

PART 5—PUBLICIZING CONTRACT ACTIONS

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5.000 Scope of part.

This part prescribes policies and procedures for publicizing contract opportunities and award information.

5.001 Definition.

“Contracting action,” as used in this part, means an action resulting in a contract, as defined in Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

5.002 Policy.

Contracting officers shall publicize contract actions in order to—

- (a) Increase competition;
- (b) Broaden industry participation in meeting Government requirements; and
- (c) Assist small business concerns, small disadvantaged business concerns, and women-owned small business concerns in obtaining contracts and subcontracts.

Subpart 5.1—Dissemination of Information

5.101 Methods of disseminating information.

The Commerce Business Daily (CBD) is the public notification media by which U.S. Government agencies identify proposed contract actions and contract awards. The CBD is published in five or six daily editions weekly, as necessary.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), contracting officers shall disseminate information on proposed contract actions as follows—

(1) For proposed contract actions expected to exceed \$25,000, by synopsis in the Commerce Business Daily (CBD) (see 5.201); and

(2) For proposed contract actions expected to exceed \$10,000, but not expected to exceed \$25,000, by displaying in a public place, including on an electronic bulletin board, or any other appropriate electronic means located at the contracting office issuing the solicitation, an unclassified notice of the solicitation or a copy of the solicitation satisfying the requirements of 5.207(c) and (f). The notice shall include a statement that all responsible sources may submit a quotation which, if timely received, shall be considered by the agency. Such information shall be posted not later than the date the solicitation is issued, and shall remain posted for at least 10 days or until after quotations have been opened, whichever is later.

(i) If solicitations are posted in lieu of a notice, various methods of satisfying the requirements of 5.207(c) and (f) may be employed. For example, the requirements for 5.207(c) and (f) may be met by stamping the solicitation, by a cover sheet to the solicitation, or by placing a general statement in the display room.

(ii) The contracting officer need not comply with the display requirements of this section when the exemptions at 5.202(a)(1), (a)(4) through (a)(9), or (a)(11) apply, or when oral or FACNET solicitations are used.

(iii) Contracting officers shall post solicitations expected to exceed \$25,000 if required by agency regulations.

(iv) Electronic posting of requirements in a place accessible by the general public at the Government installation may be used to satisfy the public display requirement. Contracting offices utilizing electronic systems for public posting shall periodically publicize the methods for accessing such information.

(b) In addition, one or more of the following methods may be used:

(1) Preparing periodic handouts listing proposed contracts, and displaying them as in 5.101(a)(2).

(2) Assisting local trade associations in disseminating information to their members.

(3) Making brief announcements of proposed contracts to newspapers, trade journals, magazines, or other mass communication media for publication without cost to the Government.

(4) Placing paid advertisements in newspapers or other communications media, subject to the following limitations:

(i) Contracting officers shall place paid advertisements of proposed contracts only when it is anticipated that effective competition cannot be obtained otherwise (see 5.205(d)).

(ii) Contracting officers shall not place advertisements of proposed contracts in a newspaper published and printed in the District of Columbia unless the supplies or services will be furnished, or the labor performed, in the District of Columbia or adjoining counties in Maryland or Virginia (44 U.S.C. 3701).

(iii) Advertisements published in newspapers must be under proper written authority in accordance with 44 U.S.C. 3702 (see 5.502(a)).

5.102 Availability of solicitations.

(a) The contracting officer shall—

(1) Maintain a reasonable number of copies of solicitations publicized in the CBD, including specifications and other pertinent information (upon request, potential sources not initially solicited shall be mailed or provided copies of solicitations, if available);

(2) Provide copies of a limited solicitation to firms requesting copies that were not initially solicited, but only after advising the requester of the determination to limit the solicitation to a specified firm or firms as authorized under Part 6;

(3) Provide copies on a “first-come-first-served” basis, for pickup at the contracting office, to publishers, trade associations, information services, and other members of the public having a legitimate interest (for construction, see 36.211); and

(4) In addition to the methods of disseminating proposed contract information in 5.101(a) and (b), provide,

upon request to small business concerns, as required by 15 U.S.C. 637(b)—

(i) A copy of the solicitation and specifications. In the case of solicitations disseminated by electronic data interchange, solicitations may be furnished directly to the electronic address of the small business concern;

(ii) The name and telephone number of an employee of the contracting office to answer questions on the solicitation; and

(iii) Adequate citations to each applicable major Federal law or agency rule with which small business concerns must comply in performing the contract.

(5) Retain a copy of the solicitation and other documents for review by and duplication for those requesting copies after the initial number of copies is exhausted.

(6) Agencies may require payment of a fee, not exceeding the actual cost of duplication, for a copy of the solicitation documents.

(b) This section 5.102 applies to classified contracts to the extent consistent with agency security requirements (see 5.202(a)(1)).

Subpart 5.2—Synopses of Proposed Contract Actions

5.201 General.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), agencies shall furnish for publication in the Commerce Business Daily (CBD) notices of proposed contract actions as specified in paragraph (b) of this section.

(b) For acquisitions of supplies and services other than those covered by the exceptions in 5.202, and special situations in 5.205, the contracting officer shall transmit a notice to the CBD (synopsis) (see 5.207) for each proposed—

(1) Contract actions meeting the thresholds in 5.101(a)(1);

(2) Effort to locate private commercial sources for cost comparison purposes under OMB Circular A-76 (see 5.205(d));

(3) Modification to an existing contract for additional supplies or services that meets the thresholds in 5.101(a)(1); or

(4) Contract action in any amount when advantageous to the Government.

(c) The primary purposes of the CBD notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities.

(d) Subscriptions to the CBD must be placed with the—

Superintendent of Documents
Government Printing Office

Washington DC 20402
Telephone (202) 512-1800

5.202 Exceptions.

The contracting officer need not submit the notice required by 5.201 when—

(a) The contracting officer determines that—

(1) The synopsis cannot be worded to preclude disclosure of an agency's needs and such disclosure would compromise the national security (*e.g.*, would result in disclosure of classified information). The fact that a proposed solicitation or contract action contains classified information, or that access to classified matter may be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception to synopsis;

(2) The contract action is made under the conditions described in 6.302-2 (or, for purchases conducted using simplified acquisition procedures, if unusual and compelling urgency precludes competition to the maximum extent practicable) and the Government would be seriously injured if the agency complies with the time periods specified in 5.203;

(3) The contract action is one for which either the written direction of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services for such government, or the terms of an international agreement or treaty between the United States and a foreign government, or international organizations, has the effect of requiring that the acquisition shall be from specified sources;

(4) The contract action is expressly authorized or required by a statute to be made through another Government agency, including acquisitions from the Small Business Administration (SBA) using the authority of section 8(a) of the Small Business Act (but see 5.205(f)), or from a specific source such as a workshop for the blind under the rules of the Committee for the Purchase from the Blind and Other Severely Handicapped;

(5) The contract action is for utility services other than telecommunications services and only one source is available;

(6) The contract action is an order placed under Subpart 16.5;

(7) The contract action results from acceptance of a proposal under the Small Business Innovation Development Act of 1982 (Pub. L. 97-219);

(8) The contract action results from the acceptance of an unsolicited research proposal that demonstrates a unique and innovative concept (see 6.003) and publication of any notice complying with 5.207 would improperly disclose the originality of thought or innovativeness of the proposed research, or would disclose proprietary information associ-

ated with the proposal. This exception does not apply if the contract action results from an unsolicited research proposal and acceptance is based solely upon the unique capability of the source to perform the particular research services proposed (see 6.302-1(a)(2)(i));

(9) The contract action is made for perishable subsistence supplies, and advance notice is not appropriate or reasonable;

(10) The contract action is made under conditions described in 6.302-3, or 6.302-5 with regard to brand name commercial items for authorized resale, or 6.302-7, and advance notice is not appropriate or reasonable;

(11) The contract action is made under the terms of an existing contract that was previously synopsized in sufficient detail to comply with the requirements of 5.207 with respect to the current contract action;

(12) The contract action is by a Defense agency and the contract action will be made and performed outside the United States, its possessions, or Puerto Rico, and only local sources will be solicited. This exception does not apply to contract actions subject to the Trade Agreements Act (see Subpart 25.4). This exception also does not apply to North American Free Trade Agreement contract actions, which will be synopsized in accordance with agency regulations;

(13) The contract action is for an amount expected to exceed \$25,000 but not expected to exceed the simplified acquisition threshold and is made by a contracting activity that has been certified as having implemented a system with interim (until December 31, 1999) or full (after December 31, 1999) FACNET and the contract action will be made through FACNET;

(14) The contract action is for an amount at or below \$250,000 and is made through FACNET after Governmentwide FACNET has been certified pursuant to 4.505-3; or

(15) The contract action is made under conditions described in 6.302-3 with respect to the services of an expert to support the Federal Government in any current or anticipated litigation or dispute.

(b) The head of the agency determines in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable.

5.203 Publicizing and response time.

Whenever agencies are required to publish notice of contract actions under 5.201, they shall proceed as follows:

(a) A notice of contract action shall be published in the Commerce Business Daily at least 15 days before issuance of a solicitation except that, for acquisitions of commercial items, the contracting officer may—

(1) Establish a shorter period for issuance of the solicitation; or

(2) Use the combined CBD synopsis/solicitation procedure (see 12.603).

(b) The contracting officer shall establish a solicitation response time which will afford potential offerors a reasonable opportunity to respond to (1) each contract action, including actions via FACNET, in an amount estimated to be greater than \$25,000, but not greater than the simplified acquisition threshold; or (2) each contract action for the acquisition of commercial items in an amount estimated to be greater than \$25,000 (see Part 12). The contracting officer should consider the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency, when establishing the solicitation response time.

(c) Except for the acquisition of commercial items (see 5.203(b)), agencies shall allow at least a 30-day response time for receipt of bids or proposals from the date of issuance of a solicitation, if the contract action is expected to exceed the simplified acquisition threshold.

(d) Agencies shall allow at least a 30 day response time from the date of publication of a proper notice of intent to contract for architect-engineer services or before issuance of an order under a basic ordering agreement or similar arrangement if the contract action is expected to exceed the simplified acquisition threshold.

(e) Agencies shall allow at least a 45 day response time for receipt of bids or proposals from the date of publication of the notice required in 5.201 for contract actions categorized as research and development if the contract action is expected to exceed the simplified acquisition threshold.

(f) Nothing in this subpart prohibits officers or employees of agencies from responding to requests for information.

(g) Contracting officers may, unless they have evidence to the contrary, presume that notice has been published 10 days (6 days if electronically transmitted) following transmittal of the synopsis to the CBD. This presumption is based on the CBD's confirmation that publication does occur within these time frames. This presumption does not negate the mandatory waiting or response times specified in paragraphs (a) through (d) of this section. Upon learning that a particular notice has not in fact been published within the presumed timeframes, contracting officers should consider whether the date for receipt of offers can be extended or whether circumstances have become sufficiently compelling to justify proceeding with the contract action under the authority of 5.202(a)(2).

(h) In addition to other requirements set forth in this section, for acquisitions subject to NAFTA or the Trade Agreements Act (see Subpart 25.4), the period of time between publication of the synopsis notice and receipt of offers shall be no less than 40 days. However, if the acqui-

sition falls within a general category identified in an annual forecast, the availability of which is published in the CBD, the contracting officer may reduce this time period to as few as 10 days.

5.204 Presolicitation notices.

Contracting officers shall publicize presolicitation notices in the CBD (see 15.404 and 36.213-2). Synopsizing is still required prior to issuance of any resulting solicitation (see 5.201 and 5.203).

5.205 Special situations.

(a) *Research and development (R&D) advance notices.* Contracting officers may publish in the CBD, advance notices of their interest in potential R&D programs whenever existing solicitation mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of R&D programs and provide these sources with an opportunity to submit information which will permit evaluation of their capabilities. Potential sources which respond to advance notices shall be added to the appropriate solicitation mailing list for subsequent solicitation. Advance notices shall be titled "Research and Development Sources Sought," cite the appropriate Numbered Note, and include the name and telephone number of the contracting officer or other contracting activity official from whom technical details of the project can be obtained. This will enable sources to submit information for evaluation of their R&D capabilities. Contracting officers shall synopsize all subsequent solicitations for R&D contracts, including those resulting from a previously synopsized advance notice, unless one of the exceptions in 5.202 applies.

(b) *Federally Funded Research and Development Centers.* Before establishing a Federally Funded Research and Development Center (FFRDC) (see Part 35) or before changing its basic purpose and mission, the sponsor shall place at least three notices over a 90-day period in the Commerce Business Daily and the Federal Register, indicating the agency's intention to sponsor an FFRDC or change the basic purpose and mission of an FFRDC. The notice shall indicate the scope and nature of the effort to be performed and request comments. Notice is not required where action is required by law.

(c) *Special notices.* Contracting officers may publish in the CBD special notices of procurement matters such as business fairs, long-range procurement estimates, pre-bid/pre-proposal conferences, meetings, and the availability of draft solicitations or draft specifications for review. Special notices shall be transmitted to the CBD in accordance with 5.207.

(1) *General.* Use conventional typing with upper and lower case letters, standard punctuation, and commonly used abbreviations.

(2) *Spacing.* Begin lines in the text, except paragraph beginnings, flush with the left margin. Use double-spaced lines. Begin paragraphs five spaces from the left margin.

(3) *Contracting office and address.* Begin the name, address, and telephone number of the contracting office on the first line of the text. Do not abbreviate except for names of states. The address shall include an attention phrase that identifies the person(s) to contact for further information.

(4) *Description of the matter being announced.* Include a clear, complete description of the matter to be published.

(d) *Architect-engineering services.* Contracting officers shall publish notices of intent to contract for architect-engineering services as follows:

(1) Except when exempted by 5.202, contracting officers shall synopsise each proposed contract action for which the total fee (including phases and options) is expected to exceed \$25,000. Reference shall be made to the appropriate CBD Numbered Note.

(2) When the total fee is expected to exceed \$10,000 but not exceed \$25,000, the contracting officer shall comply with 5.101(a)(2). When the contract action is not required to be synopsized under subparagraph (d)(1) of this section, the contracting officer shall display a notice of the solicitation or a copy of the solicitation in a public place at the contracting office. Other optional publicizing methods are authorized in accordance with 5.101(b).

(e) *Effort to locate commercial sources under OMB Circular A-76.* When determining the availability of commercial sources under the procedures prescribed in Subpart 7.3 and OMB Circular A-76, the contracting officer shall not arrive at a conclusion that there are no commercial sources capable of providing the required supplies or services until publicizing the requirement in the CBD at least three times in a 90 calendar-day period, with a minimum of 30 calendar days between each. When necessary to meet an urgent requirement, this may be limited to a total of two publications in the CBD in a 30 calendar-day period, with a minimum of 15 calendar days between each.

(f) *Section 8(a) competitive acquisition.* When a national buy requirement is being considered for competitive acquisition limited to eligible 8(a) concerns under Subpart 19.8, the contracting officer shall transmit a synopsis of the proposed contract action to the CBD in accordance with 5.207. The synopsis may be transmitted to the CBD concurrent with submission of the agency offering (see 19.804-2) to the Small Business Administration (SBA). The synopsis should also include information—

(1) Advising that the acquisition is being offered for competition limited to eligible 8(a) concerns;

(2) Specifying the Standard Industrial Classification (SIC) code;

(3) Advising that eligibility to participate may be restricted to firms in either the developmental or transitional stage; and

(4) Encouraging interested 8(a) firms to request a copy of the solicitation as expeditiously as possible since the solicitation will be issued without further notice upon SBA acceptance of the requirement for the section 8(a) program.

5.206 Publicizing subcontract opportunities.

Prime contractors may use the CBD to publicize subcontracting opportunities stemming from receipt of a Government contract. The CBD can be used to seek competition for subcontracts, to increase participation by small, small disadvantaged, and women-owned business firms, and to meet established subcontracting plan goals. Synopses of subcontract opportunities should be prepared and submitted in accordance with 5.207.

5.207 Preparation and transmittal of synopses.

(a) *Transmittal.* Contracting officers shall transmit synopses of actions identified under 5.101 to the Commerce Business Daily by the most expeditious and reliable means available.

(1) *Electronic transmission.* All synopses transmitted by electronic means shall be in ASCII Code. Contact your agency's communications center for the appropriate transmission instructions or services.

(2) *Hard copy transmission.* When electronic transmission is not feasible, synopses should be sent to the CBD via mail or other physical delivery of hard copy and should be addressed to:

Commerce Business Daily
U.S. Government Printing Office
PO Box 77880
Washington, DC 20013-8880

(b) *Format.* The contracting officer shall prepare the synopsis in the following style and format to assure timely processing of the synopsis by the Commerce Business Daily.

(1) *General.* Format for all synopses shall employ conventional typing with abbreviations, capitalization, and punctuation all grammatically correct. Each synopsis shall include all 17 format items. Do not include the title for the format item.

(2) *Spacing.* Begin each line flush left and use double spaced lines between each format item. If more than one synopsis is to be sent at one time, separate each synopsis with four line spaces and begin each synopsis with format item number 1.

(3) Abbreviations. Minimize abbreviations or acronyms to commonly recognized abbreviations.

(4) Standard format. Prepare each synopsis in the following format. Begin each format item with the number of the item followed by a period (*e.g.*, 1.). Then make two spaces after the period. Next, type the appropriate information for each format. Then conclude each format item with two exclamation points (*i.e.*, !!). Conclude each complete synopsis, following format item 17, with five asterisks (*i.e.*, *****).

FORMAT ITEM AND EXPLANATION/DESCRIPTION OF ENTRY

1. Action Code. (A single alphabetic character denoting the specific action related in the synopsis. Choices are limited to the following: P=Presolicitation Notice/Procurement; A=Award announcement; M=Modification of a previously announced procurement action (a correction to a previous CBD announcement); R=Sources Sought (includes A-76 services and architect-engineer contracts). If none of the standard codes apply, enter "N/A".)

2. Date. (Date on which the synopsis is transmitted to the CBD for publication. Use a four digit number indicating month in two digits and date in two digits (MMDD). All four spaces must be used with preceding 0 for months January thru September. Format: 0225 for February 25.)

3. Year. (Two numeric digits denoting the calendar year of the synopsis. Format 85: for 1985.)

4. Government Printing Office (GPO) Billing Account Code. (The originating office's account number used by the GPO for billing and collection purposes. The field length is nine alpha-numeric characters. The first three characters entered are "GPO" and then the following six characters are the numeric account number. Agencies should contact the GPO's Office of Comptroller for additional information. Enter N/A if an account number has not been assigned.)

5. Contracting Office Zip Code. (The geographic zip code for the contracting office. Up to nine characters may be entered. When using a nine digit zip code, separate the first five digits and the last four digits with a dash. Format: 00000-0000.)

6. Classification Code. (Service or supply code number; see 5.207(g). Each synopsis shall classify the contemplated contract action under the one classification code which most closely describes the acquisition. If the action is for a multiplicity of goods and/or services, the preparer should select the one category best describing the overall acquisition based upon value. Inclusion of more than one classification code, or failure to include a classification code, will result in rejection of the synopsis by the Commerce Business Daily.)

7. Contracting Office Address. (The complete name and address of the contracting office. Field length is open, but generally not expected to exceed 90 alpha-numeric characters.)

8. Subject. (Insert classification code for ITEM 6, and a brief title description of services, supplies, or project required by the agency. This will appear in the CBD as the bold faced title in the first line of the description.) (200 character spaces available.)

9. Proposed Solicitation Number. (Agency number for control, tracking, identification. For solicitations; if not a solicitation, enter N/A.)

10. Opening/Closing Response Date. (For solicitations; if not a solicitation, enter N/A. Issuing agency deadline for receipt of bids, proposals or responses. Use a six digit date. Format: MMDDYY. Explanation may appear in text of synopsis in Item 17.)

11. Contact Point/Contracting Officer. (Include name and telephone number of contact. Also include name and telephone number of contracting officer if different. This will appear as the first item of information in the published entry. This entry may be alpha-numeric and up to 320 character blocks in length.)

12. Contract Award and Solicitation Number. (For awards; if not an award, enter N/A. The award, solicitation or project reference number assigned by the agency to provide a reference for bidders/subcontractors. Two hundred character spaces available for alpha-numeric entries.)

13. Contract Award Dollar Amount. (For awards; if not an award, enter N/A. A ten digit numeric field. Enter whole dollars only. Output will be preceded by a dollar sign (\$).)

14. Contract Line Item Number. (For awards as desired; if not an award, enter N/A. The alpha-numeric field with dashes and slashes may not exceed 32 spaces. If sufficient space is not available, enter N/A and insert the contract line item number(s) in format item 17.)

15. Contract Award Date. (For awards; if not an award, enter N/A. A six digit entry showing the date the award is made or the contract let. Format: MMDDYY.)

16. Contractor. (For awards; if not an award, enter N/A. Name and address of successful offeror. Four hundred character spaces allowed for full identification.)

17. Description. (Enter a clear and concise description of the action. The description may not exceed 12,000 textual characters (approximately 3-1/2 single spaced pages). The suggested sequence of the content and items for inclusion in the description are contained in 5.207(c). Insert N/A when synopsisizing awards.)

(5) Nonapplicable format items. When a format item is not applicable, type the item number, a period, two blank spaces, and "NA" (*e.g.*, 10. N/A!!).

(6) The following is a sample CBD synopsis:

1.P!!

2. 0925!!
3. 85!!
4. GPO123456!!
5. 19111-5096!!
6. 95!!
7. Defense Industrial Supply Center, 700 Robbins Ave., Philadelphia, PA 19111-5096!!
8. 95—Steel Plate!!
9. DLA500-86-B-0090!!
10. 111585!!
11. Contact Mary Drake, 215/697-XXXX/Contracting Officer, Larry Bird, 215/697-XXXX!!
12. N/A!!
13. N/A!!
14. N/A!!
15. N/A!!
16. N/A!!
17. NSN9515-00-237-5342, Spec Mil-S-226988, 0.1875 inch thick, 96 inch width. 240 inch length. Carbon steel, 45,000 lbs. Delivery to NSY Philadelphia, PA, and NSC Norfolk, VA. Delivery by 1 Oct 86. When calling, be prepared to state name, address, and solicitation number. See note 9. All responsible sources may submit an offer which will be considered. *****

(c) *General format for Item 17, "Description."* (1) Prepare a clear and concise description of the supplies or services that is not unnecessarily restrictive of competition and will allow a prospective offeror to make an informed business judgment as to whether a copy of the solicitation should be requested.

(2) Do not include In Item 17 the CBD supply or service classification code from Item 6.

- (i) National Stock Number (NSN) if assigned.
- (ii) Specification and whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and identification of the office from which additional information about the qualification requirement may be obtained (see Subpart 9.2).
- (iii) Manufacturer, including part number, drawing number, etc.
- (iv) Size, dimensions, or other form, fit or functional description.
- (v) Predominant material of manufacture.
- (vi) Quantity, including any options for additional quantities.
- (vii) Unit of issue.
- (viii) Destination information.
- (ix) Delivery schedule.
- (x) Duration of the contract period.

(xi) For a contract action in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold, enter (A) a description of the procedures to be used in awarding the contract (*e.g.*, request for

oral or written quotation or solicitation), and (B) the anticipated award date.

(xii) For Architect-Engineer projects and other projects for which the supply or service codes are insufficient, provide brief details with respect to: location, scope of services required, cost range and limitations, type of contract, estimated starting and completion dates, and any significant evaluation factors.

(xiii) Numbered notes (see 5.207(e)), including instructions for set-asides for small businesses.

(xiv) In the case of noncompetitive contract actions (including those that do not exceed the simplified acquisition threshold), identify the intended source (see 5.207(e)(3)) and insert a statement of the reason justifying the lack of competition.

(xv) Insert a statement that all responsible sources may submit a bid, proposal, or quotation which shall be considered by the agency.

(xvi) If the contracting office will accept requests for solicitations through alternate means (*e.g.*, facsimile machine, Telex), provide the machine number and routing instructions.

(xvii) If the solicitation will be made available to interested parties through electronic data interchange, provide any information necessary to obtain and respond to the solicitation electronically.

(d) *Set-asides.* When the proposed acquisition provides for a total or partial small business set aside, the appropriate CBD Numbered Note will be cited.

(e) *Numbered Notes.* (1) Numbered Notes are footnotes. The purpose of the Numbered Notes is to conserve space and simplify the identification of repetitive notices. An explanation of the Numbered Notes appears each week in the Monday edition of the CBD. If the Monday edition of the CBD is not printed because of a holiday, an explanation of the Numbered Notes will appear in the next day's issue. When one or more of the Notes applies to a synopsis, contracting officers should reference the note at the end of Item 17 of the synopsis; *e.g.*, "See Note(s) _____." Requests to add or change Notes will be submitted through channels for approval by the DAR Council and the CAA Council. The Councils will review the Numbered Notes periodically and, as appropriate, after consultation with the initiating agency, advise the Department of Commerce to delete or modify outdated or unused notes from the CBD. Contracting officers shall also include the substance of Numbered Notes whenever a proposed contract is publicized by means other than the CBD (see 5.101).

(2) If the acquisition is subject to the requirements of the Trade Agreements Act of 1979 (see Part 25), Numbered Note 12 shall be referenced in the synopsis.

(3) Except for contract actions equal to or less than the simplified acquisition threshold or acquisitions of com-

mercial items, the synopsis shall refer to Numbered Note 22 for noncompetitive contract actions. If it is anticipated that award will be made via a delivery order to an existing basic ordering agreement, the synopsis shall so state.

(4) If, under the proposed acquisition, the Government does not intend to acquire a commercial item using Part 12, the synopsis shall refer to Numbered Note 26.

(f) *Information not covered by Numbered Notes.* To alert prospective contractors to information not covered by Numbered Notes, contracting officers should identify the following unusual circumstances in the synopsis:

(1) “Availability of specifications, plans, drawings, or other technical data. It is impracticable to distribute the applicable _____ [*insert ‘specifications,’ ‘plans,’ ‘drawings,’ or other appropriate words*] with the solicitation. These contract documents may be examined or obtained at _____.”

(2) “Availability of background research report. This contract for basic research is a continuation of an effort conducted for the past _____ [*insert period*]. A research report containing findings to date is not available to the Government.”

(3) “Production requirements. The production of the supplies listed requires a substantial initial investment or an extended period of preparation for manufacture.”

(4) “Place of performance unknown. This contract is subject to the Service Contract Act and the place of performance is unknown. Wage determinations have been requested for _____ [*insert localities*]. The contracting officer will request wage determinations for additional localities if asked to do so in writing by _____ [*insert time and date*].”

(g) *Codes to be used in synopses to identify services or supplies.* (1) Contracting officers shall use one of the following classification codes when the contemplated contract action is for services or when the overall acquisition can best be described as services based upon value:

<u>Code</u>	<u>Description</u>
A	Research and development.
B	Special studies and analysis—not R&D.
C	Architect and engineering services.
D	Information technology services, including telecommunications services.
E	Purchase of structures and facilities.
F	Natural resources and conservation services.
G	Social services.
H	Quality control, testing, and inspection services.
J	Maintenance, repair, and rebuilding of equipment.
K	Modification of equipment.
L	Technical representative services.

<u>Code</u>	<u>Description</u>
M	Operation of Government-owned facilities.
N	Installation of equipment.
P	Salvage services.
Q	Medical services.
R	Professional, administrative, and management support services.
S	Utilities and housekeeping services.
T	Photographic, mapping, printing, and publication services.
U	Education and training services.
V	Transportation, travel, and relocation services.
W	Lease or rental of equipment.
X	Lease or rental of facilities.
Y	Construction of structures and facilities.
Z	Maintenance, repair, and alteration of real property.

(2) Contracting officers shall use one of the following classification codes when the contemplated contract action is for supplies or when the overall acquisition can best be described as supplies based upon value:

10	Weapons.
11	Nuclear ordnance.
12	Fire control equipment.
13	Ammunition and explosives.
14	Guided missiles.
15	Aircraft and airframe structural components.
16	Aircraft components and accessories.
17	Aircraft launching, landing, and ground handling equipment.
18	Space vehicles.
19	Ships, small craft, pontoons, and floating docks.
20	Ship and marine equipment.
22	Railway equipment.
23	Ground effect vehicles, motor vehicles, trailers, and cycles.
24	Tractors.
25	Vehicular equipment components.
26	Tires and tubes.
28	Engines, turbines, and components.
29	Engine accessories.
30	Mechanical power transmission equipment.
31	Bearings.
32	Woodworking machinery and equipment.
34	Metalworking machinery.
35	Service and trade equipment.
36	Special industry machinery.
37	Agricultural machinery and equipment.
38	Construction, mining, excavating, and highway maintenance equipment.
39	Materials handling equipment.
40	Rope, cable, chain, and fittings.

<u>Code</u>	<u>Description</u>
41	Refrigeration, air-conditioning, and air circulating equipment.
42	Fire fighting, rescue, and safety equipment.
43	Pumps and compressors.
44	Furnace, steam plant, and drying equipment; and nuclear reactors.
45	Plumbing, heating, and sanitation equipment.
46	Water purification and sewage treatment equipment.
47	Pipe, tubing, hose, and fittings.
48	Valves.
49	Maintenance and repair shop equipment.
51	Hand tools.
52	Measuring tools.
53	Hardware and abrasives.
54	Prefabricated structures and scaffolding.
55	Lumber, millwork, plywood, and veneer.
56	Construction and building materials.
58	Communication, detection, and coherent radiation equipment.
59	Electrical and electronic equipment components.
60	Fiber optics materials, components, assemblies, and accessories.
61	Electric wire, and power and distribution equipment.
62	Lighting fixtures and lamps.
63	Alarm, signal, and security detection systems.
65	Medical, dental, and veterinary equipment and supplies.
66	Instruments and laboratory equipment.
67	Photographic equipment.
68	Chemicals and chemical products.
69	Training aids and devices.
70	General-purpose information technology equipment.
71	Furniture.
72	Household and commercial furnishings and appliances.
73	Food preparation and serving equipment.
74	Office machines, text processing systems, and visible record equipment.
75	Office supplies and devices.
76	Books, maps, and other publications.
77	Musical instruments, phonographs, and home-type radios.
78	Recreational and athletic equipment.
79	Cleaning equipment and supplies.
80	Brushes, paints, sealers, and adhesives.
81	Containers, packaging, and packing supplies.
83	Textiles, leather, furs, apparel and shoe findings, tents, and flags.

<u>Code</u>	<u>Description</u>
84	Clothing, individual equipment, and insignia.
85	Toiletries.
87	Agricultural supplies.
88	Live animals.
89	Subsistence.
91	Fuels, lubricants, oils, and waxes.
93	Nonmetallic fabricated materials.
94	Nonmetallic crude materials.
95	Metal bars, sheets, and shapes.
96	Ores, minerals, and their primary products.
99	Miscellaneous.

(3) Only one classification code shall be reported. If more than one code is applicable, the contracting officer shall use the code which describes the predominant product or service being procured. The FPDS Product and Service Codes Manual, October 1988, may be used to identify a specific product or service within each code.

(h) *Cancellation of synopsis.* Contracting officers should not publish notices of solicitation cancellations (or indefinite suspensions) of contract actions in the CBD. Cancellations of solicitations shall be made in accordance with 14.209 and 14.404-1.

Subpart 5.3—Synopses of Contract Awards

5.301 General.

(a) Except for contract actions described in paragraph (b) of this section, contracting officers shall synopsise in the Commerce Business Daily (CBD) awards exceeding \$25,000 that (1) are subject to the Trade Agreements Act (see 25.402 and 25.403), or (2) are likely to result in the award of any subcontracts. However, the dollar threshold is not a prohibition against publicizing an award of a smaller amount when publicizing would be advantageous to industry or to the Government.

(b) A notice is not required under paragraph (a) of this section if—

(1) The notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

(2) The award results from acceptance of an unsolicited research proposal that demonstrates a unique and innovative research concept and publication of any notice would disclose the originality of thought or innovativeness of the proposed research or would disclose proprietary information associated with the proposal;

(3) The award results from a proposal submitted under the Small Business Innovation Development Act of 1982 (Pub. L. 97-219);

(4) The contract action is an order placed under Subpart 16.5;

(5) The award is made for perishable subsistence supplies;

(6) The award is for utility services, other than telecommunications services, and only one source is available;

(7) The contract action is for an amount greater than \$25,000 but not greater than the simplified acquisition threshold, the contract action is made by a contracting office that has been certified as having implemented a system with interim (until December 31, 1999) or full (after December 31, 1999) FACNET, and the contract action has been made through FACNET; or

(8) The award is for the services of an expert to support the Federal Government in any current or anticipated litigation or dispute pursuant to the exception to full and open competition authorized at 6.302-3.

(c) With respect to acquisitions subject to the Trade Agreements Act, contracting officers shall submit synopses in sufficient time to permit their publication in the CBD not later than 60 days after award.

5.302 Preparation and transmittal of synopses of awards.

Contracting officers shall transmit synopses of contract awards in the same manner as prescribed in 5.207.

5.303 Announcement of contract awards.

(a) *Public announcement.* Contracting officers shall make information available on awards over \$3 million (unless another dollar amount is specified in agency acquisition regulations) in sufficient time for the agency concerned to announce it by 5:00 p.m. Washington, DC time on the day of award. Contracts excluded from this reporting requirement include (1) those placed with the Small Business Administration under Section 8(a) of the Small Business Act, (2) those placed with foreign firms when the place of delivery or performance is outside the United States or its possessions, and (3) those for which synopsis was exempted under 5.202(a)(1). Agencies shall not release information on awards before the public release time of 5:00 p.m. Washington, DC time.

(b) *Local announcement.* Agencies may also release information on contract awards to the local press or other media. When local announcements are made for contract awards in excess of the simplified acquisition threshold, they shall include—

(1) For awards after sealed bidding, a statement that the contract was awarded after competition by sealed bidding, the number of offers solicited and received, and the basis for selection (*e.g.*, the lowest responsible bidder); or

(2) For awards after negotiation, the information prescribed by 15.1003(b), and after competitive negotiation (either price or design competition), a statement to this effect, and in general terms the basis for selection.

Subpart 5.4—Release of Information

5.401 General.

(a) A high level of business security must be maintained in order to preserve the integrity of the acquisition process. When it is necessary to obtain information from potential contractors and others outside the Government for use in preparing Government estimates, contracting officers shall ensure that the information is not publicized or discussed with potential contractors.

(b) Contracting officers may make available maximum information to the public, except information—

(1) On plans that would provide undue or discriminatory advantage to private or personal interests;

(2) Received in confidence from an offeror;

(3) Otherwise requiring protection under Freedom of Information Act (see Subpart 24.2) or Privacy Act (see Subpart 24.1); or

(4) Pertaining to internal agency communications (*e.g.*, technical reviews, contracting authority or other reasons, or recommendations referring thereto).

(c) This policy applies to all Government personnel who participate directly or indirectly in any stage of the acquisition cycle.

5.402 General public.

Contracting officers shall process requests for specific information from the general public, including suppliers, in accordance with Subpart 24.1 or 24.2, as appropriate.

5.403 Requests from Members of Congress.

(a) *Individual requests.* Contracting officers shall give Members of Congress, upon their request, detailed information regarding any particular contract. When responsiveness would result in disclosure of classified matter, business confidential information, or information prejudicial to competitive acquisition, the contracting officer shall refer the proposed reply, with full documentation, to the agency head and inform the legislative liaison office of the action.

(b) *Inclusion on solicitation mailing lists.* Upon request of a Congressional Committee or Subcommittee Chairperson, contracting officers shall place any member of a Committee or Subcommittee on the applicable solicitation mailing lists to receive automatic distribution of solicitations in the specific area of interest.

5.404 Release of long-range acquisition estimates.

To assist industry planning and to locate additional sources of supply, it may be desirable to publicize estimates of unclassified long-range acquisition requirements. Estimates may be publicized as far in advance as possible.

5.404-1 Release procedures.

(a) *Application.* The agency head, or a designee, may release long-range acquisition estimates if the information will—

(1) Assist industry in its planning and facilitate meeting the acquisition requirements;

(2) Not encourage undesirable practices (*e.g.*, attempts to corner the market or hoard industrial materials); and

(3) Not indicate the existing or potential mobilization of the industry as a whole.

(b) *Conditions.* The agency head shall ensure that—

(1) Classified information is released through existing security channels in accordance with agency security regulations;

(2) The information is publicized as widely as practicable to all parties simultaneously by any of the means described in this part;

(3) Each release states that—

(i) The estimate is based on the best information available,

(ii) The information is subject to modification and is in no way binding on the Government, and

(iii) More specific information relating to any individual item or class of items will not be furnished until the proposed acquisition is synopsisized in the CBD, or the solicitation is issued;

(4) Each release contains the name and address of the contracting officer that will process the acquisition;

(5) Modifications to the original release are publicized as soon as possible, in the same manner as the original; and

(6) Each release—

(i) Is coordinated in advance with small business, public information, and public relations personnel, as appropriate;

(ii) Contains, if applicable, a statement that small business set-asides may be involved, but that a determination can be made only when acquisition action is initiated; and

(iii) Contains the name or description of the item, and the estimated quantity to be acquired by calendar quarter, fiscal year, or other period. It may also contain such additional information as the number of units last acquired, the unit price, and the name of the last supplier.

5.404-2 Announcements of long-range acquisition estimates.

Further publication, consistent with the needs of the individual case, may be accomplished by announcing in the CBD that long-range acquisition estimates have been published and are obtainable, upon request, from the contracting officer.

5.405 Exchange of acquisition information.

(a) When the same item or class of items is being acquired by more than one agency, or by more than one contracting activity within an agency, the exchange and coordination of pertinent information, particularly cost and pricing data, between these agencies or contracting activities is necessary to promote uniformity of treatment of major issues and the resolution of particularly difficult or controversial issues. The exchange and coordination of information is particularly beneficial during the period of acquisition planning, presolicitation, evaluation, and pre-award survey.

(b) When substantial acquisitions of major items are involved or when the contracting activity deems it desirable, the contracting activity shall request appropriate information (on both the end item and on major subcontracted components) from other agencies or contracting activities responsible for acquiring similar items. Each agency or contracting activity receiving such a request shall furnish the information requested. The contracting officer, early in a negotiation of a contract, or in connection with the review of a subcontract, shall request the contractor to furnish information as to the contractor's or subcontractor's previous Government contracts and subcontracts for the same or similar end items and major subcontractor components.

Subpart 5.5—Paid Advertisements**5.501 Definitions.**

“Advertisement,” as used in this subpart, means any single message prepared for placement in communication media, regardless of the number of placements.

“Publication,” as used in this subpart, means—

(a) The placement of an advertisement in a newspaper, magazine, trade or professional journal, or any other printed medium; or

(b) The broadcasting of an advertisement over radio or television.

5.502 Authority.

(a) *Newspapers.* Authority to approve the publication of paid advertisements in newspapers is vested in the head of each agency (44 U.S.C. 3702). This approval authority may be delegated (5 U.S.C. 302 (b)). Contracting officers shall

obtain written authorization in accordance with policy procedures before advertising in newspapers.

(b) *Other media.* Unless the agency head determines otherwise, advance written authorization is not required to place advertisements in media other than newspapers.

5.503 Procedures.

(a) *General.* (1) Orders for paid advertisements may be placed directly with the media or through an advertising agency. Contracting officers shall give small, small disadvantaged and women-owned small business concerns maximum opportunity to participate in these acquisitions.

(2) The contracting officer shall use the SF 1449 for paper solicitations. The SF 1449 shall be used to make awards or place orders unless the award/order is made via FACNET or by using the Governmentwide commercial purchase card for micro-purchases.

(b) *Rates.* Advertisements may be paid for at rates not over the commercial rates charged private individuals, with the usual discounts (44 U.S.C. 3703).

(c) *Proof of advertising.* Every invoice for advertising shall be accompanied by a copy of the advertisement or an affidavit of publication furnished by the publisher, radio or television station, or advertising agency concerned (44 U.S.C. 3703). Paying offices shall retain the proof of advertising until the General Accounting Office settles the paying office's account.

(d) *Payment.* Upon receipt of an invoice supported by proof of advertising, the contracting officer shall attach a copy of the written authority (see 5.502(a)) and submit the invoice for payment under agency procedures.

5.504 Use of advertising agencies.

(a) *General.* Basic ordering agreements may be placed with advertising agencies for assistance in producing and

placing advertisements when a significant number will be placed in several publications and in national media. Services of advertising agencies include, but are not limited to, counseling as to selection of the media for placement of the advertisement, contacting the media in the interest of the Government, placing orders, selecting and ordering typography, copywriting, and preparing rough layouts.

(b) *Use of commission-paying media.* The services of advertising agencies in placing advertising with media often can be obtained at no cost to the Government, over and above the space cost, as many media give advertising agencies a commission or discount on the space cost that is not given to the Government.

(c) *Use of noncommission-paying media.* Some media do not grant advertising agencies a commission or discount, meaning the Government can obtain the same rate as the advertising agency. If the advertising agency agrees to place advertisements in noncommission-paying media as a no-cost service, the basic ordering agreement shall so provide. If the advertising agency will not agree to place advertisements at no cost, the agreement shall—

(1) Provide that the Government may place orders directly with the media; or

(2) Specify an amount that the Government will pay if the agency places the orders.

(d) *Art work, supplies, and incidentals.* The basic ordering agreement also may provide for the furnishing by the advertising agency of art work, supplies, and incidentals, including brochures and pamphlets, but not their printing. "Incidentals" may include telephone calls, telegrams, and postage incurred by the advertising agency on behalf of the Government.

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