EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

November 28, 2007

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Paul A. Denett
Administrator

SUBJECT: Appropriate Use of Brand Name or Equal Purchase Descriptions

The Office of Management and Budget (OMB) issued policy memorandums in April 2005 and April 2006, implementing brand name posting requirements for acquisitions (including simplified acquisitions and sole source procurements) over $25,000. The Federal Acquisition Regulation (FAR) was revised in September 2006 to incorporate this new policy. However, we are concerned that agencies are not preparing and posting the brand name justification or documentation in accordance with the new FAR requirements. Complaints have also been received by this office on the inappropriate use of brand name or equal purchase descriptions in solicitations. Agencies are reminded that the FAR provides the following guidance on the use of brand name or equal purchase descriptions:

- Ensure acquisition planning addresses *why* the capability or performance characteristics for the supplies or services are not available for incorporation in the solicitation, see FAR 7.105;
- Conduct market research to ensure the brand name or equal specification solicited is the only brand that can meet agency needs, see FAR 10.001;
- Advise program officials and requiring officials on the appropriate use of brand name or equal purchase descriptions in solicitations, see FAR 11.104(b); and
- Prepare and publicize the brand name justification or documentation on the appropriate website in accordance with FAR 5.102(a)(6) and 8.405-6.

To enhance transparency and competition, agencies should also establish internal controls to monitor the issuance of brand name purchase descriptions and the publication of the justification or documentation in accordance with the FAR.

Brand name or equal purchase descriptions should be properly used. Misuse of these purchase descriptions can limit competition, impact prices, and ultimately, affect how taxpayer dollars are spent. If you have any questions regarding this memorandum, please contact Julia Wise on (202) 395-7561 or jwise@omb.eop.gov.