

We recommend the phrase: *(established GSA Federal Supply Schedule contracts, open market, etc.)* be inserted in paragraph (a) between the phrases “products available from the private sector” and “that best meet the Government’s needs”. This recommendation is being made to insure that these contracts are considered integral to determining comparability during the market research process.

We recommend that (a)(II)(A) be revised to read: “Use competitive procedures, *including Multiple Award Federal Supply Schedules*, to acquire the product”. We are making this recommendation because FAR6.102(d)(3) recognizes multiple award schedule contracts as a competitive procedure, and the inclusion of the words “multiple award schedules” will eliminate any misconception that “competitive” means only formal open-market solicitations.

208.606 Exceptions

We recommend the final rule include the following language immediately before the phrase: “For DOD, FPI clearances also are not required.....” *If the DOD Department or Agency determines that the FPI product is not comparable, FPI clearances are not required.* We are making this recommendation because we are aware that FPI representatives are, even today, instructing DOD purchasing officials that the waiver process is still operable and that the law changed nothing.

Other

The Coalition is concerned that comments made at the June 3rd public meeting on the interim rule could lead DOD to implement substantial new acquisition procedures requiring full blown solicitations whenever an agency made the decision to seek alternative supply sources when FPI goods were determined not to be comparable. We feel strongly that there is no evidence to suggest that Congress intended to create new, labor-intensive acquisition methods in this section. Rather, we are convinced that Congressional intent was to allow DOD buyers to obtain offers from private sector sources and consider a competing FPI order in the same manner as they consider private sector offers today. The use of the word “solicitation” in this section is, we feel, used in the generic sense and does not mandate that DOD acquisition officials create an entire new series of acquisition hurdles.

In fact, there is ample support to show just the opposite. Congress desired to set up a system where it would be easier for DOD buyers to turn to outside sources when FPI products didn’t measure up. By creating this system Congress implied that resultant acquisitions should be able to be conducted quickly and fairly within existing acquisition rules that grant DOD buyers considerable flexibility.