(f) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without a fixed catalog price for a specific service performed;

(g) Any item, combination of items, or service referred to in paragraphs (a) through (f), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(h) A nondevelopmental item, if the procuring agency determines that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

Component means any item supplied to the Federal Government as part of an end item or of another component.

Market research means collecting and analyzing information about capabilities within the market to satisfy agency needs.

Nondevelopmental item means-(a) Any commercial item;

(b) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(c) Any item described in paragraphs (a) or (b) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(d) Any item of supply being produced that does not meet the requirements of paragraph (a), (b), or (c) solely because the item is not yet in use. * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Section 3.404 is amended by removing "or" from the end of paragraph (b)(4); by redesignating paragraph (b)(5) as (b)(6) and adding a new paragraph (b)(5); and by revising paragraph (c) to read as follows:

3.404 Solicitation provision and contract clause.

* * * * *

(b) * * *

(5) The solicitation is for a commercial item (see parts 2 and 12); or *

(c) The contracting officer shall insert the clause at 52.203-5, Covenant Against Contingent Fees, in all solicitations and contracts exceeding the simplified acquisition threshold other than those for commercial items (see parts 2 and 12).

* 4. Section 3.502-2 is amended by revising the introductory text of paragraph (i) to read as follows:

*

3.502-2 General.

*

* * (i) Requires each contracting agency to include in each prime contract, except contracts for commercial items

(see part 12), a requirement that the prime contractor shall— * * *

5. Section 3.502-3 is revised to read as follows:

3.502-3 Contract clause.

The contracting officer shall insert the clause at 52.203-7, Anti-Kickback Procedures, in all solicitations and contracts exceeding the simplified acquisition threshold (see part 13) other than those for commercial items (see part 12).

6. Section 3.503-2 is revised to read as follows:

3.503-2 Contract clause.

The contracting officer shall insert the clause at 52.203-6, Restrictions on Subcontractor Sales to the Government, in solicitations and contracts exceeding the simplified acquisition threshold in part 13. For procurements of commercial items, the contracting officer shall use the clause with its Alternate I.

PART 5—PUBLICIZING CONTRACT ACTIONS

7. Section 5.203 is amended by revising paragraphs (a), (b), and (c) to read as follows:

5.203 Publicizing and response time.

(a) A notice of contract action shall be published in the CBD at least 15 days before issuance of a solicitation except when the combined CBD synopsis/ solicitation procedure for acquisition of commercial items is used (see 12.603).

(b) For each contract action in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold, or for the acquisition of commercial items, the contracting officer shall establish a response time which will afford potential offerors a reasonable opportunity to respond.

(c) Agencies shall allow at least a 30 day response time for receipt of bids or proposals from the date of issuance of a solicitation, if the contract action is expected to exceed the simplified acquisition threshold or is for other than the acquisition of commercial items (see part 12).

PART 6—COMPETITION REQUIREMENTS

8. Section 6.303-2 is amended by revising paragraph (a)(8) to read as follows:

6.303-2 Content.

(a) * * *

*

(8) A description of the market research conducted (see part 10) and the results or a statement of the reason market research was not conducted.

9. Section 6.502 is revised to read as follows:

6.502 Duties and responsibilities.

* *

(a) Agency and procuring activity competition advocates are responsible for promoting the acquisition of commercial items, promoting full and open competition, challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics, and challenging barriers to the acquisition of commercial items and full and open competition such as unnecessarily restrictive statements of work, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

(b) Agency competition advocates shall-

(1) Review the contracting operations of the agency and identify and report to the agency senior procurement executive-

(i) Opportunities and actions taken to acquire commercial items to meet the needs of the agency;

(ii) Opportunities and actions taken to achieve full and open competition in the contracting operations of the agency;

(iii) Actions taken to challenge requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics;

(iv) Any condition or action that has the effect of unnecessarily restricting the acquisition of commercial items or competition in the contracting actions of the agency;