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PART 812—ACQUISITION OF COMMERCIAL ITEMS

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Part 812 – Acquisition of Commercial Items

PART 812 – ACQUISITION OF COMMERCIAL ITEMS

SUBPART 812.3 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) Notwithstanding prescriptions contained elsewhere in the VAAR, when acquiring commercial items, contracting officers shall be required to use only those provisions and clauses prescribed in this part.

(b) The provision and clause in the following VAAR sections shall be used, in accordance with the prescriptions contained therein or elsewhere in the VAAR, in requests for quotations, solicitations, or contracts for the acquisition of commercial items:

(1) 852.219-70, Veteran-owned small business.

(2) 852.270-4, Commercial advertising.

(c) The provisions and clauses in the following VAAR sections must be used, when appropriate, in accordance with the prescriptions contained therein or elsewhere in the VAAR, in requests for quotations, solicitations, or contracts for the acquisition of commercial items:

(1) 852.207-70, Report of employment under commercial activities.

(2) 852.211-71, Guarantee clause.

(3) 852.211-72, Inspection.

(4) 852.211-73, Frozen processed foods.

(5) 852.211-74, Telecommunications equipment.

(6) 852.211-75, Technical industry standards.

(7) 852.214-70, Caution to bidders-bid envelopes.

(8) 852.216-70, Estimated quantities for requirements contracts.

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- (9) 852.229-70, Purchases from patient's funds.
- (10) 852.229-71, Purchases for patients using Government funds and/or personal funds of patients.
- (11) 852.233-70, Protest content.
- (12) 852.237-7, Indemnification and Medical Liability Insurance.
- (13) 852.237-70, Contractor responsibilities.
- (14) 852.237-71, Indemnification and insurance (vehicle and aircraft service contracts).
- (15) 852.252-1, Provisions or clauses requiring completion by the offeror or prospective contractor.
- (16) 852.270-1, Representatives of contracting officers.
- (17) 852.270-2, Bread and bakery products.
- (18) 852.270-3, Purchase of shellfish.

(d) The clauses in the following VAAR sections shall be used, when appropriate, in accordance with the prescriptions contained therein or elsewhere in the VAAR, in requests for quotations, solicitations, or contracts for the acquisition of commercial items, provided the contracting officer determines that use of the clauses is consistent with customary commercial practices.

- (1) 852.211-70, Requirements for operating and maintenance manuals.
- (2) 852.211-77, Brand name or equal.

(e) The contracting officer shall insert the clause in 852.271-70, Services provided eligible beneficiaries, by reference, in all requests for quotations, solicitations, and contracts meeting the prescription contained therein.

(f) Clauses are not required for micro-purchases using the procedures of this part or part 813. However, this does not prohibit the use of any clause prescribed in this part or elsewhere in this chapter in micro-purchases when determined by the contracting officer to be in the Government's best interest.

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(g) When soliciting for commercial services or the use of medical equipment or space under the authority of part 873 and 38 U.S.C. 8151-8153, the provisions and clauses in the following VAAR sections may be used in accordance with the prescriptions contained therein or elsewhere in the VAAR:

- (1) 852.273-70, Late offers.
- (2) 852.273-71, Alternative negotiation techniques.
- (3) 852.273-72, Alternative evaluation.
- (4) 852.273-73, Evaluation – health-care resources.
- (5) 852.273-74, Award without exchanges.

812.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Agency procedures for approval of waivers: Waivers to tailor solicitations in a manner that is inconsistent with customary commercial practice shall be prepared by contracting officers in accordance with FAR 12.302(c). Waiver requests shall be submitted to the contracting officer's next higher level supervisor for approval. Approved requests shall be retained in the contract file.

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