- (i) If commercial items or, to the extent commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items are available that—
  - (A) Meet the agency's requirements;
- (B) Could be modified to meet the agency's requirements; or
- (C) Could meet the agency's requirements if those requirements were modified to a reasonable extent; and
- (ii) Practices of firms engaged in producing, distributing, and supporting commercial items, such as terms for warranties, buyer financing, maintenance and packaging, and marking; and
- (iii) Sources capable of satisfying the agency's requirements exist.
- (b) When conducting market research, the head of an agency should not require potential sources to submit more than the minimum information necessary.

### 10.002 Procedures.

- (a) Acquisitions begin with a description of the Government's needs stated in general terms sufficient to allow conduct of market research.
- (b) Market research is then conducted to ascertain the availability of commercial items, as well as distribution and logistics support to meet those needs, and to identify market practices.
- (c) The extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience. Market research involves obtaining information such as—
- (1) The availability of commercial items suitable as is or that could be modified to meet the agency's requirements;
- (2) Customary practices regarding customizing, modifying or tailoring of items to meet customer needs and associated costs;
- (3) Customary practices, including warranty, buyer financing, discounts, etc., under which commercial sales of the products are made;
- (4) The requirements of any laws and regulations unique to the item being acquired; and
- (5) The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.
- (d) Techniques for conducting market research may include any or all of the following:
- (1) Contacting experts regarding market capabilities to meet requirements.

- (2) Reviewing the results of recent market research undertaken to meet similar or identical requirements.
- (3) Publishing formal requests for information in appropriate technical and scientific journals.
- (4) Querying Government data bases that provide information relevant to agency procurements.
- (5) Participating in interactive, on-line communication among industry, acquisition personnel, and customers.
- (6) Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources.
- (7) Reviewing catalogs and other generally available product literature, much of which are available on-line, published by manufacturers, distributors, and dealers.
- (8) Holding presolicitation conferences.
- (e) When initial market research indicates commercial or nondevelopmental items other than commercial items might not be available to satisfy agency needs, reevaluate the need and determine whether it can be restated to permit commercial or nondevelopmental items other than commercial items to satisfy the agency's needs.
- 17. and 18. Sections 11.000 and 11.001 are revised to read as follows:

# 11.000 Scope of part.

This part prescribes policies and procedures for describing agency needs and related considerations of acquisition streamlining.

## 11.001 Policy.

- (a) In fulfilling requirements of 10 U.S.C. 2305(a)(1), 10 U.S.C. 2377, 41 U.S.C. 253a(a), and 41 U.S.C. 264b, agencies shall—
- (1) Specify needs using market research in a manner designed to-
- (i) Promote full and open competition (see part 6), with due regard to the nature of the supplies or services to be acquired; and
- (ii) Only include restrictive provisions or conditions to the extent necessary to satisfy the minimum needs of the agency or as authorized by law.
- (2) To the maximum extent practicable, ensure that acquisition officials—
- (i) State requirements with respect to an acquisition of supplies or services in terms of—
  - (A) Functions to be performed;
  - (B) Performance required; or
  - (C) Essential physical characteristics;
- (ii) Define requirements in terms that enable and encourage offerors to supply commercial items, or, to the extent that

- commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items, in response to the agency solicitations;
- (iii) Provide offerors of commercial items and nondevelopmental items other than commercial items an opportunity to compete in any procurement to fill such requirements;
- (iv) Require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the agency; and
- (v) Modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items.
- (b) The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205a, et seq.), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce and it requires that each agency use the metric system of measurement in its procurements, except to the extent that such use is impracticable or is likely to cause significant inefficiencies or loss of markets to United States firms. Requiring activities are responsible for establishing guidance implementing this policy in formulating their requirements for acquisitions.
- (c) To the extent practicable, contractors should be involved in recommending application and tailoring of requirements. Requiring agencies should apply specifications, standards, and related documents initially for guidance only, making final decisions on the application and tailoring of these documents as a product of the design and development process. Requiring agencies should not dictate detailed design solutions prematurely (see 7.101 and 7.105(a)(8)).

#### 11.002 through 11.007 [Removed]

- 19. Sections 11.002 through 11.007 are removed.
- 20. Subparts 11.1 through 11.3 are added to read as follows:

# Subpart 11.1—Selecting and Developing Requirements Documents

#### 11.101 Order of precedence.

Agencies may select from existing requirements documents, modify or