

511.601

48 CFR Ch. 5 (10–1–10 Edition)

511.601 [Reserved]

511.602 General.

(a) The purpose of the DPAS is to assure the timely availability of industrial resources to meet current national defense, energy, and civil emergency preparedness program requirements and to provide an operating system to support rapid industrial response in a national emergency. The primary statutory authority for the DPAS is Title I of the Defense Production Act of 1950, as amended, with additional authority from the Selective Service Act of 1948 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Executive Orders 12919 and 12742 delegate to the DOC authority to administer the DPAS. Within the DOC, the Office of Strategic Industries and Economic Security (SIES) is assigned responsibility for DPAS implementation, administration, and compliance.

(b) The DPAS is published in the Code of Federal Regulations at 15 CFR part 700. This regulation provides an overview, a detailed explanation of operations and procedures, and other implementing guidance, including information on special priorities assistance and compliance.

(c) Orders placed under DPAS are “rated orders.” Rated orders must receive preferential treatment only as necessary to meet delivery requirements. Rated orders are identified by a rating symbol of either “DX” or “DO” followed by a program identification symbol. All “DO” rated orders have equal priority with each other and take preference over unrated orders. All “DX” rated orders have equal priority with each other and take preference over “DO” rated orders and unrated orders. A program identification symbol indicates which approved program is supported by the rated order.

(d) The authority delegated to GSA shall not be used to support the procurement of any items that—

(1) Are commonly available in commercial markets for general consumption;

(2) Do not require major modification when purchased for approved program use;

(3) Are readily available in sufficient quantity so as to cause no delay in meeting approved program requirements; or

(4) Are to be used primarily for administrative purposes (including Federal Supply Classification (FSC) classes, groups, or items), such as for personnel or financial management. The Commissioner, FAS, shall issue additional guidance, as may be necessary, to ensure effective implementation of its delegated DPAS authority.

[74 FR 66254, Dec. 15, 2009]

511.603 Procedures.

(a) A DPAS rating may be placed against an entire contract at time of award or an individual order issued under an existing, otherwise unrated, contract. FAR 11.604 requires contracting officers to insert the provision at 52.211–14, Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use, in solicitations when the contract or order to be awarded will be a rated order and to insert the clause at 52.211–15, Defense Priority and Allocation Requirements, in contracts that are rated orders.

(b) In addition to the FAR provision and clause referenced in paragraph (a) of this section, the contract or order must include the following (*see* 15 CFR 700.12):

(1) The appropriate priority rating symbol (*i.e.*, either “DO” or “DX”) along with the program identification symbol. When GSA contracting officers place DO rated orders, they must use program identification symbol “K1”. When placing a DX-rated order for other agencies, GSA contracting officers must use the requesting agency program identification symbol from the DoD Master Urgency List and may only do so when GSA is acting as the procuring agent for DoD or DoE and has received a “DX” rated contract or order from either department.

(2) A required delivery date. The words “as soon as possible” or “immediately” do not constitute a required delivery date. Use of either a specific date or a specified number of days ARO (after receipt of order) is acceptable.

(3) The written signature on a manually placed order, or the digital signature or name on an electronically placed order of an individual authorized to place rated orders.

(4) A statement that reads substantially as follows: “This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part 700)”.

(c) Multiple and Single Award Schedule contracts are not rated at time of award.

[74 FR 66254, Dec. 15, 2009]

PART 512—ACQUISITION OF COMMERCIAL ITEMS

AUTHORITY: 40 U.S.C. 486(c).

Subpart 512.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) *Solicitation provisions and clauses.* Insert these provisions or clauses in solicitations or solicitations and contracts, respectively, in accordance with the instructions provided:

(1) 552.212-71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items, when listed clauses apply. The clause provides for incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

(2) 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisitions of Commercial

Items, when listed clauses apply. The clause provides for the incorporation by reference of terms and conditions required to implement provisions of law or executive orders that apply to commercial item acquisitions.

(b) *Discretionary use of GSAR provisions and clauses.* Consistent with the limitations contained in FAR 12.302(c), include in solicitations and contracts by addendum other GSAR provisions and clauses.

(c) *Use of additional provisions and clauses.* The Senior Procurement Executive must approve the use of a provision or clause that is either not:

(1) Prescribed in the FAR or GSAR for use in contracts for commercial items.

(2) Consistent with customary commercial practice.

(d) In solicitations issued in conjunction with the policy and procedures in FAR part 14, Sealed Bidding; or FAR part 15, Contracting by Negotiation, include the two notices in paragraphs (d)(1) and (d)(2) of this section, except that acquisitions of leasehold interests in real property, must include only the notice in paragraph (d)(1) of this section.

(1) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(2) The General Services Administration's hours of operation are 8 a.m. to 4:30 p.m. Requests for preaward debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for postaward debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.

[75 FR 5242, Feb. 2, 2010]