



Deactivated when incorporated into FAR (80 FR 38311) on 7/2/2015

National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Class Deviation

PCD 15-01
January 29, 2015

CLASS DEVIATION TO NFS 13.5 – TEST PROGRAM FOR CERTAIN COMMERCIAL ITEMS

PURPOSE: This deviation temporarily implements the authority in Section 815 of the National Defense Authorization Act (NDAA), 2015, pending a permanent change to the FAR.

BACKGROUND: The long-standing commercial item test program has historically been renewed, each time with a firm end date. Currently, FAR 15.300(d) indicates that the authority to issue solicitations under subpart 13.5 expires January 1, 2015. However, section 815 of the NDAA for 2015 makes the authority permanent.

GUIDANCE: Effective immediately, NASA contracting officers may continue to utilize the Test Program for Certain Commercial Items under the authority of this deviation until the change is implemented in the FAR.

EFFECTIVE DATE: This PIC is effective as dated and shall remain in effect until it is incorporated into the FAR or is otherwise rescinded.

PROVISION AND CLAUSE CHANGES: None.

HEADQUARTERS CONTACT: For questions concerning this FAR Class Deviation contact Leigh Pomponio, Contract and Grant Policy Division, (202) 358-0592, email: leigh.pomponio@nasa.gov.

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Enclosure

Subpart 13.5—Test Program for Certain Commercial Items

13.500 General.

(a) This subpart authorizes, as a test program, use of simplified procedures for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding \$6.5 million (\$12 million for acquisitions as described in 13.500(e)), including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items. Under this test program, contracting officers may use any simplified acquisition procedure in this part, subject to any specific dollar limitation applicable to the particular procedure. The purpose of this test program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the Government and industry

(10 U.S.C. 2304(g)) and 2305 and 41 U.S.C. 3305, 3306, and chapter 37, Awarding of Contracts.

(b) For the period of this test, contracting activities must employ the simplified procedures authorized by the test to the maximum extent practicable.

(c) When acquiring commercial items using the procedures in this part, the requirements of Part 12 apply subject to the order of precedence provided at 12.102(c). This includes use of the provisions and clauses in Subpart 12.3.

(d) ~~The authority to issue solicitations under this subpart expires on January 1, 2015. Contracting officers may award contracts after the expiration of this authority for solicitations issued before the expiration of the authority.~~

(e) Under 41 U.S.C. 1903, the simplified acquisition procedures authorized by this test program may be used for acquisitions that do not exceed \$12 million when—

(1) The acquisition is for commercial items that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack; or

(2) The acquisition will be treated as an acquisition of commercial items in accordance with 12.102(f)(1).