

## Federal Acquisition Regulation

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the same rate as the advertising agency. If the advertising agency agrees to place advertisements in noncommission-paying media as a no-cost service, the basic ordering agreement shall so provide. If the advertising agency will not agree to place advertisements at no cost, the agreement shall—

(1) Provide that the Government may place orders directly with the media; or

(2) Specify an amount that the Government will pay if the agency places the orders.

(d) *Art work, supplies, and incidentals.* The basic ordering agreement also may provide for the furnishing by the advertising agency of art work, supplies, and incidentals, including brochures and pamphlets, but not their printing. *Incidentals* may include telephone calls, and postage incurred by the advertising agency on behalf of the Government.

[48 FR 42119, Sept. 19, 1983, as amended at 81 FR 83098, Nov. 18, 2016; 84 FR 19841, May 6, 2019]

### Subpart 5.6—Publicizing Multi-Agency Use Contracts

SOURCE: 68 FR 43862, July 24, 2003, unless otherwise noted.

#### 5.601 Governmentwide database of contracts.

(a) A Governmentwide database of contracts and other procurement instruments intended for use by multiple agencies is available via the Internet at <https://www.contractdirectory.gov/contractdirectory/>. This searchable database is a tool that may be used to identify existing contracts and other procurement instruments that may be used to fulfill Government needs.

(b) The contracting activity shall—

(1) Enter the information specified at <https://www.contractdirectory.gov/contractdirectory/>, in accordance with the instructions on that website, within ten days of award of a Governmentwide acquisition contract (GWAC), multi-agency contract, Federal Supply Schedule contract, or any other procurement instrument intended for use by multiple agencies, including blanket purchase agreements (BPAs) under Federal Supply Schedule contracts.

(2) Enter the information specified at <https://www.contractdirectory.gov/contractdirectory/> in accordance with the instructions on that website by October 31, 2003, for all contracts and other procurement instruments intended for use by multiple agencies that were awarded before July 24, 2003.

[48 FR 42119, Sept. 19, 1983, as amended at 75 FR 77745, Dec. 13, 2010; 78 FR 13768, Feb. 28, 2013; 84 FR 19841, May 6, 2019]

### Subpart 5.7—Publicizing Requirements under the American Recovery and Reinvestment Act of 2009

SOURCE: 74 FR 14638, Mar. 31, 2009, unless otherwise noted.

#### 5.701 Scope.

This subpart prescribes posting requirements for presolicitation and award notices for actions funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act). The requirements of this subpart enhance transparency to the public.

#### 5.702 Applicability.

This subpart applies to all actions expected to exceed \$25,000 funded in whole or in part by the Recovery Act. Unlike subparts 5.2 and 5.3, this subpart includes additional requirements for orders and for actions that are not both fixed-price and competitive.

#### 5.703 Definition.

As used in this subpart—

*Task or delivery order contract* means a “delivery order contract,” and a “task order contract,” as defined in 16.501-1. For example, it includes Governmentwide Acquisition Contracts (GWACs), multi-agency contracts (MACs), and other indefinite-delivery/indefinite-quantity contracts, whether single award or multiple award. It also includes Federal Supply Schedule contracts (including Blanket Purchase Agreements under Subpart 8.4).

#### 5.704 Publicizing preaward.

(a)(1) Follow the publication procedures at 5.201.

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(2) In addition, notices of proposed contract actions are required for orders exceeding \$25,000, funded in whole or in part by the Recovery Act, which are issued under task or delivery order contracts. This does not include modifications to existing orders, but these modifications are covered postaward, see 5.705. These notices are for “informational purposes only,” therefore, 5.203 does not apply. Contracting officers should concurrently use their usual solicitation practice (*e.g.*, e-Buy).

(b) Contracting officers shall identify proposed contract actions, funded in whole or in part by the Recovery Act, by using the following instructions which are also available in the Recovery FAQs under “Buyers/Engineers” at the Governmentwide Point of Entry (GPE) (<https://www.fbo.gov>):

(1) If submitting notices electronically via ftp or email, enter the word “Recovery” as the first word in the title field.

(2) If using the GPE directly, select the “yes” radio button for the “Is this a Recovery and Reinvestment Act action” field on the “Notice Details” form (Step 2) located below the “NAICS Code” field. In addition, enter the word “Recovery” as the first word in the title field.

(c) In preparing the description required by 5.207(a)(16), use clear and concise language to describe the planned procurement. Use descriptions of the goods and services (including construction), that can be understood by the general public. Avoid the use of acronyms or terminology that is not widely understood by the general public.

[74 FR 14638, Mar. 31, 2009, as amended at 75 FR 34272, June 16, 2010; 83 FR 42572, Aug. 22, 2018]

**5.705 Publicizing postaward.**

Follow usual publication procedures at 5.301, except that the following supersede the exceptions at 5.301(b)(2) through (7):

(a)(1) Publicize the award notice for any action exceeding \$500,000, funded in whole or in part by the Recovery Act, including—

- (i) Contracts;
- (ii) Modifications to existing contracts;

(iii) Orders which are issued under task or delivery order contracts; and

(iv) Modifications to orders under task or delivery order contracts.

(2) Contracting officers shall identify contract actions, funded in whole or in part by the Recovery Act, by using the following instructions which are also available in the Recovery FAQs under “Buyers/Engineers” at the Governmentwide Point of Entry (GPE) (<https://www.fbo.gov>):

(i) If submitting notices electronically via ftp or email, enter the word “Recovery” as the first word in the title field.

(ii) If using the GPE directly, select the “yes” radio button for the “Is this a Recovery and Reinvestment Act action” field on the “Notice Details” form (Step 2) located below the “NAICS Code” field. In addition, enter the word “Recovery” as the first word in the title field.

(3) In preparing the description required by 5.207(a)(16), use clear and concise language to describe the planned procurement. Use descriptions of the goods and services (including construction), that can be understood by the general public. Avoid the use of acronyms or terminology that is not widely understood by the general public.

(b) Regardless of dollar value, if the contract action, including all modifications and orders under task or delivery order contracts, is not both fixed-price and competitively awarded, publicize the award notice and include in the description the rationale for using other than a fixed-priced and/or competitive approach. Include in the description a statement specifically noting if the contract action was not awarded competitively, or was not fixed-price, or was neither competitive nor fixed-price. These notices and the rationale will be available to the public at the GPE, so do not include any proprietary information or information that would compromise national security. The following table provides examples for when a rationale is required.

POSTING OF RATIONALE—EXAMPLES

Description of contract action	Rationale required
(1) A contract is competitively awarded and is fixed-price..	Not required.

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**POSTING OF RATIONALE—EXAMPLES—  
Continued**

Description of contract action	Rationale required
(2) A contract is awarded that is not fixed-price..	Required.
(3) A contract is awarded without competition..	Required.
(4) An order is issued under a new or existing single award IDIQ contract..	Required if order is made under a contract described in paragraph (b)(2) or (3) or this section.
(5) An order is issued under a new or existing multiple award IDIQ contract..	Required if one or both of the following conditions exist: (i) The order is not fixed-price. (ii) The order is awarded pursuant to an exception to the competition requirements applicable to the underlying vehicle (e.g., award is made pursuant to an exception to the fair opportunity process).
(6) A modification is issued. ...	Required if modification is made— (i) To a contract described in paragraph (b)(2) or (3) of this section; or (ii) To an order requiring posting as described in paragraph (b)(4) or (5) of this section.
(7) A contract or order is awarded pursuant to a small business contracting authority (e.g., SBA's section 8(a) program)..	Required if one or both of the following conditions exist: (i) The contract or order is not fixed-price; (ii) The contract or order was not awarded using competition (e.g., a non-competitive 8(a) award).

(c) Contracting officers shall use the instructions available in the Recovery FAQs under “Buyers/Engineers” at the GPE (<https://www.fbo.gov>) to identify actions funded in whole or in part by the Recovery Act.

[74 FR 14638, Mar. 31, 2009, as amended at 74 FR 22810, May 14, 2009; 75 FR 34273, June 16, 2010; 76 FR 14552, Mar. 16, 2011; 83 FR 42572, Aug. 22, 2018; 84 FR 19841, May 6, 2019]

**PART 6—COMPETITION REQUIREMENTS**

- Sec.
- 6.000 Scope of part.
- 6.001 Applicability.
- 6.002 Limitations.
- 6.003 [Reserved]

**Subpart 6.1—Full and Open Competition**

- 6.100 Scope of subpart.
- 6.101 Policy.
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**Subpart 6.2—Full and Open Competition After Exclusion of Sources**

- 6.200 Scope of subpart.
- 6.201 Policy.
- 6.202 Establishing or maintaining alternative sources.
- 6.203 Set-asides for small business concerns.
- 6.204 Section 8(a) competition.
- 6.205 Set-asides for HUBZone small business concerns.
- 6.206 Set-asides for service-disabled veteran-owned small business concerns.
- 6.207 Set-asides for economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the WOSB Program.
- 6.208 Set-asides for local firms during a major disaster or emergency.

**Subpart 6.3—Other Than Full and Open Competition**

- 6.300 Scope of subpart.
- 6.301 Policy.
- 6.302 Circumstances permitting other than full and open competition.
- 6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.
- 6.302-2 Unusual and compelling urgency.
- 6.302-3 Industrial mobilization; engineering, developmental, or research capability; or expert services.
- 6.302-4 International agreement.
- 6.302-5 Authorized or required by statute.
- 6.302-6 National security.
- 6.302-7 Public interest.
- 6.303 Justifications.
- 6.303-1 Requirements.
- 6.303-2 Content.
- 6.304 Approval of the justification.
- 6.305 Availability of the justification.

**Subpart 6.4—Sealed Bidding and Competitive Proposals**

- 6.401 Sealed bidding and competitive proposals.

**Subpart 6.5—Advocates for Competition**

- 6.501 Requirement.
  - 6.502 Duties and responsibilities.
- AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.
- SOURCE: 50 FR 1729, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985, unless otherwise noted.

**6.000 Scope of part.**

This part prescribes policies and procedures to promote full and open competition in the acquisition process and