Subpart 13.5 - Simplified Procedures for Certain Commercial Products and Commercial Services

Parent topic: Part 13 - Simplified Acquisition Procedures

13.500 General.

(a) This subpart authorizes the use of simplified procedures for the *acquisition* of *supplies* and services in amounts greater than the *simplified acquisition threshold* but not exceeding $9 million ($15 million for *acquisitions* as described in 13.500(c)), 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 products* or *commercial services*. *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 these simplified procedures is to vest *contracting officers* with additional procedural discretion and flexibility, so that commercial *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. 3205-3208 and chapter 241 and 41 U.S.C.3305, 3306, and chapter 37, Awarding of Contracts).

(b) When acquiring *commercial products* or *commercial services* 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.

(c) Under 41 U.S.C. 1903, the *simplified acquisition procedures* authorized in this subpart *may* be used for *acquisitions* that do not exceed $15 million when-

(1) The *acquisition* is for *commercial products* or *commercial services* that, as determined by the *head of the agency*, are to be used in support of a *contingency operation*; to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to support a request from the Secretary of State or the Administrator of the *United States* Agency for International Development to facilitate provision of international disaster assistance; or to support response to an *emergency* or *major disaster*, or

(2) The *acquisition* will be treated as an *acquisition* of *commercial products* or *commercial services* in accordance with 12.102(f)(1).

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 that the procedures in FAR subpart 13.5 were used in accordance with 41 U.S.C.1901 or the authority of 41 U.S.C. 1903;

(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 for sole-source (including brand-name) *acquisitions* or portions of an *acquisition* requiring a brand-name. If the justification is to cover only the portion of the *acquisition* which is brand-name, then it *should* so state; the approval level requirements will then only apply to that portion.

(i) For a proposed contract exceeding the *simplified acquisition threshold*, but not exceeding $900,000, 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 $900,000 or the thresholds in paragraph (1) of the definition of *simplified acquisition threshold* in 2.101, but not exceeding $20 million, the advocate for competition 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 $20 million but not exceeding $90 million or, for DoD, NASA, and the Coast Guard, not exceeding $150 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 $90 million or, for DoD, NASA, and the Coast Guard, $150 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 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.