

Department of Defense

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(iii) Subsequent statutes may provide different or additional constraints on the award of contracts to specified colleges and universities. Contracting officers should consult legal counsel on a case-by-case basis.

[56 FR 36303, July 31, 1991, as amended at 57 FR 14992, Apr. 23, 1992; 58 FR 28463, May 13, 1993; 59 FR 36089, July 15, 1994; 60 FR 29497, June 5, 1995; 60 FR 40107, Aug. 7, 1995; 65 FR 39704, June 27, 2000]

206.302-7 Public interest.

(c) *Limitations.* For the defense agencies, the written determination to use this authority must be made by the Secretary of Defense.

206.303 Justifications.

206.303-1 Requirements.

(b) Technical and requirements personnel must obtain any review and approval required by department or agency procedures before submission of a recommendation for other than full and open competition to the contracting officer.

(c) When conditions warrant, a class justification may provide for award of multiple contracts extending across more than one program phase.

[56 FR 36303, July 31, 1991, as amended at 60 FR 61592, Nov. 30, 1995]

206.303-2 Content.

(a) Include sufficient information in the justification to permit its approval as a stand-alone document, even though agency procedures may require supplementary documentation.

206.304 Approval of the justification.

(a)(4) The Under Secretary of Defense (Acquisition, Technology, and Logistics) may delegate this authority to—

(A) An Assistant Secretary of Defense; or

(B) For a defense agency, an officer or employee serving in, assigned, or detailed to that agency who—

(1) If a member of the armed forces, is serving in a rank above brigadier general or rear admiral (lower half); or

(2) If a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is

comparable to or higher than the grade of major general or rear admiral.

[61 FR 10285, Mar. 13, 1995, as amended at 61 FR 50451, Sept. 26, 1996; 65 FR 39704, June 27, 2000]

PART 207—ACQUISITION PLANNING

Subpart 207.1—Acquisition Plans

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36305, July 31, 1991, unless otherwise noted.

Subpart 207.1—Acquisition Plans

207.102 Policy.

When a class justification for other than full and open competition has been approved, planning for competition shall be accomplished consistent with the terms of that approval.

[60 FR 61592, Nov. 30, 1995]

207.103 Agency-head responsibilities.

(d)(i) Prepare written acquisition plans for—

(A) Acquisitions for development, as defined in FAR 35.001, when the total cost of all contracts for the acquisition program is estimated at \$5 million or more;

(B) Acquisitions for production or services when the total cost of all contracts for the acquisition program is estimated at \$30 million or more for all years or \$15 million or more for any fiscal year; and

(C) Any other acquisition considered appropriate by the department or agency.

(ii) Written plans are not required in acquisitions for a final buy out or one-

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time buy. The terms “final buy out” and “one-time buy” refer to a single contract that covers all known present and future requirements. This exception does not apply to a multiyear contract or a contract with options or phases.

(e) Prepare written acquisition plans for acquisition programs meeting the thresholds of paragraphs (d)(i) (A) and (B) of this section on a program basis. Other acquisition plans may be written on either a program or an individual contract basis.

(g) The program manager, or other official responsible for the program, has overall responsibility for acquisition planning.

(i)(1) Apply design-to-cost principles—

(A) In all major defense acquisition programs (DoDD 5000.1, Defense Acquisition), unless exempted by the Secretary of Defense; and

(B) To the acquisition of systems, subsystems, and components below the thresholds for major defense acquisition programs, to the extent prescribed by DoDD 5000.1.

(ii) Consider life-cycle-cost in all acquisitions of systems and equipment.

(h) For procurement of conventional ammunition, as defined in DoDD 5160.65, Single Manager for Conventional Ammunition (SMCA)—

(i) The department or agency—

(A) Must submit the acquisition plan to the SMCA at the following address: Deputy for Ammunition, Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), ATTN: SAAL-ZCA, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001. Telephone: Commercial (703) 617-8001; DSN 767-8001;

(B) Also must submit an acquisition plan to the SMCA for a new procurement covered by a previously approved acquisition plan, if the SMCA did not review the previously approved acquisition plan; and

(C) Must not proceed with the procurement until the SMCA provides written concurrence with the acquisition plan.

(ii) The SMCA—

(A) Will review the acquisition plan to determine if it is consistent with retaining national technology and indus-

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trial base capabilities in accordance with 10 U.S.C. 2304(c)(3) and Section 806 of Public law 105-261; and

(B) Will notify the department or agency of concurrence or non-concurrence. In the case of a non-concurrence, the SMCA, with assistance from the Army Office of the Executive Director for Conventional Ammunition, will attempt to resolve the matter with the department or agency. If no agreement is reached, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) will make the final decision on the appropriate acquisition approach.

[56 FR 36305, July 31, 1991, as amended at 61 FR 50451, Sept. 26, 1996; 66 FR 47107, Sept. 11, 2001; 67 FR 61516, Oct. 1, 2002]

207.104 General procedures.

(b) The planner should forward the requirements information to the contract administration organization when assistance in identification of potential sources of supply is necessary, when an existing contract is being modified or resolicited, or when contract administration resource requirements will be affected.

[61 FR 50451, Sept. 26, 1996]

207.105 Contents of written acquisition plans.

For acquisitions covered by 207.103(d)(i) (A) and (B), correlate the plan to the DoD Future Years Defense Program, applicable budget submissions, and the decision coordinating paper/program memorandum, as appropriate. It is incumbent upon the planner to coordinate the plan with all those who have a responsibility for the development, management, or administration of the acquisition. The acquisition plan should be provided to the contract administration organization to facilitate resource allocation and planning for the evaluation, identification, and management of contractor performance risk.

(a) *Acquisition background and objectives*—(1) *Statement of need*. Include—

(A) Applicability of a decision coordinating paper (DCP), acquisition decision memorandum, Defense Acquisition Board (DAB), and/or internal service reviews. Describe the options in the

DCP/acquisition decision memorandum and delineate which option the acquisition plan supports.

(B) The date approval for operational use has been or will be obtained. If waivers are requested, describe the need for the waivers.

(C) A milestone chart depicting the acquisition objectives.

(D) Milestones for updating the acquisition plan. Indicate when the plan will be updated. Program managers should schedule updates to coincide with DAB reviews and the transition from one phase to another (e.g., engineering and manufacturing development to production and deployment).

(8) *Acquisition streamlining.* DoDD 5000.1, Defense Acquisition, and DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs, contain policy direction on acquisition streamlining. See MIL-HDBK 248, Acquisition Streamlining, for guidance on streamlining performance requirements, the technical package, and the contract strategy.

(b) *Plan of action—(5) Budgeting and funding.* Include specific references to budget line items and program elements, where applicable, estimated production unit cost, and the total cost for remaining production.

(6) *Product descriptions.* For development acquisitions, describe the market research undertaken to identify commercial items, commercial items with modifications, or nondevelopmental items (see FAR part 10) that could satisfy the acquisition objectives.

(13) *Logistics considerations.* (i) Describe the extent of integrated logistics support planning to date, including references to approved plans.

(ii) Discuss the mission profile, reliability, and maintainability (R&M) program plan, R&M predictions, redundancy, qualified parts lists, parts and material qualification, R&M requirements imposed on vendors, failure analysis, corrective action and feedback, and R&M design reviews and trade-off studies.

(iv) See DoDD 5000.1, Defense Acquisition, and DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major

Automated Information System (MAIS) Acquisition Programs, for procedures on standardization and on the DoD Parts Control Program. Also see DoD 4120.24-M, Defense Standardization Program (DSP) Policies and Procedures.

(S-70) Describe the extent of Computer-Aided Acquisition and Logistics Support (CALs) implementation (see MIL-HDBK 59, Department of Defense Computer-Aided Logistics Support (CALs) Program Guide, and MIL-STD-1840A, Automated Interchange of Technical Information.

(16) *Environmental and energy conservation objectives.* Discuss actions taken to ensure either elimination of or authorization to use class I ozone-depleting chemicals and substances (see 211.271).

(19) *Other considerations.* (A) National Technology and Industrial Base. For major defense acquisition programs, address the following (Pub. L. 102-484, section 4220)—

(1) An analysis of the capabilities of the national technology and industrial base to develop, produce, maintain, and support such program, including consideration of the following factors related to foreign dependency (Pub. L. 102-484, section 4219(h))—

(i) The availability of essential raw materials, special alloys, composite materials, components, tooling, and production test equipment for the sustained production of systems fully capable of meeting the performance objectives established for those systems; the uninterrupted maintenance and repair of such systems; and the sustained operation of such systems.

(ii) The identification of items specified in paragraph (b)(18)(A)(I)(i) of this section that are available only from sources outside the national technology and industrial base.

(iii) The availability of alternatives for obtaining such items from within the national technology and industrial base if such items become unavailable from sources outside the national technology industrial base; and an analysis of any military vulnerability that could result from the lack of reasonable alternatives.

(iv) The effects on the national technology and industrial base that result

from foreign acquisition of firms in the United States.

(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce the life-cycle costs.

(5) Methods to encourage investment by U.S. domestic sources in advanced manufacturing technology production equipment and processes through—

(i) Recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

(ii) Increased emphasis in source selection on the efficiency of production.

(6) Expanded use of commercial manufacturing processes rather than processes specified by DoD.

(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under DoD contracts.

(8) Expanded use of commercial items, commercial items with modifications, or to the extent commercial items are not available, nondevelopmental items (see FAR part 10).

(B) *Industrial preparedness (IP)*.

(1) Provide the program's IP strategy that assesses the capability of the U.S. industrial base to achieve identified surge and mobilization goals. If no IP strategy has been developed, provide supporting rationale for this position.

(2) If in the IP strategy, the development of a detailed IP plan was determined to be applicable, include the plan by text or by reference. If the development of the IP plan was deter-

mined not to be applicable, summarize the details of the analysis forming the basis of this decision.

(3) If the program involves peacetime and wartime hardware configurations which are supported by logistics support plans, identify their impact on the IP plan.

(C) Ensure compliance with DoD Instruction 4715.4, Pollution Prevention.

(D) *Contract administration*. Discuss the level of Government administration anticipated or currently performed and any change proposed by the contract administration office.

[56 FR 36305, July 31, 1991, as amended at 58 FR 28463, May 13, 1993; 58 FR 32061, June 8, 1993; 60 FR 29497, June 5, 1995; 60 FR 61593, Nov. 30, 1995; 61 FR 50451, Sept. 26, 1996; 64 FR 51075, Sept. 21, 1999; 65 FR 14398, Mar. 16, 2000; 65 FR 63804, Oct. 25, 2000; 67 FR 61516, Oct. 1, 2002]

207.106 Additional requirements for major systems.

(b)(1)(A) The contracting officer is prohibited by 10 U.S.C. 2305(d)(4)(A) from requiring offers for development or production of major systems that would enable the Government to use technical data to competitively reprocure identical items or components of the system if the item or component were developed exclusively at private expense, unless the contracting officer determines that—

(1) The original supplier of the item or component will be unable to satisfy program schedule or delivery requirements;

(2) Proposals by the original supplier of the item or component to meet mobilization requirements are insufficient to meet the agency's mobilization needs; or

(3) The Government is otherwise entitled to unlimited rights in technical data.

(B) If the contracting officer makes a determination, under paragraphs (b)(1)(A) (1) and (2) of this section, for a competitive solicitation, 10 U.S.C. 2305(d)(4)(B) requires that the evaluation of items developed at private expense be based on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.

Subpart 207.4—Equipment Lease or Purchase

207.401 Acquisition considerations.

If the equipment will be leased for more than 60 days, the requiring activity must prepare and provide the contracting officer with the justification supporting the decision to lease or purchase.

207.470 Statutory requirements.

(a) *Limitation on contracts with terms of 18 months or more.* As required by 10 U.S.C. 2401a, the contracting officer shall not enter into any contract for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement with a term of 18 months or more, or extend or renew any such contract for a term of 18 months or more, unless the head of the contracting activity has—

(1) Considered all costs of such a contract (including estimated termination liability); and

(2) Determined in writing that the contract is in the best interest of the Government.

(b) *Leasing of commercial vehicles and associated equipment.* Except as provided in paragraph (a) of this section, the contracting officer may use leasing in the acquisition of commercial vehicles and associated equipment whenever the contracting officer determines that leasing of such vehicles is practicable and efficient (10 U.S.C. 2401a).

[61 FR 16879, Apr. 18, 1996, as amended at 61 FR 50451, Sept. 26, 1996]

207.471 Funding requirements.

(a) Fund leases in accordance with DoD Financial Management Regulation (FMR) 7000.14–R, Volume 2A, Chapter 1.

(b) DoD leases are either capital leases or operating leases. The difference between the two types of leases is described in FMR 7000.14–R, Volume 4, Chapter 7, Section 070207.

(c) Capital leases are essentially installment purchases of property. Use procurement funds for capital leases.

[64 FR 31732, June 14, 1999, as amended at 66 FR 55121, Nov. 1, 2001]

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

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