

# PART 5—PUBLICIZING CONTRACT ACTIONS

## Subpart 5.7—Publicizing Requirements under the American Recovery and Reinvestment Act of 2009

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## Subpart 5.7—Publicizing Requirements under the American Recovery and Reinvestment Act of 2009

### 5.701 Scope.

This subpart prescribes posting requirements for presolicitation and award notices for actions funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act). The requirements of this subpart enhance transparency to the public.

### 5.702 Applicability.

This subpart applies to all actions expected to exceed \$25,000 funded in whole or in part by the Recovery Act. Unlike subparts 5.2 and 5.3, this subpart includes additional requirements for orders and for actions that are not both fixed-price and competitive.

### 5.703 Definition.

As used in this subpart—

Task or delivery order contract means a “delivery order contract,” and a “task order contract,” as defined in 16.501–1. For example, it includes Governmentwide Acquisition Contracts (GWACs), multi-agency contracts (MACs), and other indefinite-delivery/ indefinite-quantity contracts, whether single award or multiple award. It also Agreements under Subpart 8.4).

### 5.704 Publicizing-preaward.

(a)(1) Follow the publication procedures at 5.201.

(2) In addition, notices of proposed contract actions are required for orders of \$25,000 or more, funded in whole or in part by the Recovery Act, which are issued under task or delivery order contracts. These notices are for “informational purposes only,” therefore, 5.203 does not apply. Contracting officers should concurrently use their usual solicitation practice (e.g., e-Buy).

(b) Contracting officers shall use the instructions at the Governmentwide Point of Entry (GPE) ([https:// www.fedbizopps.gov](https://www.fedbizopps.gov)) to identify proposed contract actions funded in whole or in part by the Recovery Act.

(c) Ensure that the description required by 5.207(a)(16) includes a narrative of the products and services (including construction) that is clear and unambiguous to the general public.

### **5.705 Publicizing-post-award.**

Follow usual publication procedures at 5.301, except that the following supersede the exceptions at 5.301(b)(3) through (8):

(a) For any contract action exceeding \$500,000, including all modifications and orders under task or delivery order contracts, publicize the award notice and ensure that the description required by 5.207(a)(16) includes a narrative of the products and services (including construction) that is clear and unambiguous to the general public.

(b) Regardless of dollar value, if the contract action, including all modifications and orders under task or delivery order contracts, is not both fixed-price and competitively awarded, publicize the award notice and include in the description the rationale for using other than a fixed-priced and/or competitive approach. These notices and the rationale will be available to the public at the GPE, so do not include any proprietary information or information that would compromise national security. The following table provides examples for when a rationale is required