

Part 5 – Publicizing Contract Actions

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5.000 Scope of part.

This part prescribes the policies and procedures for publicizing contract opportunities and award information in the Governmentwide point of entry (GPE).

5.001 Definitions.

Contract action means an action resulting in a contract, including actions for additional supplies or services outside the existing contract scope. This does not include actions within the scope and terms of the existing contract, such as contract modifications issued under the Changes clause, or funding and other administrative changes.

Notice means a description of a business opportunity, contract action, or other information posted to the GPE.

Presolicitation notice means a notice used to notify industry and the public that the Government intends to release a solicitation in the near future.

5.002 Policy.

Contracting officers must post presolicitation notices, solicitations, and award notices in the GPE as described in this part to—

- (a) Increase competition;
- (b) Broaden industry participation in meeting Government requirements; and
- (c) Inform small business concerns of contract and subcontract opportunities.

Subpart 5.1 - Presolicitation

5.101 Presolicitation notice.

(a) *Requirement.* For proposed contract actions expected to be greater than \$20,000, post a presolicitation notice to the GPE unless an exemption in paragraph (b) applies.

(b) *Exemptions.* The contracting officer is not required to post a presolicitation notice to the GPE when—

(1) The proposed contract action—

(i) Is valued at or below the simplified acquisition threshold (SAT) and the solicitation will—

(A) Be posted to the GPE in accordance with 5.201; and

(B) Permit the public to respond to the solicitation electronically;

(ii) Is of such a nature that it is not possible to write the notice in a way that would prevent disclosure of an agency's needs and disclosure would compromise national security;

(iii) Would result from acceptance of—

(A) An unsolicited proposal that is unique and innovative, and sharing details would reveal confidential or proprietary information or original ideas; or

(B) A proposal under the Small Business Innovation Development Act of 1982 (Pub. L. 97-219);

(iv) Is an order issued under a requirements contract, a task order contract, or a delivery order contract;

(v) Is for perishable subsistence supplies;

(vi) Is for utility services (other than telecommunications) for which only one source is available; or

(vii) Is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in a trial, hearing, or proceeding before a court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify;

(2) Using other than full and open competition (see 6.103), except for the authorities at 6.103-1 (only one responsible source) and 6.103-6 (national security); or

(3) The head of the agency determines in writing, after consulting with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable.

(c) *Content.* Include the following information in each presolicitation notice sent to the GPE:

(1) *Point of contact.* Include the name, address, and contact information for the contracting officer.

(2) *Set-asides.* If applicable, identify whether the proposed contract action will be a total or partial small business set-aside (see part 19) or a local area set-aside (see part 26).

(3) *Codes for services or supplies.* Select the appropriate code(s) (i.e., product service code (PSC) and/or North American Industry Classification System (NAICS) code) to identify services or supplies to be procured.

(4) *Description.*

(i) Provide a clear and concise description of supplies or services that does not unnecessarily restrict competition and allows prospective offerors to make an informed business judgment about monitoring the GPE for or requesting a copy of the solicitation. For supplies, this description should include, as appropriate, any agency nomenclature, National Stock Number, or other part number and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information.

(ii) If a proposed contract action is estimated to be greater than \$25,000, but not greater than the SAT, or when using special simplified procedures to procure certain commercial products or commercial services (see part 12), include a description of the procedures for awarding the contract and the anticipated award date.

(iii) If one or more items under the acquisition is subject to the World Trade Organization Government Procurement Agreement (WTO GPA) and/or a Free Trade Agreement (FTA) (see Part 25) and the solicitation will include one of the following clauses, or an agency equivalent, include the required language regarding trade agreements:

Table 5-1 — Statements Regarding Trade Agreements

FAR Clause	Required Language
FAR 52.225-3, Buy American–Free Trade Agreements–Israeli Trade Act	“One or more of the items under this acquisition is subject to Free Trade Agreements.”
FAR 52.225-5, Trade Agreements	“One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements.”
FAR 52.225-11, Buy American–Construction Materials under Trade Agreements, or FAR 52.225-23, Required Use of American Iron, Steel, and Manufactured Goods–Buy American Statute–Construction Materials under Trade Agreements	“One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements.”

(iv) If technical data required to respond will not be furnished as part of the solicitation, identify where and how prospective offerors can obtain the data.

(v) If an award of a construction contract to a small business is anticipated, include information about definitization of equitable adjustments for change orders (see part 36).

(vi) Include a statement that all responsible sources may submit a quotation, bid, or proposal, as appropriate, which will be considered by the agency.

(vii) For noncompetitive contract actions (including those at or below the SAT), identify the intended source and explain why competition is lacking.

(viii) State whether an offeror or its product or service must meet a qualification requirement in order to be eligible for award; and if so, identify the office from which the qualification requirement may be obtained.

(d) *Timing*. When a presolicitation notice is required, post it to the GPE as follows:

Table 5-2 — Minimum Timeframes for Posting Presolicitation Notices

Acquisition Value	Description	Timing
>\$20,000 to ≤\$25,000*	Any acquisition	Must be posted for 10 days
>\$25K to ≤SAT*	Any acquisition	15 days before solicitation issuance
>SAT	Acquisition of commercial products or commercial services	Combined with the solicitation
	Noncommercial acquisitions	15 days before solicitation issuance

* Per 5.101(b)(1)(i), a presolicitation notice is not required if the solicitation will be posted in the GPE and allow for electronic submission of offers.

5.102 Paid advertisements.

In addition to posting in the GPE, agencies may place paid advertisements. Agencies that choose to advertise proposed contract actions in newspapers or other public media must follow 41 U.S.C. 3701-3703.

5.103 Special notices.

(a) Federally Funded Research and Development Centers (FFRDCs). For requirements relating to FFRDCs see part 35.

(b) Notices about consolidation, bundling, or substantial bundling. For required notices about consolidation or substantial bundling of contract requirements, see part 7.

Subpart 5.2 - Solicitation

5.201 Solicitation notice.

(a) *Requirements.* Unless an exemption at paragraph (b) applies, post the solicitation in the GPE.

(b) *Exemptions.* The contracting officer does not need to post the solicitation to the GPE if a presolicitation notice for the proposed contract action—

(1) Was not required based on an exemption at 5.101(b), except for 5.101(b)(1)(i); or

(2) Was posted to the GPE in lieu of posting a solicitation in the GPE (see 5.101(b)(1)(i)).

(c) *Content.* The solicitation notice posted to the GPE must include—

(1) The information required by 5.101(c);

(2) Specifications, technical data, and other pertinent information determined necessary by the contracting officer or instructions on how to access the information; and

(3) When an acquisition contains brand name specifications, the justification required by 6.104, redacted as necessary.

(d) *Timing.* Establish a date for receipt of quotations or offers that meets the minimum timeframes in the table below. See part 25 to determine whether an acquisition is subject to the WTO GPA or an FTA.

Table 5-3 — Minimum Timeframes for Receipt of Quotations or Offers.

Value	Description	Not subject to WTO GPA or FTA	Subject to WTO GPA or FTA, but included in annual forecast	Subject to WTO GPA or FTA, but not included in annual forecast
≥\$20K to ≤SAT	Any acquisition	None, allow a reasonable opportunity to respond	10 days from presolicitation notice or solicitation, as applicable	40 days from presolicitation notice or solicitation, as applicable
>SAT	Acquisition of commercial products or commercial services	None, allow a reasonable opportunity to respond	10 days from combined synopsis / solicitation	40 days from combined synopsis / solicitation
	Research and Development (R&D) acquisitions	45 days from presolicitation notice	N/A	N/A
	Orders under a Basic Ordering Agreement (BOA) or similar (non-R&D)	30 days from presolicitation notice	30 days from presolicitation notice (reducible to 10 days, if warranted)	40 days from presolicitation notice
	All other non-commercial acquisitions	30 days from solicitation	30 days from solicitation (reducible to 10 days, if warranted)	30 days from solicitation

5.202 Requests from small businesses.

Per 15 U.S.C. 637b, when a solicitation is not posted to the GPE, provide to small business concerns, upon request—

- (a) A copy of the solicitation and specifications;
- (b) The name and email address of the solicitation point of contact; and
- (c) Adequate citations to Federal laws and agency rules the small business must follow if awarded a contract.

Subpart 5.3 - Award

5.301 Award notice.

(a) *Requirement.* Except as provided in paragraph (b) of this section, post an award notice to the GPE for contract actions greater than \$25,000 that are—

- (1) Covered by the WTO GPA or FTA (see part 25); or
- (2) Likely to result in subcontract awards.

(b) *Exemptions.* An award notice is not required if an exemption at 5.101(b)(1) to the presolicitation notice requirements applied to the contract action.

(c) *Content.* The award notice must include the following information:

- (1) A description of the supplies or services.
- (2) Contracting office and address.
- (3) Contractor receiving the award.
- (4) Contract award dollar amount.
- (5) Contract award date.

(d) *Timing.* When an award notice is required, post it to the GPE within the following timeframes:

Table 5-4 — Minimum Timeframes for Posting Award Notices

Value	Description	Timing
>\$25K	Likely to result in subcontracting opportunities	As soon as possible after award to promote industry and small business participation
	Not likely to result in subcontracting opportunities, but subject to WTO GPA or FTA	Within 60 days of award

5.302 Public announcement.

(a) *Requirement.* Contracting officers must make information available on awards of contract actions over \$5.5 million in sufficient time for the agency concerned to publicly announce it by 5 p.m., Eastern Time (ET), on the day of award. Agencies shall not release information on awards before the public release time of 5 p.m., ET. This public announcement is a separate requirement from the award notice requirements of part 5.301.

(b) *Exemption.* Contract actions excluded from this requirement include those—

- (1) Placed with the Small Business Administration under Section 8(a) of the Small Business Act;
- (2) Placed with foreign firms when delivery or performance is outside the United States and its outlying areas; and
- (3) That were exempt from the presolicitation notice requirements at 5.101(b).

5.303 Notice of subcontracting opportunities.

(a) The following entities may post a notice of subcontracting opportunities to the GPE:

- (1) A contractor awarded a contract greater than the SAT that will likely result in subcontract awards.
- (2) A subcontractor or supplier, at any tier, under a contract greater than the SAT with a subcontracting opportunity greater than \$20,000.

(b) The notice must include—

- (1) The business opportunity information described at 5.101(c)(4)(i), (iv), and (v); and
- (2) The due date for receipt of offers.