

13.404

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.

13.404 Contract clause.

The contracting officer shall insert the clause at 52.213-1, Fast Payment Procedure, in solicitations and contracts when the conditions in 13.402 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 13.5—Test Program for Certain Commercial Items

13.500 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 \$6.5 million (\$12 million for acquisitions as described in 13.500(e)), 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).

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(b) For the period of this test, contracting activities must 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 in subpart 12.3.

(d) The authority to issue solicitations under this subpart expires on January 1, 2012. Contracting officers may award contracts after the expiration of this authority for solicitations issued before the expiration of the authority.

(e) Under 41 U.S.C. 428a, the simplified acquisition procedures authorized by this test program may be used for acquisitions that do not exceed \$12 million when—

(1) The acquisition is for commercial items that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack; or

(2) The acquisition will be treated as an acquisition of commercial items in accordance with 12.102(f)(1).

[62 FR 64917, Dec. 9, 1997, as amended at 64 FR 72448, Dec. 27, 1999; 67 FR 6115, Feb. 8, 2002; 67 FR 80321, Dec. 31, 2002; 68 FR 4050, Jan. 27, 2003; 68 FR 69259, Dec. 11, 2003; 69 FR 8314, Feb. 23, 2004; 69 FR 76352, Dec. 20, 2004; 70 FR 11740, Mar. 9, 2005; 71 FR 57366, Sept. 28, 2006; 73 FR 54008, Sept. 17, 2008; 75 FR 13414, Mar. 19, 2010; 75 FR 53132, Aug. 30, 2010]

13.501 Special documentation requirements.

(a) *Sole source (including brand name) acquisitions.* (1) Acquisitions conducted under simplified acquisition procedures are exempt from the requirements in part 6. However, contracting officers must—

(i) Conduct sole source acquisitions, as defined in 2.101, (including brand name) under this subpart only if the need to do so is justified in writing and approved at the levels specified in paragraph (a)(2) of this section;

(ii) Prepare sole source (including brand name) justifications using the format at 6.303-2, modified to reflect an acquisition under the authority of the

test program for commercial items (section 4202 of the Clinger-Cohen Act of 1996) or the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a);

(iii) Make publicly available the justifications (excluding brand name) required by 6.305(a) within 14 days after contract award or in the case of unusual and compelling urgency within 30 days after contract award, in accordance with 6.305 procedures at paragraphs (b), (d), (e), and (f); and

(iv) Make publicly available brand name justifications with the solicitation, in accordance with 5.102(a)(6).

(2) Justifications and approvals are required under this subpart only for sole source (including brand name) acquisitions.

(i) For a proposed contract exceeding \$150,000, but not exceeding \$650,000, 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 accordance with agency procedures.

(ii) For a proposed contract exceeding \$650,000 but not exceeding \$12.5 million, the competition advocate for the procuring activity, designated pursuant to 6.501, or an official described in 6.304(a)(3) or (a)(4) must approve the justification and approval. This authority is not delegable.

(iii) For a proposed contract exceeding \$12.5 million but not exceeding \$62.5 million or, for DoD, NASA, and the Coast Guard, not exceeding \$85.5 million, the head of the procuring activity or the official described in 6.304(a)(3) or (a)(4) must approve the justification and approval. This authority is not delegable.

(iv) For a proposed contract exceeding \$62.5 million or, for DoD, NASA, and the Coast Guard, \$85.5 million, the official described in 6.304(a)(4) must approve the justification and approval. This authority is not delegable except as provided in 6.304(a)(4).

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

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

procedures in FAR subpart 13.5 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 64917, Dec. 9, 1997, as amended at 64 FR 72448, Dec. 27, 1999; 66 FR 2128, Jan. 10, 2001; 68 FR 4050, Jan. 27, 2003; 69 FR 8314, Feb. 23, 2004; 69 FR 76352, Dec. 20, 2004; 70 FR 57457, Sept. 30, 2005; 71 FR 57360, 57366, Sept. 28, 2006; 75 FR 34276, June 16, 2010; 75 FR 53132, Aug. 30, 2010]

PART 14—SEALED BIDDING

Sec.

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