but not greater than \$5,000,000, including options. See part 12, Acquisition of Commercial Items, for policies applicable to the acquisition of commercial items exceeding the micro-purchase threshold. See 36.602-5 for simplified procedures to be used when acquiring architect-engineering services.

[62 FR 264, Jan. 2, 1997]

Subpart 13.1—General

13.101 Definitions.

Bulk funding, as used in this part, means a system whereby a contracting officer receives authorization from a fiscal and accounting officer to obligate funds on purchase documents against a specified lump sum of funds reserved for the purpose for a specified period of time rather than obtaining individual obligational authority on each purchase document.

Governmentwide commercial purchase card, as used in this part, means a purchase card, similar in nature to a commercial credit card, issued to authorized agency personnel to use to acquire and to pay for supplies and services.

Imprest fund, as used in this part, means a cash fund of a fixed amount established by an advance of funds, without charge to an appropriation, from an agency finance or disbursing officer to a duly appointed cashier, for disbursement as needed from time to time in making payment in cash for relatively small amounts.

Purchase order, as used in this part, 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.

Third party draft, as used in this part, means an agency bank draft, similar to a check, which is used to acquire and to pay for supplies and services. (See Treasury Financial Manual Section 3040.70.)

[48 FR 42163, Sept. 19, 1983, as amended at 49 FR 12974, Mar. 30, 1984; 50 FR 1736, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 57 FR 60577, Dec. 21, 1992; 59 FR 64787, Dec. 15, 1994; 60 FR 34748, July 3, 1995; 61 FR 39192, July 26, 1996]

13.102 Purpose.

The purpose of this part is to prescribe simplified acquisition procedures in order to—

- (a) Reduce administrative costs;
- (b) Improve opportunities for small business, small disadvantaged business, and women-owned small business concerns to obtain a fair proportion of Government contracts;
- (c) Promote efficiency and economy in contracting; and
- (d) Avoid unnecessary burdens for agencies and contractors.

[60 FR 34748, July 3, 1995, as amended at 61 FR 39192, July 26, 1996]

13.103 Policy.

(a) Simplified acquisition procedures shall be used to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases below the micro-purchase threshold), unless requirements can be

met by using required sources of supply under part 8 (e.g., Federal Prison Industries, Committee for Purchase From People Who Are Blind or Severely Disabled, and Federal Supply Schedule contracts), existing indefinite delivery/indefinite quantity contracts, or other established contracts.

(b) The contracting office shall not use simplified acquisition procedures for contract actions exceeding \$50,000 after December 31, 1999, unless the office's cognizant agency has certified full FACNET capability in accordance with 4.505-2. This limitation does not apply to acquisitions of commercial items conducted using subpart 13.6.

(c) Simplified acquisition procedures shall not be used in the acquisition of supplies and services initially estimated to exceed the simplified acquisition threshold (or \$5,000,000, including options, for acquisitions of commercial items using subpart 13.6), even though resulting awards do not exceed the applicable threshold. Requirements aggregating more than the simplified acquisition threshold (or \$5,000,000, including options, if using subpart 13.6) or the micro-purchase threshold shall not be broken down into several purchases that are less than the applicable threshold merely to permit use of simplified acquisition procedures, or to avoid any requirements that apply to purchases exceeding the micro-purchase threshold.

(d) Simplified acquisition procedures may be used to acquire personal services if the agency has specific statutory authority to acquire personal services (see 37.104).

(e) The Governmentwide commercial purchase card is the preferred means to purchase and pay for micro-purchases. This is not intended to limit use of the purchase card to micro-purchases, if otherwise authorized under agency procedures, nor is it intended to preclude use of electronic purchasing techniques.

(f) Agencies are encouraged to use the Governmentwide commercial purchase card and electronic purchasing techniques to the maximum extent practicable. The Governmentwide commercial purchase card may be used to purchase and pay for purchases under part 8 procedures when authorized,

under existing indefinite delivery/indefinite quantity contracts, or from other established contracts in accordance with agency procedures.

(g) FACNET shall be used to acquire supplies and services (including construction, research and development, and architect-engineer) for contract actions exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold when practicable and cost-effective (see 4.506). Drawings and lengthy specifications can be provided off-line in hard copy or through other appropriate means.

(h) Contracting officers shall establish deadlines for the submission of responses to solicitations which afford suppliers a reasonable opportunity to respond in accordance with 5.203, Publicizing and response time.

(i) Contracting officers shall consider all quotes/offers that are timely received.

(j) Contracting officers are encouraged to use innovative approaches in awarding contracts using the simplified acquisition procedures under the authority of this part. For acquisitions of other than commercial items not expected to exceed the simplified acquisition threshold, contracting officers may use any appropriate combination of the procedures in part 13, 14, 15, 35, or 36, including the use of Standard Form (SF) 1442, Solicitation, Offer and Award (Construction, Alteration, or Repair), for construction contracts (see 36.701(b)). For acquisitions of commercial items not expected to exceed \$5 million, contracting officers may use any appropriate combination of the procedures in parts 12, 13, 14 and 15 (see 13.103(c)).

(k) Micro-purchases may be awarded using any of the purchasing methods covered in this part, provided the purchaser is authorized and trained, pursuant to agency regulations, to use those methods.

[61 FR 39193, July 26, 1996, as amended at 61 FR 41469, Aug. 8, 1996; 62 FR 264, Jan. 2, 1997]

13.104 Procedures.

(a) Contracting officers shall make awards under this part in the simplified manner that is most suitable, efficient, and economical in the cir-

cumstances of each acquisition. Contracting officers may use the procedures in this part in acquisitions from Government supply sources (see part 8), if their use is authorized by the basic contract or concurred in by the source.

(b) Related items (such as small hardware items or spare parts for vehicles) may be included in one solicitation and the award made on an "all-or-none" or "multiple award" basis if suppliers are so advised when quotations or offers are requested.

(c) Agencies shall use bulk funding to the maximum extent practicable to reduce processing time, handling, and documentation. Bulk funding is particularly appropriate if numerous purchases using the same type of funds are to be made during a given period.

(d) Agencies shall inspect items or services acquired under simplified acquisition procedures as prescribed in 46.404.

(e) Agencies shall use United States-owned excess or near-excess foreign currency, if appropriate, in making payments under simplified acquisition procedures (see subpart 25.3).

(f) For proposed purchases covered by this part, see 5.101 and 5.203 to determine if public display and synopsis requirements apply.

(g) When a quotation, oral or written, is to be rejected because a small business firm is determined to be non-responsible (see subpart 9.1), see subpart 19.6 with respect to certificates of competency.

[60 FR 34749, July 3, 1995, as amended at 61 FR 39193, July 26, 1996; 62 FR 265, Jan. 2, 1997]

13.105 Small business set-asides.

(a) Each acquisition (non-FACNET and FACNET) of supplies or services that has an anticipated dollar value exceeding \$2,500 and not exceeding \$100,000, is reserved exclusively for small business concerns and shall be set aside in accordance with subpart 19.5.

(b) Each written solicitation under a set-aside shall contain the appropriate provisions prescribed by part 19. If the solicitation is oral, however, information substantially identical to that

which is in the provision shall be given to potential quoters.

[61 FR 39193, July 26, 1996]

13.106 Soliciting competition, evaluation of quotes, and award.

13.106-1 Purchases at or below the micro-purchase threshold.

(a) *Soliciting competition, evaluation of quotes, and award.* (1) To the extent practicable, micro-purchases shall be distributed equitably among qualified suppliers.

(2) Micro-purchases (as defined in 2.101) may be awarded without soliciting competitive quotations if the contracting officer or individual appointed in accordance with 1.603-3(b) considers the price reasonable.

(3) The administrative cost of verifying the reasonableness of the price for purchases at or below the micro-purchase threshold may more than offset potential savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need only be taken if—

(i) The contracting officer or individual appointed in accordance with 1.603-3(b) suspects or has information to indicate that the price may not be reasonable (e.g., comparison to the previous price paid or personal knowledge of the supply or service); or

(ii) Purchasing a supply or service for which no comparable pricing information is readily available (e.g., a supply or service that is not the same as, or is not similar to, other supplies or services that have recently been purchased on a competitive basis).

(4) Prompt payment discounts should be solicited.

(5) Clauses are not required for micro-purchases using any method in part 12 or 13. However, this does not prohibit the use of any clause prescribed elsewhere in this chapter when determined necessary by the contracting officer.

(b) *Documentation.* Minimize the documentation to support micro-purchases.

[61 FR 39193, July 26, 1996]

13.106-2 Purchases exceeding the micro-purchase threshold.

(a) *Soliciting competition.* (1) Contracting officers shall promote competition to the maximum extent practicable to obtain supplies and services from the source whose offer is the most advantageous to the Government, based, as appropriate, on either price alone or price and other factors (e.g., past performance and quality) including the administrative cost of the purchase. Contracting officers are encouraged to use best value. Solicitations shall notify suppliers of the basis upon which award is to be made.

(2) For acquisitions not exceeding the simplified acquisition threshold where FACNET is not available, or an exemption set forth in 4.506 applies, quotations may be solicited through other appropriate means (e.g., orally, or in writing). The contracting officer shall comply with the requirements of 5.101 when not soliciting via FACNET. When a synopsis is required, sufficient information to permit suppliers to develop quotations or offers may be incorporated into a combined synopsis/solicitation. In such cases, the contracting officer is not required to issue a separate solicitation. For commercial item acquisitions, also see 12.603.

(3) For acquisitions not exceeding \$25,000, requests for quotations should be solicited orally to the maximum extent practicable when FACNET is not available or a written determination has been made that it is not practicable or cost-effective to purchase via FACNET. Paper solicitations for contract actions not expected to exceed \$25,000 should be issued only when obtaining electronic or oral quotations is not considered economical or practicable. Written solicitations shall be issued for construction contracts over \$2,000.

(4) If a synopsis is not required (e.g., the acquisition does not exceed \$25,000 or an exemption to the synopsis requirement applies) and FACNET is not being used, solicitation of at least three sources generally may be considered to promote competition to the maximum extent practicable. In such circumstances, maximum practicable competition ordinarily can be obtained without soliciting quotations or offers

from sources outside the local trade area. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations or offers. The following factors influence the number of quotations or offers required in connection with any particular purchase:

(i) The nature of the article or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or is relatively noncompetitive.

(ii) Information obtained in making recent purchases of the same or similar item.

(iii) The urgency of the proposed purchase.

(iv) The dollar value of the proposed purchase.

(v) Past experience concerning specific dealers' prices.

(5) For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available.

(6) For sole source acquisitions of commercial items in excess of the simplified acquisition threshold conducted pursuant to subpart 13.6, the requirements at 13.602(a) apply.

(7) Contracting officers shall not limit competition to suppliers of well-known and widely distributed makes or brands (see 11.104), or solicit quotations or offers on a personal preference basis.

(8) In accordance with 14.408-3, contracting officers shall make every effort to obtain trade and prompt payment discounts. However, prompt payment discounts shall not be considered in the evaluation of quotations.

(9)(i) Each contracting office should maintain a source list (or lists, if more convenient). New supply sources for the list may be obtained from a variety of sources, including the Central Contractor Registration (CCR) data base (see 4.503). The list should identify the status of each source (when the status is made known to the contracting office) in the following categories:

- (A) Small business.
- (B) Small disadvantaged business.
- (C) Women-owned small business.

(ii) The status information may be used as the basis to ensure that small business concerns are given opportunities to respond to solicitations issued using simplified acquisition procedures.

(10) Solicitations are not required to state the relative importance assigned to each evaluation factor and subfactor, nor are they required to include subfactors.

(b) *Evaluation of quotations or offers.*

(1) When evaluating quotations or offers, the evaluation must be made on the basis established in the solicitation. All quotations or offers must be considered. However, the contracting officer has broad discretion in fashioning suitable evaluation procedures. The procedures prescribed in parts 14 and 15 are not mandatory. At the contracting officer's discretion, one or more, but not necessarily all, of the evaluation procedures in part 14 or 15 may be used. Formal evaluation plans, establishment of a competitive range, conduct of discussions, and scoring of quotes or offers are not required. Contracting officers may conduct comparative evaluations of offers. Evaluation of other factors, such as past performance, does not require the creation or existence of a formal data base, but may be based on such information as the contracting officer's knowledge of and previous experience with the item or service being purchased, customer surveys, or other reasonable basis.

(2) Standing price quotations may be used in lieu of obtaining individual quotations each time a purchase is contemplated. In such cases, contracting officers shall ensure that the pricing information is current and that the Government obtains the benefit of maximum discounts before award is made.

(3) Contracting officers shall evaluate quotations or offers inclusive of transportation charges from the shipping point of the supplier to the delivery destination.

(4) Contracting officers shall comply with the policy in 7.202 relating to economic purchase quantities, when practicable.

(c) *Award.* (1) Occasionally an item can be obtained only from a supplier that quotes a minimum order price or

quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantities required. In these instances, the contracting officer should inform the requiring activity of all facts regarding the quotation or offer and ask it to confirm or alter its requirement. The file shall be documented to support the final action taken.

(2) For acquisitions not exceeding the simplified acquisition threshold, except for awards conducted through FACNET, notification to unsuccessful suppliers shall be given only if requested.

(3) If a supplier requests information on an award which was based on factors other than price, a brief explanation of the basis for the contract award decision shall be provided (see 15.503(b)(2)).

(d) *Data to support purchases.* (1) The determination that a proposed price is reasonable should be based on competitive quotations/offers. If only one response is received, a statement shall be included in the contract file giving the basis of the determination of fair and reasonable price. The determination may be based on market research, a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being purchased, comparison to an independent government estimate, or any other reasonable basis.

(2) When other than price-related factors are considered in selecting the supplier (see 13.106-2(b)(1)), the contracting officer shall document the file to support the final award decision.

(3) If only one source is solicited and the acquisition does not exceed the simplified acquisition threshold, an additional notation shall be made to explain the absence of competition, except for acquisition of utility services available only from one source.

(4) Documentation should be kept to a minimum. The following illustrate the extent to which quotation/offer information should be recorded:

(i) *Oral solicitations.* The contracting office should establish and maintain informal records of oral price quotations in order to reflect clearly

the propriety of placing the order at the price paid with the supplier concerned. In most cases, this will consist merely of showing the names of the suppliers contacted and the prices and other terms and conditions quoted by each.

(ii) *Written solicitations* (see 2.101). For acquisitions not exceeding the simplified acquisition threshold, written records of solicitations/offers may be limited to notes or abstracts to show prices, delivery, references to printed price lists used, the supplier or suppliers contacted, and other pertinent data.

(5) Purchasing offices shall retain data supporting purchases (paper or electronic) to the minimum extent and duration necessary for management review purposes (see subpart 4.8) when using simplified acquisition procedures.

[61 FR 39194, July 26, 1996, as amended at 61 FR 69289, Dec. 31, 1996; 62 FR 265, Jan. 2, 1997; 62 FR 10710, Mar. 10, 1997; 62 FR 51270, Sept. 30, 1997]

EFFECTIVE DATE NOTE: At 62 FR 51270, Sept. 30, 1997, in section 13.106-2, in paragraph (c)(3), "15.1003(b)(2)" was amended to read "15.503(b)(2)", effective Oct. 10, 1997.

13.107 Solicitation forms.

(a) For use of the SF 1449, Solicitation/Contract/Order for Commercial Items, see 12.204.

(b) Except when quotations are solicited via FACNET, other electronic means, or orally, the SF 1449; SF 18, Request for Quotations; or other agency authorized form/automated format may be used for other than commercial items.

(c) OF 336, Continuation Sheet, may be used when additional space is needed.

[61 FR 39195, July 26, 1996, as amended at 62 FR 266, Jan. 2, 1997]

13.108 Legal effect of quotations.

(a) A quotation is not an offer and, consequently, cannot be accepted by the Government to form a binding contract (see 15.402(e)). Therefore, issuance by the Government of an order for supplies or services in response to a supplier's quotation does not establish a contract. The order is an offer by the Government to the supplier to buy certain

supplies or services upon specified terms and conditions. A contract is established when the supplier accepts the offer or begins performance.

(b) When appropriate, the contracting officer may ask the supplier to indicate acceptance of an order by notification to the Government, preferably in writing, as defined at 2.101. In other circumstances, the supplier may indicate acceptance by furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

(c) If the Government issues an order resulting from a quotation, the Government may (by written notice to the supplier, at any time before acceptance occurs) withdraw, amend, or cancel its offer. (See 13.504 for procedures on termination or cancellation of purchase orders.)

[60 FR 34750, July 3, 1995, as amended at 61 FR 39195, July 26, 1996]

EFFECTIVE DATE NOTE: At 62 FR 51270, Sept. 30, 1997, in section 13.108, in paragraph (a), "(See 15.402(e))" was removed, effective Oct. 10, 1997.

13.109 Agency use of indefinite delivery contracts.

Cost and processing time for acquisitions at or below the simplified acquisition threshold may be reduced through the use of indefinite delivery contracts (see subpart 16.5) that permit task or delivery orders to be placed by several contracting or ordering offices in one or more executive agencies. Contracting offices are encouraged to seek opportunities to cooperate with each other to achieve efficiency and economy through the use of indefinite delivery contracts.

[60 FR 34751, July 3, 1995, as amended at 61 FR 39195, July 26, 1996]

13.110 Federal Acquisition Streamlining Act of 1994 (FASA) list of inapplicable laws.

(a) The following laws are inapplicable to all contracts and subcontracts (if otherwise applicable to subcontracts) at or below the simplified acquisition threshold:

(1) 41 U.S.C. 57 (a) and (b) (Anti-Kickback Act of 1986). (Only the requirement for the incorporation of the contractor procedures for the prevention

and detection of violations, and the contractual requirement for contractor cooperation in investigations are inapplicable.)

(2) 40 U.S.C. 270a (Miller Act). (Although the Miller Act no longer applies to contracts at or below the simplified acquisition threshold, alternative forms of payment protection for suppliers of labor and material are still required if the contract exceeds \$25,000.)

(3) 40 U.S.C. 327 to 333 (Contract Work Hours and Safety Standards Act).

(4) 41 U.S.C. 701(a)(1) (Section 5152 of the Drug Free Workplace Act of 1988), except for individuals.

(5) 42 U.S.C. 6962 (Solid Waste Disposal Act) (Only the requirement for providing the estimate of recovered material utilized in the performance of the contract is inapplicable).

(6) 10 U.S.C. 2306(b) and 41 U.S.C. 254(a) (Contract Clause Regarding Contingent Fees).

(7) 10 U.S.C. 2313 and 41 U.S.C. 254(c) (Authority to Examine Books and Records of Contractors).

(8) 10 U.S.C. 2402 and 41 U.S.C. 253g (Prohibition on Limiting Subcontractor Direct Sales to the United States).

(b) The Federal Acquisition Regulatory Council will include any law enacted after October 13, 1994, that sets forth policies, procedures, requirements, or restrictions for the procurement of property or services, on the list set forth in 13.110(a), unless the FAR Council makes a written determination that it is in the best interests of the Government that the enactment should apply to contracts or subcontracts not greater than the simplified acquisition threshold.

(c) The provisions of 13.110(b) do not apply to laws that—

(1) Provide for criminal or civil penalties; or

(2) Specifically state that notwithstanding the language of Section 4101, Pub. L. 103-355, the enactment will be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

(d) Any individual may petition the Administrator of the Office of Federal Procurement Policy to include any applicable provision of law not included on the list set forth in 13.110(a) unless

the FAR Council has already determined in writing that the law is applicable. The Administrator of OFPP will include the law on the list in 13.110(a) unless the FAR Council makes a determination that it is applicable within sixty days of receiving the petition.

[60 FR 34751, July 3, 1995, as amended at 61 FR 39195, July 26, 1996]

13.111 Inapplicable provisions and clauses.

While certain statutes still apply, pursuant to Public Law 103-355, the following provisions and clauses are inapplicable to contracts and subcontracts at or below the simplified acquisition threshold—

- (a) Clauses implementing Miller Act requirements in 28.102-3;
- (b) 52.203-5, Covenant Against Contingent Fees;
- (c) 52.203-6, Restrictions on Subcontractor Sales to the Government;
- (d) 52.203-7, Anti-Kickback Procedures;
- (e) 52.215-2, Audit and Records—Negotiation;
- (f) 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation;
- (g) 52.223-6, Drug-Free Workplace, except for individuals; and
- (h) 52.223-9, Certification and Estimate of Percentage of Recovered Material Content for EPA Designated Items.

EFFECTIVE DATE NOTE: At 62 FR 44810, Aug. 22, 1997, section 13.111 was amended by revising paragraph (h), effective Oct. 21, 1997. For the convenience of the user, the superseded text is set forth as follows:

13.111 Inapplicable provisions and clauses.

* * * * *

(h) 52.223-8, Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract.

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[60 FR 34751, July 3, 1995, as amended at 61 FR 39188, 39195, July 26, 1996; 61 FR 69292, Dec. 31, 1996]

13.112 Use of options in acquisitions using simplified acquisition procedures.

Options may be included in acquisitions using simplified acquisition procedures provided that the requirements of subpart 17.2 are met, and that the aggregate value of the acquisition and all options does not exceed the dollar threshold for use of simplified acquisition procedures under this part.

[60 FR 34751, July 3, 1995]

Subpart 13.2—Blanket Purchase Agreements

SOURCE: 60 FR 34751, July 3, 1995, unless otherwise noted.

13.201 General.

(a) A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing “charge accounts” with qualified sources of supply (see subpart 16.7 for additional coverage of agreements).

(b) BPAs should be established for use by the level responsible for providing supplies for its own operations or for other offices, installations, projects, or functions. Such levels, for example, may be organized supply points, separate independent or detached field parties, or one-person posts or activities.

(c) The use of BPAs does not exempt the agency from the responsibility for keeping obligations and expenditures within available funds.

13.202 Establishment of blanket purchase agreements (BPAs).

(a) The following are circumstances under which contracting officers may establish BPAs:

(1) There is a wide variety of items in a broad class of supplies or services that are generally purchased, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably.

(2) There is a need to provide commercial sources of supply for one or more offices or projects in a given area that do not have or need authority to purchase otherwise.

(3) Use of this procedure would avoid the writing of numerous purchase orders.

(4) There is not existing requirements contract for the same supply or service that the contracting activity is required to use.

(b) After determining a BPA would be advantageous, contracting officers shall—

(1) Establish the parameters to limit purchases to individual items or commodity groups or classes, or permit the supplier to furnish unlimited supplies or services; and

(2) Consider suppliers whose past performance has shown them to be dependable, and who offer quality supplies or services at consistently lower prices and who have provided numerous purchases at or below the simplified acquisition threshold.

(c) BPAs may be established with—

(1) More than one supplier for supplies or services of the same type to provide maximum practicable competition;

(2) A single firm from which numerous individual purchases at or below the simplified acquisition threshold will likely be made in a given period; or

(3) Federal Supply Schedule contractors, if not inconsistent with the terms of the applicable schedule contract.

(d) BPAs should be prepared without a purchase requisition and only after contacting suppliers to make the necessary arrangements for—

(1) Securing maximum discounts;

(2) Documenting individual purchase transactions;

(3) Periodic billings; and

(4) Incorporating other necessary details.

(e) BPAs shall be prepared on the forms specified in 13.505(a) and shall not cite accounting and appropriation data (see 13.204(e)(4)).

(1) The following terms and conditions are mandatory:

(i) *Description of agreement.* A statement that the supplier shall furnish supplies or services, described in general terms, if and when requested by the contracting officer (or the authorized representative of the contracting officer) during a specified period and

within a stipulated aggregate amount, if any.

(ii) *Extent of obligation.* A statement that the Government is obligated only to the extent of authorized purchases actually made under the BPA.

(iii) *Pricing.* A statement that the prices to the Government shall be as low or lower than those charged the supplier's most favored customer for comparable quantities under similar terms and conditions, in addition to any discounts for prompt payment.

(iv) *Purchase limitation.* A statement that specifies the dollar limitation for each individual purchase under the BPA (see 13.204(b)).

(v) *Individuals authorized to purchase under the BPA.* A statement that a list of individuals authorized to purchase under the BPA, identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each position title or individual shall be furnished to the supplier by the contracting officer.

(vi) *Delivery tickets.* A requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals, shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information:

(A) Name of supplier.

(B) BPA number.

(C) Date of purchase.

(D) Purchase number.

(E) Itemized list of supplies or services furnished.

(F) Quantity, unit price, and extension of each item, less applicable discounts (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show this information).

(G) Date of delivery or shipment.

(vii) *Invoices.* One of the following statements shall be included (except that the statement in paragraph (e)(1)(vii)(C) of this section should not be used if the accumulation of the individual invoices by the Government materially increases the administrative costs of this purchase method):

(A) A summary invoice shall be submitted at least monthly or upon expiration of this BPA, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipt copies of the delivery tickets.

(B) An itemized invoice shall be submitted at least monthly or upon expiration of this BPA, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received. These invoices need not be supported by copies of delivery tickets.

(C) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated; provided, that—

(1) A consolidated payment will be made for each specified period; and

(2) The period of any discounts will commence on the final date of the billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later.

(D) An invoice for subscriptions or other charges for newspapers, magazines, or other periodicals shall show the starting and ending dates and shall state either that ordered subscriptions have been placed in effect or will be placed in effect upon receipt of payment.

(2) If the fast payment procedure is used, the requirements stated in 13.303 shall be included.

[61 FR 39195, July 26, 1996, as amended at 61 FR 41469, Aug. 8, 1996; 62 FR 266 Jan. 2, 1997; 62 FR 44818, Aug. 22, 1997]

EFFECTIVE DATE NOTE: At 62 FR 44818, Aug. 22, 1997, section 13.202 was amended by adding paragraph (a)(4) and by revising paragraph (c)(3), effective Oct. 21, 1997. For the convenience of the user, the superseded text is set forth as follows:

13.202 Using schedules.

* * * * *

(c) * * *

(3) Federal Supply Schedule contractors if not inconsistent with the terms of the applicable schedule contract.

* * * * *

13.203 Clauses.

(a) The contracting officer shall insert in each BPA the clauses prescribed elsewhere in this part that are required for or applicable to the particular BPA.

(b) Unless a clause prescription specifies otherwise, (e.g., see 22.305(a), 22.605(a)(5), or 22.1006), if the prescription includes a dollar threshold, the amount to be compared to that threshold is that of any particular order under the BPA.

[60 FR 34751, July 3, 1995. Redesignated and amended at 61 FR 39196, July 26, 1996]

13.204 Purchases under blanket purchase agreements.

(a) The use of a BPA does not authorize purchases that are not otherwise authorized by law or regulation. For example, the BPA, being a method of simplifying the making of individual purchases, shall not be used to avoid the simplified acquisition threshold, or \$5,000,000 for acquisitions of commercial items conducted under subpart 13.6.

(b) Unless otherwise specified in agency regulations, individual purchases under BPAs, except those under BPAs established in accordance with 13.202(c)(3), shall not exceed the simplified acquisition threshold, or \$5,000,000, for acquisitions of commercial items conducted under subpart 13.6.

(c) The existence of a BPA does not justify purchasing from only one source or avoiding small business set-asides. The requirements of 13.105, 13.106-2, and subpart 19.5 also apply to each order.

(d) If there is an insufficient number of BPAs to ensure maximum practicable competition for a particular purchase, the contracting officer shall—

(1) Solicit quotations from other sources and make the purchase as appropriate; and

(2) Establish additional BPAs to facilitate future purchases if—

(i) Recurring requirements for the same or similar items or services seem likely,

(ii) Qualified sources are willing to accept BPAs, and

(iii) It is otherwise practical to do so.

(e) Documentation of purchases shall be limited to essential information and forms as follows:

(1) Purchases generally should be made electronically, or orally when it is not considered economical or practical to use electronic methods.

(2) A paper purchase document may be issued if written communications are necessary to ensure that the vendor and the purchaser agree concerning the transaction.

(3) If a paper document is not issued, the essential elements (e.g., date, vendor, items or services, price, delivery date) shall be recorded on the purchase requisition, in an informal memorandum, or on a form developed locally for the purpose.

(4) Documentation of purchases shall also cite the pertinent purchase requisitions and the accounting and appropriation data.

(5) When delivery is made or the services are performed, the vendor's sales document, delivery document, or invoice may (if it reflects the essential elements) be used for the purpose of recording receipt and acceptance of the items or services. However, if the purchase is assigned to another activity for administration, receipt and acceptance of supplies or services shall be documented by signature and date on the agency specified form by the authorized Government representative after verification and notation of any exceptions.

[60 FR 34751, July 3, 1995, as amended at 61 FR 39196, July 26, 1996; 62 FR 266, Jan. 2, 1997]

13.205 Review procedures.

(a) The contracting officer placing orders under a BPA, or the designated representative of the contracting officer, shall review a sufficient random sample of the BPA files at least annually to ensure that authorized procedures are being followed.

(b) The contracting officer that entered into the BPA shall—

(1) Ensure that each BPA is reviewed at least annually and, if necessary, updated at that time; and

(2) Maintain awareness of changes in market conditions, sources of supply, and other pertinent factors that may warrant making new arrangements

with different suppliers or modifying existing arrangements.

(c) If an office other than the purchasing office that established a BPA is authorized to make purchases under that BPA, the agency that has jurisdiction over the office authorized to make the purchases shall ensure that the procedures in paragraph (a) of this section are being followed.

13.206 Completion of blanket purchase agreements.

An individual BPA is considered complete when the purchases under it equal its total dollar limitation, if any, or when its stated time period expires.

Subpart 13.3—Fast Payment Procedure

SOURCE: 60 FR 34754, July 3, 1995, unless otherwise noted.

13.301 General.

The fast payment procedure allows payment under limited conditions to a contractor prior to the Government's verification that supplies have been received and accepted. The procedure provides for payment for supplies based on the contractor's submission of an invoice that constitutes a representation that—

(a) The supplies have been delivered to a post office, common carrier, or point of first receipt by the Government; and

(b) The contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase agreements.

13.302 Conditions for use.

If the conditions in paragraphs (a) through (f) of this section are present, the fast payment procedure may be used, provided that use of the procedure is consistent with the other conditions of the purchase. The conditions for use of the fast payment procedure are as follows:

(a) Individual purchasing instruments do not exceed \$25,000, except that executive agencies may permit higher dollar limitations for specified activities or items on a case-by-case basis.

Federal Acquisition Regulation

13.401

(b) Deliveries of supplies are to occur at locations where there is both a geographical separation and a lack of adequate communications facilities between Government receiving and disbursing activities that will make it impractical to make timely payment based on evidence of Government acceptance.

(c) Title to the supplies will vest in the Government—

(1) Upon delivery to a post office or common carrier for mailing or shipment to destination; or

(2) Upon receipt by the Government if the shipment is by means other than Postal Service or common carrier.

(d) The supplier agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase requirements.

(e) The purchasing instrument is a firm-fixed price contract, a purchase order, or a delivery order for supplies.

(f) A system is in place to ensure—

(1) Documenting evidence of contractor performance under fast payment acquisitions;

(2) Timely feedback to the contracting officer in case of contractor deficiencies; and

(3) Identification of suppliers who have a current history of abusing the fast payment procedure (also see subpart 9.1).

[60 FR 34754, July 3, 1995, as amended at 61 FR 39196, July 26, 1996]

13.303 Preparation and execution of orders.

Contracts, purchase orders, or BPAs using the fast payment procedure shall include the following:

(a) A requirement that the supplies be shipped transportation or postage prepaid.

(b) A requirement that invoices be submitted directly to the finance or other office designated in the order, or in the case of unpriced purchase orders, to the contracting officer (see 13.502(c)).

(c) The following statement on consignee's copy:

CONSIGNEE'S NOTIFICATION TO PURCHASING ACTIVITY OF NONRECEIPT, DAMAGE, OR NONCONFORMANCE

The consignee shall notify the purchasing office promptly after the specified date of delivery of supplies not received, damaged in transit, or not conforming to specifications of the purchase order. Unless extenuating circumstances exist, the notification should be made not later than 60 days after the specified date of delivery.

[60 FR 34754, July 3, 1995, as amended at 61 FR 39196, July 26, 1996]

13.304 Responsibility for collection of debts.

The contracting officer shall be primarily responsible for collecting debts resulting from failure of contractors to properly replace, repair, or correct supplies lost, damaged, or not conforming to purchase requirements (see 32.605(b) and 32.606).

13.305 Contract clause.

The contracting officer shall insert the clause at 52.213-1, Fast Payment Procedure, in solicitations and contracts when the conditions in 13.302 are applicable and it is intended that the fast payment procedure be used in the contract (in the case of BPAs, the contracting officer may elect to insert the clause either in the BPA or in orders under the BPA).

Subpart 13.4—Imprest Fund

SOURCE: 61 FR 39196, July 26, 1996, unless otherwise noted.

13.401 General.

This subpart prescribes policies and procedures for using imprest funds and third party drafts to acquire and pay for supplies or services. Related policies and regulations concerning the establishment of and accounting for imprest funds and third party drafts, including the responsibilities of designated cashiers and alternates, are contained in Part IV of the Treasury Financial Manual for Guidance of Departments and Agencies, Title 7 of the General Accounting Office Policy and Procedures Manual for Guidance of

Federal Agencies, and the agency implementing regulations. Agencies shall also be guided by the Manual of Procedures and Instructions for Cashiers, issued by the Financial Management Service, Department of the Treasury.

13.402 Agency responsibilities.

Each agency using imprest funds and third party drafts shall—

(a) Periodically review and determine whether there is a continuing need for each fund or third party draft account established, and that amounts of those funds or accounts are not in excess of actual needs;

(b) Take prompt action to have imprest funds or third party draft accounts adjusted to a level commensurate with demonstrated needs whenever circumstances warrant such action; and

(c) Develop and issue appropriate implementing regulations. These regulations shall include (but are not limited to) procedures covering—

(1) Designation of personnel authorized to make purchases using imprest funds or third party drafts; and

(2) Documentation of purchases using imprest funds or third party drafts, including documentation of—

(i) Receipt and acceptance of supplies and services by the Government;

(ii) Receipt of cash or third party draft payments by the suppliers; and

(iii) Cash advances and reimbursements.

13.403 Conditions for use.

Imprest funds or third party drafts may be used for purchases when—

(a) The imprest fund transaction does not exceed \$500 or such other limits as have been approved by the agency head;

(b) The third party draft transaction does not exceed \$2,500, unless authorized at a higher level in accordance with Treasury restrictions;

(c) The use of imprest funds or third party drafts is considered to be advantageous to the Government; and

(d) The use of imprest funds or third party drafts for the transaction otherwise complies with any additional conditions established by agencies and with the policies and regulations referenced in 13.401.

13.404 Procedures.

(a) Each purchase using imprest funds or third party drafts shall be based upon an authorized purchase requisition, contracting officer verification statement, or other agency approved method of ensuring adequate funds are available for the purchase.

(b) Normally, purchases should be placed orally and without soliciting competition if prices are considered reasonable.

(c) Purchases shall be distributed equitably among qualified suppliers.

(d) Prompt payment discounts shall be solicited.

(e) Any agency-authorized purchase order form or Standard Form 1165, Receipt for Cash-Subvoucher, may be used if a written order is considered necessary (e.g., if required by the supplier for discount, tax exemption, or other reasons). If a purchase order is used for this purpose, it shall be endorsed "Payment to be made from Imprest Fund" (or "payment to be made from third-party draft," as appropriate).

(f) The individual authorized to make purchases using imprest funds or third party drafts shall—

(1) Furnish to the imprest fund or third party draft cashier a copy of the document required under 13.404(a) annotated to reflect—

(i) That an imprest fund or third party draft purchase has been made;

(ii) The unit prices and extensions;

(iii) The supplier's name and address; and

(iv) The date of anticipated delivery.

(2) Require the supplier to include with delivery of the supplies an invoice, packing slip, or other sales instrument giving—

(i) The supplier's name and address;

(ii) List and quantity of items;

(iii) Unit prices and extensions; and

(iv) Cash discount, if any.

Subpart 13.5—Purchase Orders

13.501 General.

(a) Except as provided under the unpriced purchase order method (see 13.502), purchase orders generally are issued on a fixed-price basis. See part 12 for acquisition of commercial items.

(b) Purchase orders shall include any trade and prompt payment discounts that are offered, consistent with the applicable principles in 14.408-3.

(c) Purchase orders shall specify the quantity of supplies or scope of services ordered.

(d) Inspections under simplified acquisition procedures shall be as prescribed in part 46. Orders generally will provide that inspection and acceptance will be at destination, and source inspection should be specified only if required by part 46. If inspection and acceptance are to be performed at destination, advance copies of the purchase order, or equivalent notice, shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material.

(e) F.o.b. destination shall be specified for supplies to be delivered within the United States, except Alaska and Hawaii, unless there are valid reasons to the contrary.

(f) Each purchase order shall contain a determinable date by which delivery of supplies or performance of services is required.

(g) The contracting officer's signature (see 2.101) on purchase orders shall be in accordance with 4.101. Facsimile and electronic signature may be used in the production of purchase orders by automated methods.

(h) 52.223-9, Certification and estimate of Percentage of Recovered Material Content for EPA Designated Items.

(i) In accordance with 31 U.S.C. 3332, payment under contracts may be required to be made by electronic funds transfer (EFT). See 32.1103 for instructions for use of the appropriate clause in purchase orders. When obtaining verbal quotes, the contracting officer shall inform the offeror of the EFT clause that will be in any resulting purchase order. Contracting officers shall not accept EFT payment data. All such data shall be provided by the contractor directly to the payment office.

[48 FR 42163, Sept. 19, 1983, as amended at 61 FR 39197, July 26, 1996; 61 FR 45772, Aug. 29, 1996; 62 FR 44810, Aug. 22, 1997]

13.502 Unpriced purchase orders.

(a) An unpriced purchase order is an order for supplies or services, the price of which is not established at the time of issuance of the order.

(b) An unpriced purchase order may be used only when—

(1) It is impractical to obtain pricing in advance of issuance of the purchase order; and

(2) The purchase is for—

(i) Repairs to equipment requiring disassembly to determine the nature and extent of repairs;

(ii) Material available from only one source and for which cost cannot be readily established; or

(iii) Supplies or services for which prices are known to be competitive but exact prices are not known (e.g., miscellaneous repair parts, maintenance agreements).

(c) Unpriced purchase orders may be issued by using written purchase orders or electronically. A realistic monetary limitation, either for each line item or for the total order, shall be placed on each unpriced purchase order. The monetary limitation shall be an obligation subject to adjustment when the firm price is established. The contracting office shall follow-up each order to ensure timely pricing. The contracting officer or the contracting officer's designated representative shall review the invoice price and, if reasonable (see 13.106-2(d)), process the invoice for payment.

[48 FR 42163, Sept. 19, 1983, as amended at 61 FR 39197, July 26, 1996]

13.503 Obtaining contractor acceptance and modifying purchase orders.

(a) When it is desired to consummate a binding contract between the parties before the contractor undertakes performance, the contracting officer shall require written (see 2.101) acceptance of the purchase order by the contractor.

(b) A purchase order may be modified by use of—

(1) Standard Form 30, Amendment of Solicitation/Modification of Contract;

(2) An agency-designed form or an agency-approved automated format; or

(3) A purchase order form, if not prohibited by agency regulations.

(c) Each purchase order modification shall identify the order it modifies and shall contain an appropriate modification number.

(d) Contracting officers need not obtain a contractor's written acceptance of a purchase order modification, unless the written acceptance is—

(1) Determined by the contracting officer to be necessary to ensure the contractor's compliance with the purchase order as revised; or

(2) Required by agency regulations.

[48 FR 42163, Sept. 19, 1983, as amended at 61 FR 39197, July 26, 1996]

13.504 Termination or cancellation of purchase orders.

(a) If a purchase order that has been accepted in writing by the contractor is to be terminated, the contracting officer shall process the termination action as prescribed by part 49.

(b) If a purchase order that has not been accepted in writing by the contractor is to be canceled, the contracting officer shall notify the contractor in writing that the purchase order has been canceled, request the contractor's written acceptance of the cancellation, and proceed as follows:

(1) If the contractor accepts the cancellation and does not claim that costs were incurred as a result of beginning performance under the purchase order, no further action is required (i.e., the purchase order shall be considered canceled).

(2) If the contractor does not accept the cancellation or claims that costs were incurred as a result of beginning performance under the purchase order, the contracting officer shall process the termination action as prescribed by part 49.

13.505 Purchase order and related forms.

(a) The following are multipurpose forms used for negotiated purchases of supplies or services, delivery or task orders, inspection and receiving reports, and invoices:

(1) SF 1449 shall be used for commercial items.

(2) For other than commercial items, SF 1449, OF 347, or an agency form/automated format may be used. Agencies may print on the latter forms the

clauses considered to be generally suitable for purchases.

(3) OF 348 or an agency form/automated format may be used when additional space is needed.

(b) SF 44 is a pocket-size purchase order form designed primarily for on-the-spot, over-the-counter purchases of supplies and nonpersonal services while away from the purchasing office or at isolated activities. It is a multipurpose form that can be used as a purchase order, receiving report, invoice, and public voucher.

(1) SF 44 may be used if all of the following conditions are satisfied:

(i) The amount of the purchase is at or below the micro-purchase threshold, except for purchases made under unusual and compelling urgency or in support of contingency operations. Agencies may establish higher dollar limitations for specific activities or items.

(ii) The supplies or services are immediately available.

(iii) One delivery and one payment will be made.

(iv) Its use is determined to be more economical and efficient than use of other simplified acquisition methods.

(2) General procedural instructions governing the use of SF 44 are printed on the form and on the inside front cover of each book of forms.

(3) Since there is, for all practical purposes, simultaneous placing of purchase orders on SF 44 and delivery of the items ordered, clauses are not required for purchases using this form.

(4) Agencies shall provide adequate safeguards regarding the control of forms and accounting for purchases.

[61 FR 39197, July 26, 1996]

13.506 Provisions and clauses.

(a) Each purchase order (and each purchase order modification (see 13.503)) shall incorporate all clauses required for or applicable to the particular acquisition.

(b) The contracting officer shall insert the clause at 52.213-2, Invoices, in purchase orders that authorize advance payments (see 31 U.S.C. 3324(d)(2)) for subscriptions or other charges for newspapers, magazines, periodicals, or other publications (i.e., any publication printed, microfilmed, photocopied,

or magnetically or otherwise recorded for auditory or visual usage).

(c) The contracting officer shall insert the clause at 52.213-3, Notice to Supplier, in unpriced purchase orders.

[48 FR 42163, Sept. 19, 1983. Redesignated at 61 FR 39197, July 26, 1996]

Subpart 13.6—Test Program for Certain Commercial Items

SOURCE: 62 FR 266, Jan. 2, 1997, unless otherwise noted.

13.601 General.

(a) This subpart authorizes, as a test program, use of simplified procedures for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding \$5,000,000, including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items. Under this test program, contracting officers may use any simplified acquisition procedure in this part, subject to any specific dollar limitation applicable to the particular procedure. The purpose of this test program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the Government and industry (10 U.S.C. 2304(g) and 2305 and 41 U.S.C. 253(g) and 253a and 253b).

(b) For the period of this test, contracting activities shall employ the simplified procedures authorized by the test to the maximum extent practicable.

(c) When acquiring commercial items using the procedures in this part, the requirements of part 12 apply subject to the order of precedence provided at 12.102(c). This includes use of the provisions and clauses at subpart 12.3.

(d) The authority to issue solicitations under this subpart shall expire on January 1, 2000. Contracts may be awarded after the expiration of this au-

thority for solicitations issued before the expiration of the authority.

13.602 Special documentation requirements.

(a) *Sole source acquisitions.* Acquisitions conducted under simplified acquisition procedures are exempt from the requirements in part 6. However, contracting officers shall not conduct sole source acquisitions, as defined in 6.003, under this subpart unless the need to do so is justified in writing and approved at the levels specified in paragraphs (a)(1) and (a)(2) of this section. Contracting officers shall prepare sole source justifications using the format at 6.303-2, modified to reflect an acquisition under the authority of the test program for commercial items (10 U.S.C. 2304 or 41 U.S.C. 253). Justifications and approvals are required under this subpart only for sole source acquisitions.

(1) For a proposed contract exceeding \$100,000 but not exceeding \$500,000, the contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief will serve as approval, unless a higher approval level is established in agency procedures.

(2) For a proposed contract exceeding \$500,000, the approval shall be by the competition advocate for the procuring activity, designated pursuant to 6.501; or an official described in 6.304 (a)(3) or (a)(4). This authority is not delegable.

(b) *Contract file documentation.* The contract file shall include—

(1) A brief written description of the procedures used in awarding the contract, including the fact that the test procedures in FAR 13.6 were used;

(2) The number of offers received;

(3) An explanation, tailored to the size and complexity of the acquisition, of the basis for the contract award decision; and

(4) Any justification approved under paragraph (a) of this section.

[62 FR 266, Jan. 2, 1997; 62 FR 12720, Mar. 17, 1997]

PART 14—SEALED BIDDING

Sec.
14.000 Scope of part.