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 proposed *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 proposed *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 proposed *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 Purchase from People Who Are Blind or Severely Disabled;

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

(6) The proposed *contract action* is an order placed under subpart 16.5. When the order contains brand-name specifications, see especially 16.505(a)(4);

(7) The proposed *contract action* results from acceptance of a proposal under the Small Business Innovation Development Act of1982 (Pub.L.97-219);

(8) The proposed *contract action* results from the acceptance of an unsolicited research proposal that demonstrates a *unique and innovative concept* (see 2.101) 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 associated with the proposal. This exception does not apply if the proposed *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 proposed *contract action* is made for perishable subsistence *supplies*, and advance notice is not appropriate or reasonable;

(10) The proposed *contract action* is made under conditions described in 6.302-3, or 6.302-5 with regard to brand name *commercial products* for authorized resale, or 6.302-7, and advance notice is

not appropriate or reasonable;

(11) The proposed *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 proposed *contract action*;

(12) The proposed *contract action* is by a Defense agency and the proposed *contract action* will be made and performed outside the *United States* and its *outlying areas*, and only local sources will be solicited. This exception does not apply to proposed *contract actions* covered by the World Trade Organization Government *Procurement* Agreement or a Free Trade Agreement (see subpart 25.4);

(13) The proposed *contract action*-

(i) Is for an amount not expected to exceed the *simplified acquisition threshold*;

(ii) Will be made through a means that provides access to the notice of proposed *contract action* through the GPE; and

(iii) Permits the public to respond to the *solicitation* electronically; or

(14) The proposed *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.

Parent topic: Subpart 5.2 - Synopses of Proposed Contract Actions