

June 30, 1995

# AGAR ADVISORY

## OFFICE OF OPERATIONS PROCUREMENT POLICY DIVISION

**INTRODUCTION:** In response to a request from the USDA Procurement Council, the Office of Operations Procurement Policy Division (PPD) has prepared this Agriculture Acquisition Regulation (AGAR) Advisory, which provides helpful information regarding Simplified Acquisition Procedures. If you have questions or comments regarding this advisory, please contact Richard Holcombe at (202) 720-8484, via fax at (202) 720-8972, or via e-mail at OO.OO-POST.R.HOLCOMBE@SIES.WSC.AG.GOV.

**SUMMARY:** Federal Acquisition Circular (FAC) 90-29, containing the Simplified Acquisition Procedure (SAP), is effective July 3, 1995, replacing the prior small purchase procedures. The FAC will appear in the *Federal Register* before that date. For USDA, the SAP threshold is \$50,000.00. A higher threshold of \$100,000 can be achieved after the Senior Procurement Executive (SPE) certifies a buying activity to have reached interim capability in the Federal Acquisition Computer Network (FACNET). FACNET, the electronic system of data interchange to support the full range of acquisition documents and activities, is also introduced in FAC 90-29. FACNET is currently being implemented in USDA at two locations, the Office of Operations, Procurement Operations Division and the Consolidated Farm Services Agency, Acquisition Management Branch. The number of USDA FACNET sites will be increased.

### ISSUES:

- ▶ **WARRANT LEVELS/TRAINING.** The SAP is significantly different than previous small purchasing procedures. Current small purchase warrants do not automatically increase to the SAP threshold of \$50,000. The Head of Contracting Activity (HCA) must consider both the training needs of the personnel and the complexities of the work

before a new warrant is issued in compliance with Departmental Regulation 5001-1, *Competency Based Contracting Officer Warrant System*. Contracting Officer's Representatives may need additional training also because of the extent of the changes in rules and applicable laws.

- ▶ *SYNOPSIS*. The *Commerce Business Daily* (CBD) synopsis is still required for actions in excess of \$25,000.00. Note that beginning Fiscal Year (FY) 1996, these synopses will be on a fee basis (\$18 per synopsis).
- ▶ *MANDATORY SOURCES*. The mandatory sources (National Industries for the Blind, National Industries for the Severely Disabled, Federal Prison Industries (UNICOR), etc.), remain mandatory.
- ▶ *LABOR LAWS*. The Service Contract Act (SCA) and the Davis-Bacon Act remain in effect, unchanged. For example, wage determinations are still required for an action at or above \$2,500 for services and \$2,000 and above for construction.
- ▶ *OPTIONS*. The use of options is now available for SAPs. However, the sum of the base plus the options at the time of the award must not exceed the SAP threshold in place. If a service is needed and if due to options the life of the transaction exceeds a year, the Contracting Officer needs to be trained in the skills necessary to acquire and apply a revised wage determination and to negotiate new prices.
- ▶ *SMALL BUSINESS RESERVATION*. Actions in excess of \$2,500.00 and not in excess of \$100,000 are reserved for small businesses. The "rule of two" remains in effect for waivers. The non-manufacturing waiver no longer applies. Small businesses must offer the products of small businesses unless a new waiver is granted.
- ▶ *BLANKET PURCHASE AGREEMENTS*. Blanket Purchase Agreements (BPAs) are not encouraged where micropurchase authority can suffice. The small business reserve, the solicitation requirements, the price reasonableness determination, and the need for documentation, each applicable to all SAPs, apply to every order against a BPA.
- ▶ *PROCUREMENT REPORTING*. The FPDS reporting requirements remain unchanged. SAP actions in excess of \$25,000 and those awarded to emerging small businesses under the demonstration program are reported in to the FPDS.
- ▶ *8(a) CONTRACTS*. Section 8(a) contracting remains unchanged; SAP may not be applied to 8(a) contracts.
- ▶ *SOURCE SELECTION*. Price need not be the *determining* factor in an award, although price must always be considered. The Contracting Officer's knowledge and previous experience, without the need for a formal past performance database, can be the basis for an award.

- ▶ *DOCUMENTATION.* Simplified documentation is required. This is designed to record the Contracting Officer's decision making process.
- ▶ *LAWS NO LONGER APPLICABLE.* Several Federal laws, or portions thereof, are not applicable to SAP actions: the Anti-Kickback Act; the Miller Act; the Contract Work Hours and Safety Standards Act; the Drug Free Workplace Act of 1988 (except for SAP actions offered to individuals); and the estimation portion of the Solid Waste Disposal Act.
- ▶ *FEDERAL INFORMATION PROCESSING (FIP) ACQUISITIONS.* Planning/ approval/delegation of authority requirements are not changed by these procedures.

**EXPIRATION DATE:** This advisory expires 120 calendar days from the date of issuance.

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