



DEFENSE LOGISTICS AGENCY
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J-33

IN REPLY
REFER TO PROCLTR 02-07

APR 03 2002

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Offers of Surplus Material for Critical Safety Items (CSIs) and Revisions to the Defense Logistics Acquisition Directive (DLAD) Guidance Issued By PROCLTRs 01-19 and 01-20 (DLAD 11.302-90, 11.302-91, 11.304-90, 46.390, 52.211-9005)

This PROCLTR provides DLAD coverage to clarify requirements that apply to offerors of surplus material when DLA is acquiring critical safety items (CSIs). When responding to a solicitation for a CSI, offers of surplus material must comply with the clause at DLAD 52.211-9005, Conditions for Evaluation and Acceptance of Offers for Critical Safety Items, in addition to the clause at DLAD 52.211-9000, Government Surplus Material (see DLAD 52.211-9000(g)). Language is also added to DLAD 52.211-9005 to clarify this. In addition, surplus dealers do not acquire Government surplus material directly from an approved source cited in the acquisition identification description (AID). Therefore, they generally will not have a request for quotation to an approved source, a quotation from an approved source, or an approved source's invoice or packing slip, to meet requirements in 52.211-9005 (d)(1)-(2). Accordingly, the clause language is revised to indicate that offerors of surplus material should provide a completed DLAD clause 52.211-9000 with supporting documentation.

The revised coverage also makes minor corrections and updates to the guidance issued by PROCLTR 01-19, subject: Use of Approved Sources, and PROCLTR 01-20, subject: Management of Critical Safety Items (CSIs). Guidance at DLAD 11.302-90(a) is revised to update the web site reference for the Technical Support Deskbook. DLAD 11.302-90(c)(i), Note 2 is revised to clarify that contractors can be required to provide traceability documentation at the time of Government source inspection, if applicable, instead of during post-award audits. The attached DLAD coverage also revises references that incorrectly identified DLAD 52.211-9005 as a provision instead of a clause. In addition, 52.211-9005(d) is rewritten to conform with the language defining "exact product" in DLAD 52.217-9002, Conditions for Evaluation and Acceptance of Offers for Part Numbered Items; and to clarify that the contracting officer may require evidence in addition to the minimum documentation requirements identified in 52.211-9005(d) to sufficiently establish the identity of the item and its manufacturing source.



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, J-336, at (703) 767-1358, DSN 427-1358 or e-mail anne_burleigh@hq.dla.mil.



CLAUDIA S. KNOTT
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Attachment

PART 11

DESCRIBING AGENCY NEEDS

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SUBPART 11.3 - ACCEPTABLE MATERIAL

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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 at <https://today.dla.mil/J-3/J-334/techsuppdeskbook.htm>.) 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) * * *

(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 **at time of Government source inspection, if applicable (see 11.302-91(a)(11))** or 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) * * *

11.302-91 Management of critical safety items (CSIs). * * *

(a) Guidance for acquisition personnel. * * *

(1) Acquire CSIs only from source(s) cited in the AID; or from a dealer/distributor who is offering the exact product (CAGE and part number) cited in the AID and who has furnished acceptable traceability documentation prior to award (see 11.302-90(c)(i), Note 3). Any variation from this requirement must be referred to the technical/quality specialist for evaluation. (See additional guidance at 11.302-90(c) and 11.304-90. **For offers of surplus material, also see 11.302(b)**) Referral to the technical/quality specialist is required whenever a source not currently cited in the AID offers to manufacture an item for the Government; and for all offers of "alternate product."

(2)-(16) * * *

(b) * * *

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11.304-90 Contract clauses for critical safety items (CSIs).

(a) Insert the clause at 52.211-9005, Conditions for Evaluation and Acceptance of Offers for Critical Safety Items, in all solicitations **and awards** for critical safety items.

(b)-(c) * * *

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SUBPART 46.3 - CONTRACT CLAUSES

46.390 Certificate of quality compliance (COQC).

(a) The contracting officer shall insert the clause at 52.246-9000, Certificate of Quality Compliance, in all solicitations and **awards** for safety-critical items; except when acquiring items identified as "critical safety items (CSIs)" (see 11.302-91). Solicitations and awards

for CSIs must include the **clauses** prescribed at 11.304-90(a)-(c); the clause at 52.246-9000 must be considered for use when acquiring CSIs if award is made to a source other than an approved source cited in the acquisition identification description (AID). The contracting officer shall also include the clause in other solicitations and contracts for supplies which meet both of the following conditions:

(1)-(2) * * *

(b) * * *

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PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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SUBPART 52.2 - TEXTS OF PROVISIONS AND CLAUSES

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52.211-9005 Conditions for evaluation and acceptance of offers for critical safety items.

As prescribed in 11.304-90(a), insert the following clause:

CONDITIONS FOR EVALUATION AND ACCEPTANCE OF OFFERS FOR CRITICAL SAFETY ITEMS (APR 2002) - DLAD

(a)-(b) * * *

(c) This **clause** applies only to offers of "exact product." Offers of "alternate product" will be evaluated in accordance with the clause at DLAD 52.217-9002. ***Offerors of Government surplus material must comply with the requirements in the clause at DLAD 52.211-9000 in addition to this clause, and surplus offers will be evaluated in accordance with the provision at DLAD 52.211-9003.***

(d) If the Offeror is the prospective awardee and is not currently an approved source cited in the acquisition identification description (AID) on the schedule page of this solicitation, the Offeror will be requested by the Contracting Officer to provide documented evidence prior to award sufficient to establish that the item being offered is (or will be) the exact item cited in the AID and is (or will be) manufactured by an approved source cited in the AID, ***modified (if necessary) to conform to any additional requirements set forth in the AID***, and is (or will be) manufactured by ***or under the direction of*** an approved source cited in the AID. Additionally, if the Offeror ***manufactures*** the offered item for an approved source cited in the AID, evidence of approval and acceptance by the approved source will be required. Evidence must include the following at a minimum, ***plus whatever additional evidence the Contracting Officer determines necessary to sufficiently establish the identity of the item and its manufacturing source:***

(1) If offered item(s) are "not in stock" or "not yet manufactured" --

(i) A copy of Offeror's Request for Quotation to approved source cited in AID; and

(ii) An original, hard copy of quotation received by Offeror from approved source cited in AID; or other verifiable documentation of quotation. (If Offeror is unable to provide this documentation to the Contracting Officer prior to award, it must be provided to the Quality Assurance Representative (QAR) for examination at time of source inspection.); ***or***

(iii) ***For offers of surplus material, a completed 52.211-9000 with supporting documentation.***

(2) If offered item(s) are "shipped" or "in stock" --

(i) A copy of invoice on approved source's letterhead. (Invoice must identify exact item cited in AID and a quantity sufficient to satisfy the solicitation requirement.); ***or***

(ii) A copy of packing slip which accompanied shipment from approved source to Offeror. (Packing slip must identify exact item cited in AID and a quantity sufficient to satisfy the solicitation requirement; ***or***

(iii) *For offers of surplus material, a completed 52.211-9000 with supporting documentation;* and

(iv) Inventory control records to establish that items Offeror proposes to furnish under current order are still in Offeror's stock. (This documentation is mandatory and must be provided to Quality Assurance Representative (QAR) for examination at time of source inspection. Documentation may be provided to Contracting Officer prior to award, at Offeror's discretion.)

(3) * * *

(4) When the AID specifies a revision number --

(i) Documentation establishing that the offered item was (or will be) made in accordance with the revision cited in the AID. (This requirement is considered to have been met when documentation provided by Offeror to satisfy other portions of this **clause or solicitation** already establishes that offered item was (or will be) made to the revision cited in the AID); or

(ii) * * *

(e)-(f) * * *

(End of clause)

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