

### 13.002

appropriation, from an agency finance or disbursing officer to a duly appointed cashier, for disbursement as needed from time to time in making payment in cash for relatively small amounts.

*Third party draft* means an agency bank draft, similar to a check, that is used to acquire and to pay for supplies and services. (See Treasury Financial Management Manual, Section 3040.70.)

[62 FR 64917, Dec. 9, 1997 as amended at 66 FR 2128, Jan. 10, 2001]

#### 13.002 Purpose.

The purpose of this part is to prescribe simplified acquisition procedures in order to—

- (a) Reduce administrative costs;
- (b) Improve opportunities for small, small disadvantaged, and women-owned small business concerns to obtain a fair proportion of Government contracts;
- (c) Promote efficiency and economy in contracting; and
- (d) Avoid unnecessary burdens for agencies and contractors.

#### 13.003 Policy.

(a) Agencies shall use simplified acquisition procedures to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases at or below the micro-purchase threshold). This policy does not apply if an agency can meet its requirement using—

(1) Required sources of supply under part 8 (e.g., Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts);

(2) Existing indefinite delivery/indefinite quantity contracts; or

(3) Other established contracts.

(b)(1) Each acquisition of supplies or services that has an anticipated dollar value exceeding \$2,500 (\$7,500 for acquisitions as described in 13.201(g)(1)(i) and \$15,000 for acquisitions as described in 13.201(g)(1)(ii)) and not exceeding \$100,000 (\$200,000 for acquisitions described in paragraph (2)(i) of the Simplified Acquisition Threshold definition at 2.101) is reserved exclusively for small business concerns and shall be

### 48 CFR Ch. 1 (10–1–03 Edition)

set aside (see 19.000 and subpart 19.5). See 19.502–2 for exceptions.

(2) The contracting officer may set aside for HUBZone small business concerns (see 19.1305) an acquisition of supplies or services that has an anticipated dollar value exceeding the micro-purchase threshold and not exceeding the simplified acquisition threshold. The contracting officer's decision not to set aside an acquisition for HUBZone participation below the simplified acquisition threshold is not subject to review under subpart 19.4.

(3) Each written solicitation under a set-aside shall contain the appropriate provisions prescribed by part 19. If the solicitation is oral, however, information substantially identical to that in the provision shall be given to potential quoters.

(c) The contracting officer shall not use simplified acquisition procedures to acquire supplies and services if the anticipated award will exceed the simplified acquisition threshold (or \$5,000,000, including options, for acquisitions of commercial items using Subpart 13.5). Do not break down requirements aggregating more than the simplified acquisition threshold (or for commercial items, the threshold in subpart 13.5) or the micro-purchase threshold into several purchases that are less than the applicable threshold merely to—

(1) Permit use of simplified acquisition procedures; or

(2) Avoid any requirement that applies to purchases exceeding the micro-purchase threshold.

(d) An agency that has specific statutory authority to acquire personal services (see 37.104) may use simplified acquisition procedures to acquire those services.

(e) Agencies shall use the Governmentwide commercial purchase card and electronic purchasing techniques to the maximum extent practicable in conducting simplified acquisitions.

(f) Agencies shall maximize the use of electronic commerce when practicable and cost-effective (see Subpart 4.5). Drawings and lengthy specifications can be provided off-line in hard copy or through other appropriate means.

## Federal Acquisition Regulation

13.005

(g) Authorized individuals shall make purchases in the simplified manner that is most suitable, efficient, and economical based on the circumstances of each acquisition. For acquisitions not expected to exceed—

(1) The simplified acquisition threshold for other than commercial items, use any appropriate combination of the procedures in parts 13, 14, 15, 35, or 36, including the use of Standard Form 1442, Solicitation, Offer, and Award (Construction, Alteration, or Repair), for construction contracts (see 36.701(b)); or

(2) \$5 million for commercial items, use any appropriate combination of the procedures in parts 12, 13, 14, and 15 (see paragraph (d) of this section).

(h) In addition to other considerations, contracting officers shall—

(1) Promote competition to the maximum extent practicable (see 13.104);

(2) Establish deadlines for the submission of responses to solicitations that afford suppliers a reasonable opportunity to respond (see 5.203);

(3) Consider all quotations or offers that are timely received. For evaluation of quotations or offers received electronically, see 13.106-2(b)(3); and

(4) Use innovative approaches, to the maximum extent practicable, in awarding contracts using simplified acquisition procedures.

[62 FR 64917, Dec. 9, 1997, as amended at 63 FR 58593, Oct. 30, 1998; 63 FR 70267, Dec. 18, 1998; 67 FR 56121, Aug. 30, 2002; 68 FR 4050, Jan. 27, 2003]

### 13.004 Legal effect of quotations.

(a) A quotation is not an offer and, consequently, cannot be accepted by the Government to form a binding contract. Therefore, issuance by the Government of an order in response to a supplier's quotation does not establish a contract. The order is an offer by the Government to the supplier to buy certain supplies or services upon specified terms and conditions. A contract is established when the supplier accepts the offer.

(b) When appropriate, the contracting officer may ask the supplier to indicate acceptance of an order by notification to the Government, preferably in writing, as defined at 2.101. In other circumstances, the supplier may

indicate acceptance by furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

(c) If the Government issues an order resulting from a quotation, the Government may (by written notice to the supplier, at any time before acceptance occurs) withdraw, amend, or cancel its offer. (See 13.302-4 for procedures on termination or cancellation of purchase orders.)

### 13.005 Federal Acquisition Streamlining Act of 1994 list of inapplicable laws.

(a) The following laws are inapplicable to all contracts and subcontracts (if otherwise applicable to subcontracts) at or below the simplified acquisition threshold:

(1) 41 U.S.C. 57 (a) and (b) (Anti-Kickback Act of 1986). (Only the requirement for the incorporation of the contractor procedures for the prevention and detection of violations, and the contractual requirement for contractor cooperation in investigations are inapplicable.)

(2) 40 U.S.C. 270a (Miller Act). (Although the Miller Act does not apply to contracts at or below the simplified acquisition threshold, alternative forms of payment protection for suppliers of labor and material (see 28.102) are still required if the contract exceeds \$25,000.)

(3) 40 U.S.C. 327-333 (Contract Work Hours and Safety Standards Act—Overtime Compensation).

(4) 41 U.S.C. 701(a)(1) (Section 5152 of the Drug-Free Workplace Act of 1988), except for individuals.

(5) 42 U.S.C. 6962 (Solid Waste Disposal Act). (The requirement to provide an estimate of recovered material utilized in contract performance does not apply unless the contract value exceeds \$100,000.)

(6) 10 U.S.C. 2306(b) and 41 U.S.C. 254(a) (Contract Clause Regarding Contingent Fees).

(7) 10 U.S.C. 2313 and 41 U.S.C. 254(c) (Authority to Examine Books and Records of Contractors).