

**Headquarters
Policy Flash**

FLASH 2000-15

DATE: May 16, 2000
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, MA-51
Office of Procurement and Assistance Management

SUBJECT: Federal Acquisition Circular (FAC) 97-17

SUMMARY: This Policy Flash summarizes the six items included in FAC 97-17, which was published in the Federal Register on April 25, 2000, at 65 FR 24316. The FAC is available via the Internet at <http://www.arnet.gov/far>. Contracting personnel should review the details of each item in the full text of the FAC.

Please note: The effective date and applicability date for each item are noted below in the summary.

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1. Competition Under Multiple Award Contracts

Effective Date: April 25, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after April 25, 2000.

This final rule amends FAR 2.101, Subpart 16.5, and 37.201 to clarify what the contracting officer should consider when planning for and placing orders under multiple award contracts. This rule affects all contracting officers that award multiple award contracts or place task or delivery orders under them. The rule—

- ✓ Requires the contracting officer to include the name, address, telephone number, facsimile number, and e-mail address of the agency task and delivery order ombudsman in the solicitation and contracts if multiple awards will be made.
- ✓ Stresses key things the contracting officer must consider when deciding if a multiple award contract is appropriate, such as -
 - ▶ Avoiding situations in which awardees specialize exclusively in one or a few areas within the statement of work.
 - ▶ The scope and complexity of the contract requirement.
 - ▶ The expected duration and frequency of task or delivery orders.
 - ▶ The mix of resources a contractor must have to perform expected task or delivery order requirements.
 - ▶ The ability to maintain competition among the awardees throughout the contract's period of performance.
- ✓ Requires contracting officers to document their decision on whether or not to use multiple awards in the acquisition plan or contract file.
- ✓ Emphasizes the use of performance-based statements of work.
- ✓ Provides guidance on how to develop tailored order placement procedures.
- ✓ Requires contracting officers to consider cost or price as one of the factors in each selection decision for orders.
- ✓ Requires contracting officers to establish prices for each order that was not priced under the basic contract using the policies and methods in Subpart 15.4.
- ✓ Requires contracting officers to document the order placement rationale and price in the contract file.

Note: A comprehensive Acquisition Letter addressing DOE policies, procedures and best practices relating to Multiple Award Contracting, Governmentwide Agency Contracts (GWACs), and Federal Supply Schedules has been drafted and will be published shortly.

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2. Determination of Price Reasonableness and Commerciality

Effective Date: April 25, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after April 25, 2000.

This final rule makes a minor editorial change to FAR 15.403-3 and converts the interim rule, which was published in FAC 97-14 as Item VI, as final. The editorial change amends the cross reference at 15.403-3(c)(1). The remainder of the interim rule that has been in effect since September 24, 1999, remains the same. The primary amendments made in the interim rule that are made final in this rule—

- ✓ Clarify procedures associated with obtaining information other than cost or pricing data when acquiring commercial items.
- ✓ Establish that offerors who fail to comply with requirements to provide the information shall be ineligible for award.

3. Caribbean Basin Trade Initiative

Effective Date: April 25, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after April 25, 2000.

This final rule amends FAR Parts 25.003, 25.400, 25.404, and the clause at 52.225-5, Trade Agreements, to implement the determination of the United States Trade Representative to renew the treatment of Caribbean Basin country end products as eligible products under the Trade Agreements Act, with the exception of end products from the Dominican Republic and Honduras. This rule applies only if an acquisition is subject to the Trade Agreements Act (see FAR 25.403). Offers of end products from the Dominican Republic and Honduras are no longer acceptable under such acquisitions unless the contracting officer does not receive any offers of U.S.-made end products or eligible products (designated, Caribbean Basin, or NAFTA country end products).

4. Utilization of Indian Organizations and Indian-Owned Economic Enterprises

Effective Date: June 26, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after June 26, 2000.

This final rule amends FAR Subpart 26.1 and the clause at 52.226-1 to delete DoD-unique requirements relating to Indian Organizations and Indian-Owned Economic Enterprises from the FAR.

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5. Ocean Transportation by U.S.-Flag Vessels

Effective Date: June 26, 2000

Applicability Date: The FAR coverage, as amended by this rule, is applicable to solicitations issued on or after June 26, 2000.

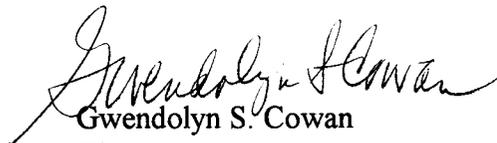
This final rule amends FAR 47.504 and the clauses at 52.212-5, 52.213-4, and 52.247-64 to apply the preference for U.S.-flag vessels to contracts awarded using simplified acquisition procedures. This rule only affects civilian agency contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954. The rule also adds Alternate I of 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, to the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items. Alternate I applies when the supplies furnished under the contract must be transported exclusively in privately owned U.S.-flag vessels.

6. Technical Amendments

Effective Date: April 25, 2000

These amendments update references and make editorial changes at sections 6.304, 31.101, 32.411, 32.502-4, 32.805, 42.1204, and 42-1205.

Any questions relating to the information in this Flash may be directed to Kevin Smith at kevin.m.smith@pr.doe.gov, or by telephone at 202-586-8189.


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Director

cc:
PPAG Members