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J-33

IN REPLY
REFER TO PROCLTR 01-19

DEC 05, 2001

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Use of Approved Sources (DLAD 11.301, 11.302-90)

This is one of two PROCLTRs being issued to address the urgent need to improve our management of Navy critical safety items (CSIs). This PROCLTR clarifies existing agency policies regarding identification and selection of approved sources. DLA recently investigated instances where incorrect parts were provided to our customers. One finding was that buyers sometimes made awards to unapproved manufacturers who were not cited in the acquisition identification description (AID) but who were listed in the prior procurement history. New guidance at DLAD 11.302-90(b) clarifies that procurement history does not indicate current source approval. A new table at DLAD 11.302-90(c)(i) clarifies when pre-award referrals to the technical/quality specialist and the Military Engineering Support Activity (ESA) are required. The table also invokes a new requirement for approval at one level above the contracting officer for most CSI buys. A technical/quality specialist review is required whenever an unapproved source offers to manufacture an item for the Government and for all offers of "alternate product." ("Alternate product" is defined in the provision at DLAD 52.217-9002, Conditions for Evaluation and Acceptance of Offers for Part Numbered Items.) Buying from an unapproved source can potentially result in loss of life or equipment, or mission failure. These safety issues transcend other acquisition goals, including those related to delivery, price, and competition. Even when a source's reputation is favorable, making award without proper review and approval is not worth the risks. It is vital to ensure that we supply our customers with the right item from an approved source.

New coverage at DLAD 11.302-90(a) clarifies the respective roles of the contracting officer and technical/quality specialist in the acquisition process. The requiring Military Service and the technical/quality specialist are responsible for identifying the requirements of the item being procured and for maintaining the accuracy and currency of the AID. Contracting officers must ensure that the selected source has the intent and capability to provide the item in compliance with the terms of the contract, including the item description (see FAR 1.602-2). The contracting officer is not authorized to determine what sources should be approved and cited in the AID.

This PROCLTR is effective immediately and remains in effect until it is incorporated into DLAD 4105.1. The point of contact for this PROCLTR is Ms. Anne Burleigh, 5-336, (703) 767-1358, DSN 427-1358 or e-mail anne_burleigh@hq.dla.mil.

CLAUDIA S. KNOTT
Executive Director
Logistics Policy and Acquisition Management

Attachment



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PART 11

DESCRIBING AGENCY NEEDS

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SUBPART 11.3 - ACCEPTABLE MATERIAL

11.301 Definitions.

"Actual manufacturer," "approved source," "critical safety item (CSI)," "design control activity," "prime contractor," and "rebranding" are defined in the clause at 52.211-9005, Conditions for Evaluation and Acceptance of Offers for Critical Safety Items.

"Alternate product" and "exact product" are defined in the provision at 52.217-9002, Conditions for Evaluation and Acceptance of Offers for Part Numbered Items

"Critical application item" (CAI), as used in this subpart, means an item that is essential to weapons performance, operation, the preservation of life, or safety of operating personnel, as determined by the Military Services.

11.302 Policy.

(b) (90) * * *

11.302-90 Use of approved sources.

(a) Roles of contracting officer and technical/quality specialist. The requiring Military Service provides the data to procure the correct item. The technical/quality specialist is responsible for maintaining the accuracy and currency of the technical/quality requirements and for ensuring that only approved sources are identified in the acquisition identification description (AID). (Detailed policy guidance for technical/quality specialists is provided in the DLA Technical Support Policy and Procedures Deskbook, which is maintained by the Technical and Quality Policy Division, J-334, and can be accessed electronically on the J-334 Web Page at <http://www.dla.mil/j-3/j-334>.) Contracting officers are responsible for performing all necessary actions for effective contracting. They must ensure compliance with laws, regulations, and procedures; safeguard Government interests; request and consider advice of appropriate specialists (audit, law, engineering, etc.); and exercise business judgment (see FAR 1.602-2). Contracting officers have a responsibility to ensure that the selected source has the intent and capability to provide the item in compliance with the terms of the contract, including the item description; and they have broad latitude to carry out their duties. However, the contracting officer is not authorized to determine what sources should be approved and cited in the AID. Contracting officers must follow the guidance at 11.302-90(c) to determine when pre-award referral to the technical/quality specialist is required to ensure that a prospective contractor is technically acceptable.

(b) Prior procurement history not an indication of current source approval. When a previous manufacturing source is listed in the prior procurement history, this does not mean that the source is currently an approved source. A manufacturing source is not an approved source unless it is currently identified in the acquisition identification description (AID). If an offer is received from a manufacturing source that received one or more awards in the past but is not currently cited in the AID, the contracting officer must refer that offer to the technical/quality specialist for approval prior to making an award. Procurement history cannot be relied on to indicate that a manufacturing source is currently approved. For example, the previous award to the prior manufacturing source may have been made in error; the prior manufacturing source may have been approved for an earlier revision of the item but may no longer be approved for the latest revision; or parts made by the previous manufacturing source may have been defective, and the approved source cited in the AID or the Military Service Engineering Support Activity (ESA) may have revoked its approved status.

(c) Pre-award approval/referral requirements. (i) Contracting officers must acquire the item cited in the AID (i.e., an exact product) from the source(s) cited in the AID (i.e., an approved source); unless an exception is authorized in agency policy, or pre-award approval has been obtained from the technical/quality specialist. DLA policy is outlined in the table below. The table specifies when the contracting officer may proceed with the current award; or when the contracting officer is required, prior to award, to refer the offer to the technical/quality specialist and the ESA, and/or obtain approval of the award at one level above the contracting officer. Even when not required, contracting officers are responsible for obtaining technical, legal, or other advice whenever needed; therefore, contracting officers always have the discretion to go to the technical/quality specialist, the Office of Counsel, or other appropriate experts. (See 11.302-91 for additional procedures that apply to NSNs identified as CSIs.)

TYPE OF OFFER	CRITICALITY OF ITEM	CONTRACTING OFFICER (CO) CAN AWARD?	REQUIRES REFERRAL TO TECH/QUAL. ?	REQUIRES APPROVAL FROM ESA?	AWARD REQUIRES APPROVAL ONE LEVEL ABOVE CO?
Approved Source Cited in AID Offering "Exact Product" Cited in AID	Noncritical or CIC Blank	Yes	No	No	No
	CAI	Yes	No	No	No
	CSI	Yes	No	No	Yes (Note 1)
Dealer/Distrib. (Nonmanufacturer) Offering "Exact Product"	Noncritical or CIC Blank	Yes (Note 2)	No	No	No
	CAI	Yes (Note 2)	No	No	No
	CSI	Yes (Note 3)	No (Note 4)	No	Yes
Unapproved Manufacturing Source Offering "Exact Product"	Noncritical or CIC Blank	No (Note 5)	Yes	(Note 6)	No
	CAI	No (Note 5)	Yes	Yes	No
	CSI	No (Note 5)	Yes	Yes	Yes
Any Source Offering "Alternate Product"	Noncritical or CIC Blank	No	Yes	(Note 6)	No
	CAI	No	Yes	Yes	No
	CSI	No	Yes	Yes	Yes

Note 1 Does not apply to fully automated awards, if system only permits a fully automated award when an approved source cited in the AID is offering an exact product cited in the AID.

Note 2 Contracting officers may obtain traceability documentation prior to award; or may require suppliers to retain documentation and provide it for review during random (or directed) post-award audits.

Note 3 Contracting officers must obtain traceability documentation prior to award.

Note 4 Referral to quality assurance specialist is mandatory after award to initiate quality assurance letter of instruction (QALI). (See 11.302-91(a)(11).)

Note 5 Contracting officers must obtain traceability documentation and refer offer to technical/quality specialist prior to award.

Note 6 Technical/quality specialists must follow J-334 Deskbook and local procedures to determine if ESA referral is required.

(ii) The table at 11.302(90)(c)(i) only applies to the items and types of offers shown. It does not apply to items being acquired under a fully competitive technical data package (Acquisition Method Suffix Code (AMSC) G); to offers of Government surplus material, which are addressed separately in the procedures at 11.302(b)(90)); or to other types of referrals to the technical/quality specialist, which are addressed in the J-334 Deskbook and local procedures (such as, for example, waiver/deviation requests or engineering change proposals).