

Part 10 - Market Research

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10.000 Scope of part.

This part prescribes policies and procedures for conducting *market research* to arrive at the most suitable approach to acquiring, distributing, and supporting *supplies* and services. This part implements the requirements of [41 U.S.C. 3306\(a\)\(1\)](#), [41 U.S.C. 3307](#), [10 U.S.C. 3453](#), and [6 U.S.C. 796](#).

10.001 Policy.

(a) Agencies *shall*—

(1) Ensure that legitimate needs are identified and trade-offs evaluated to acquire items that meet those needs;

(2) Conduct *market research* appropriate to the circumstances—

(i) Before developing new requirements documents for an *acquisition* by that agency;

(ii) Before soliciting *offers* for *acquisitions* with an estimated value in excess of the *simplified acquisition threshold*;

(iii) Before soliciting *offers* for *acquisitions* with an estimated value less than the *simplified acquisition threshold* when adequate information is not available and the circumstances justify its cost;

(iv) Before soliciting *offers* for *acquisitions* that could lead to consolidation or *bundling* ([15 U.S.C. 644\(e\)\(2\)\(A\)](#) and [15 U.S.C. 657q](#));

(v) Before awarding a task or *delivery order* under an indefinite-delivery/indefinite-quantity (ID/IQ) contract (*e.g.*, GWACs, MACs) for other than a *commercial product* or *commercial service* in excess of the *simplified acquisition threshold* ([10 U.S.C. 3453\(c\)](#)); and

(vi) On an ongoing basis, take advantage (to the maximum extent practicable) of commercially available *market research* methods in order to effectively identify the capabilities of small businesses and new entrants into Federal *contracting* that are available in the marketplace for meeting the requirements of the agency in furtherance of—

(A) A *contingency operation* or defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; and

(B) Disaster relief to include debris removal, distribution of *supplies*, reconstruction, and other disaster or *emergency* relief activities (See [26.205](#)); and

(3) Use the results of *market research* to—

(i) Determine if sources capable of satisfying the agency's requirements exist;

(ii) Determine if *commercial products* or *commercial services*, or, to the extent *commercial products* suitable to meet the agency's needs are not available, *nondevelopmental items* are available that—

(A) Meet the agency's requirements;

(B) Could be modified to meet the agency's requirements; or

(C) Could meet the agency's requirements if those requirements were modified to a reasonable extent;

(iii) Determine the extent to which *commercial products*, or *nondevelopmental items* could be incorporated at the *component* level;

(iv) Determine the practices of firms engaged in producing, distributing, and supporting *commercial products* or *commercial services*, such as type of contract, terms for *warranties*, buyer financing, maintenance and packaging, and marking;

(v) Ensure maximum practicable use of *sustainable products and services* (as defined in [2.101](#)) in accordance with [subpart 23.1](#);

(vi) Determine whether consolidation is necessary and justified (see [7.107-2](#) (15 U.S.C. 657q));

(vii) Determine whether *bundling* is necessary and justified (see [7.107-3](#) (15 U.S.C. 644(e)(2)(A)));

(viii) Determine whether the *acquisition* *should* utilize any of the small business programs in accordance with [part 19](#); and

(ix) Assess the availability of *supplies* or services that meet all or part of the applicable *information and communication technology* accessibility standards at [36 CFR 1194.1](#) (see [subpart 39.2](#)).

(b) When conducting *market research*, agencies *should* not request potential sources to submit more than the minimum information necessary.

(c) If an agency contemplates consolidation or *bundling*, the agency—

(1) When performing *market research*, *should* consult with the agency small business specialist and the local Small Business Administration *procurement* center representative (PCR). If a PCR is not assigned, see [19.402\(a\)](#); and

(2) *Shall* notify any affected incumbent small business concerns of the Government's intention to bundle the requirement and how small business concerns *may* contact the appropriate Small Business Administration *procurement* center representative (see [7.107-5\(a\)](#)).

(d) See [10.003](#) for the requirement for a prime contractor to perform *market research* in contracts in

excess of \$7.5 million, other than contracts for the *acquisition of commercial products or commercial services* (section 826 of Pub. L. 110-181).

10.002 Procedures.

- (a) *Acquisitions* begin with a description of the Government's needs stated in terms sufficient to allow conduct of *market research*.
- (b) *Market research* is then conducted to determine if *commercial products, commercial services, or nondevelopmental items* are available to meet the Government's needs or could be modified to meet the Government's needs.
 - (1) The extent of *market research* will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience. The *contracting officer* may use *market research* conducted within 18 months before the award of any task or *delivery order* if the information is still current, accurate, and relevant. *Market research* involves obtaining information specific to the product or service being acquired and *should include*-
 - (i) Whether the Government's needs can be met by-
 - (A) *Products* or services of a type customarily available in the commercial marketplace;
 - (B) *Products* or services of a type customarily available in the commercial marketplace with modifications; or
 - (C) *Products* or services used exclusively for governmental purposes;
 - (ii) Customary practices regarding customizing, modifying or tailoring of *products* or services to meet customer needs and associated costs;
 - (iii) Customary practices, including *warranty*, buyer financing, discounts, contract type considering the nature and risk associated with the requirement, etc., under which commercial sales of the *products* or services are made;
 - (iv) The requirements of any laws and regulations unique to the item being acquired;
 - (v) The availability of items that contain *recovered materials* and items that are energy efficient;
 - (vi) The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates; and
 - (vii) Whether the Government's needs can be met by small business concerns that will likely submit a competitive *offer* at fair market prices (see part 19).
 - (2) Techniques for conducting *market research* may include any or all of the following:
 - (i) Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.
 - (ii) Reviewing the results of recent *market research* undertaken to meet similar or identical requirements.

- (iii) Publishing formal requests for information in appropriate technical or scientific journals or business publications.
 - (iv) Querying the Governmentwide database of contracts and other *procurement* instruments intended for use by multiple agencies available at <https://www.contractdirectory.gov/contractdirectory/> and other Government and commercial databases that provide information relevant to agency *acquisitions*.
 - (v) Participating in interactive, on-line communication among industry, *acquisition* personnel, and customers.
 - (vi) Obtaining source lists of similar items from other *contracting activities* or agencies, trade associations or other sources.
 - (vii) Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line.
 - (viii) Conducting interchange meetings or holding presolicitation conferences to involve potential *offerors* early in the *acquisition* process.
 - (ix) Reviewing systems such as the *System for Award Management*, the Federal *Procurement* Data System, and the Small Business Administration's Dynamic Small Business Search.
- (c) If *market research* indicates *commercial products*, *commercial services*, or *nondevelopmental items* might not be available to satisfy agency needs, agencies *shall* reevaluate the need in accordance with 10.001(a)(3)(ii) and determine whether the need can be restated to permit *commercial products*, *commercial services*, or *nondevelopmental items* to satisfy the agency's needs.
- (d)
- (1) If *market research* establishes that the Government's need *may* be met by a type of product or service customarily available in the commercial marketplace that would meet the definition of a *commercial product* or *commercial service* at subpart 2.1, the *contracting officer shall* solicit and award any resultant contract using the policies and procedures in part 12.
 - (2) If *market research* establishes that the Government's need cannot be met by a type of item or service customarily available in the marketplace, part 12 shall not be used. When publication of the notice at 5.201 is required, the *contracting officer shall* include a notice to prospective *offerors* that the Government does not intend to use part 12 for the *acquisition*.
- (e) The *head of the agency shall* document the results of *market research* in a manner appropriate to the size and complexity of the *acquisition*.

10.003 Contract clause.

The *contracting officer shall* insert the clause at 52.210-1, Market Research, in *solicitations* and contracts over \$7.5 million, other than *solicitations* and contracts for the *acquisition* of *commercial products* or *commercial services*.