



Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Procurement

Issued: March 19, 2002

AAPD 02-03

Extension of the Pilot Program on Acquisition of Services from Small Businesses - Waiver of the Synopsis Requirement in FAR 5.2 for Simplified Acquisitions (Services)

Subject Category: Acquisition Management
Type: Other

AAPDs provide information of significance to all agency personnel involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New (The previous Pilot Program was in CIB 99-5, dropped as expired in CIB 01-01)

Precedes change to: AIDAR Part(s) _____ Appendix _____
 USAID Automated Directives System (ADS) Chapter 302
 Code of Federal Regulations _____
 No change in regulations

Applicable to: Existing awards; Modification required: _____
 Effective immediately
 No later than _____
 As noted in Guidance section below
 RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source...
 Other (or N/A) _____

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: _____ (insert date) _____
 No

[signed version on file]

MARK S. WARD

AAPD 02-03 Extension of the Pilot Program on Acquisition of Services from Small Businesses - Waiver of the Synopsis Requirement in FAR 5.2 for Simplified Acquisitions (Services)

PURPOSE: The purpose of the AAPD is to notify USAID contracting personnel that USAID has reinstated and extended its participation in the SBA/OFPP Pilot Program on the acquisition of services from small businesses.

BACKGROUND: CIB 99-5, entitled "Waiver of the Synopsis Requirement of Federal Acquisition Regulation (FAR) 5.2 for Small Dollar Acquisitions for Services", dated March 25, 1999, contained a class deviation to waive the synopsis requirement in Federal Acquisition Regulation (FAR) 5.2 for small dollar acquisitions for services. The U.S. Small Business Administration (SBA) and the Office of Federal Procurement Policy (OFPP) had issued a memorandum in July 1998 to agency senior procurement executives to encourage agencies to issue class waivers from FAR Subpart 5.2 when acquiring services under the simplified acquisition threshold from small businesses. Agencies complying with the conditions outlined in this memorandum were able to increase opportunities for small businesses through a streamlined acquisition process for services valued between \$25,000 and \$100,000. USAID participated in this pilot program, implemented through CIB 99-5, but our waiver expired in January 2001.

On September 27, 2001, SBA and OFPP sent a new memorandum to agency senior procurement executives to extend the pilot program through September 30, 2004, under basically the same conditions as the original program. The new conditions for participating in the extended pilot program are that

- (a) the acquisition is for services (excluding those exempted from set-asides under the Small Business Competitiveness Program) in amounts over \$25,000, but not exceeding the simplified acquisition threshold (which is currently at \$100,000), of which supply items are expected to constitute less than 20 percent of the total value of the contract);
- (b) the acquisition will be set aside for small businesses;
- (c) quotes or offers will be solicited and obtained from a minimum of five small business concerns);
- (d) SBA's PRO-Net will be used to identify and solicit a minimum of five small businesses; and
- (e) if practicable, two sources not included in the previous solicitation for the same services will be solicited.

Some of these conditions differ slightly from the initial program. In condition (a), the current simplified acquisition threshold (SAT) of \$100,000 is stated in the letter, so we repeat it here. If the SAT changes during the effective period of this waiver, the new SAT automatically applies as of the effective date of the change. Condition (c) now requires that quotes or offers must also "be obtained" and not just solicited. Finally, condition (d) drops a requirement to include, if available, at least one small disadvantaged and one women-owned firm.

GUIDANCE:

FAR 5.202 states that the contracting officer does not need to submit the notice required by 5.201 if the head of the agency determines in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable. AIDAR 701.601(a) authorizes the Director, Office of Procurement, to act as head of the agency for this purpose. On November 28, 2001, the Acting Director made this determination, including the above conditions, on a class basis. **This class determination and our participation in the Pilot Program expire on September 30, 2004, the expiration date of the pilot program extension.** Because of the delays in mail service over the past few months, we have just received confirmation from both OFPP and SBA that they have no objection to this determination.

New FPDS Reporting Requirement: The original pilot program did not make any changes to reporting requirements under the Federal Procurement Data System (FPDS). This limited SBA's and OFPP's ability to effectively evaluate whether the pilot actually was meeting its stated goal. Therefore, under this extension to the pilot program, they revised FPDS reporting requirements to provide the addition of a new code "D" (Not Synopsized Under the SBA/OFPP Waiver Pilot Program) in Item 23 on the Individual Contract Action Report (SF 279). The new code "D" became effective on October 1, 2001, and will allow agencies to identify contracts awarded under the pilot program. Please be sure to appropriately report any awards you make under the Pilot Program.

Point of Contact: For questions regarding the Pilot Program, contact Ms. Diane Howard in M/OP/P at (202) 712-0206 (dhoward@usaid.gov). For questions concerning FPDS reporting, contact Ms. Judy Britt at (202) 712-0397 (jbritt@usaid.gov).

Attachment: Determination to Extend the Waiver of Synopsis Requirements of Federal Acquisition Regulation (FAR) Subpart 5.2

DETERMINATION TO EXTEND THE WAIVER OF SYNOPSIS REQUIREMENTS OF
FEDERAL ACQUISITION REGULATION (FAR) SUBPART 5.2

1. The requirement in FAR Subpart 5.2 to provide widespread notice and, generally, a 45-day notice-and-wait period for all new procurement actions between \$25,000 and the simplified acquisition threshold (SAT) limits the efficiency of U.S. Agency for International Development's procurement process by requiring the evaluation of a potentially large number of offerors. Many of these offerors may not be highly competitive. As a result, even though small businesses have demonstrated their ability to be competitive for many types of services, the synopsis requirement often makes it unreasonable or inappropriate to take advantage of the services that competitive small business contractors can offer in this dollar range.
2. FAR 5.202(b) states that the contracting officer need not submit the notice required by 5.201 if the head of the agency determines in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable. AIDAR 701.601(a) authorizes the Director, Office of Procurement, to act as head of the agency for this purpose.
3. I hereby determine that waiving the notice requirements in FAR 5.2 is appropriate under the following circumstances:
 - (a) the acquisition is for services (excluding those exempted from set-asides under the Small Business Competitiveness Demonstration Program) in amounts over \$25,000, but not exceeding the simplified acquisition threshold (which is currently \$100,000), of which supply items are expected to constitute less than 20 percent of the total value of the contract;
 - (b) the acquisition will be set-aside for small businesses;
 - (c) quotes or offers will be solicited and obtained from a minimum of five small business concerns;
 - (d) SBA's Procurement Marketing and Access Network (PRO-Net) will be used to identify and solicit a minimum of five small businesses; and
 - (e) if practicable, two sources not included in the previous solicitation for the same services will be solicited.
4. This determination is effective immediately, subject to consultation with the Administrator of the Office of Federal Procurement Policy and the Administrator of the Small Business Administration.

(signed by Kathleen O'Hara for)

Mark S. Ward
Director, Office of Procurement