UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

MAR 5 2010

PROCUREMENT MEMORANDUM 2010-05

ACTION

MEMORANDUM FOR: **BUREAU PROCUREMENT OFFICIALS**
HEADS OF CONTRACTING OFFICES

FROM: Helen Hurcombe
Senior Procurement Executive
and Director for Acquisition Management

SUBJECT: FAR Class Deviation: Extension of Test Program for Certain Commercial Items (FAR 13.5)

Background
Federal Acquisition Regulation (FAR) Subpart 13.5 authorizes as a test program, the use of simplified procedures for the acquisition of certain commercial items in amounts greater than the simplified acquisition threshold, but not exceeding $5.5 million, including options, if the contracting officer can reasonably expect that offers will include commercial items. Subpart 13.500(d) authorizes the contracting officer to issue solicitations under this Subpart until January 1, 2010. Section 816 of the National Defense Authorization Act of Fiscal Year 2010 (NDAA FY 2010) extended authority for the test program to January 1, 2012. A FAR rule is in process to change the expiration date in 13.500(d) from January 1, 2010 to January 1, 2012.

Purpose
The purpose of this memorandum is to issue a class deviation in accordance with FAR 1.404 so that Department contracting officers may continue to utilize the authority at FAR Subpart 13.5 to issue solicitations and contracts under the Commercial Items Test Program beyond the stated expiration date of January 1, 2010.

Effective Date
This class deviation is effective immediately and remains in effect until it is implemented in the FAR or otherwise rescinded.

My point of contact for this matter is Nancy Barrere, 202-482-5519 or **Nbarrere@doc.gov** .

Attachment

cc: Acquisition Community
Acquisition Council

CLASS DEVIATION FROM THE FEDERAL ACQUISITION REGULATION

Subpart 13.5—Test Program for Certain Commercial Items

Determination and Findings

In accordance with Civilian Agency Acquisition Council (CAAC) Letter 2009-04, Class Deviation from the Federal Acquisition Regulation (FAR) 13.5, Test Program for Certain Commercial Items, the Department of Commerce is authorizing a class deviation from the Federal Acquisition Requirement 13.5(d) Test Program for Certain Commercial Items.

Findings

Subpart 13.5 authorizes as a test program, the use of simplified procedures for the acquisition of certain commercial items in amounts greater than the simplified acquisition threshold, but not exceeding $5.5 million, including options, if the contracting officer can reasonably expect that offers will include commercial items. Subpart 13.500(d) authorizes the contracting officer to issue solicitations under this Subpart until January 1, 2010.

Section 816 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA FY 2010), extended the test program until January 1, 2012. Section 816 of the NDAA FY 2010 strikes out "2010" in subsection (e) as amended by Section 822 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181) and inserts "2012."

A class deviation is necessary so that Department contracting officers may continue processing solicitations and contracts under Subpart 13.5 pending implementation of the new expiration date in FAR.

Determination

In accordance with FAR 1.404, I hereby authorize this class deviation so that contracting officers may continue to use the authority in Subpart 13.5, Test Program for Certain Commercial Items, to issue solicitations and award contracts beyond the stated expiration date of January 2010. A FAR rule is in process to change the date of expiration of the test program to January 1, 2012.

This class deviation will remain in effect until rescinded or implemented in FAR.

Helen Hurcombe — 3/5/10

Approved: Date:

Helen Hurcombe
Senior Procurement Executive and
Director for Acquisition Management