

# Subpart 5.4 - Release of Information

**Parent topic:** [Part 5 - Publicizing Contract Actions](#)

## 5.401 General.

(a) A high level of business security *must* be maintained in order to preserve the integrity of the *acquisition* process. When it is necessary to obtain information from potential contractors and others outside the Government for use in preparing Government estimates, *contracting officers shall* ensure that the information is not publicized or discussed with potential contractors.

(b) *Contracting officers may* make available maximum information to the public, except information-

(1) On plans that would provide undue or discriminatory advantage to private or personal interests;

(2) Received in confidence from an *offeror*;

(3) Otherwise requiring protection under Freedom of Information Act (see [subpart 24.2](#)) or Privacy Act (see [subpart 24.1](#)); or

(4) Pertaining to internal agency communications (*e.g.*, technical reviews, *contracting* authority or other reasons, or recommendations referring thereto).

(c) This policy applies to all Government personnel who participate directly or indirectly in any stage of the *acquisition* cycle.

## 5.402 General public.

*Contracting officers shall* process requests for specific information from the general public, including suppliers, in accordance with [subpart 24.1](#) or [24.2](#), as appropriate.

## 5.403 Requests from Members of Congress.

*Contracting officers shall* give Members of Congress, upon their request, detailed information regarding any particular contract. When responsiveness would result in disclosure of classified matter, business confidential information, or information prejudicial to competitive *acquisition*, the *contracting officer shall* refer the proposed reply, with full documentation, to the *agency head* and inform the legislative liaison office of the action.

## 5.404 Release of long-range acquisition estimates.

To assist industry planning and to locate additional sources of supply, it *may* be desirable to publicize estimates of unclassified long-range *acquisition* requirements. Estimates *may* be publicized as far in advance as possible.

## **5.404-1 Release procedures.**

(a) *Application.* The *agency head*, or a designee, *may* release long-range *acquisition* estimates if the information will-

- (1) Assist industry in its planning and facilitate meeting the *acquisition* requirements;
- (2) Not encourage undesirable practices (*e.g.*, attempts to corner the market or hoard industrial materials); and
- (3) Not indicate the existing or potential mobilization of the industry as a whole.

(b) *Conditions.* The *agency head* shall ensure that-

- (1) *Classified information* is released through existing security channels in accordance with agency security regulations;
- (2) The information is publicized as widely as practicable to all parties simultaneously by any of the means described in this part;
- (3) Each release states that-
  - (i) The estimate is based on the best information available;
  - (ii) The information is subject to modification and is in no way binding on the Government; and
  - (iii) More specific information relating to any individual item or class of items will not be furnished until the proposed action is synopsized through the GPE or the *solicitation* is issued;
- (4) Each release contains the name and address of the *contracting officer* that will process the *acquisition*;
- (5) Modifications to the original release are publicized as soon as possible, in the same manner as the original; and
- (6) Each release-
  - (i) Is coordinated in advance with small business, public information, and public relations personnel, as appropriate;
  - (ii) Contains, if applicable, a statement that small business set-asides *may* be involved, but that a determination can be made only when *acquisition* action is initiated; and
  - (iii) Contains the name or description of the item, and the estimated quantity to be acquired by calendar quarter, fiscal year, or other period. It *may* also contain such additional information as the number of units last acquired, the unit price, and the name of the last supplier.

## **5.404-2 Announcements of long-range acquisition estimates.**

Further publicizing, consistent with the needs of the individual case, *may* be accomplished by announcing through the GPE that long-range *acquisition* estimates have been published and are

obtainable, upon request, from the *contracting officer*.

## **5.405 Exchange of acquisition information.**

(a) When the same item or class of items is being acquired by more than one agency, or by more than one *contracting activity* within an agency, the exchange and coordination of pertinent information, particularly cost and *pricing* data, between these agencies or *contracting activities* is necessary to promote uniformity of treatment of major issues and the resolution of particularly difficult or controversial issues. The exchange and coordination of information is particularly beneficial during the period of *acquisition planning*, presolicitation, evaluation, and pre-award survey.

(b) When substantial *acquisitions* of major items are involved or when the *contracting activity* deems it desirable, the *contracting activity shall* request appropriate information (on both the end item and on major subcontracted *components*) from other agencies or *contracting activities* responsible for acquiring similar items. Each agency or *contracting activity* receiving such a request *shall* furnish the information requested. The *contracting officer*, early in a negotiation of a contract, or in connection with the review of a subcontract, *shall* request the contractor to furnish information as to the contractor's or subcontractor's previous Government contracts and subcontracts for the same or similar end items and major subcontractor *components*.

## **5.406 Public disclosure of justification documents for certain contract actions.**

(a) Justifications and approvals for other than *full and open competition* must be posted in accordance with [6.305](#).

(b) Limited-source justifications (excluding brand name) for FSS orders or blanket purchase agreements with an estimated value greater than the *simplified acquisition threshold* must be posted in accordance with [8.405-6\(a\)\(2\)](#).

(c) Justifications for task or *delivery orders* greater than the *simplified acquisition threshold* and awarded without providing for fair opportunity must be posted in accordance with [16.505\(b\)\(2\)\(ii\)\(D\)](#).