

Department of Transportation

1211.204-70

in all solicitations for negotiated acquisitions, when simplified acquisitions procedures in (FAR) 48 CFR Part 13, are not used and when the contracting officer believes the conditions enumerated in (FAR) 48 CFR 9.507-2 warrant inclusion.

[61 FR 50249, Sept. 25, 1996]

**PART 1210—MARKET RESEARCH
[RESERVED]**

**PART 1211—DESCRIBING AGENCY
NEEDS**

Sec.

**Subpart 1211.1—Selecting and Developing
Requirements Documents**

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1211.104-70 Offer evaluation and award, brand name or equal descriptions.

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1211.204-70 Solicitation provisions and contract clauses.

1211.204-90 Solicitation provision and contract clause (USCG).

Subpart 1211.6—Priorities and Allocations

1211.602 General.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 61 FR 50249, Sept. 25, 1996, unless otherwise noted.

**Subpart 1211.1—Selecting and
Developing Requirements
Documents**

SOURCE: 62 FR 26420, May 14, 1997, unless otherwise noted.

1211.104 Items peculiar to one manufacturer.

1211.104-70 Offer evaluation and award, brand name or equal descriptions.

(a) An offer may not be rejected for failure of the offered product to equal a characteristic of a brand name product if it was not specified in the brand name or equal description. However, if it is clearly established that the un-

specified characteristic is essential to the intended end use, the solicitation may be defective and need to be amended or the requirement resolicited.

(b) The contracting officer shall insert in the solicitation an entry substantially as follows for completion by the offeror in the item listing after each item or component part of an end item to which a brand name or equal purchase description applies:

Offering on:

Manufacturer's Name:

Brand:

No:

(c) Except when bid samples are requested for brand name or equal procurements, the following note shall be inserted in the item listing after each brand name or equal item (or component part), or at the bottom of each page, listing several such items, or in a manner that may otherwise direct the offeror's attention to this note:

Offerors offering other than brand name items identified herein should furnish with their offers adequate information to ensure that a determination can be made as to the equality of the product(s) offered (see the provision at (TAR) 48 CFR 1252.211-70, Brand Name or Equal).

**Subpart 1211.2—Using and Main-
taining Requirements Docu-
ments**

1211.204-70 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at (TAR) 48 CFR 1252.211-70, Brand Name or Equal, in solicitations using a brand name or equal purchase description whenever practicable.

(b) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.211.71, Index for Specifications, when an index or table of contents may be furnished with the specification.

[62 FR 26420, May 14, 1997]