

## 5.202 Exceptions.

The *contracting officer* need not submit the notice required by [5.201](#) when-

(a) The *contracting officer* determines that-

(1) The synopsis cannot be worded to preclude disclosure of an agency's needs and such disclosure would compromise the national security (*e.g.*, would result in disclosure of *classified information*). The fact that a proposed *solicitation* or *contract action* contains *classified information*, or that access to classified matter *may* be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception to synopsis;

(2) The proposed *contract action* is made under the conditions described in [6.302-2](#) (or, for purchases conducted using *simplified acquisition procedures*, if unusual and compelling urgency precludes competition to the maximum extent practicable) and the Government would be seriously injured if the agency complies with the time periods specified in [5.203](#);

(3) The proposed *contract action* is one for which either the written direction of a foreign government reimbursing the agency for the cost of the *acquisition* of the *supplies* or services for such government, or the terms of an international agreement or treaty between the *United States* and a foreign government, or international organizations, has the effect of requiring that the *acquisition shall* be from specified sources;

(4) The proposed *contract action* is expressly authorized or required by a statute to be made through another Government agency, including *acquisitions* from the Small Business Administration (SBA) using the authority of section 8(a) of the Small Business Act (but see [5.205\(f\)](#)), or from a specific source such as a workshop for the blind under the rules of the Committee for Purchase from People Who Are Blind or Severely Disabled;

(5) The proposed *contract action* is for utility services other than telecommunications services and only one source is available;

(6) The proposed *contract action* is an order placed under subpart [16.5](#). When the order contains brand-name specifications, see especially [16.505\(a\)\(4\)](#);

(7) The proposed *contract action* results from acceptance of a proposal under the Small Business Innovation Development Act of 1982 (Pub.L.97-219);

(8) The proposed *contract action* results from the acceptance of an unsolicited research proposal that demonstrates a *unique and innovative concept* (see [2.101](#)) and publication of any notice complying with [5.207](#) would improperly disclose the originality of thought or innovativeness of the proposed research, or would disclose proprietary information associated with the proposal. This exception does not apply if the proposed *contract action* results from an unsolicited research proposal and acceptance is based solely upon the unique capability of the source to perform the particular research services proposed (see [6.302-1\(a\)\(2\)\(i\)](#));

(9) The proposed *contract action* is made for perishable subsistence *supplies*, and advance notice is not appropriate or reasonable;

(10) The proposed *contract action* is made under conditions described in [6.302-3](#), or [6.302-5](#) with regard to brand name *commercial products* for authorized resale, or [6.302-7](#), and advance notice is

not appropriate or reasonable;

(11) The proposed *contract action* is made under the terms of an existing contract that was previously synopsised in sufficient detail to comply with the requirements of [5.207](#) with respect to the current proposed *contract action*;

(12) The proposed *contract action* is by a Defense agency and the proposed *contract action* will be made and performed outside the *United States* and its *outlying areas*, and only local sources will be solicited. This exception does not apply to proposed *contract actions* covered by the World Trade Organization Government *Procurement* Agreement or a Free Trade Agreement (see [subpart 25.4](#));

(13) The proposed *contract action*-

(i) Is for an amount not expected to exceed the *simplified acquisition threshold*;

(ii) Will be made through a means that provides access to the notice of proposed *contract action* through the GPE; and

(iii) Permits the public to respond to the *solicitation* electronically; or

(14) The proposed *contract action* is made under conditions described in [6.302-3](#) with respect to the services of an expert to support the Federal Government in any current or anticipated litigation or dispute.

(b) 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.

**Parent topic:** [Subpart 5.2 - Synopses of Proposed Contract Actions](#)