

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

Why FAR 13.5

With an ongoing push to leveraging commercial technology, industries such as Space becoming more commercialized over time, and a desire to speed up procurements, we must use all the tools in our toolbox, including the FAR based contracting authorities. Specifically FAR 13.5 allows Simplified Acquisition (FAR 13) to procure commercial products/services up to \$7.5M

Competitive or Sole Source Considerations

- FAR 13.5 can be used in competitive or sole source acquisitions
- Documentation requirements are streamlined, decision making often relies on *contracting officer rationale*
- Market Research *should be documented* to make decisions such as:
 - Competition – open or set asides
 - Sole source
- Competition
 - Market research can dictate a down select of multiple offerors, which you can work directly with – without need for unrestricted (full & open) and/or set asides
 - For example: You can select ~3 offerors based on market research, receive proposals, and make an award
 - Do not need to identify relative importance of evaluation criteria
 - Selection debriefings – encouraged but at a reduced level of detail
- Sole Source
 - Need a justification for sole source but the robustness is reduced compared to a standard Justification and Approval (J&A)
 - Follow local policy; however, seen in practice is ~ 1 page or less of contracting officer rationale - justification to use the specific offeror; do not need to address things like duplication of cost, etc – approval authority likely the same
 - Use similar logic to FAR 6 – only ones who can perform or brand name, etc.

Pricing and Negotiation Considerations

- Only 2 determinations are needed by a Contracting Officer
 - Adequate price competition (if competitive)
 - Fair and reasonable price (satisfied if competitive)
- Expectation is all Firm Fixed Price
- No formal PNM/PCM required – document in summary document
- Avoid words that sound FAR 15ish – “Balance” “tradeoff” “realism”

Acquisition Planning

- FAR requires acquisition planning and local policy dictates beyond that
- Some organizations have a *Streamlined Acquisition Strategy/Planning Form* – a template, as opposed to a traditional 50-100 slide PowerPoint package or lengthy word doc

Solicitation Considerations

- Likely only need to post a notice of contract action (NOCA) as market research is driving the offeror base – upfront – unless an exception applies
 - NOCA itself is simply a brief summary of project, buying activity, competition - “minimizing competition for efficiency,” NAICS, SB set aside, PCO name/email
- May post solicitation as a set aside or unrestricted (Full & open). May use evaluation criteria to reduce the # of proposals e.g. Only look at the 3 lowest, if any are unacceptable – go to next offer

Oral presentations

- Encouraged! Offerors can provide an oral proposal instead of written proposal documentation
- Recorded video, live /virtual presentation
- Can include legal and tech team – whereas notes during presentation are the technical evaluation

Nontraditional Defense Contractors

- Defined in DFARS 212.102 may be treated as commercial; can be procured using FAR 13.5
- Does not need a Commercial Item Determination (CID), or meet commercial product/service definitions

The purpose of these simplified procedures is to vest contracting officers with additional procedural discretion and flexibility, so that commercial acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a streamlined and simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the Government and industry