## **Subpart 5.1 - Dissemination of Information**

Parent topic: Part 5 - Publicizing Contract Actions

## 5.101 Methods of disseminating information.

- (a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal *Procurement* Policy Act (41 U.S.C. 1708), contracting officers must disseminate information on proposed contract actions as follows:
- (1) For proposed *contract actions* expected to exceed \$25,000, by synopsizing in the GPE (see 5.201).
- (2) For proposed *contract actions* expected to exceed \$20,000, but not expected to exceed \$25,000, by displaying in a public place, or by any appropriate electronic means, an unclassified notice of the *solicitation* or a copy of the *solicitation* satisfying the requirements of 5.207(c). The notice *must* include a statement that all responsible sources *may* submit a response which, if timely received, *must* be considered by the agency. The information *must* be posted not later than the date the *solicitation* is issued, and *must* remain posted for at least 10 days or until after quotations have been opened, whichever is later.
- (i) If *solicitations* are posted instead of a notice, the *contracting officer may* employ various methods of satisfying the requirements of 5.207(c). For example, the *contracting officer may* meet the requirements of 5.207(c) by stamping the *solicitation*, by a cover sheet to the *solicitation*, or by placing a general statement in the display room.
- (ii) The *contracting officer* need not comply with the display requirements of this section when the exemptions at 5.202(a)(1), (a)(4) through (a)(9), or (a)(11) apply, when oral *solicitations* are used, or when providing access to a notice of proposed *contract action* and *solicitation* through the GPE and the notice permits the public to respond to the *solicitation* electronically.
- (iii) *Contracting officers may* use electronic posting of requirements in a place accessible by the general public at the Government installation to satisfy the public display requirement. *Contracting offices* using electronic systems for public posting that are not accessible outside the installation *must* periodically publicize the methods for accessing the information.
- (b) In addition, one or more of the following methods *may* be used:
- (1) Preparing periodic handouts listing proposed contracts, and displaying them as in 5.101(a)(2).
- (2) Assisting local trade associations in disseminating information to their members.
- (3) Making brief announcements of proposed contracts to newspapers, trade journals, magazines, or other mass communication media for publication without cost to the Government.
- (4) Placing paid advertisements in newspapers or other communications media, subject to the following limitations:
- (i) Contracting officers shall place paid advertisements of proposed contracts only when it is anticipated that effective competition cannot be obtained otherwise (see 5.205(d)).

- (ii) Contracting officers shall not place advertisements of proposed contracts in a newspaper published and printed in the District of Columbia unless the *supplies* or services will be furnished, or the labor performed, in the District of Columbia or adjoining counties in Maryland or Virginia (44 U.S.C. 3701).
- (iii) Advertisements published in newspapers must be under proper written authority in accordance with 44 U.S.C.3702 (see 5.502(a)).

## 5.102 Availability of solicitations.

(a)

- (1) Except as provided in paragraph (a)(5) of this section, the *contracting officer must* make available through the GPE *solicitations* synopsized through the GPE, including specifications, *technical data*, and other pertinent information determined necessary by the *contracting officer*. Transmissions to the GPE *must* be in accordance with the interface description available via the Internet at <a href="https://www.sam.gov">https://www.sam.gov</a>.
- (2) The *contracting officer* is encouraged, when practicable and cost-effective, to make accessible through the GPE additional information related to a *solicitation*.
- (3) The *contracting officer must* ensure that *solicitations* transmitted using *electronic commerce* are forwarded to the GPE to satisfy the requirements of paragraph (a)(1) of this section.
- (4) When an agency determines that a *solicitation* contains information that requires additional controls to monitor access and distribution (*e.g.*, *technical data*, specifications, maps, building designs, schedules, etc.), the information *shall* be made available through the enhanced controls of the GPE, unless an exception in paragraph (a)(5) of this section applies. The GPE meets the synopsis and advertising requirements of this part.
- (5) The *contracting officer* need not make a *solicitation* available through the GPE as required in paragraph (a)(4) of this section, when-
- (i) Disclosure would compromise the national security (*e.g.*, would result in disclosure of *classified information*, or information subject to export controls) or create other security risks. The fact that access to classified matter *may* be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception;
- (ii) The nature of the file (e.g., size, format) does not make it cost-effective or practicable for *contracting officers* to provide access to the *solicitation* through the GPE; or
- (iii) The agency's *senior procurement executive* makes a written determination that access through the GPE is not in the Government's interest.
- (6) When an *acquisition* contains brand name specifications, the *contracting officer shall* include with the *solicitation* the justification or documentation required by 6.302-1(c), 13.106-1(b), or 13.501, redacted as necessary (see 6.305).
- (b) When the *contracting officer* does not make a *solicitation* available through the GPE pursuant to paragraph (a)(5) of this section, the *contracting officer*-

- (1) Should employ other electronic means (e.g., CD-ROM or electronic mail) whenever practicable and cost- effective. When solicitations are provided electronically on physical media (e.g., disks) or in paper form, the contracting officer must-
- (i) Maintain a reasonable number of copies of *solicitations*, including specifications and other pertinent information determined necessary by the *contracting officer* (upon request, potential sources not initially solicited *should* be mailed or provided copies of *solicitations*, if available);
- (ii) Provide copies on a "first-come-first-served" basis, for pickup at the *contracting office*, to publishers, trade associations, information services, and other members of the public having a legitimate interest (for *construction*, see <u>36.211</u>); and
- (iii) Retain a copy of the *solicitation* and other documents for review by and duplication for those requesting copies after the initial number of copies is exhausted; and
- (2) May require payment of a fee, not exceeding the actual cost of duplication, for a copy of the solicitation document.
- (c) In addition to the methods of disseminating proposed contract information in  $\underline{5.101}$ (a) and (b), provide, upon request to small business concerns, as required by  $\underline{15}$  U.S.C.  $\underline{637}$ (b)-
- (1) A copy of the *solicitation* and specifications. In the case of *solicitations* disseminated by *electronic data interchange, solicitations may* be furnished directly to the electronic address of the small business concern;
- (2) The name and telephone number of an employee of the *contracting office* who will answer questions on the *solicitation*; and
- (3) Adequate citations to each applicable major Federal law or agency rule with which small business concerns *must* comply in performing the contract.
- (d) When *electronic commerce* (see <u>subpart 4.5</u>) is used in the *solicitation* process, availability of the *solicitation may* be limited to the electronic medium.
- (e) Provide copies of a *solicitation* issued under other than *full and open competition* to firms requesting copies that were not initially solicited, but only after advising the requester of the determination to limit the *solicitation* to a specified firm or firms as authorized under part 6.
- (f) This section 5.102 applies to *classified contracts* to the extent consistent with agency security requirements (see 5.202(a)(1)).