

## PART 207—ACQUISITION PLANNING

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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

#### 207.103 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 \$10 million or more;

(B) Acquisitions for production or services when the total cost of all contracts for the acquisition program is estimated at \$50 million or more for all years or \$25 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-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.

(h) For procurement of conventional ammunition, as defined in DoDD 5160.65, Single Manager for Conventional Ammunition (SMCA), the SCMA will review the acquisition plan to determine if it is consistent with retaining national technology and industrial base capabilities in accordance with 10 U.S.C. 2304(c)(3) and Section 806 of Public Law 105–261. The department or agency—

(i) Shall submit the acquisition plan to the address in PGI 207.103(h); and

(ii) Shall not proceed with the procurement until the SMCA provides written concurrence with the acquisition plan. In the case of a non-concurrence, the SCMA will resolve issues with the Army Office of the Executive Director for Conventional Ammunition.

[71 FR 53045, Sept. 8, 2006]

#### 207.105 Contents of written acquisition plans.

In addition to the requirements of FAR 7.105, planners shall follow the procedures at PGI 207.105.

[71 FR 53045, Sept. 8, 2006]

#### 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 procure 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.

**207.170 Consolidation of contract requirements.**

**207.170-1 Scope.**

This section implements 10 U.S.C. 2382.

[69 FR 55987, Sept. 17, 2004]

**207.170-2 Definitions.**

As used in this section—

*Consolidation of contract requirements* means the use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy two or more requirements of a department, agency, or activity for supplies or services that previously have been provided to, or performed for, that department, agency, or activity under two or more separate contracts.

*Multiple award contract* means—

(1) Orders placed using a multiple award schedule issued by the General Services Administration as described in FAR Subpart 8.4;

(2) A multiple award task order or delivery order contract issued in accordance with FAR Subpart 16.5; or

(3) Any other indefinite-delivery, indefinite-quantity contract that an agency enters into with two or more sources for the same line item under the same solicitation.

[71 FR 14106, Mar. 21, 2006]

**207.170-3 Policy and procedures.**

(a) Agencies shall not consolidate contract requirements with an estimated total value exceeding \$5,000,000 unless the acquisition strategy includes—

(1) The results of market research;

(2) Identification of any alternative contracting approaches that would involve a lesser degree of consolidation; and

(3) A determination by the senior procurement executive that the consolidation is necessary and justified.

(i) Market research may indicate that consolidation of contract requirements is necessary and justified if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches. Benefits may include costs and, regardless of whether quantifiable in dollar amounts—

(A) Quality;

(B) Acquisition cycle;

(C) Terms and conditions; and

(D) Any other benefit.

(ii) Savings in administrative or personnel costs alone do not constitute a sufficient justification for a consolidation of contract requirements unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

(b) Include the determination made in accordance with paragraph (a)(3) of this section in the contract file.

[69 FR 55987, Sept. 17, 2004, as amended at 71 FR 14106, Mar. 21, 2006]

**207.171 Component breakout.**

**207.171-1 Scope.**

(a) This section provides policy for breaking out components of end items for future acquisitions so that the Government can purchase the components directly from the manufacturer or supplier and furnish them to the end item

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manufacturer as Government-furnished material.

(b) This section does not apply to—

(1) The initial decisions on Government-furnished equipment or contractor-furnished equipment that are made at the inception of an acquisition program; or

(2) Breakout of parts for replenishment (see Appendix E).

[71 FR 14102, Mar. 21, 2006]

### 207.171-2 Definition.

*Component*, as used in this section, includes subsystems, assemblies, sub-assemblies, and other major elements of an end item; it does not include elements of relatively small annual acquisition value.

[71 FR 14102, Mar. 21, 2006]

### 207.171-3 Policy.

DoD policy is to break out components of weapons systems or other major end items under certain circumstances.

(a) When it is anticipated that a prime contract will be awarded without adequate price competition, and the prime contractor is expected to acquire any component without adequate price competition, the agency shall break out that component if—

(1) Substantial net cost savings probably will be achieved; and

(2) Breakout action will not jeopardize the quality, reliability, performance, or timely delivery of the end item.

(b) Even when either or both the prime contract and the component will be acquired with adequate price competition, the agency shall consider breakout of the component if substantial net cost savings will result from—

(1) Greater quantity acquisitions; or

(2) Such factors as improved logistics support (through reduction in varieties of spare parts) and economies in operations and training (through standardization of design).

(c) Breakout normally is not justified for a component that is not expected to exceed \$1 million for the current year's requirement.

[71 FR 14102, Mar. 21, 2006]

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### 207.171-4 Procedures.

Agencies shall follow the procedures at PGI 207.171-4 for component breakout.

[71 FR 14102, Mar. 21, 2006]

## 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. See FMR 7000.14-R, Volume 4, Chapter 7, Section 070207.

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

[64 FR 31732, June 14, 1999, as amended at 66 FR 55121, Nov. 1, 2001; 71 FR 53045, Sept. 8, 2006]

**Subpart 207.5—Inherently Governmental Functions**

SOURCE: 70 FR 14573, Mar. 23, 2005, unless otherwise noted.

**207.500 Scope of subpart.**

This subpart also implements 10 U.S.C. 2383.

**207.503 Policy.**

(S-70) *Contracts for acquisition functions.*

(1) In accordance with 10 U.S.C. 2383, the head of an agency may enter into a contract for performance of the acquisition functions closely associated with inherently governmental functions that are listed at FAR 7.503(d) only if—

(i) The contracting officer determines that appropriate military or civilian DoD personnel—

(A) Cannot reasonably be made available to perform the functions;

(B) Will oversee contractor performance of the contract; and

(C) Will perform all inherently governmental functions associated with the functions to be performed under the contract; and

(ii) The contracting officer ensures that the agency addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract (see FAR Subpart 9.5).

(2) See related information at PGI 207.503(S-70).

[70 FR 14573, Mar. 23, 2005, as amended at 71 FR 14101, Mar. 21, 2006]

**Subpart 207.70—Buy-to-Budget—Additional Quantities of End Items**

SOURCE: 68 FR 43331, July 22, 2003, unless otherwise noted.

**207.7001 Definition.**

*End item*, as used in this subpart, means a production product assembled,

completed, and ready for issue or deployment.

**207.7002 Authority to acquire additional quantities of end items.**

10 U.S.C. 2308 authorizes DoD to use funds available for the acquisition of an end item to acquire a higher quantity of the end item than the quantity specified in a law providing for the funding of that acquisition, if the head of an agency determines that—

(a) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition;

(b) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions;

(c) The amount of funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item; and

(d) The amount provided under that law for the acquisition of the end item is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

**207.7003 Limitation.**

For noncompetitive acquisitions, the acquisition of additional quantities is limited to not more than 10 percent of the quantity approved in the justification and approval prepared in accordance with FAR part 6 for the acquisition of the end item.

**PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

Sec. 208.002 Priorities for use of Government supply sources.

**Subpart 208.4—Federal Supply Schedules**

- 208.404 Use of Federal Supply Schedules.
- 208.405-70 Additional ordering procedures.
- 208.406 Ordering activity responsibilities.
- 208.406-1 Order placement.

**Subpart 208.7—Acquisition from the Blind and Other Severely Handicapped**

208.705 Procedures.