

SUBCHAPTER B—ACQUISITION PLANNING

PART 205—PUBLICIZING CONTRACT ACTIONS

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chap-
ter 1.

SOURCE: 56 FR 36302, July 31, 1991, unless
otherwise noted.

Subpart 205.2—Synopsis of Proposed Contract Actions

205.203 Publicizing and response time.

(b) Allow at least 45 days response time when requested by a qualifying or designated country source (as these terms are used in part 225) and the request is consistent with the Government's requirement.

205.205–70 Notification of bundling of DoD contracts.

(a) When a proposed acquisition is funded entirely using DoD funds and potentially involves bundling, the contracting officer shall, at least 30 days prior to the release of a solicitation or 30 days prior to placing an order without a solicitation, publish in FedBizOpps.gov (or any successor site) a notification of the intent to bundle the requirement. In addition, if the agency has determined that measurably substantial benefits are expected to be derived as a result of bundling, the notification shall include a brief

description of those benefits (*see* FAR 7.107).

(b) This requirement is in addition to the notification requirements at FAR 10.001(c)(2)(i) and (ii).

[75 FR 40716, July 13, 2010]

205.207 Preparation and transmittal of synopses.

(d)(i) For acquisitions being considered for historically black college and university and minority institution set-asides under 226.370—

(A) Cite the appropriate Numbered Note; and

(B) Include the notice at PGI 205.207(d)(i).

(ii) For broad agency announcement notices, *see* 235.016.

[69 FR 63328, Nov. 1, 2004, as amended at 70 FR 73149, Dec. 9, 2005]

Subpart 205.3—Synopsis of Contract Awards

205.301 General.

(a)(S–70) *Synopsis of exceptions to domestic source requirements.*

(i) In accordance with 10 U.S.C. 2533a(k), contracting officers also must synopsize through the GPE, awards exceeding the simplified acquisition threshold that are for the acquisition of any clothing, fiber, yarn, or fabric items described in 225.7002–1(a)(2) through (10), if—

(A) The Secretary concerned has determined that domestic items are not available, in accordance with 225.7002–2(b); or

(B) The acquisition is for chemical warfare protective clothing, and the contracting officer has determined that an exception to domestic source requirements applies because the acquisition furthers an agreement with a qualifying country, in accordance with 225.7002–2(n).

(ii) The synopsis must be submitted in sufficient time to permit its publication not later than 7 days after contract award.

(iii) In addition to the information otherwise required in a synopsis of contract award, the synopsis must include

one of the following statements as applicable:

(A) "The exception at DFARS 225.7002-2(b) applies to this acquisition, because the Secretary concerned has determined that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in satisfactory quality and sufficient quantity at U.S. market prices."

(B) "The exception at DFARS 225.7002-2(n) applies to this acquisition, because the contracting officer has determined that this acquisition of chemical warfare protective clothing furthers an agreement with a qualifying country identified in DFARS 225.003(10)."

[71 FR 58536, Oct. 4, 2006, as amended at 74 FR 52895, Oct. 15, 2009; 74 FR 59914, Nov. 19, 2009]

205.303 Announcement of contract awards.

(a) *Public announcement.* (i) The threshold for DoD awards is \$6.5 million. Report all contractual actions, including modifications, that have a face value, excluding unexercised options, of more than \$6.5 million.

(A) For undefinitized contractual actions, report the not-to-exceed (NTE) amount. Later, if the definitized amount exceeds the NTE amount by more than \$6.5 million, report only the amount exceeding the NTE.

(B) For indefinite delivery, time and material, labor hour, and similar contracts, report the initial award if the estimated face value, excluding unexercised options, is more than \$6.5 million. Do not report orders up to the estimated value, but after the estimated value is reached, report subsequent modifications and orders that have a face value of more than \$6.5 million.

(C) Do not report the same work twice.

(ii) Departments and agencies submit the information—

(A) To the Office of the Assistant Secretary of Defense (Public Affairs);

(B) By the close of business the day before the date of the proposed award;

(C) Using report control symbol DD-LA- (AR) 1279;

(D) Including, as a minimum, the following—

(1) *Contract data.* Contract number, modification number, or delivery order number, face value of this action, total cumulative face value of the contract, description of what is being bought, contract type, whether any of the buy was for foreign military sales (FMS) and identification of the FMS customer;

(2) *Competition information.* Number of solicitations mailed and number of offers received;

(3) *Contractor data.* Name, address, and place of performance (if significant work is performed at a different location);

(4) *Funding data.* Type of appropriation and fiscal year of the funds, and whether the contract is multiyear (see FAR Subpart 17.1); and

(5) *Miscellaneous data.* Identification of the contracting office, the contracting office point of contact, known congressional interest, and the information release date.

(iii) Departments and agencies, in accordance with department/agency procedures and concurrent with the public announcement, shall provide information similar to that required by paragraph (a)(ii) of this section to members of Congress in whose state or district the contractor is located and the work is to be performed.

[56 FR 36302, July 31, 1991, as amended at 56 FR 67212, Dec. 30, 1991; 71 FR 75892, Dec. 19, 2006; 75 FR 45073, Aug. 2, 2010]

Subpart 205.4—Release of Information

205.470 Contract clause.

Use the clause at 252.205-7000, Provision of Information to Cooperative Agreement Holders, in solicitations and contracts expected to exceed \$1,000,000,000. This clause implements 10 U.S.C. 2416.

[69 FR 63328, Nov. 1, 2004, as amended at 70 FR 8537, Feb. 22, 2005]

Subpart 205.5—Paid Advertisements

205.502 Authority.

(a) *Newspapers.* Heads of contracting activities are delegated authority to

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approve the publication of paid advertisements in newspapers.

[69 FR 63328, Nov. 1, 2004]

PART 206—COMPETITION REQUIREMENTS

Sec.

206.001 Applicability.

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206.302 Circumstances permitting other than full and open competition.

206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

206.302-2 Unusual and compelling urgency.

206.302-3 Industrial mobilization; or engineering, development, or research capability.

206.302-3-70 Solicitation provision.

206.302-4 International agreement.

206.302-5 Authorized or required by statute.

206.302-7 Public interest.

206.303 Justifications.

206.303-70 Acquisitions in support of operations in Iraq or Afghanistan.

206.304 Approval of the justification.

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

SOURCE: 56 FR 36303, July 31, 1991, unless otherwise noted.

206.001 Applicability.

(b) As authorized by 10 U.S.C. 1091, contracts awarded to individuals using the procedures at 237.104(b)(ii) are exempt from the competitive requirements of FAR part 6.

(S-70) Also excepted from this part are follow-on production contracts for products developed pursuant to the "other transactions" authority of 10 U.S.C. 2371 for prototype projects when—

(1) The other transaction agreement includes provisions for a follow-on production contract;

(2) The contracting officer receives sufficient information from the agreements officer and the project manager for the prototype other transaction

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agreement, which documents that the conditions set forth in 10 U.S.C. 2371 note, subsections (f)(2) (A) and (B) (see 32 CFR 3.9(d)), have been met; and

(3) The contracting officer establishes quantities and prices for the follow-on production contract that do not exceed the quantities and target prices established in the other transaction agreement.

[70 FR 2361, Jan. 13, 2005]

Subpart 206.2—Full and Open Competition After Exclusion of Sources

206.202 Establishing or maintaining alternative sources.

(a) Agencies may use this authority to totally or partially exclude a particular source from a contract action.

(b) The determination and findings (D&F) and the documentation supporting the D&F shall identify the source to be excluded from the contract action. Include the information at PGI 206.202(b), as applicable, and any other information that may be pertinent, in the supporting documentation.

[69 FR 74991, Dec. 15, 2004]

206.203 Set-asides for small business concerns.

(b) Also no separate justification or determination and findings is required for contract actions processed as historically black college and university and minority institution set-asides (see 226.7003).

[63 FR 41973, Aug. 6, 1998]

Subpart 206.3—Other Than Full and Open Competition

206.302 Circumstances permitting other than full and open competition.

206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) *Authority.* (2)(i) Section 8059 of Pub. L. 101-511 and similar sections in subsequent defense appropriations acts prohibit departments and agencies from entering into contracts for studies, analyses, or consulting services (see FAR subpart 37.2) on the basis of