

to classified information, a requirement for security safeguards in addition to those provided in the clause (52.204-2, Security Requirements).

(c) *Award phase.* Contracting officers shall inform contractors and subcontractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and components of the classified contract as follows:

(1) Agencies covered by the NISP shall use the Contract Security Classification Specification, DD Form 254. The contracting officer, or authorized representative, is the approving official for the form and shall ensure that it is prepared and distributed in accordance with the ISR.

(2) Contracting officers in agencies not covered by the NISP shall follow agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996]

#### 4.404 Contract clause.

(a) The contracting officer shall insert the clause at 52.204-2, Security Requirements, in solicitations and contracts when the contract may require access to classified information, unless the conditions specified in paragraph (d) below apply.

(b) If a cost contract (see 16.302) for research and development with an educational institution is contemplated, the contracting officer shall use the clause with its Alternate I.

(c) If a construction or architect-engineer contract where employee identification is required for security reasons is contemplated, the contracting officer shall use the clause with its Alternate II.

(d) If the contracting agency is not covered by the NISP and has prescribed a clause and alternates that are substantially the same as those at 52.204-2, the contracting officer shall use the agency-prescribed clause as required by agency procedures.

[48 FR 42113, Sept. 19, 1983, as amended at 61 FR 31617, June 20, 1996]

### Subpart 4.5—Electronic Commerce in Contracting

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 63 FR 58592, Oct. 30, 1998, unless otherwise noted.

#### 4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of electronic commerce in Federal acquisition as required by Section 30 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 426).

#### 4.501 [Reserved]

#### 4.502 Policy.

(a) The Federal Government shall use electronic commerce whenever practicable or cost-effective. The use of terms commonly associated with paper transactions (e.g., "copy," "document," "page," "printed," "sealed envelope," and "stamped") shall not be interpreted to restrict the use of electronic commerce. Contracting officers may supplement electronic transactions by using other media to meet the requirements of any contract action governed by the FAR (e.g., transmit hard copy of drawings).

(b) Agencies may exercise broad discretion in selecting the hardware and software that will be used in conducting electronic commerce. However, as required by Section 30 of the OFPP Act (41 U.S.C. 426), the head of each agency, after consulting with the Administrator of OFPP, shall ensure that systems, technologies, procedures, and processes used by the agency to conduct electronic commerce—

(1) Are implemented uniformly throughout the agency, to the maximum extent practicable;

(2) Are implemented only after considering the full or partial use of existing infrastructures, (e.g., the Federal Acquisition Computer Network (FACNET));

(3) Facilitate access to Government acquisition opportunities by small business concerns, small disadvantaged business concerns, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business concerns;

(4) Include a single means of providing widespread public notice of acquisition opportunities through the Governmentwide point of entry and a means of responding to notices or solicitations electronically; and

(5) Comply with nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information, such as standards established by the National Institute of Standards and Technology.

(c) Before using electronic commerce, the agency head shall ensure that the agency systems are capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information.

(d) Agencies may accept electronic signatures and records in connection with Government contracts.

[63 R 58592, Oct. 30, 1998, as amended at 66 FR 27409, May 16, 2001; 68 FR 28094, May 22, 2003; 70 FR 14954, Mar. 23, 2005]

### Subpart 4.6—Contract Reporting

#### 4.600 Scope of subpart.

This subpart prescribes uniform reporting requirements for the Federal Procurement Data System (FPDS).

#### 4.601 Record requirements.

(a) Each executive agency shall establish and maintain for a period of 5 years a computer file, by fiscal year, containing unclassified records of all procurements exceeding \$3,000. This file shall be accessible to the public using FPDS-NG.

(b) With respect to each procurement carried out using competitive procedures, agencies shall be able to access from the computer file, as a minimum, the following information:

- (1) The date of contract award.
- (2) Information identifying the source to whom the contract was awarded.
- (3) The property or services obtained by the Government under the procurement.
- (4) The total cost of the procurement.
- (5) Those procurements which result in the submission of a single bid or proposal so that they can be separately

categorized and designated non-competitive procurements using competitive procedures.

(c) In addition to paragraph (b) of this section with respect to each procurement carried out using procedures other than competitive procedures, agencies shall be able to access—

(1) The reason under subpart 6.3 for the use of such procedures; and

(2) The identity of the organization or activity which conducted the procurement.

(d) In addition to the information described in paragraphs (b) and (c) of this section, for procurements in excess of \$3,000, agencies shall be able to access information on the following:

(1) Awards to small disadvantaged businesses using either set-asides or full and open competition.

(2) Awards to business concerns owned and controlled by women.

(3) The number of offers received in response to a solicitation.

(4) Task or delivery order contracts.

(5) Contracts for the acquisition of commercial items.

(6) Contracts or task orders treated as commercial items pursuant to 12.102(g).

(e) In addition to the information described in paragraphs (b), (c), and (d) of this section, agencies must be able to access information from the computer file to identify bundled contracts with a total contract value, including all options, exceeding \$5.5 million.

(f) Agencies must transmit this information to the Federal Procurement Data System in accordance with its procedures.

[50 FR 52429, Dec. 23, 1985, as amended at 52 FR 19802, May 27, 1987; 60 FR 42653, Aug. 16, 1995; 64 FR 72442, Dec. 27, 1999; 68 FR 69249, Dec. 11, 2003; 69 FR 34227, June 18, 2004; 71 FR 57365, Sept. 28, 2006]

#### 4.602 Federal Procurement Data System.

(a) The FPDS provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. Federal agencies will now report data directly to the Federal Procurement Data System—Next Generation (FPDS-NG), which collects, processes, and disseminates official statistical data on