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Office of
General Counsel

In Reply
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JUN 24 1978

Mr. Strat Valakis
FAR Project Review Coordinator
Office of Federal Procurement
Policy
Office of Management and Budget
Executive Office of the President

UNCLASSIFIED TO PUBLIC DOMAIN

Dear Mr. Valakis.

By letter dated November 24, 1978, you transmitted for our comment a Federal Acquisition Regulation (FAR) draft segment. This segment consists of Subparts 9.1 - Responsible Prospective Contractors, 9.2 - Qualified Products and 9.3 - First Article Testing and Approval.

Subpart 9.1 prescribes policy, standards and procedures for determining whether a prospective contractor or subcontractor is responsible. It contains a responsibility standard to emphasize Walsh-Healey Public Contracts Act requirements where applicable. Also, it provides for considerable standardization of preaward survey procedures and modification of DD 1524 into a Standard Form. You indicate that this change is intended to be responsive to a recommendation of the Commission on Federal Paperwork. Additionally, special provisions concerning responsibility determinations for small businesses are set forth.

Subpart 9.2 prescribes policies and procedures for the acquisition of items that have been examined and tested for compliance with specifications in advance of a contractual action. It provides for the establishment of Qualified Products Lists (QPL) to identify items so qualified, and establishes policy and procedures to assure that use of a qualified product is fully justified to meet the essential needs of the Government. Responsibilities of a specification preparing activity (SPA) are set forth to provide



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manufacturers, including small and disadvantaged business concerns, ample opportunity to qualify their products or items. Also, this subpart provides direction to contracting officers regarding solicitation requirements which involve qualified products and conditions for removal or omission of a product from a QPL.

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Subpart 9.3 sets forth policy with respect to testing and approval of preproduction models, initial production samples, first lots, pilot lots and pilot models. It provides for such testing and approval when it is necessary to ensure that the contractor can furnish an item that conforms to all contractual requirements for acceptance.

The draft segment contains several variations from the present regulations, such as the elimination of the requirement for a contracting officer, before first article approval, to secure higher level approval before authorizing a contractor to acquire specific materials; a requirement that all solicitations containing a first article testing and approval provision also permit alternative offers, with or without, a first article testing and approval requirement, and expansion of the term "first article approval" to "first article testing and approval." We have no objection to these changes.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar
General Counsel