

CHAPTER 7

Simplified Acquisition Policy And Procedures

This chapter provides guidelines on:

- C Elements essential to creation of a contract (Section 7A)
- C Determining when to use and when not to use simplified acquisition procedures (Section 7B)
- C Obtaining maximum practicable competition, or taking the required steps when obtaining competition is not possible or feasible (Section 7C)
- C Deciding whether oral or written solicitation is appropriate, and carrying out the process of solicitation through either method (Section 7D)
- C Broadening the range of potential sources by maintaining source lists and publicizing requirements in the Commerce Business Daily (Section 7D)
- C Evaluating quotations based on price, other quantitative factors, product or service acceptability, and vendor's responsibility (Section 7E)
- C Conducting negotiations and other communications with vendors (Section 7F)
- C Documenting the steps taken in making simplified acquisition transactions (Section 7F)
- C Requirements and procedures for supporting socio-economic programs (Section 7G)
- C Processing protests filed with ARS and the GAO (Section 7H)
- C Policy and procedures for contract reporting under the Federal Procurement Data System (Section 7I)

Cross-references:

- C Chapter 8 addresses the alternative simplified acquisition procedures which ARS Purchasing Agents may use to effect the actual purchase transactions.
- C Chapter 9 addresses the specific considerations which are peculiar to obtaining services using simplified acquisition procedures.
- C Chapter 10 deals specifically with considerations that are peculiar to obtaining minor construction, alteration, and repair work using simplified acquisition procedures.
- C Chapter 12 addresses the acquisition of IT resources using both simplified acquisition procedures and FSS Schedule Contracts.

SECTION 7A

INTRODUCTION TO OPEN MARKET CONTRACTING USING SIMPLIFIED ACQUISITION PROCEDURES

USE OF OPEN MARKET VS. ESTABLISHED SOURCES

Chapter 4 of this Manual addressed the various types of sources and their order of priority for use in satisfying ARS' requirements. We saw that, absent exceptions or waivers, Purchasing Agents must first consider the use of established government sources, then, established commercial sources, and last of all, open market sources. To this point we have discussed the policies and procedures for ordering from established government sources (Chapter 5) and from established commercial sources (Federal Supply Schedules) (Chapter 6). In the first case, the government has already acquired common supplies, materials, furniture, etc., which the government stocks, stores, and issues upon receiving a requisition from a government customer. In the second case, the government has awarded a contract for common supplies and services which the contractor must stock, store, and deliver/perform upon receipt of a delivery order from a government customer. Both of these sources are established on premise that they provide a more economical and efficient means for the government to satisfy its requirements than going to the open market for each requirement on a case-by-case basis due to the administrative time and effort involved.

As we have seen, there are exceptional circumstances where the ARS' requirements cannot be met by either of these sources or where the ARS may obtain a waiver. It is only under such conditions that ARS may satisfy its requirements by going out into the open market place. The method of satisfying requirements under such circumstances is the formation of a contract.

Subsequent paragraphs in this section deal with the basic legal requirements to be met in forming a contract regardless of whether simplified acquisition procedures or formal contracting procedures are used. Subsequent sections of this Chapter deal with the basic principles, policies, and procedures for the conduct of open market acquisitions using the simplified acquisition procedures established in FAR Part 13 and AGAR Part 13.

ELEMENTS ESSENTIAL TO A CONTRACT

Typically, a simplified acquisition, regardless of the specific procedure used (See Chapter 8), entails four steps: 1) the government asks vendors for price quotations; 2) the vendor(s) provide price quotations; 3) the government selects a vendor and places an order; and, 4) the vendor performs the service or delivers the product ordered. In this process a contract is created between the government and the vendor, in relation to which the Purchasing Agent becomes the CO.

A contract is an agreement between two or more parties which is enforceable by law because the following four basic elements are present:

- C Lawful purpose.
- C Offer and acceptance;
- C Mutuality of consideration; and
- C Competent parties;

Explanation of these elements is the purpose of this brief background section.

LAWFUL PURPOSE

The law will not enforce any agreement that is contrary to public policy. This means that all laws regulating purchasing (such as the need for available funding) must be complied with or a contract may be declared null and void.

OFFER AND ACCEPTANCE

To create a contract, the parties must manifest their agreement through an offer and an acceptance that are the same in all essential terms. An offer is a statement of willingness to enter into a contract under specified terms and conditions. In simplified acquisitions, the ordering activity makes an offer to buy when it places an order using an AD-838, or other authorized form, or when it places an order orally using a BPA or commercial purchase card. Acceptance is the expression of consent to the offer by the party to which the offer is addressed. In the case of simplified acquisitions, the vendor accepts either by furnishing a written acceptance notice or by starting work in accordance with the order.

The element of offer and acceptance is crucial since it is the element most likely to result in problems. As discussed in greater detail in Section 8B, neither the solicitation issued nor the

quotation received from a vendor through use of an SF-18 is an offer. *An offer is not made until a purchase order is issued, and a binding agreement is not reached unless and until the vendor*

accepts the order. (It may therefore be necessary for the Purchasing Agent to follow up on orders to determine whether they have been accepted and whether the government can count on delivery (see Section 13C).

MUTUALITY OF CONSIDERATION

Consideration is something of value which changes hands between the parties to a contract. Both parties must promise to do something which they are not otherwise legally required to do (or to refrain from doing something they are legally bound to do). If there is no such exchange--no consideration in return for the consideration promised--what takes place is the offer of a gift rather than the forming of a contract.

Generally, in government contracting, the contractor will perform a service or supply an item in return for payment by the activity, although an exchange of promises ("we promise to pay if you perform" and "we promise to perform if you pay") is sufficient to create a contract, if the other three basic elements are present.

COMPETENT PARTIES

For an agreement to be a contract, the parties must be legally capable of binding themselves or the organization they represent. This means that the parties must be legal adults, not mentally incapable, and vested with authority to bind the organization.

As discussed in Chapter 1, only an employee acting within his or her acquisition authority is authorized to obligate the government.

As discussed in Section 7E of this Chapter, a prospective contractor must be deemed responsible--i.e., reliable, capable, financially stable, and otherwise competent --before an offer is made.

SECTION 7B

INTRODUCTION TO SIMPLIFIED ACQUISITION POLICY AND PROCEDURE

Beginning with this section of the Manual, the focus shifts from the placing of delivery orders with sources established by the government to the making of purchases from commercial, or "open market," vendors. As noted in Chapter 1, Congress specifically authorized the use of simplified acquisition as a means of simplifying and expediting commercial transactions involving a total amount of \$100,000 or less. This introductory section begins with a brief background discussion of the use of simplified acquisition procedures and then provides an overview of key policy issues.

The other sections of this chapter are addressed directly to Purchasing Agents. They discuss in sequence the various steps that are necessary in properly carrying out simplified acquisition transactions.

POLICY ON USING SIMPLIFIED ACQUISITION PROCEDURES

When to Use Simplified Acquisition Procedures

Simplified acquisition procedure should be used whenever practicable, consistent with the guidelines presented in the acquisition regulations and further explained in this Manual. The objectives, as spelled out in FAR 13.002, are to:

- C Reduce administrative costs;
- C Improve opportunities for small business, small disadvantaged, and women-owned small business concerns to obtain a fair proportion of government contracts;
- C Promote economy and efficiency in contracting; and
- C Avoid unnecessary burdens for agencies and contractors.

The basic rule is that one of the simplified methods (defined in FAR 13.001 and discussed in Chapter 8) may be used to purchase supplies and nonpersonal services when each of the following conditions is present:

- C The aggregate amount in any one transaction does not exceed the simplified acquisition threshold.
- C Satisfying the requirement from a higher-priority source (i.e., an established source; see Chapters 5 and 6) is not possible.
- C No special circumstances make it clearly in the best interest of the government to purchase by a more formal method (see discussion in "When Simplified Acquisition Procedures are Not to be Used," on the following page).

- C The purchase card is encouraged to be used to the maximum extent practicable to acquire and pay for goods and/or services.

Computation of Aggregate Dollar Amount

In arriving at the aggregate dollar amount involved, the buyer must include all supplies and services which would be properly grouped together in a single Invitation for Bids or Request for Proposals if the acquisition was being made using formal contracting procedures. The amount should include not only the total price of the order, but also, all estimated handling and freight charges to be paid to the vendor.

Prohibition Against Splitting Orders to Get Under the Simplified Acquisition Threshold

Purchasing personnel may not split requirements in order to circumvent the simplified acquisition threshold or the micro-purchase threshold. Nor may the Purchasing Agent split requirements so as to fall within their obligation authority - Refer to Section 1B. Splitting a requirement--intentionally or unintentionally--to permit the use of a particular acquisition method is a direct violation of prescribed policy. This policy is based on the considerations described below. (See FAR 13.003 (c)).

Higher Price

The required quantity set forth on a requisition (AD-700) is a significant determinant of the appropriate source of supply--manufacturer, wholesaler, or local distributor. If a manufacturer-size or wholesaler-size order is split, the resulting quantity may be only large enough to interest local dealers, who generally add a profit margin to the manufacturer or wholesaler price. The government is likely to have to pay a higher price. Lower prices can often be obtained when the quantity of the item, or the consolidation of related items, comprises a production run, a standard unit of sale, a commercial package size, or a similar breakpoint which is large enough to interest a manufacturer or wholesaler (See Chapter 11).

Delayed Delivery

Delay in delivery may occur when, for example, a requirement for 50 units of an item is ordered in units of 25 each so that the cost for each order falls within a purchasing agent's warrant authority. The supplier might deliver the first 25 units within the delivery time frame but may be late or fail to deliver the second increment of 25 units. Delay may also occur because of the refusal or reluctance of suppliers to make minimal quantity deliveries of low-cost items.

Minimum Order/Minimum Bill

Suppliers often have a minimum billing policy to offset internal costs of processing minimum quantity orders. Frequently, the minimum billing amount is \$25 or more--which amount may be higher than the actual cost of the line item being purchased. Further, placement of minimal quantity orders encourages wider supplier adoption of minimum billing policies. *Note:* FAR 7.202 requires, if practicable, that each solicitation for supplies contains a provision inviting each vendor to state an opinion as to whether the amount of supplies proposed to be acquired by the government is economically advantageous and, if applicable, to recommend a quantity which would be more economical to include total and unit prices for the recommended quantity.

Increased Administrative Time and Effort

The processing of two or more purchase transactions when one would suffice cannot be justified. The need to reduce paperwork is more apparent in the simplified acquisition operation than in any other.

CHOOSING THE APPROPRIATE SIMPLIFIED ACQUISITION METHOD

Four different simplified acquisition methods are authorized for use by ARS purchasing personnel: (1) purchase order (AD-838), (2) blanket purchase agreement and (3) the governmentwide commercial purchase card. Use of these methods is discussed in Chapter 8. The choice of a particular method depends on such factors as dollar value, type of item, delivery requirements, and availability. The primary consideration is which procedure will accomplish the purchase in the most efficient and economical manner. In making this choice, purchasing personnel must apply knowledge and exercise good business judgment.

WHEN NOT TO USE SIMPLIFIED ACQUISITION PROCEDURES

Restrictions

Within ARS, simplified acquisition procedures must not be used for:

- C Acquisitions which were initially estimated to exceed \$100,000 but ultimately result in a price of less than the \$100,000;
- C Acquisitions initially estimated not to exceed \$100,000 but which ultimately result in a price in excess of \$100,000.

For these acquisitions a contract must be entered into using formal contracting procedures. In such cases the Purchasing Agent must forward the Procurement Request (AD-700) to the cognizant PAO for action.

Purchases Requiring Special Consideration

Simplified acquisition procedures enable the government to make buys of lesser dollar value without formal two-party contracting procedures involving substantially greater paperwork and administrative time.

In certain situations, however, consideration may be given to using two-party contracts instead of simplified acquisition procedure, even when the total dollar amounts involved permit the simplified techniques. These situations include:

- C Acquisitions of construction, even though estimated to cost less than the simplified acquisition threshold. (See discussion in Chapter 10.)
- C Acquisitions of other products or services in which there are complex questions to be considered or specific contract provisions to be included (inspection and testing, insurance, patents, price adjustments, and so forth).
- C Acquisitions of research and development, complex studies and services, or other requirements which demand judgmental technical evaluation or involved negotiations, and where award cannot be made confidently on the basis of low price. In such purchases, more formal contracting methods should be used.
- C Acquisitions of advisory and assistance services. Extreme caution should be used in acquiring these services by use of simplified acquisition methods because of the possibility of entering into improper personal service contracts. Internal guidance on purchasing advisory and assistance services should be reviewed prior to each purchase. (See discussion in Chapter 9).
- C Acquisitions of A-E Services. FAR 36.601-3(b) requires that architect-engineer services be acquired following the procedures in FAR Subpart 36.6 rather than in accordance with FAR 13, Simplified Acquisition Procedures.

MICROPURCHASES

The Federal Acquisition Streamlining Act (FASA) of 1994 included a provision for another category of simplified acquisitions called "micropurchases." FAR Subpart 13.2 implements this procedure.

Definitions

Micro-purchase is defined in FAR 2.1 as an acquisition of supplies of services (except construction), the aggregate amount of which *does not exceed \$2,500*. Construction purchases are limited to \$2,000 because of the requirements of the Davis-Bacon Act which requires wage determinations for various categories of persons employed by contractors and subcontractors on

Policy

Methods

The purchasing methods covered in FAR Part 13 and authorized for use within ARS may be used for micropurchase transactions, i.e., purchase orders, blanket purchase agreements, and the governmentwide commercial purchase card (for procedures, see Chapter 8).

Small Business Set-Asides

Small business set-asides are not required for purchases below the micropurchase threshold.

Required Sources of Supply

FAR Part 8 regarding required sources of supplies and services must be followed. Specifically, sources of a priority for use higher than "commercial sources" must be considered before making a "micropurchase" (See Chapters 4, 5, and 6).

Competition, Evaluation of Quotes, and Award

- C Competition is not required if the price is fair and reasonable.
- C Verification of price reasonableness is not necessary unless there is reason to believe otherwise. (Take into account the administrative cost of the verification).
- C Prompt payment discounts should be solicited.
- C The Buy American Act does not apply to micropurchases.

PURCHASE OF COMMERCIAL ITEMS

Policy

FAR Part 12 contains procedures for the purchase of commercial items and services which are to be followed for acquisitions above the micro-purchase threshold (\$2,500). (Acquisitions below \$2,500 and those conducted using the government-wide commercial purchase card are excluded). For simplified acquisitions, the procedures in FAR Part 12 are to be used in conjunction with those in FAR Part 13. Also, see FAR Part 10, Market Research.

Definitions

A "commercial item" is defined in FAR 2.101 as being of a type customarily used for nongovernmental purposes and has been sold, leased, or licensed (or offered) to the general public. "Commercial services" include installation, maintenance, repair, or training which are

acquired in support of commercial items (this does not include services that do not have an established catalog or market price for a specific service which are sold based on hourly rates).

Where a written solicitation is to be used, the CO may use the optional streamlined procedures provided at FAR Subpart 12.6. Also see FAR 13.105(b), 13.106 and FAR Part 5 for covering the synopsis and solicitation requirements.

Purchasing Agents conducting simplified acquisitions above the micropurchase threshold should consult with the PAO at the Area office for guidance.

SECTION 7C

OBTAINING MAXIMUM PRACTICABLE COMPETITION

The foundation of good purchasing is competition; its importance in purchasing cannot be overstated. Competition is the primary means of assuring that purchase will be made to the best advantage of the government, price and other factors considered. When acquiring supplies or services (including construction) using simplified acquisition procedures, FAR 13.104 requires that maximum practicable competition be sought for all acquisitions whose value exceeds the micropurchase threshold.

Purchasing Agents should not assume, however, that because competition is good, the more of it they get the better off they are. It is necessary to be reasonable in determining what the extent of competition should be and how to obtain it. Although generally three qualified sources are considered adequate competition for simplified acquisitions when the contract action does not exceed \$25,000, there is no strict, across-the-board requirement establishing a minimum number of quotations that must be obtained. Nor is there a definitive guideline to follow in determining whether or not to seek quotes from firms outside your local area.

There are, however, several guidelines to be followed in making decisions about adequacy of competition. These guidelines require the Purchasing Agent to consider:

1. What is being bought;
2. What is known about recent, similar purchases;
3. Whether there is a case of urgency; and
4. The dollar value of the acquisition and past experience concerning specific dealers' prices.

Each of the guidelines is discussed below. Exhibit 7C(i) at the end of the section, "Levels of Competition and Means of Obtaining It," presents additional guidelines which will be elaborated upon in Section 7D.

GUIDELINES FOR OBTAINING ADEQUATE COMPETITION

What You Know From Recent Purchases of the Same or a Similar Item

If you have recently purchased an item after obtaining competitive quotes, you may decide to go back to the vendor who at that time submitted the best quote, because another round of obtaining competitive quotes could be a waste of time. In this regard, note that FAR 13.103 provides that standing price quotations may be used in lieu of obtaining individual quotations each time a purchase is contemplated. It is usually a good idea to obtain quotes from other suppliers rather than automatically requesting quotes from the same suppliers. In fact, FAR 13.104(b) recommends that, where practicable, two sources not included in the previous solicitation should be requested to furnish quotations. When the dollar value of the purchase is \$2,500 or less, distribute repeat purchases of the item equitably among qualified suppliers, as discussed below.

Urgency

Obtaining quotes takes time. If enough time is not available, you may need to cut down on the number of quotes obtained or, in some cases, order from a vendor with whom you have had recent experience. Remember, however, that requisitioning activities are responsible for providing adequate lead time; repeated use of "urgency" is not proper.

Urgent cases should be properly documented by the requisitioning activity and the documentation placed in the file. If noncompetitive purchasing is required, a justification must be prepared and approved.

Dollar Value

Dollar value is one of the most important factors in determining how much competition is appropriate.

\$2,500 or Less (Micro-Purchases)

On small dollar purchases of \$2,500 or less, you should exercise good judgment to determine if competition is necessary, and the number of quotations to obtain. If it is an item bought repeatedly and the price is fair and reasonable, competition is not required (FAR 13.202(a)(2)). Purchases shall be distributed equitably among qualified suppliers (FAR Part 13.202 (a)(1)). If practical, a quotation should be solicited from other than the previous supplier before placing a repeat order.

In any case, your records for a purchase of \$2,500 or less need not include a written justification for noncompetitive purchase nor, normally, documentation of how it was determined that the price paid was reasonable unless you have reason to believe that the price may not be reasonable

(See FAR 13.202(a)(3) and 13.202(b)).

Over \$2,500

For purchases in excess of \$2,500 (in the aggregate), competitive quotes are required. Studies have estimated that savings of approximately 25 percent result if a change is made from noncompetitive to competitive purchasing. If the activity is spending \$500,000 a year, for example, competition could save it more than \$100,000.

Purchasing Agents should solicit quotations from a reasonable number of qualified sources (Generally, soliciting three sources will meet the requirement for obtaining maximum practical competition) to ensure that the purchase is advantageous to the government, price and other factors considered, including the administrative cost of the purchase (FAR 13.104).

When soliciting competition, the Purchasing Agent shall consider the guidance in 13.104 and the following before requesting quotations or offers:

- C The nature of the article or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or is relatively noncompetitive.
- C Whether an electronic commerce method that employs widespread electronic public notice is not available.
- C The urgency of the proposed purchase.
- C The dollar value of the proposed purchase.
- C Past experience concerning specific dealers' prices.

As mentioned earlier, if suppliers furnish standing price quotations on supplies or services required on an intermittent and recurring basis, the information may be used in lieu of obtaining individual quotations each time a purchase is contemplated. The buyer must ensure that the price information is current and that the government obtains the benefit of maximum discounts.

Generally, for purchases up to \$100,000, quotations *may be solicited orally*. Written solicitations must be used for construction contracts over \$2,000. In other circumstances, written solicitations would be more appropriate when:

- C A large number of line items is included in a single proposed acquisition;
- C Obtaining oral quotations is not considered economical or practical;
- C Special specifications are involved; e.g., the product is different from that normally or

previously purchased; or

- C The suppliers are located outside the local trade area.

Note: Due to the requirement in FAR 5.101(a)(1) to synopsise proposed contract actions expected to exceed \$25,000 via Federal Business Opportunities (FedBizOpps), solicitation may not be practicable. **[However, a FedBizOpps synopsis may incorporate enough information for the Purchasing Agent to receive oral quotes.]**

Maximum practicable competition for simplified acquisitions ordinarily can be obtained without soliciting quotations from sources outside the trade area in which the purchasing office is located. Purchasing Agents should not limit solicitations to suppliers of well known and widely distributed makes or brands nor should quotations be solicited on a personal preference basis.

New supply sources, disclosed through trade journals or other media should be continuously reviewed and, if appropriate, added to the list of available sources.

Unless exempted by the HCAD (Director PPD), each office (normally Area offices) must maintain a source list (or lists, if more convenient) and should record on the list the status of each source (when the status is made known to the office) in the following categories (See FAR 13.102):

- C Small Business.
- C Small Disadvantaged Business.
- C Women-Owned Small Business.

The status information is used to ensure that small business concerns are given opportunities to submit quotations in response to small purchase solicitations. The names of additional concerns may be obtained from the Small and Disadvantaged Business Utilization Specialist who, in turn, may request support from the SBA Procurement Center Representative or other Federal and private sources which maintain lists of small business concerns. (See FAR Subpart 19.001 for pertinent definitions).

HANDLING OF AN URGENT PURCHASE

Whenever possible, consistent with the urgency of the requirement, competition should be sought--at least by phone (FAR 13.106-1). If purchase action is taken, based on a telephone or other oral quote, a written confirmation of the order must be prepared and sent to the vendor and

placed in the purchase file (except when using the purchase card, Chapter 8.). There should be a complete record of the acquisition, including:

- C A signed AD-700 Procurement Request, and
- C A confirming purchase order.

Remember that all competitive and noncompetitive acquisitions valued at \$25,000 or more, even under urgent circumstances (if time permits), must be posted in FedBizOpps. (See exceptions in FAR 5.202).

Note: Assuming that its use is otherwise appropriate (See Section 8E), many urgent requirements can be met using the commercial purchase card, thus avoiding other unusual procedures.

OTHER THAN FULL AND OPEN COMPETITION

All purchases over \$2,500 must be made competitively unless there are clear and compelling reasons or circumstances that justify soliciting only one source (See FAR 13.106-1(b). In addition:

- C Contracting without providing for full and open competition is not permitted where justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available (e.g., funds will expire) to the agency or activity for the acquisition of supplies or services.
- C When not providing for full and open competition, the CO must solicit offers from as many potential sources as is practicable under the circumstances.

Thus, in an instance where noncompetitive acquisition is necessary, the requisitioner must submit with the Procurement Request a written justification which documents the reasons why the purchase must be made noncompetitively.

CIRCUMSTANCES PERMITTING OTHER THAN FULL AND OPEN COMPETITION

Application of the procedural requirements and preparation of a formal Justification for Other than Full and Open Competition (JOFOC) prescribed in FAR Part 6 is not required for contracts awarded using the simplified acquisition procedures contained in FAR Part 13, except for test programs for commercial items (See FAR 13.5). However, ARS field acquisition personnel are advised to become familiar with them since the principles involved are valid no matter what contracting method is employed. The following discussion is based upon portions of the FAR coverage which deal with the circumstances under which other than full and open competition may be permitted and which are considered most likely to be relevant to simplified acquisitions.

Only One Responsible Source

When the supplies or services required by the agency are available from only one responsible source and no other type of supplies or services will satisfy agency requirements, full and open competition need not be sought.

Examples

This authority may be used in situations such as the following (these examples are not intended to be all-inclusive):

- C The required supplies or services are available from only one source.
- C Follow-on contracts may be deemed available from only one source when it is likely that award to any other source would result in substantial duplication of cost or unacceptable delays.
- C Contracts for supplies or services that result from acceptance of an unsolicited research proposal.
- C The existence of patent rights, copyrights, or secret processes.
- C An acquisition that uses a brand name description or other purchase description to specify a particular brand name, product, or feature of a product, peculiar to one manufacturer does not provide for full and open competition regardless of the number of sources solicited. Such circumstances must be justified and approved (This does not apply to "brand-name or equal" descriptions).

Limitations

Contracts awarded under this authority must be supported by the written justifications and approvals. For discussion of the FAR requirement for public display of a notice of solicitation, or a copy of the solicitation, for a proposed acquisition expected to exceed \$10,000, see Section 7D.

Unusual and Compelling Urgency

When the agency's need for the supplies or services is of such an unusual and compelling urgency that the government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be sought.

Limitations

Contracts awarded using this authority must be supported by a written justification. The justifications may be made and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition.

When using this authority, quotations or offers must be requested from as many potential sources as is practicable under the circumstances.

Authorized or Required by Statute

Full and open competition need not be provided for when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source, or when the agency's need is for a brand name commercial item for authorized resale.

Application

This authority may be used when statutes, such as the following, expressly authorize or require that acquisition be made from a specified source or through another agency:

Source	Subpart	Statute
Federal	FAR 8.6	18U.S.C. 4124 Prison Industries
Qualified Nonprofit Agencies for the Blind or Other Severely Disabled	FAR 8.7	41U.S.C.46-48c
Government Printing and Binding	FAR 8.8 (AGAR 408.8)	44 U.S.C. 501-504,1121
Utility Services	FAR 41	40 U.S.C. 481
Economy Act of 1932	FAR 17.5 (AGAR 417.5)	31 U.S.C. 1535

Limitations

FAR, AGAR, and REE policies and procedures for the use of these sources must be followed. No written justification or approval for their use is required. (See Chapter 5).

JUSTIFICATION REQUIREMENTS AND APPROVAL AUTHORITY

A Purchasing Agent is not authorized to commence negotiations for a sole source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for full and open competition unless the action is justified and approved by the appropriate official. Within ARS, the requirement of FAR 13.106-3(b)(3)(i) for explanation of the absence of competition for simplified acquisitions between \$2,501 and

\$100,000 is to be met by a sole source justification approved by the Purchasing Agent or CO, (PAO), depending upon the level of their authority. (See Section 1B).

CONTENT OF THE JUSTIFICATION

Each justification must contain sufficient facts and rationale to justify other than full and open competition. Technical and requirements personnel are responsible for providing and certifying as accurate and complete necessary data to support their recommendation for other than full and open competition. Such data must accompany the AD-700 as an individual document signed by the person who signed the AD-700. These justifications should include much of the same type of information that is included in the following list. Items identified by an asterisk (*) in the list which follows are the responsibility of the requester.

- C Identification of ARS and the Area office or location, and specific identification of the document as a "Justification for Other than Full and Open Competition."
- C Nature and/or description of the action being approved.
- C *A description of the supplies or services required to meet the agency's needs.
- C *A description of the circumstances (see discussion above) permitting other than full and open competition.
- C *A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition is consistent with the circumstance described above.
- C A description of efforts made to ensure that quotations are solicited from as many potential sources as is practicable.
- C A determination of the market survey, if conducted, and the results.
- C Any other facts supporting the use of other than full and open competition, such as:
 - *Explanation of why statements of work, or purchase descriptions suitable for competition have not been developed or are not available.
 - *When only one responsible source is proposed for follow-on acquisitions, an estimate of the cost that would be duplicated and how the estimate was derived.
 - *Under unusual and compelling urgency, data, estimated cost, or other rationale as to the extent and nature of the harm to the government.
 - A listing of the sources, if any, that expressed in writing an interest in the

acquisition during the conduct of the market survey.

- *A statement of the actions, if any, that will be taken to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or service required.
- Purchasing Agent/PAO certification that the justification is accurate and complete to the best of the Purchasing Agent's/PAO's knowledge and belief.
- *Evidence that any supporting data that is the responsibility of program personnel (e.g., verifying the government's minimum needs or schedule requirements or other rationale for other than full and open competition) and which form a basis for the justification have been certified as complete and accurate by the program personnel.

In addition, See the checklist at Exhibit 7C(ii).

AVAILABILITY OF THE JUSTIFICATION

If requested, the justification and any related information must be made available for inspection by the public consistent with the provisions of the Freedom of Information Act (5 U.S.C. 552). (See FAR Subpart 24.2, Freedom of Information Act as well as AGAR Subpart 424.2).

THE MARKET SURVEY

The "market survey" referred to in the above discussion refers to attempts to ascertain whether other qualified sources capable of satisfying the government's requirement exist. This testing of the marketplace may range from written or telephone contacts with knowledgeable Federal and non-Federal experts regarding similar or duplicate requirements, and the results of any market test recently undertaken, to the more formal sources-sought announcements in pertinent publications (e.g., technical/scientific journals or the FedBizOpps). The extent of the survey depends on what constitutes a reasonable effort under the circumstances to ensure that competition is not feasible. If only one source is identified as a result of the market research, this fact may be used to help justify a noncompetitive acquisition. *The use of the formal market survey is left to the discretion of the Purchasing Agent.* Generally, conduct of a formal market

survey should be considered where the requirement is new or complex and the existence of sources in the marketplace is not known. For more discussion of policy and procedures, see FAR Part 10.

COMPETITION UNDER GSA SCHEDULE CONTRACTS

The FAR states that the use of multiple-award FSS's established by GSA is competitive if procedures established by GSA are followed. (See Chapter 6).

SUMMARY

One must remember that competition is required, no matter what simplified acquisition procedure is used. For example, a blanket purchase agreement with a particular vendor (See Section 8C) does not authorize you to go to that vendor on a sole-source basis. Blanket purchase agreements are administrative conveniences, not devices to avoid competition. In the event that the Purchasing Agent has any question regarding the conduct of an acquisition which is, or appears to be, noncompetitive, guidance/direction should be sought from the PAO.

Exhibit 7C(i) Levels Of Competition And Means For Obtaining it

The following general guidelines outline, according to dollar value, the extent of competition and the means of soliciting competition required for open market acquisitions. (Solicitation methods are discussed in Section 7D).

Simplified Acquisition Policy and Procedures

\$0-\$2,500	Competitive quotations not required if price quoted is considered reasonable (FAR 13.202(a)(2)).
\$2,501-\$25,000	<p>(1) Maximum practicable competition required. Determination of how much is "practicable" rests with the responsible CO (Generally, three sources is considered adequate). (FAR 13.104-1(b)).</p> <p>(2) Solicitation may be conducted orally (except for construction over \$2,000). Written solicitations must be used when deemed necessary--for example, when complicated specifications are involved.</p> <p>(3) No synopsis required.</p>
\$10,000-\$25,000	<p>(1) Same as \$2,501-\$10,000</p> <p>(2) Display a notice of the solicitation or a copy of the solicitation in a public place at the contracting office unless orally solicited.</p>
\$25,000-\$100,000	<p>(1) Full and open competition required.</p> <p>(2) Market survey required if noncompetitive.</p> <p>(3) Written specification or statement of work may be required.</p> <p>(4) FedBizOpps synopsis required, except for services when specific circumstances in AGAR Advisory No. 37, dated November 2, 2001, exist.</p> <p>(5) Use of simplified acquisition procedures permitted.</p> <p>(6) Written RFQ may be required.</p> <p>(7) Formal solicitation through sealed bid or negotiated contracting procedures permitted.</p>

Exhibit 7C(i) (Continued)

\$100,000-unlimited	<p>(1) Formal contracting procedures or FedBizOpps must be used to solicit and create the contract.</p> <p>(2) Full and open competition required.</p> <p>(3) Market survey required if not competitive.</p>
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(4) Written specification or statement of work required.

(5) Synopsis required.

(6) Simplified acquisition procedures are not permitted, except for commercial items not exceeding \$5,000,000. See FAR Part 13.5 for Test Program \$100,000 - \$5,000,000 for certain Commercial Items.

Exhibit 7C(ii)

Justification for Other Than Full and Open Competition Checklist

- A. All justifications should contain:
1. Information based on substantial facts;
 2. Clear and complete discussion of reasons why competitive quotations are not practical; and
 3. Sufficient explanation to allow a person without technical competence in the area to follow the rationale.
- B. If a unique capability is required, the justification should include a description of the way in which the source or the product is uniquely qualified. This description may cite:
1. Facilities or specialized equipment;
 2. Patents, data copyrights; and
 3. Availability of technical data and other information, including drawings and specifications.
- C. If a sole source is claimed, there should be a discussion of why only a particular item or service will satisfy the requirement.
- D. If urgency dictates a noncompetitive acquisition, the following should be included:
1. Description of the urgency;
 2. Explanation of how the noncompetitive acquisition will meet the schedule; and

3. Discussion of the loss that would be sustained if the delivery schedule were modified to permit competition.
- E. If the justification is based on continuation of a previous effort, the following factors should be discussed if relevant:
1. Contract (purchase order) number, vendor's name, and background data;
 2. Why award to other than the present vendor would increase costs, duplicate effort, or require additional time;

Exhibit 7C(ii) (Continued)

3. Positive actions being taken to enable competition in the future; and
 4. If previous acquisition was noncompetitive, statement of what actions were taken to promote competition for the present acquisition and reasons why those actions failed.
-

NOTE: Consult with the PAO when in doubt about requirements, administrative or procedural issues, or the capabilities represented by available sources.

SECTION 7D

SOLICITING SOURCES

Competition is obtained through solicitation--the process of obtaining quotations from vendors. The degree of formality required in solicitation depends on the anticipated cost of the transaction and other factors. This section sets forth requirements and provides guidance for Purchasing Agents on conducting both oral or written solicitations. It also discusses the maintenance of source lists and the publicizing of requirements through synopsis in the FedBizOpps.

DECIDING WHETHER ORAL OR WRITTEN SOLICITATION IS APPROPRIATE

USDA considers oral solicitation, generally by telephone, to be sufficient for many purchases up to \$100,000. It reduces administrative lead time and paperwork, consistent with the objectives authorized for simplified acquisition procedures.

There will be times, however, when a written solicitation (usually a Request for Quotations-SF-18) should be used regardless of estimated cost. Written solicitations are appropriate in situations such as the following:

- C One or more of the vendors from whom you want a quotation is located outside your area. Here, the cost of long-distance telephone calls, differences in time zone, and the need to be more formal make it desirable to use a written solicitation.
- C The specification or statement of work is too involved to be adequately communicated by telephone. If the description of the need is lengthy or complicated, a written solicitation should be the rule.
- C A large number of different items are included in a single acquisition. You would find it difficult to communicate orally what you want. In addition, the possibility of a misunderstanding would increase if all your communications were oral.
- C Obtaining oral quotations is otherwise not efficient. It may be less time consuming, for example, to send out copies of a written solicitation rather than place phone calls when more than three vendors are solicited.

Note that, if a vendor has given you a standing quotation that is set for a specific period of time, you need not go to that supplier to obtain a quotation each time you plan to purchase the item. In other words, you do not have to obtain a written or oral quote if you already are certain of that vendor's price for the supplies or services you need.

ISSUING STANDARD FORM 18, REQUEST FOR QUOTATIONS

The SF-18, Request for Quotations (RFQ), may be used whenever you want to obtain written quotations. This RFQ is *not* an order or an offer to contract but, merely a request for information. A binding agreement comes into being only when a vendor *accepts* an order to deliver or to perform. Upon receipt, a vendor indicates on the SF 18, its quote, any offered discounts, and other information. The vendor then returns the form to the Purchasing Agent, who will evaluate the quotations and issue a purchase order to the lowest "responsive and responsible" quoter. (Evaluation of quotes is discussed in Section 7E. Section 8B addresses considerations in making transactions through the use of Form AD-838, Purchase Order.

PREPARATION OF SF-18, REQUEST FOR QUOTATIONS (RFQ)

A sample SF-18, Request for Quotations is shown as Exhibit 8D(i).

Necessary Elements

The following elements should, as a minimum, be included in an SF 18.

1. Administrative information: requisition number; name, address (including room number), and phone number of purchasing office, and any special shipping instructions.
2. Specification or purchase description; statement of work for services. (Provide a full, detailed description of what is needed. Attach drawings or other data as necessary. If variances are permitted, say so and indicate the degree of variance to be permitted).
3. Standards to be used in technical evaluation, where required--for example, standards for testing of samples or for evaluation of a firm's experience or personnel qualifications.

NOTE: All acquisitions conducted using simplified acquisition procedures may use price alone, or price and other factors such as past performance and quality as well as the administrative cost of the purchase. The RFQ must notify suppliers of the basis upon which award is to be made.

4. Required delivery date or schedule. Also whether FOB origin or destination and how transportation charges will be handled.
5. Destination (street address and room number to which delivery will be made).
6. Quantity and unit (for supplies or equipment). If variances in unit are permitted, say so. (Also see 7.203 and 7.204 regarding economic purchase quantities).
7. Any requirement for descriptive literature or samples.

8. Due date for quotations (generally 30 days from issuance of the RFQ). SF-36 may be used as a continuation sheet.

Necessary Provisions and Clauses

The SF-18 should include (as attachments or incorporated by reference) the provisions and clauses applicable to the particular purchase. Inclusion of these provisions in the solicitation (and later, in the purchase order) is intended to ensure that potential suppliers understand that the government's terms, not a commercial contract, will govern any resultant order. Purchasing Agents must review the provision and clause matrix in FAR Subpart 52.3.

Note: (1) where the FAR prescription refers to "solicitation provisions and contract clauses" both the RFQ and the Purchase Order should contain the provision or clause, (2) where the FAR prescription refers only to the "solicitation" the provision need only be included in the RFQ and (3) where the FAR prescription refers only to the "contract" the clause need only be included in the Purchase Order.

Following are some of the provisions and clauses which should be included in the RFQ. For other provisions and clauses that are, or may be required, see the relevant FAR reference for prescriptions.

Small Business

- C Solicitations above the micro-purchase threshold must require that businesses represent whether or not they are small. Include the Small Business Program Representations provision at FAR 52.219-1.
- C Where a Total or Partial Small Business Set-Aside is being conducted the Notice of Total Small Business Set-Aside provision at FAR 52.219-6 or Alternate I must be included as appropriate.

Labor Laws

- C Convict Labor--For solicitation provisions and contract clauses to be included for acquisitions in excess of \$2,500, see FAR 22.202.
- C Construction--If the RFQ is to be issued before the Davis-Bacon wage determination is received, the RFQ must contain a notice stating that the contract will contain, or will be amended to contain, a schedule of minimum wages to be paid. For other solicitation provisions and contract clauses to be included for acquisitions in excess of \$2,000, see FAR 22.407 (See Chapter 10).
- C Equal Employment Opportunity--Normally, all solicitations and contracts are required to include the Equal Opportunity clause at FAR 52.222-26. For additional solicitation provisions and contract clauses which are required, see FAR 22.810.
- C Service Contracts--If the RFQ is to be issued before the Service Contract Act wage

determination is received, the RFQ must contain a notice stating that the contract will contain, or will be amended to contain, a schedule of minimum wages to be paid. For other solicitation provisions and contract clauses to be included for acquisitions in excess of \$2,500, see FAR 22.1006 (See Chapter 9).

C Affirmative Action for Disabled and Vietnam--Era Veterans Where the acquisition is expected to exceed \$10,000, solicitation provisions and contract clauses are to be included as prescribed at FAR 22.1308.

C Affirmative Action for Workers with Disabilities--Where the acquisition is expected to exceed \$10,000, solicitation provisions and contract clauses are to be included as prescribed at FAR 22.1408.

Hazardous Material Identification and Material Safety Data--Where delivery of hazardous material, as defined in Federal Standard 313 is required, FAR 23.303 prescribes the contract clause at FAR 52.223-3 with Alternate I (See FAR subpart 23.3).

Use of Recovered Materials--For policy and procedures, to include prescriptions for solicitation provisions and contract clauses, see FAR Subpart 23.4.

Buy American--Solicitations and contracts must normally contain the Buy American Certificate at FAR 52.225-1 and the contract clause at FAR 52.225-3. Where oral solicitations are conducted, vendors must be advised that only domestic end products will be acceptable. For other policy and procedures see FAR Subpart 25.103.

Special Provisions

The Request for Quotations should incorporate any special provisions or clauses that will apply to the acquisition. The Purchasing Agent may want to consider including one or more of the provisions presented in Exhibit 7D(i), or such standard clauses as the Changes, Differing Site Conditions, Suspension of Work, or Government Furnished Property clauses found in FAR Subpart 52.2 or AGAR Subpart 452.2.

HANDLING QUOTATIONS

Recording Oral Quotations

All quotations received orally should be recorded and the record placed in the purchase file. A number of documentation formats may be used. Information on relatively simple purchases may be recorded directly on the requisition form locally delivered for the purpose. Alternatively, the Small Purchase Abstract format (Exhibit 7E(i)) or the GSA Small Purchase Tabulation Source List/Abstract (Exhibit 7E(ii)) may be used.

Whatever the particular form, the record should show for each firm solicited:

C Name, address, and phone number;

- C Pertinent details on offered items (make, model, variances, etc.);
- C Unit price and total price;
- C Discount terms;
- C Delivery time;
- C F.O.B. point;
- C Small/large business;
- C Person who provided the quote; and
- C Time and date of quote.

Recording Written Quotations

Quotations received on the SF-18 should be recorded on a single form for purpose of evaluation. The Small Purchase Abstract [Exhibit 7E(i)], Small Purchase Tabulation Source List/Abstract [Exhibit 7E(ii)], or similar local form should be used.

Amending a Solicitation

If, after issuance of an SF-18, changes must be made in quantity, specifications, delivery schedule, or closing date, or if corrections are needed because of defects or ambiguities, an amendment to the RFQ should be issued. The amendment should be in writing. You will need to consider the time set for receipt of quotations and the necessity or desirability of extending the closing date. You may inform offerors of such extensions by telephone or telegram and then send confirmation in writing. (See Exhibit 7D(ii)). All firms to whom the original SF-18 was sent must be notified of all changes and time extensions.

Oral solicitations may be amended orally. You must bear in mind that any information given to one prospective contractor which is different from that given to other offerors should be the subject of an amendment distributed to all quoters whenever: (1) the information is necessary for submitting quotations or (2) lack of the information might work to the detriment of uninformed quoters.

Notice Regarding Requirement for Written Acceptance

If a need for written acceptance of any resultant purchase order is contemplated the SF-18 should include a statement such as: "Vendors are hereby advised that any purchase orders resulting from this solicitation will require a written acceptance."

Handling Late Quotations

Because quotations furnished in response to an oral or written solicitation are informational in nature, you may consider late quotations (submitted orally or in writing) as long as the order has not been placed. You may, however, make the date for receipt of quotations firm by expressly stipulating that it is a deadline: for example, by stating on the SF-18 that "Quotations received after 4 p.m. on the date indicated will not be considered." In that case late quotations will be considered only as provided for in FAR Subpart 15.208(b), Submission, Modification, Revisions, and Withdrawal of Proposals. In addition, FAR provision 52.215-1, Instruction to Offers --Competitive Acquisition, as prescribed in FAR 15.209(a) must be included in the solicitation.

LOCATING POTENTIAL SOURCES

Sources can be identified through:

- C Source lists in Area offices (FAR 13.102).
- C Requests (letter or SF-129) from suppliers;
- C Local yellow pages;
- C SBA's Procurement Marketing and Access Network (PRONET);
- C Local trade directories;
- C Lists of other offices having similar requirements;
- C Commercial catalogs;
- C Published registers of sources, such as the Thomas Register of American Manufacturers, MacRAE's Blue Book, and Hendrick's Commercial Register;
- C Trade journals; and
- C Private industry source lists.

Format

The lists may be set up alphabetically by class and kind of item, Federal Supply Classification (FSC) groups or classes, as found in the GSA Supply Catalog Guide in the North American Industry Classification Systems (NAICS) manual. (See FAR 19.102).

Keeping the lists in looseleaf binders facilitates updating and use.

Contents

Source lists are compiled for the convenience of the Purchasing Agent. They should contain the following items:

- C Name and address (with zip code) of firm (indicate if located in a HUBZone);
- C Telephone number;
- C Name of person at firm authorized to make oral quotations by phone;
- C Type of commodity or service the firm can offer;
- C Data on small business status of firm;
- C Data on small disadvantaged business status of firm; and
- C Data on women-owned small business status.

Use

It is not required that all names on a list be solicited each time. A rotation system may be used so that the previous supplier and new additions are solicited. Remember that the use of a source list system does not affect rules for the use of mandatory and established sources.

Firms should be deleted from the lists when they do not respond to two (or possibly more) solicitations.

PUBLIC NOTICE OF PROPOSED ACQUISITIONS EXPECTED TO EXCEED \$10,000

FAR Subpart 5.1 deals with dissemination of information regarding proposed contract actions. There are a number of methods described by FAR 5.101. The method of greatest concern to Purchasing Agents is the requirement for public notice of proposed contract actions expected to exceed \$10,000.

FAR 5.101(a)(2) requires that, for proposed contract actions expected to exceed \$10,000, but not expected to exceed \$25,000, *a copy of the solicitation or a notice of the solicitation* satisfying the requirements of FAR 5.207(c) (Item 17, "Description) and (f) (Information not covered by Numbered Notes) be displayed in a public place at the contracting office. This information is to be posted not later than the date the solicitation is issued and remain posted for at least 10 days regardless of the date of award. *The display requirements need not be met when oral solicitations are used* or where exceptions (1), (4), (5) through (9), or (11) of FAR 5.202(a) apply.

Exhibit 7D(i)
Sample Standard Form 18, Request For Quotations

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFO <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE		PAGE OF PAGES 1 4	
1. REQUEST NO. 001 FM 1296	2. DATE ISSUED 2/21/96	3. REQUISITION/PURCHASE REQUEST NO.		4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1 RATING	
5a. ISSUED BY USDA, ARS Facilities Division Hyattsville, MD			6. DELIVER BY (Date) May 21, 1996		
NAME Jane Doe, Contracting Officer		TELEPHONE NUMBER AREA CODE NUMBER 301 123-4567		7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)	
8. TO:		9. DESTINATION a. NAME OF CONSIGNEE USDA, Agricultural Research Service			
a. NAME		b. COMPANY PDQ Pipe and Fitting Co.		b. STREET ADDRESS BARC-EAST Building #273	
c. STREET ADDRESS 123 Bendit Road		c. CITY Beltsville		c. CITY	
d. CITY Plumbers Helper		e. STATE MT	f. ZIP CODE 13370	d. STATE MD	e. ZIP CODE 20705
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS (Date) March 14, 1996		IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or service. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotation must be completed by the quoter.			
11. SCHEDULE (Include applicable Federal, State and local taxes)					
ITEM NO. (a)	SUPPLIES/ SERVICES (b)	QUANTITY (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)
1	Pipe PVC, Class 200, 1 & 1/4" 20 Foot lengths. Bell end glued in accordance with attached specifications.	15,000	ft		
2	Pipe, PVC, 1&1/2", 20 foot lengths. Bell-end glued in accordance with attached specifications.	15,000	ft		
12. DISCOUNT FOR PROMPT PAYMENT <input type="checkbox"/>		a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS (%)	c. 30 CALENDAR DAYS (%)	d. CALENDAR DAYS NUMBER PERCENTAGE
NOTE: Additional provisions and representations <input type="checkbox"/> are <input type="checkbox"/> are not attached.					
13. NAME AND ADDRESS OF QUOTER		14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION	
a. NAME OF QUOTER		16. SIGNER			
b. STREET ADDRESS		a. NAME (Type or print)		b. TELEPHONE	
c. COUNTY				AREA CODE	
d. CITY		e. STATE f. ZIP CODE		c. TITLE (Type or print)	
				NUMBER	
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable		FormFlow/Delrina Inc.		STANDARD FORM 18 (REV. 8-95) Prescribed by GSA-FAR (48 CFR) 53.215-1(a)	

Exhibit 7D(i) (Continued)

Description/Specifications

1. PVC PIPE

PVC pipe shall be type 1120, new, non-toxic, corrosion-resistant, rigid polyvinyl chloride pipe meeting ASTM D 1784-78 specifications.

All pipe shall meet Product Standard PS-22-70, or latest revision thereof, and be marked in accordance with the requirements of ASTM D 2241.

All pipe shall bear the National Sanitation Foundation (NSF) seal for potable water pipe.

The following specifications shall apply to the applicable pipe class:

Class 160 ASTM D 2241, SDR-26

Class 200 ASTM D 2241, SDR-23

Exhibit 7D(i) (Continued)

Sample Provisions For Attachment To SF 18 As Needed

- C Delivery time if time stated in Block 6 is unacceptable: Offeror offers delivery at the destination specified herein within ___ calendar days after receipt of order. The government may reject any quotation that offers a delivery date later than that shown in block 6 of SF-18.
- C Time of delivery is a factor in determining purchase. Any quotations offering a delivery time that exceeds calendar days after receipt of order will be considered nonresponsive on the basis that the time for delivery offered is unreasonable.
- C Delivery shall be made between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except that no delivery shall be made on holidays.
- C Vendor shall indicate the manufacturer and model number of the equipment being offered in the space provided following the item(s).
- C Vendors shall comply with the "Brand Name or Equal" clause included herein. Each vendor shall submit manufacturer's data, descriptive material, or other information on the equipment to be furnished under this Request for Quotations. Equipment offered shall equal or exceed that offered by (insert name of company that produces desired brand name).
- C Quotes will be evaluated on the basis of information furnished by the vendor and submitted with the quote. The information called for is essential in determining whether or not the equipment being offered meets the Salient Characteristics of this Request for Quotations. *Failure to submit the required information may preclude consideration of the offer for purchase.*
- C Vendor shall complete the following: Any deviations from the specifications for the equipment offered under this Request For Quotations shall be inserted in the space provided below: (IF NONE, SO STATE)

Exhibit 7D(ii)
Amendment Of Request For Quotations

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFQ <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE		PAGE OF PAGES 1 4	
1. REQUEST NO. 001FM1296	2. DATE ISSUED 2/21/96	3. REQUISITION/PURCHASE REQUEST NO.	4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	RATING	
5a. ISSUED BY USDA, ARS Facilities Division 5b. FOR INFORMATION CALL (NO COLLECT CALLS) Hyattsville, MD			6. DELIVER BY (Date) May 21, 1996		
NAME Jane Doe Contracting Officer		TELEPHONE NUMBER AREA CODE NUMBER 301 123-4567		7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)	
8. TO: a. NAME b. COMPANY c. STREET ADDRESS 123 Bendit Road d. CITY Plumbers Helper			9. DESTINATION a. NAME OF CONSIGNEE USDA, Agricultural Research Service b. STREET ADDRESS BARC-EAST Building # 273 c. CITY Beltsville d. STATE MD e. ZIP CODE 20705		
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS (Date) March 14, 1996		IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or service. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotation must be completed by the quoter.			
11. SCHEDULE (Include applicable Federal, State and local taxes)					
ITEM NO. (a)	SUPPLIES/ SERVICES (b)	QUANTITY (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)
	Item 1 of RFQ 001 FM1296 is hereby amended to increase the quantity from 15,000 feet to 20,000 feet.				
12. DISCOUNT FOR PROMPT PAYMENT <input type="checkbox"/>		a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS (%)	c. 30 CALENDAR DAYS (%)	d. CALENDAR DAYS NUMBER PERCENTAGE
NOTE: Additional provisions and representations <input type="checkbox"/> are <input type="checkbox"/> are not attached.					
13. NAME AND ADDRESS OF QUOTER a. NAME OF QUOTER b. STREET ADDRESS c. COUNTY d. CITY e. STATE f. ZIP CODE			14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION 18. SIGNER a. NAME (Type or print) b. TELEPHONE AREA CODE c. TITLE (Type or print)		15. DATE OF QUOTATION
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable		FarmFlow/Delrina Inc.		STANDARD FORM 18 (REV. 8-95) Prescribed by GSA-FAR (48 CFR) 53.215-1(a)	

SECTION 7E

EVALUATING QUOTATIONS

HOW TO EVALUATE QUOTATIONS

Because simplified acquisitions may be negotiated, the Purchasing Agent must evaluate the quotations received in order to determine which quotation represents the most favorable buy and whether or not negotiations should be conducted. The critical determining factor is *price*: All simplified acquisitions must be of the type in which price can be used as a major deciding factor in the award. Nevertheless, other factors do come into play.

- C In many acquisitions, the Purchasing Agent must analyze the operation of such quantitative factors as discounts, all-or-none qualifications, and transportation charges in determining the lowest evaluated price to the government. Various adjustments to prices may need to be made, singly or in combination.
- C Simplified acquisitions do require technical evaluation to determine which quotes are technically acceptable--i.e., which are responsive to the government's specific quality requirements.
- C A determination must be made that a quoter is *responsible*--that a review of its record of past performance indicates that it has the wherewithal and the commitment necessary to do the job and do it properly.

Purchase is made, usually on the basis of lowest evaluated price alone, from the vendor who is found to be responsive and responsible (see FAR 13.106-1(a)(2)). The various methods available for making the purchase transaction are discussed in Chapter 8. For many purchases, it may be necessary to negotiate before issuing the Purchase Order to make sure that the government obtains the best deal available. Guidelines for conducting negotiations are presented in Section 7F.

Exhibit 7E(i) at the end of this section gives an overview of the various factors to be considered in evaluating quotations. The text of this section provides a more in-depth explanation of, first, methods to use and factors to consider in arriving at lowest evaluated price and, second, criteria for determining whether a vendor is responsible.

For all but the most straightforward purchases, preparation of an abstract or matrix of the quotations facilitates the evaluation process. One of the sample abstracts shown at the end of this section (or a similar format) may be used (See Exhibit 7E(ii) and 7E(iii)).

A preprinted pricing memorandum may be used to record the basis used in determining the award price to be reasonable. See the sample shown in Exhibit 7F(iii).

EVALUATION OF PRICE

The Purchasing Agent's Task

If simplified acquisition procedures and approaches to pricing are to be effective, all persons engaged in simplified acquisitions must demonstrate ability to use pricing judgment and discretion in exercising their authority. Because of the simplified procedures, authority and responsibility are delegated to a greater number of people. These personnel may make the ultimate decision to buy--sometimes while talking to the vendor on the phone. Their actions must be informed by sound judgment so that the best buys, price and other factors considered, can be made.

All those who do business for the government--at all dollar levels have an obligation to procure at "*fair and reasonable*" prices. The terms fair and reasonable signify that a price is acceptable to both the purchaser and the seller. Whether the price paid is in fact fair and reasonable will depend on the effectiveness of the purchaser in evaluating quotations and reaching a conclusion. To be effective, the purchaser must have a working knowledge of the products being bought, the industries being dealt with, and the regulations within which they apply. This knowledge will facilitate decisions as to the fairness and reasonableness of the prices to be paid.

Methods of Price Analysis

The conclusion that a price is fair and reasonable must be based on some form of price analysis. How detailed this analysis will be depends on the dollar value and the nature of the product or service being purchased.

Many methods of price analysis are available. Selection of the method to use depends on the specific features of the acquisition situation. In many instances, a combination of methods is best.

The following methods are among the most commonly used.

Competitive Quotations

The simple act of seeing what price quoted is the lowest among those received is a form of price analysis. Unless there is some doubt about the adequacy of competition, this method is generally considered conclusive as to the reasonableness of price. The purchaser must be sure, however, that the prices compared are submitted on the same basis and that factors such as transportation charges to be paid by the government (when delivery is to be f.o.b. origin) have been considered.

Prices Paid in the Past

If the price quoted is the same or less than that which was recently paid for the same item, the current quotation is likely to be reasonable. Purchasers should be careful, however, to ascertain that the historical prices to which a comparison is made were themselves adequately analyzed for reasonableness. Further, purchasers should take into account price trends (up or down) caused by market conditions or other factors.

Price history information can be obtained from the records of the purchasing activity, the requisitioning activity, the Area office, or if necessary, other bureaus and offices. Again, the purchaser must be sure that the price history applies to the same item under the same conditions.

Catalog or List Prices

Suppliers publish prices for items which are regularly offered for sale. Quotations can be usefully compared to those published prices, but caution is required. First, the purchaser must make sure that the catalogs represent the actual prices which are now or were recently being charged. Second, the purchaser must be sure that the price listed applies to an item which is sufficiently similar to the required item to provide a sound basis for comparison. Third, the purchaser must be sure that the catalog or price list applies to the same class of trade. If you are buying one item at a time, comparison to the Sears or Montgomery Ward catalog price is indicative. But if you are buying in wholesale quantities, the Sears or Ward prices are not indicative since they do not reflect normal trade or quantity discounts.

Market Prices

Many items, especially raw commodities, are regularly traded at prices which tend to fluctuate daily, or at least over short intervals. Catalogs cannot be published because changes occur too rapidly. But if the purchaser can establish the price range in which sales are being made to the general public (through trade journals or other sources), that range can be used as a basis for comparison.

Prices for Similar Items

Often the purchaser will have a basis for comparison in the form of prices for an item that is similar to the one being bought but not quite identical. If the purchaser can, through some method of price analysis, determine what the difference in price should be between the item being purchased and the one for which prices are available, that difference can be used as an adjustment in order to arrive at a valid comparison.

Activity Cost Estimates

If the requisitioner has developed a competent cost estimate for the item or service to be acquired, the quoted price can be compared with that estimate. Care should be exercised to ensure that the estimate is a sound base for comparison which takes into account all factors which will affect the price.

Value Analysis

In some cases the purchaser can index the value of an item against a known yardstick. For example, historical prices for light bulbs might indicate a maximum reasonable price of \$3 per dozen. A value analysis of a quotation at \$4 per dozen could show that the longer expected life of the higher-priced lightbulb would yield a lower price per hour of operation despite the higher unit price.

Visual Analysis

Visual analysis is actually a technique used to develop independent cost estimates. Items are inspected to determine what they ought to cost, in view of essential features. Those figures are then used as basis for price comparison.

Summary

To perform price analysis you must have a base or reference to which the quoted price can be compared. That basis for comparison must itself be known to be reasonable. Then you must ensure that the quotation and the base are truly comparable--that you are not trying to compare apples with oranges. That is why the comparison of competitive quotations is such an effective method of price analysis--you are assured that the items are comparable and, presuming that the firms involved are really competing with one another, that the lowest price submitted will be reasonable.

In performing any price analysis, then, comparability is the key. One must consider:

- C Quality of the items for which prices are being compared;
- C Quantities involved in the sale;
- C Delivery conditions (f.o.b. origin versus f.o.b. destination);
- C Method of delivery (truck versus air freight);
- C Time constraints involved (rush deliveries often involve a premium in price); and
- C Market conditions (for some items, today's price is expected to be different from yesterday's--often by a wide margin).

If you can arrive at a reasonable base for comparison--even though it includes adjustments for differences in relation to some of the items listed above--the use of price analysis techniques will determine whether you should consider a price fair and reasonable.

Analysis of Purchases on an All-Or-None Basis

When quotations are obtained on related items--such as various laboratory supplies, small hardware items, equipment parts, or office supplies--*you may stipulate in the Request for Quotations that the government reserves the right to award on an all-or-none basis* (see FAR 13.101); that is, the government may purchase from the offeror who submits the lowest aggregate price rather than issue a purchase order to each supplier on the basis of the lowest quotation on each item. Such purchasing on the basis of low aggregate cost may afford savings since, depending on the degree of complexity, the cost of writing a purchase order may be rather expensive.

Assume in the following example that the administrative cost to issue a purchase order is \$100. In that case, award in the aggregate to Vendor B will result in a savings.

Item No.	Vendors				
	A	B	C	*Low Bid	
1	*\$125	\$130	\$133	\$125	(A)
2	150	*144	147	144	(B)
3	<u>148</u>	<u>143</u>	<u>*140</u>	<u>140</u>	(C)
<u>Totals</u>	\$423	\$417	\$420	\$409	
Cost to Issue					
Purchase Order(s)			<u>100</u>	<u>300</u>	
<u>Total Cost</u>			\$517	\$709	

To determine whether purchases should be made based on low aggregate cost, it is necessary to ascertain the administrative cost of the method of purchase. It may not always be advantageous to award "all or none"; therefore, vendors should be advised that the government reserves the right to award (or not award) on that basis after evaluation of vendors' quotations.

A vendor also may add a condition that award will be accepted only on an all-or-none basis. The reason for doing so is simple. Costs for delivering the three items together may be much less than the total cost for delivering the three individually. An all-or-none award means that the vendor too has only one order to process.

The following example shows a case lacking an all-or-none qualification by a vendor, in which award would be made on an item-by-item basis.

Item No.	Vendors				
	A	B	C	*Low Bid	
1*	*\$800	\$900	\$935	\$800	(A)
2	710	520	655	520	(B)
3	<u>598</u>	<u>690</u>	<u>*560</u>	<u>560</u>	<u>(A)</u>
<u>Totals</u>	\$2,108	\$2,110	\$2,150	\$1,880	
Cost to Issue					
Purchase Order(s)	<u>100</u>		<u>300</u>		
<u>Total Cost</u>	\$2,208		\$2,180		

The following example depicts a situation with the same quotations, with the addition of an

all-or-none qualification from vendor C:

Item No.	Vendors			Low Offer Available for Separate Award
	A	B	C	
1	\$800	\$900	\$935	\$800 (A)
2	710	520	655	520 (B)
3	<u>598</u>	<u>690</u>	<u>560</u>	<u>598 (A)</u>
<u>Totals</u>	\$2,108	\$2,110	\$2,150	\$1,918
Cost of Purchase Order(s)	<u>100</u>	<u>200</u>		
<u>Total Cost</u>	\$2,208	\$2,118		

The result is an award of items 1 and 3 to Vendor A and item 2 to Vendor B. Although Vendor C had the lowest price for item 3, it receives no award because the quotation stipulated that no award would be accepted for less than the total of the three items.

In evaluating quotations, you must be sure that any all-or-none qualifications have been fully considered. Note also that a vendor may quote an all-or-none price along with separate line-item prices which add up to a greater total. This all-or-none discount also must be considered.

Consideration of Prompt Payment Discounts

When written solicitations are used, the Purchasing Agent should always check Block 12 of SF-18 (or other written vendor response) to see if the vendor has offered a prompt payment discount. When oral quotations are received, the Purchasing Agent should inquire about such discounts.

A prompt payment discount is a reduction in price on the condition that the government pays the bill within a certain number of days after receipt of an invoice. Prompt payment discounts can be a significant source of savings.

It is often to the vendor's advantage to take a smaller payment quickly rather than wait for a few extra dollars. Vendors have to worry about their cash flow; they have to be sure to have money on hand to pay their employees and to meet their other obligations. Their accounts receivable--that is, money owed to them--cannot be used to pay those bills; they have to have cash on hand or deposits in the bank. If they do not have enough, they must often borrow and pay interest. Also, if they do not receive payments they may have to go through the process of issuing a second invoice to ensure that the first was received--either process, of course, costs money. For these reasons, even large companies may offer a discount to customers who pay quickly.

Prompt payment discounts are generally stated as a percentage off the stated price if payment is made within a certain number of days. The notice "2 percent, 20 days" means that, if the invoice is paid within 20 days of the date it is received, the customer may deduct 2 percent from the total. On a \$5,000 purchase, for example, a 2 percent discount means a savings of \$100. Discounts may be offered on a sliding scale: "2 percent, 20 days; 1 percent, 30 days."

Any prompt payment discount offered by a vendor and earned by the government will be taken. *However, since it is uncertain whether the government will be able to take advantage of the discount, in accordance with FAR 13.101(b)(3), they may not be considered during the award evaluation process.* Thus, all quotes are evaluated at the full, not discounted, price.

Transportation Charges

As noted earlier, quotations may be requested on an F.O.B. origin basis. In essence, this means that the government will take possession of the item at the contractor's location and will then pay any freight charges involved in getting it to the point of actual use. In such a case, you must determine the lowest applicable freight charge between the vendor's location and the point of use. This amount must then be added to the quoted price to arrive at a price for evaluation (See FAR 13.106-2(a)(ii)). Obviously, the same procedure must be used for all vendors' prices.

The following example shows quotations on an F.O.B. origin basis with freight charges applied:

	Vendors		
	<u>A</u>	<u>B</u>	<u>C</u>
Quotation	\$6,000	\$5,980	\$5,750
Freight	<u>100</u>	<u>225</u>	<u>380</u>
Evaluated Price	\$6,100	\$6,205	\$6,130

When the freight charges are considered, Vendor A offers the item with the lowest overall cost, despite the fact that Vendors B and C are charging less for the actual product. Since the goal is to get the best deal, the order would be issued to Vendor A.

Buy-American Differential

The Buy American Act (41 U.S.C.10), enacted in 1933, imposes restrictions on the acquisition of foreign articles, supplies, and materials. The Act requires the acquisition of domestic items unless the HCAD determines that to be inconsistent with the public interest or finds the cost to be unreasonable. Exceptions to this requirement are established for articles procured for use outside of the United States and for situations when raw materials or manufactured articles are not readily available or available with satisfactory quality domestically.

The Buy American Act requires that price differentials be added to quotations offered on foreign-made products. These differentials must be considered in evaluation. (See FAR Part 25.105) except in cases when the Trade Agreements Act applies as provided in FAR Subpart 25.4 (generally not applicable in the case of small purchases of products on the open market).

Standards Implemented in FAR Subpart 25.2

The Buy American Act is implemented in FAR Subpart 25.2. Two statements of policy are key:

- C Material is foreign if the cost of the foreign products used constitutes 50 percent or more of the cost of the product. The Comptroller General has held that this means 50 percent of the cost of the components, not of the final completed item.
- C Unless the agency head determines otherwise, the offered price of a domestic end product is unreasonable when the lowest acceptable domestic offer exceeds the lowest acceptable foreign offer, inclusive of duty, by--
 - (1) More than six percent, if the domestic offer is from a large business; or
 - (2) More than 12 percent, if the domestic offer is from a small business concern.

The evaluation above shall be applied on an item-by-item basis or to any group of items on which award may be made as specifically provided by the solicitation.

All purchases of supplies or services for use within the United States require certification by the vendor that only domestic products are being supplied. Solicitations should require that each offer include a certification which indicates whether or not any foreign items are being offered. The certification should be in the format set forth below (FAR 52.225-1).

BUY AMERICAN CERTIFICATE

The offeror certifies that each end product, except those listed below, is a domestic end product

(as defined in the clause entitled "Buy American Act-Supplies"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

Excluded End Products	Country of Origin
-----	-----
-----	-----
-----	-----

NOTE: When quotations are obtained orally, vendors must be informed that only domestic end products, other than end products excepted on a blanket or individual basis, will be acceptable, unless the price for an offered domestic end product is unreasonable.

The following illustration shows how the six percent evaluation factor for a comparison with a large business could be applied, along with consideration of import duty.

Application of 6 Percent Evaluation Factor

	<u>Low Domestic Quote</u>	<u>Low Foreign Quote</u>
Cost to Destination	\$1,010	\$ 900
Import Duty	--	100
TOTAL	<u>\$1,010</u>	<u>\$1,000</u>
6 Percent Factor	--	60
TOTAL	<u>\$1,010</u>	<u>\$1,060</u>

In this instance, award would be made to the low domestic supplier since that supplier's quote does not exceed the low foreign quote by more than six percent and would therefore be considered reasonable.

Steps for Implementation

If the lowest received quotation is from a foreign source, you must apply the appropriate evaluation factor and then evaluate it against the lowest domestic quotation in order to determine whether the domestic quote is unreasonable.

DETERMINATION OF VENDOR'S RESPONSIBILITY

Before an order is placed with a commercial vendor who is not an established source, a

determination must be made that the vendor is a responsible offeror. The FAR Subpart 9.104 sets forth general standards of responsibility. They include:

- C Adequate financial resources to do the job or the ability to obtain them;
- C Ability to comply with the required or proposed delivery date or schedule, taking into account all existing business commitments;
- C Satisfactory record of performance (a vendor may generally be determined nonresponsible based on *recent* unsatisfactory performance in the *same* or in a *related* area of government work);
- C Satisfactory record of integrity and business ethics;
- C Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedure, property control systems, and quality assurance measures applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors);
- C Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and
- C Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Also, a check should be made to see that the vendor is not included in the current list of firms and individuals declared debarred, suspended, or ineligible (See FAR Subpart 9.4). This list, called "Parties Excluded from Procurement Programs and Nonprocurement Programs" is compiled and distributed by GSA and is available in the office of the PAO.

Determination in the Case of a Small Business

Any time that one believes that a small business otherwise eligible for purchase award is not responsible, the matter must be referred to the appropriate SBA Regional Office (See Exhibit 7E(iv)). For detailed procedures, see rules in FAR Subpart 19.6 and AGAR 419.6.

This important function of the SBA is known as the certificate of competency (COC) program. To be eligible for this program, a firm must be:

- (1) A "small business concern" using the size standard as of the date of the determination and the SIC Code contained in the solicitation; or

- (2) A "group of such concerns" in the form of a small business pool approved under the Small Business Act.

A non-manufacturing concern which submits a quote, a bid, or an offer in response to a set-aside is not eligible for a COC unless the end items to be furnished under the contract will be manufactured by a small business concern in the United States; with an unrestricted acquisition, an otherwise qualified non-manufacturer may supply any domestically produced or manufactured product. The responsibility of the small non-manufacturer is certified, not the large manufacturer. In the event of a tie, preference shall be given to the concern supplying the product of a small business.

Purchasing Agents, upon determining and *documenting* that a small business lacks certain elements of responsibility, including but not limited to competency, capability, capacity, credit, integrity, perseverance, and tenacity must notify SBA of such determination. When asking for a COC, award is withheld for a period up to 15 working days following the date of *receipt* by SBA of notice of such determination (with appropriate documentation) in order to permit SBA to investigate and certify as to the bidder's responsibility.

A CO documenting that a small business concern is ineligible due to the provisions of the Walsh-Healy Public Contracts Act must notify SBA of such determination. SBA will either certify that the concern is eligible for the specific contract or concur with the finding of ineligibility and refer the matter to the Secretary of Labor for final disposition. By terms of the Small Business Act, the COC is conclusive as to the responsibility. Purchasing Agents are directed to award a contract without requiring the firm to meet any other requirement with respect to responsibility and eligibility.

Special Standards

When production, maintenance, construction, and research and development work are purchased, the vendor must have (1) the necessary organizational experience, organizational controls, and technical skills, or the ability to obtain them, and (2) the necessary equipment and facilities, or the ability to obtain them (See FAR 9.104-2).

Exhibit 7E(i) Checklist For Evaluating Simplified Acquisition Quotations

1. Compliance with Specification or Statement of Work ("Responsiveness")

Has any vendor taken exception to the description of the supplies or services? If so, you need to determine whether to eliminate the quotation as unacceptable or whether to discuss it with the vendor.

2. Compliance with Delivery or Performance Schedule ("Responsiveness")

Has the vendor been responsive to the delivery or performance requirement? If not, should the quotation be eliminated, or is it in the interest of the government to discuss the delivery performance requirements with the vendor?

3. Basis for Transportation Charges

Make sure that all vendors have quoted on the basis of F.O.B. destination, if that is what was indicated on the RFQ. This does not mean that you should automatically eliminate a quote that was made on the basis of F.O.B. origin. If the price offered was low, you might want to discuss the matter with the supplier and seek agreement to change the quote to F.O.B. destination.

4. Discounts

You need to assess any offered discounts, decide whether you can take advantage of them, and determine what impact they will have on the decision about who gets the order. Discounts fall within two categories: trade (favored customer) and term (fast payment).

- a. *Trade (favored customer discount)*. This is a discount off the unit or total price, given by the vendor to its best customers. It will be indicated on the face of the quotation under the pricing information.
- b. *Term (fast payment discount)*. This is a discount that the vendor gives for prompt payment. SF-18 has blanks under item number 12 for the vendor to complete at its discretion. *One may not use the discounts quoted for evaluation purposes.*

5. Price

Before placing an order, you must determine if the price is reasonable. Never simply assume that a price is reasonable; have a basis for your conclusion. There are a number of fairly simple approaches to determining the reasonableness of proposed prices.

Exhibit 7E(i) (Continued)

Remember, if you receive equal low quotes, from both a large and a small business unrestricted solicitation, you must select on the basis of preference for small business. Note that in the case of a non-competitive purchase the purchasing agent should ensure that the price quoted does not

exceed the lowest prices offered to the public.

- a. *Adequate Competition.* When you obtain quotes from at least two sources, both of whom are able to meet your requirements and are contending for the award of the purchase order based on price, you have what is called adequate price competition. If you give the order to the supplier with the low price, you can assume that the price is reasonable. But remember, as a matter of policy, you should obtain quotes from at least three sources.
- b. *Price History.* If you have purchased the same supplies or services recently (within three months, as a general rule) and you know that the earlier price paid was reasonable, you can compare that price to the current quote and come to some conclusion about its reasonableness. This approach only works, however, if you are fairly certain that the previous price was in fact reasonable. Such would be the case if the previous purchase order amount was determined by obtaining competitive quotes.
- c. *Catalog or Market Price.* If the prices quoted are based on an established catalog or market price, you might have a basis for concluding that the price is reasonable. However, you need to assure yourself that the claimed catalog or market price is the price at which substantial (more than 50 percent of the sales should be to other than government purchasers) quantities of the item or service are sold to the general public. An important point to remember when you use price lists or market prices is that the government may get a substantial reduction off the list price.
- d. *Independent Government Cost Estimate.* Do not assume that, because the quoted price is the same as or less than the in-house estimate, the quoted price is reasonable. In some cases, the individual who initiates the requisition obtains an informal quote from the supplier before giving you the requisition.

On the other hand, if the requisitioner arrived at the estimate independently, based on a good understanding of what the item or service should cost, you can compare the quotes with the estimates and draw some conclusions about the reasonableness.

Exhibit 7E(i) (Continued)

- e. *Buy American Act.* If a quote for a foreign item is received, you must evaluate it in regard to the lowest domestic quote by adding 6 percent to the foreign quote if the low domestic quoter is a large business and 12 percent if the low domestic

quoter is a small business.

- f. *Value and Visual Analysis.* This is a simple and direct approach to evaluation. Draw on your own experience to determine the value of what you are buying. Then ask, "Is the price appropriate for what I'm getting?" For example, if you were purchasing supplies, and the price for a flashlight and batteries was quoted at \$12, you would realize right away that the price was out of line. There might be a good explanation for the high price, but you would need to ask for it.
- g. *Cost Analysis.* If none of the above approaches seems applicable, what should you do? Keep in mind that in all cases you need some basis for deciding that the purchase order price is reasonable. You might ask the supplier for an explanation of its quoted price and then evaluate his or her explanation. This approach is called cost analysis and is often more time consuming than other approaches. However, on a large transaction, where there is no other basis for evaluating reasonableness, you might have no choice.
- h. *Economic Order Quantities.* The first thing to check is vendor responses. If it appears as though a savings in price might be realized by buying in larger quantities, you should contact the originator of the Procurement Request to see if such a buy would be feasible. You should not take such an action on your own since a new or revised AD-700 would be necessary.

6. Vendor's Responsibility

You must make a determination that the otherwise successful offeror is "responsible." This means, generally speaking, that you must be sure that the vendor has the capability to do the job (called *capacity and credit*) and the willingness to do the job correctly (called *tenacity and perseverance*). Also, you must refer the matter to the SBA if you consider a small business to be nonresponsible.

Exhibit 7E(iv)
Small Business Administration Regional Offices

Office of Procurement and
Technical Assistance
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416
Tel: 202/653-6635

Central Office

Assistant Regional Administrator for
Procurement and Technical
Assistance
Boston Regional Office
Small Business Administration
10 Causeway Street, Suite 812
Boston, Massachusetts 02222
Tel: 617/565-8415

Region I
Connecticut, Maine
Massachusetts,
New Hampshire,
Rhode Island, and
Vermont

Assistant Regional Administrator for
Procurement and Technical
Assistance
New York Regional Office
Small Business Administration
26 Federal Plaza, Room 31-08
New York, New York 10278
Tel: 212/264-1450

Region II
New Jersey, New York,
Puerto Rico, and Virgin Islands

Assistant Regional Administrator for
Procurement and Technical
Assistance
Philadelphia Regional Office
Small Business Administration
900 Market Street, 5th Floor
Philadelphia, Pennsylvania 19107
Tel: 215/580-2807

Region III
Delaware, District of Columbia
Maryland, Pennsylvania,
Virginia and West Virginia

Asst. Regional Administrator for
Procurement and Technical
Assistance
Atlanta Regional Office
Small Business Administration
233 Peachtree Street, N.E., Suite 1800
Atlanta, Georgia 30303
Tel: 404/331-4999

Region IV
Alabama, Florida,
Georgia, Kentucky, Mississippi
North Carolina, South Carolina,
and Tennessee

Exhibit 7E (iv) (Continued)

Asst. Regional Administrator for
Procurement and Technical
Assistance
Chicago Regional Office
Small Business Administration
500 West Madison Street, Suite 1250
Chicago, Illinois 60661
Tel: 312/353-4493

Region V
Illinois, Indiana, Michigan,
Minnesota, Ohio, and
Wisconsin

Assistant Regional Administrator
Procurement and Technical
Assistance
Dallas Regional Office
Small Business Administration
4300 Amon Carter Blvd., Suite 108
Fort Worth, Texas, 76155
Tel: 817/684-5581

Region VI
Arkansas, Louisiana,
Texas, New Mexico, and Oklahoma

Asst. Regional Administrator for
Procurement and Technical
Assistance
Kansas City Regional Office
Small Business Administration
323 W. 8th Street, Suite 307
Kansas City, Missouri 64106
Tel: 816/374-6380

Region VII
Iowa, Kansas, Missouri, and Nebraska

Asst. Regional Administrator for
Procurement and Technical
Assistance
Denver Regional Office
Small Business Administration
721 19th Street, Suite 101
Denver, Colorado 80202
Tel: 303/844-0503

Region VIII
North Dakota, South Dakota,
Montana, Utah, and Wyoming

Assistant Regional Administrator for
Procurement and Technical
Assistance
San Francisco Regional Office
Small Business Administration
455 Market Street, Suite 2200
San Francisco, California 94105
Tel: 415/744-2118

Region IX
Guam, Hawaii and Nevada

Assistant Regional Administrator for
Procurement and Technical
Assistance
Seattle Regional Office
1200 6th Avenue, Suite 1805
Seattle, Washington, 98101
Tel: 206/553-9353

Region X
Alaska, Idaho, Oregon, and
Washington

SECTION 7F

NEGOTIATING THE PURCHASE, HANDLING OTHER COMMUNICATIONS WITH VENDORS, AND DOCUMENTING THE TRANSACTION

This section addresses various actions to be taken in support of a simplified acquisition. It provides guidelines for dealing with vendors in negotiating prices or other matters, in handling the dissemination of acquisition information, and in responding to vendor protests. The section also summarizes the procedures to be followed in maintaining adequate records of simplified transactions.

As noted earlier in the chapter, the process of issuing a purchase order or effecting the purchase by another method is covered in Chapter 8.

NEGOTIATING WITH SUPPLIERS

In a formal competitive negotiated acquisition, negotiations are conducted with offerors to clarify any ambiguities or uncertainties, or to attempt to obtain better prices, terms or delivery. Negotiation for simplified transactions can result in savings for the government. Note, however, that both cost and time are expended in conducting negotiations and therefore the anticipated benefit of negotiating must be compared against these factors in deciding whether or not to negotiate. In any event, it is critical that negotiation be viewed as a positive opportunity to make a better deal. Consequently, purchasing personnel are encouraged to become skilled in negotiating methods.

The following are illustrative of opportunities to negotiate better deals:

- C The lowest quote appears to be high in price.
- C Purchasing a large number of items at one time.
- C The item acquired has a high mark-up or profit factor.
- C You do a large volume of business with the same supplier.
- C There are alternative ways of furnishing the product or service.
- C The quote can be made advantageous to the government with a minor improvement.
- C You want to improve the delivery time.

Negotiations in simplified transactions should be conducted efficiently and quickly. In determining the extent of negotiations the amount of the purchase should be considered.

GUIDELINES FOR EFFECTIVE NEGOTIATION

Simplified acquisition negotiations may be accomplished by letter, messages, telephone or face to face. The key point to remember is that you represent a potential customer and have the duty to obtain the best value for the government.

Points to Remember

- C All discussions should be positive and businesslike.
- C It is proper to request better terms, price, or delivery and to make counter offers.
- C It is important that you plan for your negotiations by knowing the product and the market.
- C Supervisors and technical personnel should provide assistance and backing for negotiations.
- C It is permissible to negotiate either with the lowest priced technically acceptable quoter or all technically acceptable quoters.
- C The negotiations for smaller dollar acquisitions may only consist of asking for a better price, delivery, etc.

DISCLOSING PURCHASING INFORMATION

Throughout solicitation and negotiation, purchasing personnel must take care not to take any action that might give one vendor an advantage over others. No information should be given to one vendor which is not given to all the other vendors as well. This rule must be applied as follows:

- C When vendors call for clarification of requirements on a request for quotations, whether written or oral, no additional information can be given to one potential offeror that is not given to all. If clarification of an oral solicitation is necessary, you must call each firm originally solicited, giving each the same information. If the RFQ was written, you must send out an amendment to each recipient of the original solicitation (See Exhibit 7D (ii)).
- C The rules for negotiated acquisitions apply when quotations are elicited orally or in writing through small purchase procedure. There is no public opening, as in sealed bidding, and there can be no disclosure of either the number of quotes received or the content of any quote before the order is issued.
- C No information on an *anticipated* solicitation may be released in advance to a

particular vendor.

DOCUMENTING THE TRANSACTION

The term *documentation* refers to the record of a particular procurement transaction. To be adequate, the record must show what was bought, why it was bought, how much competition was obtained, and why the price paid was considered reasonable. The purpose is to provide:

- C Background to ensure informed decisions at each step in the acquisition process;
- C Information for reviews and investigations conducted by the ARS, the Area office, USDA, GAO, or others; and
- C Essential facts in case of litigation or congressional inquiry.

Extent and Method

Simplified acquisition documentation can and should be simple. In most cases the purchase file can be adequately documented by making handwritten notations on the requisition or the purchase order, and by keeping in a single purchase file all papers generated in making the purchase. For example, the retention of competitive written quotations in the purchase file often serves as adequate documentation of price reasonableness. It is necessary to document the reason for noncompetitive transactions for purchases in excess of \$2,500 as well as the basis for having determined that the price is fair and reasonable; however, the justification may be contained in a brief statement within or attached to the requisition.

For micro-purchases FAR 13.202(3) requires verification of price reasonableness only when the purchasing agency has reason to believe that the price is not reasonable, e.g., as compared to a price previously paid.

Summary guidelines on how to document essential items can be found in Exhibits 7F(i) and 7F(ii). Individual sections of Chapter 8 present more specific instructions on the documentation necessary when using the various simplified small purchase methods.

Use of Pricing Memoranda

Although the FAR do not require the use of a special format (however, see FAR 13.106-2), the process of documenting the award decision can be simplified by the use of a preprinted checklist or format. A sample format--entitled "Determination of Price Reasonableness"--is shown at the end of this section (Exhibit 7F(iii)). This format is provided as a sample only, and may be adopted or modified by individual purchase activities.

Such a format can serve two purposes: (1) providing a checklist to ensure that the necessary price analysis has been made; (2) providing a method of checking, and thus documenting, the price analysis methods used as well as a means of noting reasons for absence of competition.

Maintenance of Activity Records

A recommended procedure for establishing and using various kinds of files needed in the course of the simplified acquisition process is outlined in the chart in Exhibit 7F(ii). The procedure may be modified, or elaborated upon, to meet the purchasing activity's needs. FAR Subpart 4.8 as

well as AGAR Subpart 404.8 should also be consulted regarding contents, closeout, and disposition of contract files generally.

DEBRIEFING UNSUCCESSFUL QUOTERS

There is no requirement to notify unsuccessful quoters when using simplified acquisition procedures (See FAR 13.106-3(c)). If, however, an unsuccessful vendor requests an explanation of why it did not receive the award, a debriefing should be conducted in person or by phone. (See FAR 15.503(b)(2) for guidance). The Purchasing Agent should:

- C Conduct the debriefing in such a way as to leave no doubt that the award decision was made fairly, impartially, and objectively.
- C Take care never to disclose any vendor's confidential business information.
- C Refrain from discussing the relative positions of the unsuccessful vendors.

Exhibit 7F(i)
Documentation Checklist

Item How to Document

1. What Was Bought and Why
The "what" of the purchase should be obvious from the description of supplies or services shown on the purchase order itself. The file records should also show why something was bought and who authorized it. A properly completed AD-700 is the correct documentation.

2. Competition
If you obtained competitive quotes, make sure the file shows that. If you obtained written quotes, keep them in the file. Keep a record of oral quotations showing who gave the quote, unit and total amounts, delivery terms, and other pertinent items. State your reasons if you do not give an order to the vendor with the lowest quotation. If you are unable to obtain competition, state the reasons in a written justification (See Section 7C). If you cannot make award to a small business, include a statement of the reasons.

3. Pricing
Simply stated, you need to justify in writing the price paid on all purchases over \$2,500. You do this by stating the basis for your conclusion that the price paid is reasonable. Refer to item (5) in the Checklist for Evaluating Small Purchase Quotations (Exhibit 7E(i) for a discussion of the various methods of determining reasonableness. Use one of these methods and document the file accordingly.

Ordinarily, a few handwritten sentences on the requisition or a separate piece of paper will be enough. Alternatively, you may use a preprinted pricing memorandum such as the Determination of Reasonableness of Price format shown in Exhibit 7F (iii).

Exhibit 7F(ii)

Simplified Acquisition Records and Record-keeping Process

1. Procurement Request File. A file of AD-700s should be maintained until purchasing action is taken. The AD-700 should be reviewed upon receipt. Those which exceed the small purchase limitations and those which will be consolidated at a higher level should be forwarded immediately to the Area office which will handle the transactions.
2. Solicitation File. An active solicitation file should be maintained. When a written solicitation is initiated, attach the requisition to the solicitation document and hold until quotations are received and processed. When the solicitation is oral, assign a purchase order number directly to the requisition. If a confirming order is prepared, attach the file copy to the requisition and place in the purchase order file.
3. Active Purchase Order File. This file should be maintained to hold transactions between award or placing of order and closeout. When final invoices and receiving reports are sent to the finance office for payment, place this material in the completed (closed out) file. At this stage all documentation should be checked for completeness from receipt of transaction to closeout.
4. Completed Purchase Order File. Individual completed files should be maintained until they can be disposed of in accordance with the applicable general records schedule.
5. Purchase Order Register. A purchase order register should be maintained to record all transactions. All information applicable to each transaction should be recorded, including small business data. This record serves as a locator file, tells at a glance the status of the action, and records the information required for purchasing activity reports.

Exhibit 7F(iii)
Determination of Reasonableness of Price

Solicitation No.: _____

Requirement: _____

Number of firms solicited: _____

Number of responses received: _____

Award to be made to: _____

The price of _____ is considered fair and reasonable based on the following:

1. () Adequate competitive offers
 1. _____ 2. _____ 3. _____
2. () Established catalog or market prices of commercial items sold in substantial quantities to the general public
 - a. () Price list attached
 - b. () Price list on file
3. () Comparison with prior quotations or contract prices for the same or similar items
Previous price: _____
Explanation of difference: _____

4. () Comments: _____

Purchasing Agent

SECTION 7G

SMALL BUSINESS PROGRAMS

SMALL BUSINESS SET-ASIDES

FAR 13.003(b)(1), as amended by the Federal Acquisition Streamlining Act of 1994, requires that all acquisitions whose value is expected to be between \$2,500 and \$100,000 be reserved exclusively for small business concerns, unless certain specified circumstances exist.

Circumstances

The Purchasing Agent is required to conduct a small business set-aside unless one of the following circumstances exist and is documented in the file:

- (1) The purchase is conducted outside the United States, its territories and possessions, Puerto Rico, and the Trust Territory of the Pacific Islands (FAR 19.000(b)); or
- (2) The Purchasing Agent determines that there is no reasonable expectation of obtaining quotations from two or more responsible small business concerns that will be competitive in terms of price, quality, and delivery. (See FAR 19.502-2(a) for additional information)
- (3) The acquisition is for acquisitions in any of the four Designated Industry Groups identified in FAR 19.1005(a) or Targeted Industry Categories selected by USDA in accordance with FAR 19.1005(b). See discussion of the Small Business Competitiveness Demonstration Program at the end of this Section. (See also FAR 19.502(d))

What is "Small"?

If the Purchasing Agent decides to conduct a small business set-side, the vendors must be advised that a set-aside is being conducted and of the applicable size standard for the commodity or service being acquired.

Selecting the Size Standard (FAR 19.102 (h) 5)

In order to determine the size standard, the Purchasing Agent must refer to the industry size standards published by the Small Business Administration. These standards are available via the Internet at <http://www.sba.gov/size/NAICS-cover-page.htm> Size standards are expressed in terms of either numbers of dollars or numbers of employees. An example, the size standard for Electrical Contractors (NAICS Code 235310) is \$11.5 million average annual gross revenue taken over the last 3 fiscal years. The size standard for nitrogenous fertilizers (NAICS Code 325311) is 1000 employees average employment over the preceding 12 months on an industry-by-industry basis. For size standard purposes, a product or service is classified in only one industry, whose definition best describes the principal nature of the product or service being acquired. This is the case even though for other purposes the product or service could be

classified in more than one industry.

Notice of Set-Aside

If a written solicitation is used, the clause at FAR 52.219-6, Notice of Total Small Business Set-Aside must be included (See FAR 19.508). If an oral solicitation is being conducted, vendors must be given information substantially the same as is contained in the clause. The clause defines "small business," advises that any award that is made will be made to a small business, and that the small business must be quoting on products manufactured or produced by small business concerns.

Small Business Representation

In accordance with FAR 19.304, the solicitation must also contain the provision at FAR 52.219-1, Small Business Program Representations. As with the "Notice" discussed above, if an oral solicitation is being conducted, vendors must be given information substantially the same as is contained in the provision. The provision requires the identification of both the NAICS Code and the related small business size standard. To be eligible for award, the vendor must represent whether or not it is a small business indicated in the provision or stated by the Purchasing Agent if the solicitation is conducted orally. If it represents itself as a small business, it must also state whether or not it is also a small disadvantaged business or a women-owned small business concern as defined in the provision.

Normally, you should accept the vendor's representation as to its size status and eligibility unless another vendor raises a question or you have reason to question it. In such an event, the procedures for protesting a small business representation are provided at FAR 19.302. Note also that your determination as to the appropriate SIC and size standard may be questioned by vendors. Appeal procedures are provided by the FAR at 19.303(c). Should any of these occur, you should contact your Area PAO for advice or assistance.

Encouraging Response

The Purchasing Agent should always encourage maximum response to solicitations by small business, small disadvantaged business concerns, and women-owned small business concerns by taking the following actions:

- C Allow the maximum amount of time practicable for the submission of quotations.
- C Furnish specifications, plans, and drawings with solicitations or furnish information as to where they may be obtained or examined.
- C Send solicitations to (1) all small business concerns on the solicitation mailing list or (2) a pro rata number of small business concerns when less than a complete list is used.
- C Provide to any small business concern, upon its request, a copy of bid sets and specifications with respect to any contract to be let, the name and telephone number of

an agency contact to answer questions related to such prospective contract and adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract other than laws or agency rules with which the small business must comply when doing business with other than the government.

- C Develop quotations and delivery schedules so as to not unduly restrict small business participation.
- C Provide for prompt payment by using the purchase method which, under the circumstances, poses the least paper work burden.

You should make telephone calls or use other informal measures to find out about the availability of small business suppliers. In addition, you are responsible for making every effort to locate small business concerns that can meet the activity's needs and for placing those concerns on source lists. All source lists should show the small business status of the firms shown.

Note: Public and private organizations for the disabled are authorized to participate in acquisitions set-aside for small businesses. (See FAR 19.202-1(h)).

Cancelling a Set-Aside

If the Purchasing Agent proceeds with the set-aside, but receives no reasonable quotation from a responsible small business, the set-aside may be cancelled and the purchase conducted on an unrestricted basis. Note that even if there is only one quote from a responsible small business an award may be made so long as the price is considered reasonable (see 19.502-2(a)).

8(A) PROGRAM ACQUISITIONS

Section 8(a) of the Small Business Act is used to provide special assistance to small businesses owned and controlled by socially and economically disadvantaged persons. The program which implements it is designed to provide government contracting opportunities to firms which might not otherwise be able to become self-sustaining, competitive business enterprises.

To qualify for the program, a firm must be 51 percent owned and controlled by a U.S. citizen who is socially and economically disadvantaged as defined by Section 8(a). Socially disadvantaged individuals are defined as individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identification with certain groups, without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, and other minority groups or individuals as designated from time to time by the SBA. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same business area who are not socially

disadvantaged.

In order for a business to obtain 8(a) status, it must apply to the SBA. If the application is accepted, the SBA works with other government activities to secure requirements for which the 8(a) firm is qualified. Following successful negotiations, the requiring activity contracts with the SBA, which then subcontracts with the 8(a) firm. In most cases, the SBA delegates contract administration functions to the requiring activity. The SBA provides technical assistance and loans, when necessary, to the 8(a) firm.

Implementation of the Program

Although FAR Part 2 does not include 8(a) contracts in its definition of "simplified acquisition procedures," requisitions may also be screened for possible award under the 8(a) program. (See FAR Part 13.003 (b)(1) and FAR 19.502-2). Both program and acquisition personnel should be aware that the program provides an important vehicle for increasing the participation of small and disadvantaged businesses, in addition to affording a noncompetitive acquisition procedure which is limited to firms that have been screened, investigated, and certified as qualified to participate in government acquisition.

If it has been determined that a purchase affords the potential for 8(a) award, the Purchasing Agent should refer the matter to the PAO and the activity's Office of Small and Disadvantaged Business Utilization (OSDBU) Coordinator (see AGAR 419.201-71). The Coordinator will seek to identify a qualified contractor. (Alternatively, either the program office or the Purchasing Agent may recommend a potential 8(a) contractor, or a firm may be recommended by the SBA (See FAR 19.804-1 and 19.804-2, and 19.804-3.)

Contracting Procedures

8(a) acquisitions are normally made by formal contract since the "contract" is actually placed with the SBA which, in turn, subcontracts to the 8(a) concern. A MOU between the SBA and USDA exists that implements new guidelines that improve the 8(a) contracting process. Under this MOU, the SBA delegated its authority to contract directly with 8(a) contractors under Sections 8(a) of the Small Business Act to USDA's Senior Procurement Executive. A contract may be awarded directly to an 8(a) firm on either a sole source or competitive basis. This MOU is applicable to all offices within SBA and USDA throughout the United States.

To further implement the MOU, a class deviation from FAR Part 19, Small Business Program, was approved by the Senior Procurement Executive. This deviation eliminated the use of the tripartite agreement and delegated signature authority to Senior COs under the 8(a) program. The deviation to FAR Part 19 is in effect pending a FAR change. Changes to the FAR are outlined in AGAR Advisory No. 22 "FAR Part 19 Deviation-Small Business Program" and AGAR Advisory No. 21 "Implementing Procedures for Streamlining the 8(a) Contracting Process." These guidelines apply to new contract/purchase order awards under the 8(a) program effective May 6, 1998, through the term of the MOU. Copies of these advisories are available at <http://www.usda.gov/da/procure/agaradv.htm>. These advisories are effective until the FAR coverage is issued.

Refer to these guidelines when awarding new contract/purchase order awards to 8(a) concerns.

SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

FAR Subpart 19.10 implements the Small Business Competitiveness Demonstration Program which was established by Title VII of the "Business Opportunity Development Reform Act of 1988," Pub. L. 100-656. The program consists of two major components: (a) a test of unrestricted competition in four designated industry groups, and (b) a test of enhanced small business participation in 10 agency targeted industry categories. The program remains in effect until supplemented or revised to reflect statutory changes in Public Law 105-135.

PURPOSE

The purpose of the demonstration program is to:

- C Test the ability of small businesses to compete successfully in certain industry categories without competition being restricted by the use of small business set-asides. This portion of the program is limited to the four designated industry groups.
- C Measure the extent to which awards are made to a new category of small businesses known as Emerging Small Businesses (ESBs), and to provide for certain acquisitions to be reserved for ESB participation only.
- C Expand small business participation in 10 targeted industry categories through continued use of set-aside procedures, increased management attention, and specifically tailored acquisition procedures, as implemented through agency procedures.

Designated Industry Groups

Certain industry groups have been designated to demonstrate whether the competitive capabilities of small business firms in certain industry groups will enable them to successfully compete on an unrestricted basis for Federal contracts:

- C Construction under NAICS codes that comprise subsectors 233, 234 and 235.
- C Refuse systems and related services including portable sanitation services under NAICS J62.
- C A-E Services (including surveying and mapping) under NAICS codes 544.
- C Nonnuclear ship repair under NAICS code 336.

Targeted Industry Categories (TICS)

Simplified Acquisition Policy and Procedures

USDA has selected 10 Targeted Industry Categories (TICS) for inclusion in the programs which show less than 10 percent average rate of small business participation. The 10 categories selected, as defined by FPDS Codes and potential NAICS codes are:

FPDS Code	Description		NAICS Code	Applicable Size Standard	
6810	Chemical Products	2813	325120	1,000 EMP	
		2819	211112	1,000	
			325998	1,000	
			331311	1,000	
			325131	1,000	
			325188	1,000	
		2836	325412	500	
			2869	325110	1,000
				325188	1,000
			2879	325320	500
	2891	325520	500		
7021	ADP Central Processing Units	3571	334111	1,000	
		5734	443120	\$ 6.5	
8105	Bags and Sacks	2299	313211	500	
			313113	500	
			313111	500	
			314999	500	
		2673	322223	500	
			326111	500	
2674	322224	500			
8405	Outerwear for Men	2329	315211	500	
			315228	500	
			314229	500	
		2385	315222	500	
			315234	500	
			315228	500	
			315239	500	
			315291	500	
			315299	500	
			315999	500	
	315211	500			
	315212	500			
5820	Radio TV Equipment Except Airborne	3663	334220	750	
		5731	443112	\$ 6.5 MIL	
			443120	\$ 6.5 MIL	
J070	Maintenance & Repair, ADP Equipment	7378	443120	\$18.0	
			811212	\$18.0	

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N070	Installation of ADP Equipment	7373	541512	\$18.0
		7379	514210	\$18.0
			541512	\$18.0
			541519	\$18.0
TO99	Other Photo/Mapping/Printing Services	2741	511140	500
			511120	500
			511130	500
			512230	500
			511199	500
		2759	323113	500
			323112	500
			323114	500
			323115	500
			323119	500
		7336	541430	\$ 5.0
		7389	512240	\$ 5.0
			512290	\$ 5.0
			514199	\$ 5.0
			541199	\$ 5.0
			812990	\$ 5.0
			541370	\$ 5.0
			541410	\$ 5.0
			541420	\$ 5.0
			541340	\$ 5.0
			541490	\$ 5.0
			541890	\$ 5.0
			541350	\$ 5.0
			514210	\$ 5.0
			711410	\$ 5.0
			421860	\$ 5.0
			561421	\$ 5.0
			325998	\$ 5.0
			561431	\$ 5.0
			561439	\$ 5.0
			314999	\$ 5.0
			313311	\$ 5.0
			541870	\$ 5.0
			491110	\$ 5.0
			812320	\$ 5.0
			561491	\$ 5.0
	561910	\$ 5.0		
	561790	\$ 5.0		
	561599	\$ 5.0		
	561920	\$ 5.0		
	561591	\$ 5.0		
	522320	\$ 5.0		
	561499	\$ 5.0		
	561990	\$ 5.0		
U006	Vocational/Technical Training	8249	611513	\$ 5.0
			611512	\$ 5.0
			611519	\$ 5.0
		8299	611512	\$ 5.0
			611692	\$ 5.0
			611710	\$ 5.0

Simplified Acquisition Policy and Procedures

		611691	\$ 5.0	
		611610	\$ 5.0	
		611630	\$ 5.0	
		611430	\$ 5.0	
		611519	\$ 5.0	
		611699	\$ 5.0	
	8331	624310	\$ 5.0	
W036	Leasing Special Industry Machinery	3555	333293	500
		3823	334513	500
		7359	532210	\$ 5.0
			532310	\$ 5.0
			532299	\$ 5.0
			532412	\$ 5.0
			532411	\$ 5.0
			562991	\$ 5.0
			532420	\$ 5.0
			532490	\$ 5.0

NOTE: Size standards, unless otherwise noted, are expressed in millions of dollars (\$) or number of employees.

Acquisition of Items in the Designated Industry Groups

Acquisitions of items in the designated industry categories where the anticipated dollar value is greater than \$25,000 are not to be set-aside for small business (unless reinstated by USDA) although they may be considered for placement under the 8(a) program and the HUBZone Program (See FAR 19.1006(b)).

Emerging Small Business Set-Asides

All acquisitions in the four designated industry categories with an estimated value equal to or less than the emerging small business reserve amount (currently \$25,000) must be set-aside for "emerging small businesses" (the size standard for an emerging small business is half that of a non-emerging small business) if there is a reasonable expectation of getting quotes from two or more responsible emerging small businesses that are competitive with regard to price, quality, and delivery. (See FAR 19.1007 (b)).

USDA Implementation for Targeted Industry Categories

All TICs procurement requirements, regardless of dollar value, must be considered for small business set-asides or 8(a) contracting pursuant to FAR 19.501 and 19.1003, respectively.

Contracting activities are required to notify the OSDBU office if a requirement is not set-aside. A copy of the solicitation is to be sent along with the notification.

In addition, the OSDBU office will maintain a data base of firms capable of performing requirements in the selected categories and will share the information with USDA agencies upon request.

HISTORICALLY UNDERUTILIZED BUSINESS ZONE (HUBZONE) PROGRAM

FAR 19.13 implements the HUBZone Program which was created by the Historically Underutilized Business Zone (HUBZone) Act of 1997 (15 U.S.C. 631).

Purpose

The HUBZone Program provides contracting assistance for qualified small business concerns located in historically underutilized business zones, in an effort to increase employment opportunities, investment, and economic development in these areas. The SBA determines and publishes the List of Qualified HubZone small business concerns on its Internet website at <http://www.sba.gov/hubzone>. (FAR 19.1303). FAR Part 19.1304 lists exclusions to this program.

HUBZone Set-Aside Procedures

Acquisitions exceeding the micro-purchase threshold but not exceeding \$100,000 may be set aside for competition restricted to HUBZone small business concerns provided:

- it is reasonably expected that offers will be received from two or more HUBZone small business concerns, or
- award will be made at a fair market price.

If only one responsible offer is received, the Purchasing Agent should make award to that concern (FAR 19.1305 (d)).

HUBZone Sole Source Awards

At or below the simplified acquisition threshold (FAR 19.1306), the Purchasing Agent may award to HUBZone small business concerns on a sole-source basis without considering small business set-asides provided:

- only one HUBZone small business concern can satisfy the requirement;
- the requirement is not currently being performed by a non HUBZone small business concern;
- the HUBZone small business concern has been determined to be a responsible contractor with respect to performance; and
- award can be made at a fair and reasonable price.

Reporting Awards

See Section 7I.

SECTION 7H

PROTESTS AGAINST AWARDS

INTRODUCTION

Interested parties may object to a solicitation, a proposed contract award, or the award of a contract by filing a protest, in writing, to the CO or the General Accounting Office (GAO). Interested parties are defined as "an actual or prospective offeror whose direct economic interest could be affected by the award of or failure to award a contract." Protests are categorized either pre- or post-award and are concerned with the propriety of the solicitation and award process, not with contractual disputes.

PROTESTS TO THE AGENCY

Pre- and post-award protests made to the agency only are handled in accordance with the rules established in the FAR 33.103 and 33.104 and AGAR 433.103 and 433.104. The following paragraphs discuss the general procedures prescribed by the FAR.

Note: ARS has, in the implementation of the FAR requirements, developed additional guidance, and established time tables for complying with the FAR requirements. Accordingly, **it is imperative that you consult PPD Policy Memorandum 33-01** as well as the FAR and AGAR for current guidance and instructions.

Pre-Award Protests

When a written protest against making award is filed only with the agency, the CO must not proceed with award until the matter is resolved unless it can be determined that:

- (1) The items being solicited are urgently required;
- (2) Performance or delivery will be severely delayed if award is not made promptly; or
- (3) It is advantageous to the government to make prompt award.

If the CO determines that award should be made because of one of these factors, he or she typically must prepare a written justification and obtain concurrence for award from legal counsel and the HCAD.

If the CO or a higher official sustains a pre-award protest the following are actions which may be taken:

- (1) If the sustained protest is in regard to a defective solicitation, the solicitation will either be modified or withdrawn;

- (2) If the sustained protest is in regard to award to another offeror, the apparently successful offeror's proposal will be rejected; or
- (3) If the sustained protest does not affect the validity of the solicitation, and if the protestor's proposal is low, he or she may receive award, provided the government still requires the supplies or services being acquired.

Post-Award Protests

When a written protest against an awarded contract is filed with the agency only, the CO need not suspend contract performance or terminate the awarded contract unless it appears likely that the award will be invalidated and delayed delivery of supplies or services is not "prejudicial to the government's interest." In this event, the CO will consider making a mutual agreement with the contractor to "suspend performance on a no-cost basis."

If the CO or a higher official sustains a post-award protest, the following are actions which may be taken, according to the circumstances of the contract:

- (1) Cancel the award as being void;
- (2) Terminate for convenience; or
- (3) Allow the improper award to stand.

Note that the decision to let an improper award stand should be based on several factors including (1) the degree of performance, (2) the need to prevent performance delays, and (3) the incumbent contractor's good faith in entering into the contract.

GUIDELINES FOR ARS PURCHASING AGENTS

There are no special procedures for handling protests concerning small purchase awards. Upon receipt of a formal protest or other indication of dissatisfaction on the part of a vendor, the Purchasing Agent should contact the Area PAO for advice/assistance and maintain constant liaison until the matter is resolved. The Purchasing Agent must use sound judgment and discretion. (See PPD Policy Memorandum 33-01).

A vendor has the right to protest--at any time, for an award of any dollar value--an unfair acquisition practice, a violation of regulations, or any other irregularity that might be the cause of the vendor's failure to receive an award. Examples of such grounds for protest might be failure of the Purchasing Agent to solicit competitively or to rotate solicitations among those shown on the activity's source list.

If a vendor protests a specific action, you should take the following steps:

1. Acknowledge receipt of the protest.

2. Immediately review the facts.
3. Give the protestor a written answer (with copies to any incumbent contractor or other interested party).
4. If requested, give the protestor a personal informal hearing.
5. If you were in error, take immediate steps to correct the situation and to satisfy the protestor that corrective action has been taken.
6. If you believe that you were not in error, explain why and thank the protestor for his or her concern.
7. Seek, as needed, the guidance of your supervisor or a higher level acquisition official.

SECTION 7I

CONTRACT REPORTING

INTRODUCTION

FAR Subpart 4.6 provides uniform reporting requirements for the Federal Procurement Data System (FPDS). The FPDS assembles, organizes, and presents contract placement data for the Federal Government to be used for policy and management control in a number of social, economic, and political areas of interest to government officials as well as to the general public. Department of Agriculture policy is contained in AGAR 404.6 while procedures are provided in Departmental Regulations in the 5004 series. Data is collected on individual contract actions over \$25,000 and on a summary basis for contract actions of \$25,000 or less. The SF-279 and 281 respectively (or their computer generated equivalent) are used for this purpose. The FPDS Reporting Manual provides instruction as to what data is required and how often.

DATA COLLECTED

The data collected for each category is best identified by reviewing the forms used for collection. Data collected for individual contract actions over \$25,000 is shown on the SF-279 illustrated in Exhibit 7I(i). Summary contract action report data is shown on the SF-281 illustrated in Exhibit 7I(ii). The following paragraphs deal with basic policy and procedures regarding the preparation of each report.

THE INDIVIDUAL CONTRACT ACTION REPORT

Departmental Regulation 5004-3, issued by the Office of Procurement and Property (OPPM), governs the operation and management of the USDA Procurement Reporting System. The regulation prescribes the reporting requirements for implementing the FPDS and supplements the FPDS Reporting Manual.

What to Report

Under the Procurement Reporting System, ARS is required to report all procurement actions (this excludes grants and cooperative agreements) which obligate or deobligate expenditures of funds to sources outside the Federal Government. ARS must not report actions which obligate or deobligate expenditures or transfers of funds to other government agencies. Procurement actions to be reported include:

- C R&D contracts with private firms, foundations, universities, and State or local governments.
- C Leases of equipment, facilities, land, etc. from sources outside the Federal Government.

- C Procurement of supplies and equipment from sources outside the Federal Government, to include purchases from both GSA Federal Supply and FIP Schedules.
- C Purchases of utilities from nonfederal sources such as the Virginia Electric and Power Company.
- C Purchases of services from sources outside the Federal Government.
- C Procurement of construction, alteration, repair, or maintenance of real property from non-federal sources.
- C Procurement of transportation of people or things from non-federal sources unless government Travel Requests (GTR's) or Government Bills of Lading (GBL's) are used.

While all procurement actions that obligate or deobligate expenditures of funds to sources outside the Federal Government must be reported into the Procurement Reporting System, only the actions listed below must be reported on an SF-279. Actions not reported on the SF-279 must be reported on the SF-281.

- C Contract awards over \$25,000;
- C Delivery orders over \$25,000;
- C Contract awards and delivery orders under \$25,000 that are subsequently modified by over \$25,000;
- C Modifications over \$25,000;
- C Terminations for default or convenience of previously reported contracts or delivery orders;
- C Changes to or deletions of previously submitted reports; and
- C Other procurement actions over \$25,000.
- C Awards made under the Small Business Competitive Demonstration Program in one of the four designated industry groups (see page 7G-6), and valued at \$500 or more.

When to Report

Procurement actions over \$25,000 are required to be reported on an SF-279 within 7 days of their occurrence. Reports may be submitted after 3 days when unusual circumstances prevent timely submission. Under no circumstances should incomplete SF-279's be submitted. Incomplete and incorrect SF-279's will be returned to issuing offices for correction and

resubmittal within 3 days.

Where to Report

Completed SF-279's are to be entered into the Department's web-based system. The electronic form can be accessed via USDA Acquisition Toolkit. This toolkit is available on the USDA Homepage.

Who Reports

Anyone in a procuring office may complete the SF-279. COs, however, are responsible for reviewing all SF-279's prior to submission and certifying, by signature, that each report is correct.

The COs certification is intended to serve as a means of ensuring reporting accuracy. COs are required to know the USDA instructions and to thoroughly review each SF-279 before signing it.

How to Prepare the Report

Detailed instructions (to include codes where applicable) for completing each data item on the SF-279 and for its transmittal are contained in Appendix A of Departmental Regulation 5004-3.

THE SUMMARY CONTRACT ACTION REPORT

As discussed above, the Summary Contract Action Report (SF-281) is used to report procurement data on a summary basis for actions of \$25,000 or less. This report is of greater concern to the Purchasing Agent since it requires recording of data resulting from open market procurements using the simplified acquisition procedures which were discussed in Chapters 7 and 8 of this manual as well as from other sources such as the Federal Supply Schedule or IT Schedules discussed in Chapter 6. The report itself is generated by the National Finance Center (NFC) based upon the codes entered in Block 5 of the AD-838. Therefore, it is important that the proper codes be used when completing Block 5 (see 6D-13 and 6D-14 for the codes). Notwithstanding the fact that NFC prepares the report, it is important that Purchasing Agents have a basic understanding of the policy and procedures relative to its preparation and submission and in particular the proper coding of data contained in the AD-838.

What to Report

All contract actions that (1) are \$25,000 or less, (2) are not reported on the SF-279, and (3) obligate or deobligate expenditures of funds to sources outside the Federal Government must be reported on the SF-281.

The following are examples of the kinds of actions that are to be reported:

- C Leases of equipment, facilities, land, etc., from sources outside the Federal Government.
- C Purchases of supplies and equipment from sources outside the Federal Government, to include purchases from both GSA Federal Supply and FIP Schedules.
- C Purchases of utilities from nonfederal sources such as the Virginia Electric and Power Company.
- C Purchases of services from sources outside the Federal Government.
- C Purchases of construction, alteration, maintenance, or repair, of real property from nonfederal sources.
- C Purchases of transportation of people or things from nonfederal sources unless Government Travel Requests (GTR's) or Government Bills of Lading (GBL's) are used.
- C Modifications to reported or reportable contracts, purchase orders, and delivery orders.

What Not to Report

The following transactions should not be included in the SF-281 report:

- C Purchases valued at \$2,500 or less made using the Commercial Purchase Card.
- C BPA purchases utilizing the NFC "Type 45" BPA automated system.

When to Report

The ARS Summary Contract Action Report (SF-281) must be submitted in accordance with the following schedule:

<u>For the Period</u>	<u>Due in PPD</u>
October 1 through December 31	On or before January 15
January 1 through March 31	On or before April 15
April 1 through June 30	On or before July 15
July 1 through September 30	On or before October 15

Where to Report

ARS' consolidated SF-281 reports are sent to the USDA, OPPEP in Washington, D.C. Accordingly, individual location reports must be submitted to the appropriate Area office for preparation of a consolidated Area report. The Area office in turn must submit the Area report to PPD when applicable.

Preparing the AD-838 Purchase Order

Specific instructions for preparation of the AD-838 are contained in the NFC Procedures Manual and are discussed in Chapters 6 and 8 of this Manual. Of specific concern for reporting purposes is block 5 of the AD-838 which contains the Procurement Source Code. The Procurement Source Codes are used to identify the method of procurement used and the type of business to whom the award was made. Selection of the proper descriptive code is important since, among other things, the report is used to track competitive procurements and awards to small businesses, women-owned businesses, and small disadvantaged businesses. The "method of procurement" and "type of business" codes are prescribed in Chapter 5 of the NFC Procedures Manual along with guidance regarding valid code combinations to be used in Block 5. For further instructions regarding preparation of the AD-838, see Exhibits 6D(ii) on pages 6-59-6-60 and 6D(iii) on pages 6-65-66 and Section 8B of this Manual.

Exhibit 71(i)
Standard Form 279

FEDERAL PROCUREMENT DATA SYSTEM (FPDS) INDIVIDUAL CONTRACT ACTION REPORT (ICAR)				INTERAGENCY REPORT CONTROL NUMBER 0206-GSA-QU	
1. REPORTING AGENCY CODE (FIPS 95) (4 Pos.)		2. CONTRACT NUMBER (Left justified with no special characters) (15 Pos.)		3. MODIFICATION NUMBER (Left justified; cannot exceed 4 characters) (4 Pos.)	
4. CONTRACTING OFFICE ORDER NUMBER (Left justified; cannot exceed 15 characters) (15 Pos.)		5. CONTRACTING OFFICE CODE (5 alpha-numeric character code) (5 Pos.)		6. ACTION DATE (4 digit calendar year and 2 digit month, e.g., 200012) (6 Pos.)	
7. TYPE OF DATA ENTRY (1 Pos.)		8. REPORT PERIOD (4 digit fiscal year and 1 digit quarter, e.g., 20001) (5 Pos.)		9. KIND OF CONTRACT ACTION (1 Pos.)	
A. Original		B. Deleting		C. Correcting	
11. TYPE OF OBLIGATION (1 Pos.)		12. PRINCIPAL PRODUCT OR SERVICE CODE (FPDS Product Service Code Manual) (4 Pos.)		13. PRINCIPAL NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE (6 Pos.)	
A. Obligated		B. Deobligated		14. COMMERCIAL ITEM ACQUISITION PROCEDURES (1 Pos.)	
Y = Yes		N = No		15. CONTRACTOR NAME (30 Pos.)	
16. CONTRACTOR IDENTIFICATION NUMBER (DUNS) (9 Pos.)		17a. PRINCIPAL PLACE OF PERFORMANCE (State and City Code FIPS 55)		17b. FOREIGN COUNTRY (FIPS 10) (2 Pos.)	
STATE (2 Pos.)		CITY (5 Pos.)		Y = Yes	
N = No		18. CONTRACT FOR FOREIGN GOVT. OR INTERNATIONAL ORGANIZATION (1 Pos.)		Y = Yes	
19. TARIFF OR REGULATED (Pre-CICA) (1 Pos.)		20. PERFORMANCE-BASED SERVICE CONTRACTING (PBSC) (1 Pos.)		21. BUNDLING OF CONTRACT REQUIREMENTS (1 Pos.)	
Y = Yes		Y = Yes		Y = Yes	
N = No		N = No		N = No	
22. COUNTRY OF MANUFACTURE (FIPS 10) (2 Pos.)		23. SYNOPSIS OF THIS PROCUREMENT PRIOR TO AWARD (1 Pos.)		24. TYPE OF CONTRACT OR MODIFICATION (1 Pos.)	
A. Synopsized Prior to Award		B. Not Synopsized Due to Urgency		C. Not Synopsized for Other Reasons	
A. Fixed-Price Redetermination		B. Fixed-Price		C. Fixed-Price with Economic Price Adjustment	
D. Fixed-Price Incentive		E. Cost-Plus-Award-Fee		F. Cost - No Fee	
G. Cost Sharing		H. Cost-Plus-Fixed-Fee		I. Cost-Plus-Incentive	
J. Time and Materials		K. Labor Hour		L. Multiple Award Schedule	
M. Alternative Sources		N. Reserved		O. Reserved	
P. Reserved		Q. Set-Aside		R. Other Than Full and Open Competition	
25. CICA APPLICABILITY (1 Pos.)		26. SOLICITATION PROCEDURES (Complete only if Item 25 = A) (1 Pos.)		27. AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION (Complete only if Item 26 = L) (1 Pos.)	
A. CICA Applicable		B. Purchases Orders/BPA Calls Using Simplified Acquisition Procedures		C. Subject to Statute Other Than CICA	
D. Pre-CICA		E. Commercial Items Under Test Program		A. Full and Open Competition - Sealed Bid	
F. Full and Open Competition - Competitive Proposal		G. Full and Open Competition - Combination		H. Architect - Engineer Procedures	
I. Basic Research		J. Multiple Award Schedule		K. Alternative Sources	
L. Reserved		M. Reserved		N. Set-Aside	
O. Other Than Full and Open Competition		28. NUMBER OF OFFERS RECEIVED (Complete only if Item 25 = A or E) (1 Pos.)		29. EXTENT COMPETED (1 Pos.)	
A. 1		B. 2-5		C. 6-10	
D. 11-15		E. 16-20		F. 21-50	
G. Over 50		A. Competed Action		B. Not Available for Competition	
C. Follow-on to Competed Action		D. Not Competed			

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 279 (REV. 10-2000)
Prescribed by GSA-FAR (48 CFR) 53.204-2(a)

**Exhibit 7I(i) Continued
Standard Form 279**

30. TYPE OF CONTRACTOR (1 Pos.)		31. WOMEN-OWNED BUSINESS (1 Pos.)	32. HUBZONE SMALL BUSINESS CONCERN (1 Pos.)
A. Small Disadvantaged Business B. Other Small Business C. Large Business D. JWOD Nonprofit Agency E. Educational Institution F. Hospital G. Nonprofit Organization H. Reserved J. Reserved K. State/Local Government L. Foreign Contractor M. Domestic Contractor Performing Outside U.S. U. Historically Black College/University or Minority Institution (HBCU/MI)		Y = Yes N = No	Y = Yes N = No
33A. HUBZONE PROGRAM (1 Pos.)	33B. SMALL DISADVANTAGED BUSINESS PROGRAMS (1 Pos.)	33C. OTHER PREFERENCE PROGRAMS (1 Pos.)	
A. HUBZone Sole Source B. HUBZone Set-Aside C. HUBZone Price Evaluation Preference D. Combined HUBZone Preference/Small Disadvantaged Business Price Adjustment E. Not Applicable	A. 8(a) Contract Award B. 8(a) with HUBZone Priority C. SDB Set-Aside D. SDB Price Evaluation Adjustment E. SDB Participation Program F. Not Applicable	A. Directed to JWOD Nonprofit Agency B. Small Business Set-Aside C. Buy Indian/Self Determination D. No Preference/Not Listed E. Very Small Business Set-Aside	
33D. HUBZONE PRICE EVALUATION PREFERENCE PERCENT DIFFERENCE (2 Pos.)	33E. SDB PRICE EVALUATION ADJUSTMENT PERCENT DIFFERENCE (2 Pos.)	34. SUBCONTRACTING PLAN (Small, Small Disadvantaged, and Women-Owned Small Business) (1 Pos.)	
		A. Required B. Not Required	
35. SUBJECT TO LABOR STATUTES (1 Pos.)		36. ESTIMATED CONTRACT COMPLETION DATE (4-digit year and 2-digit month, e.g., 200012) (6 Pos.)	37. CONTRACTOR'S TIN (9 Pos.)
A. Walsh-Healey Act B. Reserved C. Service Contract Act D. Davis-Bacon Act E. Not Subject to Walsh-Healey, Service Contract, or Davis-Bacon Acts			
38. COMMON PARENT'S NAME (30 Pos.)			39. COMMON PARENT'S TIN (9 Pos.)
40. VETERAN-OWNED SMALL BUSINESS (VOSB) (1 Pos.)		41. MULTIPLE AWARD CONTRACT FAIR OPPORTUNITY (1 Pos.)	
A. Service Disabled Veteran Owned Small Business B. Other Veteran Owned Small Business C. Not Veteran Owned Small Business		A. Fair Opportunity Process B. Urgency C. One/Unique Source D. Follow on Contract E. Minimum Guarantee F. Not Applicable	
SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (Applicable to AGR, DOD, DOE, DOI, DOT, EPA, GSA, HHS, NASA, and VA)			
42. DEMONSTRATION PROGRAM (1 Pos.)	43. EMERGING SMALL BUSINESS (1 Pos.)	44. EMERGING SMALL BUSINESS RESERVE AWARD (1 Pos.)	
Y = Yes N = No	Y = Yes N = No	Y = Yes N = No	
45. SIZE OF SMALL BUSINESS (1 Pos.)			
NUMBER OF EMPLOYEES		OR AVERAGE ANNUAL GROSS REVENUE	
A. 50 or Less B. 51 - 100 C. 101 - 250 D. 251 - 500 E. 501 - 750 F. 751 - 1,000 G. Over 1,000		M. \$1,000,000 or Less N. \$1,000,001 - \$2,000,000 P. \$2,000,001 - \$3,500,000 R. \$3,500,001 - \$5,000,000 S. \$5,000,001 - \$10,000,000 T. \$10,000,001 - \$17,000,000 Z. Over \$17,000,000	
46. RESERVED FOR FPDS (10 Pos.)			
47. OPTIONAL REPORTED DATA ELEMENTS (100 Pos.)		48. FOR AGENCY INTERNAL USE	
48(a). Product/Service Description (25 Pos.)			
48(b). Initial Load of IDC/IDQ Contract (No Dollars)		Y = Yes, N = No	(1 Pos.)
48(c). Option Exercise (If Yes, a new completion date must be entered in block 36)		Y = Yes, N = No	(1 Pos.)
49. CONTRACTING OFFICER OR REPRESENTATIVE			
a. TYPED NAME (20 Pos.)	b. SIGNATURE	c. TELEPHONE (10 Pos.) AREA CODE NUMBER	d. DATE SUBMITTED (8 Pos.)

STANDARD FORM 279 (REV. 10-2000) BACK

Exhibit 71(ii)
Standard Form 281

FEDERAL PROCUREMENT DATA SYSTEM (FPDS)					INTERAGENCY REPORT CONTROL NUMBER		
SUMMARY CONTRACT ACTION REPORT (\$25,000 OR LESS)					0208-GSA-QU		
<i>(Dollars in thousands, rounded to the nearest thousand)</i>							
CIVILIAN AGENCIES			DEPARTMENT OF DEFENSE				
Net dollars and number of actions where anticipated value of instrument is \$25,000 or less.			Net dollars and number of actions where amount obligated on action is \$25,000 or less.				
a. REPORT PERIOD		b. REPORT TYPE (X one)		c. REPORTING AGENCY CODE (FIPS 95)			
FY	QTR	<input type="checkbox"/> ORIGINAL	<input type="checkbox"/> REVISION				
d. REPORTING AGENCY NAME			e. CONTRACTING OFFICE CODE		f. CONTRACTING OFFICE NAME		
PART I - PRIME CONTRACT ACTIONS OF \$25,000 OR LESS							
<i>NET DOLLAR AMOUNTS (in thousands)</i>							
NEW AWARDS AND MODIFICATIONS	PROCUREMENT METHOD	Number of Actions (a)	Small Business Concerns (b)	Large Business Concerns (c)	Domestic Outside US/ Foreign (d)	Other Entities (e)	Total Dollars (f)
	1. Tariff or Regulated Acquisitions						
	2. Contract for Foreign Government or International Organization						
	3. Purchases Using Simplified Acquisition Procedures						
	4. Orders - GSA Federal Schedules						
	5. Orders - Other Federal Schedules						
	6. All Other Orders						
	7. Other Procurement Methods						
8. TOTAL NEW AWARDS AND MODIFICATIONS							
COMPETITION	9. Competed						
	10. Not Competed						
	11. Not Available for Competition						
12. TOTAL MODIFICATIONS (Excluding Line 3)							
PART II - SELECTED SOCIOECONOMIC STATISTICS (Includes both new awards and modifications)							
CATEGORY	Number of Actions (a)	Total Net Dollars (b)	CATEGORY	Number of Actions (a)	Total Net Dollars (b)		
13. Small Business Set-Aside			20. HUBZone Small Business Concerns				
14. Small Business Concerns			21. Women-Owned Small Business Concerns				
15. 8(a) Contract Awards			22. JWOD Nonprofit Agency				
16. Small Disadvantaged Business Set-Aside			23. Service Disabled Veteran Owned Small Business				
17. Small Disadvantaged Business Concerns			24. Veteran Owned Small Business (VOSB)				
18. HBCU/MI							
19. HUBZone Program							
g. PERSON SUBMITTING REPORT							
NAME			SIGNATURE		TELEPHONE		
					DATE SUBMITTED		
					AREA CODE NUMBER		
AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE			STANDARD FORM 281 (REV. 10-2000) Prescribed by GSA-FAR (48 CFR) 53.204-2(b)				