

811.001

AUTHORITY: 40 U.S.C. 121(c) and 48 CFR 1.301-1.304.

SOURCE: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

811.001 Definitions.

For the purposes of this part:

Brand name product means a commercial product described by brand name and make or model number or other appropriate nomenclature by which the product is offered for sale to the public by the particular manufacturer, producer or distributor.

Salient characteristics means those particular characteristics that specifically describe the essential physical and functional features of the material or service required. They are features that are identified in the specifications as a mandatory requirement that a proposed "equal" product or material must possess for the bid to be considered responsive.

Subpart 811.1—Selecting and Developing Requirements Documents

811.103 Market acceptance.

811.103-70 Technical industry standards.

Where items are required to conform to technical industry standards, such as those adopted by: Underwriters Laboratories, Inc.; Factory Mutual Laboratories; American Gas Association; American Society of Mechanical Engineers; National Electrical Manufacturers Association; American Society of Heating, Refrigerating and Air-Conditioning Engineers; or similar organizations, where such standards are generally recognized and accepted in the industry involved, the invitation for bids, request for proposals or request for quotations will so state. In no instance, where there is a multiple choice of laboratories, shall the invitation for bid, request for proposal, or request for quotation indicate that the label or certificate of only one such laboratory is acceptable. The contracting officer shall include the provision at 852.211-72, Technical industry standards, in solicitations requiring conformance to technical industry

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standards unless comparable provisions are contained in the item specification.

811.104 Use of brand name or equal purchase descriptions.

811.104-70 Brand name or equal purchase descriptions.

(a) The specification writer may use purchase descriptions that contain references to one or more brand name products only in accordance with 811.104-71 through 811.104-75.

(b) Purchase descriptions that contain references to one or more brand name products must be followed by the words "or equal," except when the acquisition of a specific brand name is fully justified under FAR Subpart 6.3 and 806.3. If more than one brand name is acceptable, the contracting officer should list the known acceptable brand name products in the solicitation.

(c) Where a "brand name or equal" purchase description is used, the contracting officer must give bidders an opportunity to offer products other than those specifically referenced by brand name. Following bid opening or receipt of offers, the contracting officer must determine if non-"brand name" substitute products fully meet the salient characteristics listed in the solicitation.

(d) When using a "brand name or equal" purchase description, the specification writer must set forth those salient physical, functional, or other characteristics of the referenced products that are essential to the minimum needs of the Government. For example, when interchangeability of parts is required, the specification writer must specify this requirement. The purchase description must contain the following information to the extent available:

(1) Complete common generic identification of the item required.

(2) Applicable model, make, or catalog number for each brand name product referenced and identity of the commercial catalog in which it appears.

(3) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if not well known).

(4) Any other information necessary to describe the item required.