

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

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AUTHORITY: 48 U.S.C. 421 and 48 CFR Chapter 1.

SOURCE: 64 FR 2596, Jan. 15, 1999, unless otherwise noted.

Subpart 213.1—Procedures

213.101 General.

Structure awards valued above the micro-purchase threshold (*e.g.*, contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of in-

voices valued at or below the micro-purchase threshold.

[65 FR 46625, July 31, 2000]

213.106-1-70 Soliciting competition—tiered evaluation of offers.

(a) The tiered or cascading order of precedence used for tiered evaluation of offers shall be consistent with FAR part 19.

(b) Consideration shall be given to the tiers of small businesses (*e.g.*, 8(a), HUBZone small business, service-disabled veteran-owned small business, small business) before evaluating offers from other than small business concerns.

(c) Before issuing a solicitation with a tiered evaluation of offers—(1) The contracting officer shall conduct market research, in accordance with FAR part 10 and part 210, to determine—

(i) Whether the criteria in FAR part 19 are met for setting aside the acquisition for small business; or

(ii) For a task or delivery order, whether there are a sufficient number of qualified small business concerns available to justify limiting competition under the terms of the contract; and

(2) If the contracting officer cannot determine whether the criteria in paragraph (c)(1) of this section are met, the contracting officer shall include a written explanation in the contract file as to why such a determination could not be made (Section 816 of Public Law 109-163).

[71 FR 53043, Sept. 8, 2006]

Subpart 213.2—Actions at or Below the Micro-Purchase Threshold

213.270 Use of the Governmentwide commercial purchase card.

Use the Governmentwide commercial purchase card as the method of purchase and/or method of payment for purchases valued at or below the micro-purchase threshold. This policy

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applies to all types of contract actions authorized by the FAR unless—

(a) The Deputy Secretary of Defense has approved an exception for an electronic commerce/electronic data interchange system or operational requirement that results in a more cost-effective payment process;

(b)(1) A general or flag officer or a member of the Senior Executive Service (SES) makes a written determination that—

(i) The source or sources available for the supply or service do not accept the purchase card; and

(ii) The contracting office is seeking a source that accepts the purchase card.

(2) To prevent mission delays, if an activity does not have a resident general or flag officer of SES member, delegation of this authority to the level of the senior local commander or director is permitted; or

(c) The purchase or payment meets one or more of the following criteria:

(1) The place of performance is entirely outside the United States and its outlying areas.

(2) The purchase is a Standard Form 44 purchase for aviation fuel or oil.

(3) The purchase is an overseas transaction by a contracting officer in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8).

(4) The purchase is a transaction in support of intelligence or other specialized activities addressed by Part 2.7 of Executive Order 12333.

(5) The purchase is for training exercises in preparation for overseas contingency, humanitarian, or peacekeeping operations.

(6) The payment is made with an accommodation check.

(7) The payment is for a transportation bill.

(8) The purchase is under a Federal Supply Schedule contract that does not permit use of the Governmentwide commercial purchase card.

(9) The purchase is for medical services and—

(i) It involves a controlled substance or narcotic;

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(ii) It requires the submission of a Health Care Summary Record to document the nature of the care purchased;

(iii) The ultimate price of the medical care is subject to an independent determination that changes the price paid based on application of a mandatory CHAMPUS Maximum Allowable Charge determination that reduces the Government liability below billed charges;

(iv) The Government already has entered into a contract to pay for the services without the use of a purchase card;

(v) The purchaser is a beneficiary seeking medical care; or

(vi) The senior local commander or director of a hospital or laboratory determines that use of the purchase card is not appropriate or cost-effective. The Medical Prime Vendor Program and the DoD Medical Electronic Catalog Program are two examples where use of the purchase card may not be cost-effective.

[65 FR 46626, July 31, 2000, as amended at 70 FR 35544, June 21, 2005]

Subpart 213.3—Simplified Acquisition Methods

213.301 Governmentwide commercial purchase card.

(1) “United States,” as used in this section, means the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, Wake Island, Johnston Island, Canton Island, the outer Continental Shelf lands, and any other place subject to the jurisdiction of the United States (but not including leased bases).

(2) An individual appointed in accordance with 201.603-3(b) also may use the Governmentwide commercial purchase card to make a purchase that exceeds the micro-purchase threshold but does not exceed \$25,000, if—

(i) The purchase—

(A) Is made outside the United States for use outside the United States; and

(B) Is for a commercial item; but

(C) Is not for work to be performed by employees recruited within the United States;

(D) Is not for supplies or services originating from, or transported from or through, sources identified in FAR Subpart 25.7;

(E) Is not for ball or roller bearings as end items;

(F) Does not require access to classified or Privacy Act information; and

(G) Does not require transportation of supplies by sea; and

(ii) The individual making the purchase—

(A) Is authorized and trained in accordance with agency procedures;

(B) Complies with the requirements of FAR 8.002 in making the purchase; and

(C) Seeks maximum practicable competition for the purchase in accordance with FAR 13.104(b).

(3) A contracting officer supporting a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8) also may use the Governmentwide commercial purchase card to make a purchase that exceeds the micro-purchase threshold but does not exceed the simplified acquisition threshold, if—

(i) The supplies or services being purchased are immediately available;

(ii) One delivery and one payment will be made; and

(iii) The requirements of paragraphs (2)(i) and (ii) of this section are met.

(4) Guidance on DoD purchase, travel, and fuel card programs is available at <http://www.acq.osd.mil/dpap/pcard/pcardguidebook.htm>. Additional guidance on the fuel card program is available at <http://www.desc.dla.mil>.

[64 FR 56705, Oct. 21, 1999; 64 FR 63380, Nov. 19, 1999, as amended at 66 FR 55123, Nov. 1, 2001; 66 FR 56902, Nov. 13, 2001; 67 FR 38021, May 31, 2002; 68 FR 56561, Oct. 1, 2003; 70 FR 75411, Dec. 20, 2005]

213.302 Purchase orders.

213.302-3 Obtaining contractor acceptance and modifying purchase orders.

(1) Require written acceptance of purchase orders for classified acquisitions.

(2) See PGI 213.302-3 for guidance on the use of unilateral modifications.

(3) A supplemental agreement converts a unilateral purchase order to a

bilateral agreement. If not previously included in the purchase order, incorporate the clause at 252.243-7001, Pricing of Contract Modifications, in the Standard Form 30, and obtain the contractor's acceptance by signature on the Standard Form 30.

[64 FR 2596, Jan. 15, 1999, as amended at 71 FR 3413, Jan. 23, 2006]

213.302-5 Clauses.

(a) Use the clause at 252.243-7001, Pricing of Contract Modifications, in all bilateral purchase orders.

(d) When using the clause at FAR 52.213-4, delete the reference to the clause at FAR 52.225-1, Buy American Act-Supplies. Instead, if the Buy American Act applies to the acquisition, use the clause at—

(i) 252.225-7001, Buy American Act and Balance of Payments Program, as prescribed at 225.1101(2); or

(ii) 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program, as prescribed at 225.1101(10).

[64 FR 24528, May 7, 1999, as amended at 65 FR 19850, Apr. 13, 2000; 65 FR 39704, June 27, 2000; 68 FR 56561, Oct. 1, 2003; 69 FR 1927, Jan. 13, 2004]

213.303 Blanket purchase agreements (BPAs).

213.303-5 Purchases under BPAs.

(b) Individual purchases for subsistence may be made at any dollar value; however, the contracting officer must satisfy the competition requirements of FAR Part 6 for any action not using simplified acquisition procedures.

213.305 Imprest funds and third party drafts.

213.305-3 Conditions for use.

(d)(i) On a very limited basis, installation commanders and commanders of other activities with contracting authority may be granted authority to establish imprest funds and third party draft (accommodation check) accounts. Use of imprest funds and third party drafts must comply with—

(A) DoD 7000.14-R, DoD Financial Management Regulation, Volume 5, Disbursing Policy and Procedures; and

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(B) The Treasury Financial Manual, Volume I, Part 4, Chapter 3000.

(ii) Use of imprest funds requires approval by the Director for Financial Commerce, Office of the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), except as provided in paragraph (d)(iii) of this subsection.

(iii) Imprest funds are authorized for use without further approval for—

(A) Overseas transactions at or below the micro-purchase threshold in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8); and

(B) Classified transactions.

[71 FR 3413, Jan. 23, 2006]

213.306 SF 44, Purchase Order-Invoice-Voucher.

(a)(1) The micro-purchase limitation applies to all purchases, except that purchases not exceeding the simplified acquisition threshold may be made for—

(A) Aviation fuel and oil;

(B) Overseas transactions by contracting officers in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8); and

(C) Transactions in support of intelligence and other specialized activities addressed by Part 2.7 of Executive Order 12333.

[64 FR 2596, Jan. 15, 1999, as amended at 71 FR 3413, Jan. 23, 2006]

213.307 Forms.

See PGI 213.307 for procedures on use of forms for purchases made using simplified acquisition procedures.

[71 FR 3413, Jan. 23, 2006]

Subpart 213.4—Fast Payment Procedure

213.402 Conditions for use.

(a) Individual orders may exceed the simplified acquisition threshold for—

(i) Brand-name commissary resale subsistence; and

(ii) Medical supplies for direct shipment overseas.

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Subpart 213.70—Simplified Acquisition Procedures Under the 8(a) Program

213.7001 Procedures.

For acquisitions that are otherwise appropriate to be conducted using procedures set forth in this part, and also eligible for the 8(a) Program, contracting officers may use—

(a)(1) For sole source purchase orders not exceeding the simplified acquisition threshold, the procedures in 219.804–2(2); or

(2) For other types of acquisitions, the procedures in Subpart 219.8, excluding the procedures in 219.804–2(2); or

(b) The procedures for award to the Small Business Administration in FAR Subpart 19.8.

[64 FR 2596, Jan. 15, 1999. Redesignated at 71 FR 3413, Jan. 23, 2006]

213.7002 Purchase orders.

The contracting officer need not obtain a contractor's written acceptance of a purchase order or modification of a purchase order for an acquisition under the 8(a) Program pursuant to 219.804–2(2).

[71 FR 3413, Jan. 23, 2006]

PART 214—SEALED BIDDING

Subpart 214.2—Solicitation of Bids

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214.202 General rules for solicitation of bids.

214.202–5 Descriptive literature.

Subpart 214.4—Opening of Bids and Award of Contract

214.404 Rejection of bids.

214.404–1 Cancellation of invitations after opening.

214.407 Mistakes in bids.

214.407–3 Other mistakes disclosed before award.

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

SOURCE: 56 FR 36326, July 31, 1991, unless otherwise noted.