



DEPARTMENT OF THE ARMY

U.S. ARMY MEDICAL COMMAND
HEALTH CARE ACQUISITION ACTIVITY
2107 17TH STREET, SUITE 69
FORT SAM HOUSTON, TEXAS 78234-5069

REPLY TO
ATTENTION OF

MCAA (715)

21 April 1998

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: HCAA Commercial Policy, Policy Letter 98-01

1. Purpose. To establish HCAA policy that determines that health care supplies, equipment, and services are essentially commercial in nature and subject to Part 12 of the Federal Acquisition Regulation (FAR).

2. Background. Title VIII of the Federal Acquisition Streamlining Act of 1994 established the federal government's preference for the acquisition of commercial supplies and services. Recent procurement management reviews indicate HCAA offices do not agree on the commercial nature of health care requirements.

a. FAR 1.102(b) - "The Federal Acquisition System will maximize the use of commercial products and services."

b. FAR 12.101(b) - "Agencies shall acquire commercial items when they are available to meet the needs of the agency."

c. Failure to properly determine a supply or service as "commercial" is a protestable issue. Contracting offices are cautioned that failing to utilize commercial procedures may result in payment by the government of bid and protest costs.

d. Changes in the rules for acquiring commercial items have added some additional challenges in determining whether prices for commercial items are fair and reasonable. The clear preference for the acquisition of commercial items does not relieve contracting officers of the need to determine whether prices are fair and reasonable and represent the best value for the Army. Contracting officers may not simply rely on the existence of catalog prices in making their determination. Cost or pricing data are not required when purchasing commercial items, but FAR 15.4 provides ample guidance on what can and should be done in pricing commercial items.

e. Market research and price analysis should enable our contracting officers to determine and document the reasonableness of the price and any need for further negotiation. Information other than cost or pricing data may be required to assist in

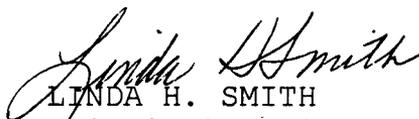
MCAA

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the price analysis, but there are many potential sources for this information beyond the suppliers themselves. Some other sources for information may include professional journals and periodicals; public libraries; the internet; technical experts (government and private sector); other customers of similar items or services (government and private sector); the manufacturer when it is not the vendor; and, when the dollar value and complexity of the acquisition indicate, a professional market research firm. This list is not intended to be complete, but to serve as a starting point for contracting officers.

3. All health care supplies, equipment, and services are determined to be commercial and subject to the policies and procedures outlined in FAR Part 12. If market research reveals that a unique condition exists and the supplies, equipment, or services required are not commercial, then the contracting officer shall document the file describing the basis for the decision. If a decision is made that a determination of non-commerciality applies to more than one solicitation for similar supplies, equipment or service, approval by the MEDCOM Health Care Acquisition Activity Competition Advocate (PARC) is required regardless of dollar value.

4. Our point of contact is Mr. Rodney Stevenson, U.S. Army Medical Command Health Care Acquisition Activity, DSN 471-3353 or Commercial (210) 221-3353.



LINDA H. SMITH

Principal Assistant Responsible
for Contracting

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CF:
Cdr, HCAA