



**DEFENSE SECURITY COOPERATION AGENCY  
PROCUREMENT CUSTOMER GUIDE**

**June 2010**

**Note: This guide is only intended to be a useful source of information about policies that are prescribed elsewhere in formal directives. It does not in itself establish any policy and does not provide any direction that would impact the rights and obligations of DSCA or its contractors. It only serves as an introduction to the broad subject of contracting and cannot be used as a one-stop source for all acquisition information.**

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## INTRODUCTION

The purpose of this guide is to give our customers a better understanding of the policies, procedures and functions of the contracting processes used within DSCA. It is important that the requiring activity and the contracting office work as a team throughout the acquisition to provide the best possible products and services to our customer.

In preparing the guide, we used as a starting point the guidebook *Contracting for the Rest of Us*, NAVSO P-3689, which was published by The Deputy Assistant Secretary of the Navy (Research, Development and Acquisition) Acquisition and Business Management in October 2000. Because the Navy guidebook is intended primarily for systems acquisitions, we made several changes to accommodate the needs of our DSCA customers.

Acquisition of products and services for the Federal Government is subject to the uniform policies and procedures established in the [Federal Acquisition Regulation \(FAR\)](#). The Government agencies and their subordinate organizations publish their unique policies and procedures in supplements to the FAR. The specific objectives of the Federal Acquisition System are stated in [FAR Section 1.102](#) -Statement of Guiding Principles for the Federal Acquisition System. It calls for Acquisition Teams to:

- Satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service by, for example --
  - Maximizing the use of commercial products and services;
  - Using contractors who have a track record of successful past performance or who demonstrate a current superior ability to perform; and
  - Promoting competition;
- Minimize administrative operating costs;
- Conduct business with integrity, fairness, and openness; and
- Fulfill public policy objectives, such as Small Business Programs

This guide is divided into the following parts:

- Part I, Organizational Roles and Responsibilities.
- Part II, Fundamental Principles of Government Contracting.
- Part III, Contracting Methods and Contracting Types.
- Part IV, The Contracting Process.
- Part V, Common Traps.
- Part VI, Attachments.

# **PART I ROLES AND RESPONSIBILITIES**

## **CONTRACTING ORGANIZATIONS**

### **Contracting Officers**

A contracting officer, by virtue of their warranted position, is the only person who has the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The position of a contracting officer is inherently governmental; the Federal Acquisition Regulation (FAR) Part 7.5, identifies policies and procedures to ensure that inherently governmental functions are not performed by contractors. A contracting officer who enters into a contract is referred to as the "Procuring Contracting Officer (PCO)." An "Administrative Contracting Officer (ACO)" is a contracting officer who is performing contract administration functions listed in [FAR Subpart 42.3](#)-Contract Administration Office Functions. A "Termination Contracting Officer (TCO)" is a contracting officer who is settling a terminated contract, in accordance with [FAR Part 49](#)-Termination of Contracts. All of these duties may be accomplished by a single contracting officer or the responsibilities may be assigned to separate individuals. The term "contracting officer's representative" applies to other individuals acting under specific authority delegated by a contracting officer.

### **Contract Administration Offices**

Contract administration is assigned to the Defense Security Cooperation Agency and its subordinate contracting activities.

#### **Contracting officers must:**

- **Issue contracts and contract changes on a timely basis;**
- **Satisfy all applicable requirements of law, executive orders, and regulations; including all Small Business policies and programs**
- **Verify that sufficient funds are available for obligation;**
- **Provide adequate documentation for all contracting actions;**
- **Consider advice from specialists in audit, law, engineering, and other fields, when appropriate; and**
- **Provide fair and equitable treatment to contractors.**

## **CUSTOMER ORGANIZATIONS**

Requiring activities should focus on the needs of their customers in order to provide them with the best and most cost-effective products and services. Customers should:

- Manage their resources to the best of their abilities
- Innovate, strive for optimal solutions, seek better ways to manage, and provide lessons learned to those who follow

- Prepare thorough estimates of financial and personnel resources required to satisfy their requirements
- Be candid about the status of the acquisition, including risks and problems as well as potential solutions and likely outcomes
- Provide technical experts (contracting officer's representatives) to assist with developing requirements and monitoring contractor performance; and
- Acquire supplies and services when authorized by the contracting officer under simplified acquisition procedures.

## **ORGANIZATIONS AND INDIVIDUALS THAT PROVIDE CONTRACTING SUPPORT SERVICES**

- DoD Defense Contract Audit Agency (DCAA) performs all contract audits for the Department of Defense and provides accounting and financial advisory services regarding DoD contracts and subcontracts.
- Defense Contract Management Agency (DCMA) provides contract administration to the Department of Defense Acquisition Enterprise and its partners to ensure delivery of quality products and Services.
- Defense Finance and Accounting Service (DFAS) provides financial and accounting services to ensure delivery of quality pay and financial information.
- Inspector General (IG) conducts investigations and risk assessments.
- The DSCA Small Business Advisor provides assistance toward maximizing procurement opportunities for small businesses and minority-serving educational institutions.
- The DSCA Competition Advocate is responsible for promoting the acquisition of commercial items, promoting full and open competition, and establishing goals and plans for increasing competition.
- The DSCA Procurement Integrity Ombudsman fosters communication between concerned individuals regarding procurement integrity issues.
- The Small Business Administration (SBA) provides support for the small business program.
- The Office of General Counsel provides contractual and other legal support.

## **OTHER GOVERNMENT CONTRACTING ORGANIZATIONS**

- General Services Administration (GSA) directs and manages the Federal Supply Schedule (FSS) program, which offers Federal agencies a simple process to obtain commercial supplies and services with volume price discounts.
- Other Government agencies and DoD organizations often have contracts in place that may be used for ordering standard supplies or services. Use of these contracting vehicles can eliminate the administrative time and expense of awarding a new contract, while resulting in a lower contract price.

The Interagency Contract Directory, at <http://www.contractdirectory.gov/>, contains a comprehensive directory of Government Wide Acquisition Contracts (GWACs) and other multi-agency contracts.

DSCA contracting offices are available to help identify existing contracting vehicles.

## **PART II FUNDAMENTAL PRINCIPLES**

### **CONTRACTING AUTHORITY**

Only the contracting officer has authority to enter into contracts on behalf of the Government. This authority applies to all modifications and terminations of existing contracts as well as the award of new contracts. **The customer must ensure that all direction to the contractor is processed through the contracting officer.** The customer has no authority to give direction to the contractor or enter into agreements with the contractor that would affect the contract's terms or conditions. Any such "unauthorized commitment" is a very serious matter that invokes a formal ratification process. [FAR Subpart 1.6](#)-Career Development, Contracting Authority, and Responsibilities provides details relating to ratification and other matters relating to Government contracting authority.

### **AVAILABILITY OF FUNDING**

Pursuant to the Anti-Deficiency Act, 31 U.S.C. 1341, the contracting officer cannot award a contract unless adequate funds are available (See [FAR Subpart 32.7-Contract Funding](#)).

### **STANDARDS OF CONDUCT**

Strict standards of conduct apply to Government acquisition personnel. The requirements are based on criminal statutes that are complex and can result in serious consequences if violated. Since Government acquisition personnel must sometimes work in partnership with contractor personnel, it is particularly important to understand the required standards of conduct and activities that are prohibited. For details, refer to [FAR Part 3-Improper Business Practices and Personal Conflicts of Interest](#) and the [DoD Joint Ethics Regulation, DoD 5500.7-R](#) or contact your installation or regional legal counsel for advice. The attached memorandum entitled "Dos and Don'ts of Dealing with Government Contractor Employees provides additional information regarding common Government/Contractor standards of conduct.

### **PUBLICIZING CONTRACT ACTIONS**

The contracting officer must publicize contract actions in order to increase competition, broaden industry participation in Government contracting, and help small businesses and other such concerns to obtain contracts and subcontracts (See [FAR Part 5- Publicizing Contract Actions](#)).

### **COMPETITION**

The Competition in Contracting Act (CICA) requires contracting officers to promote and provide for full and open competition in awarding Government contracts. See [FAR Part 6-Competition Requirements](#) for required procedures and exceptions that may apply to these requirements.

## **CONTRACTOR QUALIFICATIONS**

The contracting officer must make an affirmative responsibility determination before an award can be made to a contractor. In essence, the determination shows that the contractor is capable of performing the contract and has a satisfactory record of performance, integrity, and business ethics. See [FAR Part 9-Contractor Qualifications](#) for details on contractor responsibility determinations and other procedures relating to contractor qualifications.

## **SOCIOECONOMIC PROGRAMS**

It is the policy of the Government to provide the maximum practicable contracting and subcontracting opportunities to small businesses and various other concerns, such as veteran-owned small business, service-disabled veteran-owned small business, and small disadvantaged business, Historically Underutilized Business Zone (HUBZone) and women-owned small business concerns (See [FAR Part 19- Small Business Programs](#) for details).

## **IMPORTANT PRINCIPLES THE CUSTOMER MUST REMEMBER:**

- **Only a duly appointed contracting officer has the authority to:**
  - **Enter into and administer a contract on behalf of the U.S. Government.**
  - **Change or terminate an existing contract.**
  - **Make determinations and findings relating to the contract.**
- **The contracting officer is responsible for the contract, including terms and conditions.**
- **The contracting officer has ultimate responsibility for ensuring that the contractor satisfies the requirements that are stated in the contract.**
- **The customer may serve as a contracting officer's representative (COR). This appointment must:**
  - **Be made by the contracting officer in writing.**
  - **Provide a specific description of the COR's authority.**
- **The customer and contracting officer, together, must ensure that the contract calls for delivery of products and services that satisfy the Government's bona fide need.**
- **The customer has the responsibility to:**
  - **Carefully read and understand the contract.**
  - **Fulfill the Government's commitments to the contractor.**
  - **Verify that the contractor delivers what is called for in the contract.**

## **PART III CONTRACTING METHODS AND TYPES**

The FAR prescribes several sets of acquisition procedures that are appropriate in a given case, depending on the nature of the supplies and services and the size and complexity of the requirement. In determining an acquisition approach, the customer should consider the following methods.

### **REQUIRED SOURCES OF SUPPLY**

Before establishing a new contract for supplies or services, the customer should determine if the product is available from one of the sources identified in [FAR Part 8- Required Sources of Supplies and Services](#) and DFARS Part 208. Use of these sources can save the customer considerable time and costs, as well as furthering important national and Government priorities.

A listing of the Government supply sources specified at FAR Section 8.002-Priorities for Use of Government Supply Sources and FAR Section 8.003-Use of Other Government Supply Sources follows:

- Supplies.
  - Agency inventories
  - Excess from other agencies
  - Federal Prison Industries, Inc.
  - Supplies which are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled
  - Wholesale supply sources, such as stock programs of the General Services Administration (GSA), the Defense Logistics Agency, the Department of Veterans Affairs, and military inventory control points
  - Mandatory Federal Supply Schedules
  - Optional use Federal Supply Schedules
  - Commercial sources (including educational and nonprofit institutions)
- Services.
  - Services which are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled
  - Mandatory Federal Supply Schedules
  - Optional use Federal Supply Schedules
  - Federal Prison Industries, Inc., or commercial sources (including educational and nonprofit institutions).
- Public utility services
- Printing and related supplies
- Leased motor vehicles
- Strategic and critical materials (*e.g.*, metals and ores) from inventories exceeding Defense National Stockpile requirements
- Helium.

## COMMERCIAL ITEMS

Title VIII of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) established a preference for the Federal Government to acquire commercial products and to use acquisition policies that closely resemble those used in the commercial marketplace. FAR [Part 12-Acquisition of Commercial Items](#) and DFARS Part 212 prescribe policies and procedures unique to the acquisition of commercial items (See [FAR Subpart 2.1-Definitions](#) for the “Commercial Item” definition).

## SIMPLIFIED ACQUISITIONS

[FAR Part 13- Simplified Acquisition Procedures](#) apply to acquisitions that do not exceed the amount specified in the term “simplified acquisition threshold” in [FAR Subpart 2.1-Definitions](#). Currently this amount is \$100,000. Simplified acquisition procedures streamline the acquisition process to reduce administrative costs and lead times and avoid unneeded burdens on contractors. Further streamlined procedures apply to purchases that do not exceed the “micro-purchase threshold.” The micro-purchase threshold is \$3,000, except for acquisitions of construction subject to the Davis-Bacon Act, which is \$2,000. For acquisitions of services subject to the Service Contract Act the threshold is \$2,500; and for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack as described in the FAR Subpart [13.201](#)(g) (1), except for construction subject to the Davis-Bacon Act (41 U.S.C. 428a), the threshold is \$15,000 for contracts to be awarded and performed, or purchase to be made, inside the United States; and \$25,000 for contracts to be awarded and performed, or purchase to be made outside the United States. SAP procurements are automatically reserved as Small Business set-asides and every effort should be made to award to a small business concern.

### Governmentwide Commercial Purchase Card

Detailed procedures for using the Government Purchase Card within DSCA can be obtained by contacting the Agency Program Coordinator. General information and procedures are at [FAR Section 13.301](#)- Governmentwide Commercial Purchase Card and [DFARS Section 213.270](#). Customers may use purchase cards for orders under the micro-purchase threshold if authorized and appointed in writing by the contracting officer.

### Purchase Orders

Purchase orders are used for supplies and services that exceed the micro-purchase threshold but do not exceed the simplified acquisition threshold. Normally, the contracting officer issues a purchase order after receiving a nonbinding quotation from the prospective contractor. The order becomes an enforceable contract when the Contractor either acknowledges acceptance of the order or begins work to fulfill the order. See [FAR Section 13.302](#)-Purchase Orders and DFARS Section 213.302 for procedures relating to purchase orders.

## **Blanket Purchase Agreements (BPAs)**

BPAs are standing ordering arrangements similar to charge accounts that contracting officers establish with qualified sources to satisfy recurring needs. An initial BPA is established and orders are placed against it at later time. In most cases, they are issued to more than one contractor. See [FAR Section 13.303](#)-Blanket Purchase Agreements and DFARS Section 213.303 for procedures relating to BPAs.

## **CONTRACTING BY NEGOTIATION**

Contracting by negotiation involves discussions or negotiations with prospective contractors after receipt of proposals. This method is used when the Government cannot describe its needs precisely enough for a prospective contractor to prepare a satisfactory offer without the need for any clarification or explanation.

The negotiation method allows the Government to perform technical evaluations to determine the offer that represents the overall best value to the Government. The negotiation method offers greater flexibility and is a formal process that requires careful adherence to well established procedures. This is particularly true for large competitive acquisitions, where protests can cause considerable delays and added costs to the Government.

There are two types of negotiated acquisitions. In sole source acquisitions, a contract for the purchase of supplies or services is entered into, or proposed to be entered into by an agency after soliciting and negotiating with only one source. The focus of sole source negotiations is on arriving at a fair and reasonable price based on analysis of the contractor's cost proposal and detailed negotiations of contract terms and conditions. The Government should strive to simplify the proposal and negotiation process to eliminate unneeded proposal information and requirements; *e.g.*, evaluation criteria and voluminous proposal preparation instructions.

When two or more offers are received, the Government's goal is to facilitate the competition between the prospective contractors to achieve a fair and reasonable price. Source selection procedures should minimize the complexity of the solicitation, evaluation, and the source selection decision, while fostering an impartial and comprehensive evaluation of offerors' proposals and selection of the proposal representing the best value to the Government.

The subject of contracting by negotiation is too extensive to cover in detail in this guide. See FAR [Part 15-Contracting by Negotiation](#) and [DFARS Part 215](#) for basic requirements. Additional information will be provided by the contracting officer for in-depth coverage of the Formal Source Selection process for a given source selection.

## **SPECIAL CONTRACTING METHODS**

Procedures for other contracting methods are provided at [FAR Part 17-Special Contracting Methods](#) and [DFARS Part 217](#).

## **Undefinitized Contract Actions (UCAs)**

All contractual actions should only be awarded when the price, specifications, and other terms of the contract are clearly defined. However, DoD policy recognizes that in certain cases award of undefined work is in the best interest of the Government. [FAR Section 16.603 Letter contracts](#) and [DFARS Subpart 217.74](#) specify the conditions when undefinitized contract actions may be used and the procedures for obtaining the necessary approvals. DoD policy is that undefinitized contract actions can only be used when:

- There is insufficient time to negotiate a definitive contract to meet the Government's requirements.
- It is in the Government's best interest for the contractor to begin contract performance immediately.
- The price and other terms in the action are as complete and definite as practicable.

## **Options**

An option gives the Government the right to order additional supplies or services, or extend contract performance. Options have a definite expiration date and should have a definite price, specification, and delivery schedule. Options are useful when it is feasible to include future requirements in a competition in order to avoid the need for additional competitions. Options must be priced when the basic contract is awarded. Options are also used as part of an incentive arrangement in Award-Term service contracts. See [FAR Subpart 17.2-Options](#) and [DFARS Subpart 217.2](#) for policies and restrictions regarding the use of options.

## **Interagency Acquisitions Under the Economy Act**

DSCA policy calls for requiring activities to obtain acquisition support from the organization that is best equipped to satisfy the requirement, considering technical capability, quality, cost, and timeliness. "Offloading" occurs when the acquisition support comes from a different organization than its normal contracting office. The offloaded acquisition is subject to the Economy Act (31 U.S.C. 1535) when the organization is in an agency other than DoD, unless a specific law grants the servicing agency authority to produce the supply or service for the Federal Government (other than that agency itself). Policies and procedures are at [FAR Subpart 17.5-Interagency Acquisitions Under the Economy Act](#), [DFARS Subpart 217.5](#).

## **TYPES OF CONTRACTS**

[FAR Part 16- Types of Contracts](#) and [DFARS Part 216](#) provide policies and procedures for a wide selection of contract types in order to provide needed flexibility in acquiring the large variety and volume of supplies and services required by agencies. Contract types vary according to the level of responsibility the contractor bears for the costs of performance and the profit incentive given to the contractor to achieve or exceed the requirements specified in the contract. The Government may negotiate any type or combination of types provided in FAR Part 16 that will promote the Government's interest.

## **Selecting Contract Types**

Selecting the contract type requires the exercise of sound judgment. The objective is to establish a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance. There are two broad categories of contract types.

### **Fixed-Price Contracts**

In Fixed-price contracts, the contractor assumes the greatest risk and has full responsibility for performance costs and resulting profit or loss. Generally speaking, profit decreases as costs increase, potentially resulting in a loss for the contractor. This contract type gives maximum incentive for the contractor to control contract costs, but it is only suitable when the risk of performance is minimal and can be predicted and priced with an acceptable degree of certainty. If a reasonable basis for firm pricing does not exist, the negotiations may move the cost risk back to the Government by including contingencies in price that reflect the uncertainties. If the contingencies do not occur, the Government would pay a high premium and the contractor would reap a windfall profit. In these cases, the Government should consider other contract types (or combination of types) that will appropriately tie profit to contractor performance. See [FAR Subpart 16.2-Fixed-Price Contracts](#) and [DFARS Subpart 216.2](#) for policies and procedures for fixed-price contracts.

### **Cost-Reimbursement Contracts**

Cost-reimbursement contracts are appropriate when risks of performance are too great to use a fixed-price contract. These types of contracts however, have a number of disadvantages. This contract type gives the contractor a minimal incentive for controlling performance costs. The contract is established with an estimated cost, a set fee (profit), and a contract ceiling (not-to-exceed) price. The Government reimburses the contractor for costs incurred up to the ceiling. Unless the contracting officer adds additional funding, the contract ends when the ceiling is reached, even if all of the work called for in the contract is not completed. Additionally, the contractor must have an adequate accounting system for determining applicable costs and the Government must be able to provide appropriate contract surveillance to ensure that the contractor is using efficient methods and effective cost controls. The FAR prohibits the use of cost-reimbursement contracts for commercial items. See [FAR Subpart 16.3-Cost-Reimbursement Contracts](#) and [DFARS Subpart 216.3](#) for policies and procedures.

### **Time-and-Materials (T&M) and Labor-Hour Contracts**

In T&M and labor-hour contracts, the Government pays for the number of direct labor hours expended in performing the contract. The Government and the contractor negotiate fixed hourly rates that include wages, overhead, general and administrative expenses, and profit. T&M contracts include a provision for incidental materials to be provided at cost. [FAR Section 16.601](#)-Time-and-Materials Contracts, [FAR Section 16.602](#)-Labor-Hour Contracts, and [DFARS Subpart 216.6](#) provide policies and procedures.

T&M and labor-hour contracts have the same disadvantages as cost reimbursement contracts and may only be used when it is not possible to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. By

containing a ceiling price instead of a fixed price, they do not give a strong incentive for the contractor to work efficiently and control costs. The contractor can benefit from a favorable rate differential by using lower labor categories than were used to negotiate the hourly rates. In addition to the rate differential, less skilled workers may require more hours to do the job. This requires additional contract surveillance by the Government.

### **Indefinite-Delivery Contracts (IDCs)**

IDCs allow the Government to acquire supplies or services when the exact times and/or exact quantities of future deliveries are not known at the time the contract is awarded.

[FAR Subpart 16.5](#)-Indefinite-Delivery Contracts addresses three types of IDCs:

- Indefinite-Delivery Definite-Quantity (IDDQ) contracts call for the contractor to deliver a definite quantity of specific supplies or services for a fixed period of time. This contract type is used when the Government knows that a definite quantity of supplies or services will be required during the contract period, but does not know precisely when delivery of supplies or performance of services will be needed.
- Indefinite-Delivery Indefinite-Quantity (IDIQ) contracts provide for an indefinite quantity of supplies or services to be delivered during the contract period. IDIQ contracts set a minimum level of supplies or services that the Government must order and a maximum amount that the contractor can be required to deliver.
- Requirements Contracts obligate the Government contracting office to acquire all of its requirements for specific supplies or services during a specified period of time from a specific contractor. This contract must contain a realistic estimate of the quantities of supplies or services that will be required and must state a maximum amount of supplies or services the contractor can be required to deliver.

### **Basic Ordering Agreements (BOAs)**

Agreements are used to streamline the contracting process when repetitive contracts or orders will be awarded to a contractor during a given period of time and the supplies and services cannot be specified so as to establish a single contract or an Indefinite-Delivery Contract. Basic Ordering Agreements are not contracts themselves, but are documents that the Government enters into with contractors to provide terms and conditions and procedures for contracts or orders that will be awarded later. [FAR Subpart 16.7](#)-Agreements and DFARS Subpart 216.7 provide policies and procedures for Basic Agreements and BOAs. See [FAR Section 13.303](#)-Blanket Purchase Agreements and DFARS Section 213.303 for policies and procedures.

## **CONTRACTING VEHICLES**

### **Master Contracts**

Master contracts are written to eliminate redundancies and leverage DSCA requirements and economies of scale by consolidating common requirements. Master contracts typically are IDCs that enable the contracting office to place an order under an established contract instead of executing a new contract. DSCA is working to fully utilize contracts by other agencies, such as Federal Supply Schedules when appropriate. See

[FAR Part 38](#)-Federal Supply Schedule Contracting.

### **Performance Based Service Acquisitions (PBSA)**

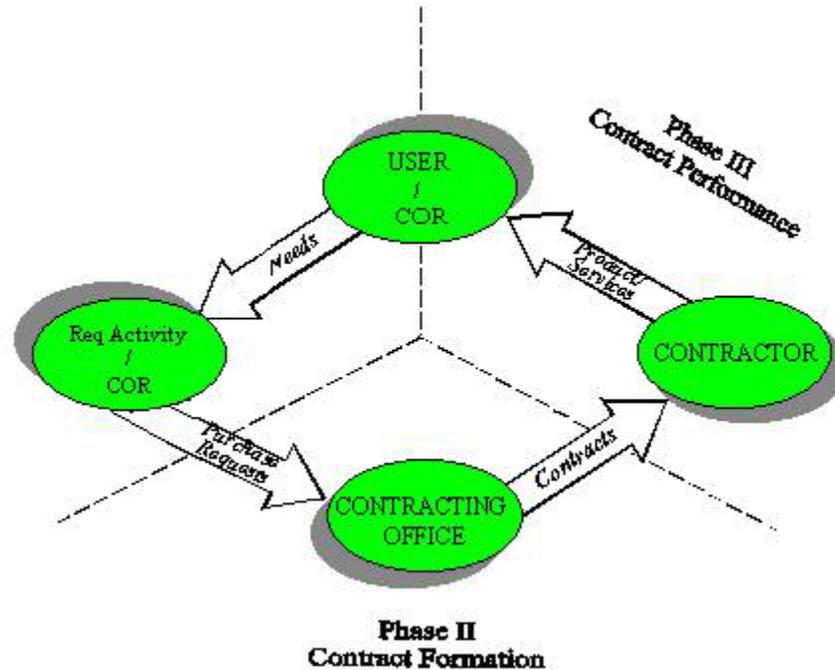
PBSAs represent one of the most significant developments in acquisition reform. Performance-based acquisitions give contractors a positive incentive to use the best approaches and techniques available to satisfy the Government's requirement by defining the Government's requirements in performance terms, instead of rigid Government specifications. Four essential elements of a successful PBSA are:

- A Performance Work Statement (PWS).
- Measurable performance standards (*i.e.*, in terms of quality, timeliness, quantity, etc.) and the method of assessing contractor performance against performance standards.
- Performance incentives where appropriate. When used, the performance incentives shall correspond to the performance standards set forth in the contract.
- A Quality Assurance Surveillance Plan (QASP) that enables the contracting officer or designated representative to reject services that do not comply with the performance requirements of the contract.

To accomplish a successful PBSA, all aspects of the acquisition should focus on achieving the desired end result and not in developing detailed specifications for performance processes. The customer and other members of the acquisition team must carefully plan and execute the acquisition. [FAR Subpart 37.6](#) provides basic policies and procedures for performance-based contracting. In December 2000, the Under Secretary of Defense for Acquisition and Technology published a handbook that provides detailed instructions for PBSA. A downloadable copy of the handbook is available at the Defense Procurement and Acquisition Policy website at <http://www.acq.osd.mil/dpap/Docs/pbsaguide010201.pdf>.

## PART IV THE CONTRACTING PROCESS

The figure below shows the major elements of the Government contracting process, which consists of four steps that are accomplished in three phases.



The steps in the process reflect the most important outputs of the participants in the process. In the first step, the using organization identifies its needs to the requiring activity. In the second step, the requiring activity translates the user's needs into an actionable requirement or purchase request, which is submitted to the contracting office. In the third step, after receiving the purchase request, the contracting office solicits offers from industry and awards a contract. In the final step, the contractor closes the loop by delivering products and services that satisfy the user's needs.

The phases of the contracting process represent major groupings of functions and tasks that overlap the four steps. In phase one, the requiring activity develops an acquisition strategy plan to achieve the best technical and business outcome. During the second phase, the contracting office issues a solicitation to industry requesting quotes, bids, or proposals that lead a contract award. The third phase covers contract performance, which concludes with delivery of the products and services.

**During acquisition planning, primary responsibility rests with the requiring activity. During contract formation, the focus shifts to the contracting office. During contractor performance, primary responsibility shifts to the requiring activity again. Both the requiring activity and the contracting office share important duties throughout the process.**

The following table summarizes the most significant functions that the Government accomplishes during the three phases.

<b>Phase I Acquisition Planning.</b>	<b>Phase II Contract Formation</b>	<b>Phase III Contract Performance</b>
Determination of Need	Solicitation of Offers	Initiation of Work & Modification
Extent of Competition	Source Selection	Contract Performance Assurance
Source Selection Planning	Reviews & Approvals	Payment & Accounting
Planning for Solicitation Terms & Conditions	Contract Award	Contract Closeout & Termination

The remainder of this part details the duties and responsibilities of the requiring activity or customer, and the contracting office for each of the functions throughout the contracting process.

Note that not every function or duty applies to every acquisition and the sequence of functions and duties may vary from one case to another. For example, not all contracts require formal written acquisition plans. Many contracts are not modified and few contracts are terminated. Some solicitations may be amended prior to receipt of offers, while others are amended after the Government has begun evaluation of proposals.

Many duties may be performed repetitively through several phases of the process. For example, market research may follow a continuing market surveillance effort and begin as a part of the requirement forecast and continue after contract award. Another example includes proposal evaluation and negotiations in the contract formation phase, which may also apply to negotiation of contract modifications during the contract performance phase.

# **PHASE I ACQUISITION PLANNING**

## **Introduction**

Acquisition planning is the process of identifying and describing requirements and determining the best method for meeting those requirements. An important step in acquisition planning is forming the acquisition team. A representative from the requiring activity assembles and leads the acquisition team. For a large or complex acquisition, participants on the acquisition team may include financial and legal personnel and functional experts and advisors, in addition to the customer, small business advisor and contracting officer. The team should be tailored to meet specific needs.

Acquisition planning focuses on the business and technical management approaches designed to achieve the customer's objectives within specified resource constraints and the procurement and contracting strategies necessary for implementation. The contracting processes and associated focus areas addressed are:

### **A. Determination of Need**

Determination of need is the first step in the acquisition planning process. It focuses on the forecasting and planning of the acquisition requirements, as well as developing and updating acquisition plans and justifications and authorizations, as required.

#### **A1 Forecasting Requirements**

##### **Contracting Functions**

- Discuss future acquisition requirements with customer. Advise the customer on policies and long-range strategies for enhancing competition, minimizing costs, reducing lead times, etc. Plan and organize to meet the anticipated, aggregate requirements.
- Consolidate and forecast requirements that are likely to be incorporated in purchase requests during the next several fiscal years.
- Discuss economic order quantities and a tentative schedule of purchases.

##### **Customer/COR Functions**

- Submit information for early planning via the Resource Acquisition Program Timing Organizational Requirements (RAPTOR) or other tool approved by the contracting office. The attached memorandum, "Acquisition Cut-Off Dates" is issued annually by the Contracting Office to advise customers of the dates that procurement packages need to be submitted in order to ensure timely award of contracts.
- Prepare plans, cost estimates, and schedules and determine priorities.
- Describe needs in terms of desired outcomes and objectives.
- Identify and sequence tasks to accomplish overall outcome and each of the objectives.
- Identify sub-objectives and related responsibilities for each task.

- Identify needed resources.
- Estimate length of time for each objective.
- Perform a cost/benefit analysis to prioritize the objectives.
- Identify required test equipment/tooling, software, Government Furnished Property (GFP), etc.
- Identify documentation/data requirements:
  - Specifications
  - Technical Data Rights.

## **A2 Market Research/Market Surveillance**

### **Contracting Functions**

- Obtain data from acquisition histories and other DoD sources. Collect and compile additional market information.
- Determine whether and how to initiate exchange of information with prospective offerors prior to soliciting. Coordinate and participate in early exchanges with industry.

### **Customer/COR Functions**

- Conduct trade studies to evaluate alternatives and associated risks. As part of the trade study, consider supportability, reliability, cost and schedule as well as performance.
- Determine if Commercial Off-the-Shelf or Non-Developmental Items (COTS/NDI) are applicable.
- Conduct market research and document the findings.
- Estimate the proper price level or value of the supplies or services to be purchased.

## **A3 Contract Planning**

### **Contracting Functions**

- Identify procurement related data from project planning and pre-procurement planning conferences, including:
  - Supplies and services to be procured
  - Acquisition histories on needed supplies and services
  - Findings of market research.
  - Decisions on whether to use presolicitation notices, conferences, or other meeting with industry.
  - Available techniques to enhance competition
  - Project baselines (milestones, cost, and performance)

- Review and organize all elements required for acquisition strategy plans, such as:
  - Sources and small business opportunities.
  - Competition and source selection procedures.
  - Contracting considerations.
  - Budgeting and funding.
  - Data and patent rights.
  - Product descriptions, priorities, allocations and allotments.
  - Contractor vs. Government performance.
  - Management information requirements.
  - GFP and Government-furnished information.
  - Environmental and security considerations.
  - Milestones.

With assistance of technical experts, determine the contract type appropriate for the customer's requirements such as fixed price, cost reimbursement, indefinite delivery, time & material/labor hour, basic agreements/basic ordering, and letter contracts.

- Prepare a plan of action and milestones for significant actions through contract award, including assembly of the solicitation package and status meetings.
- Select technique(s) for testing and improving the Government's description of required supplies and services. These may include:
  - Industry panels or one-on-one meetings, to assist in specification development.
  - Solicitations for information or planning purpose.
  - Presolicitation notices.
  - Presolicitation conferences.
- Obtain necessary concurrence and approvals, such as:
  - Legal and financial reviews.
  - Reviews by the Small Business Administration Procurement Center Representative.
  - Review by the Competition Advocate.

#### **Customer/COR Functions**

- Identify technical actions required to successfully complete technical and procurement milestones. The attached memorandum entitled "Procurement Action Lead Time (PALT) identifies timelines for various award types and dollar thresholds.

- Identify the overall procurement requirements and associated budget. Describe the Government's needs and any constraints placed on the procurement.
- Describe market research results, including previous procurements, related requirements, and historical problems as they affect technical issues.
- Work with the contracting office to identify sources, budgeting and funding, product descriptions, priorities, allocations, and allotments, contractor vs. Government performance, management information requirements, Government furnished property, Government-furnished information, environmental considerations, security considerations, and milestones.
- Deliverable Quantities/Options: Identify procurement requirements including options and prepare the contract line item structure and data requirements with the assigned contracting office.
- Plan the requirements for the contract Performance Work Statement/Product Specification, project design reviews, acceptance requirements, and schedule.
- With the contracting office, determine:
  - Acquisition streamlining approach/ requirements.
  - Warranty requirements.
  - Requirements for contract administration office MOA and/or letter of delegation.
  - Requirements for proposal format instructions and evaluation criteria.
  - Contract cost, schedule and performance reporting requirements.
  - Significant actions, including status meetings, through contract award, and a plan for completion.
- Provide technical evaluation/response to the contracting officer regarding offeror comments and pre-award inquiries

#### **A4 Administrative Service Request (DD Form 1262)**

##### **Contracting Functions**

- Review the Purchase Request/Purchase Request & Commitment (PR/PR&C – DD Form 1262) for completeness and adequacy.
- Establish and maintain the contract file.
- Control data on the acquisition.
- For services:
  - Screen purchase requests for requests to acquire personal services or advisory and assistance services
  - Determine if there is sufficient justification, approvals, and legal authority to make such acquisitions

- Obtain wage determinations, if needed for incorporation in the solicitation
- Determine if adequate funds will be available for commitment, prior to solicitation release.
- Contract Clauses:
  - Identify FAR/DFARS/DSCA Supplement clauses that are applicable to the requirement.
  - Consider acquisition streamlining initiatives, competition requirements, and the potential needs such as Correction of Deficiencies, Materials and Workmanship, Warranty, Inspection/Delivery Requirements, Data Rights.
- Prepare the synopsis for [FedBizOpps](#).

#### **Customer/COR Functions**

- Assure adequate funding to support technical requirements.
- Prepare PR inputs, as applicable. The following sections are unique to the Uniform Contract Format (UCF); however, if the UCF is not used, the basic elements may still apply.
  - Section B: Supplies and Services Line Items.
  - Section C: PWS/Product Specification.
  - Section D: Packaging and Marking.
  - Section E: Inspection and Acceptance.
  - Section F: Period of Performance or Delivery.
  - Section G: Contract Administration Data.
  - Section H: Special Contract Requirements.
  - Section I: Contract Clauses.
  - Section L: Instruction to Offerors.
  - Section M: Evaluation Factors for Award.
  - Funding Citation.
  - Any applicable justifications and/or waivers.
  - Acquisition Strategy Plan (for service requirements over \$100K including options).
  - Detailed Independent Government Cost Estimate (for requirements over \$100K or sole source actions over \$10K).
  - Source List (at least three sources with valid e-mail addresses and phone numbers).
  - COR Nomination Letter (for all acquisitions).

- Submit PR using procedures applicable at your location.

**Avoid writing PRs that recommend only one source or restrict competition! DO NOT Bundle or Consolidate Requirements that were previous contract awards without guidance form the contracting officer, small business advisor or legal office.**

**Identify funding constraints early!**

## **B. Extent of Competition**

Check available sources to determine if their qualifications meet customer needs.

### **B1 Sources**

#### **Contracting Functions**

- Based on a review of acquisition histories and other market research techniques:
  - Determine if qualified sources are available to satisfy the customer's needs.
  - Ascertain if unlisted firms or products may meet minimum requirements.
  - Determine if commercial products exist or can be modified to meet the requirements.
  - Prepare a listing of any potential sources identified during market research.

#### **Customer/COR Functions**

- Based on a review of acquisition histories and other market research techniques:
  - Determine if qualified sources are available to satisfy needs.
  - Determine if commercial products exist or can be modified to meet the requirements.
  - Prepare a listing of any potential sources identified during market research.
- Establish technical requirements for evaluating potential sources. If schedules and technical requirements restrict competition, provide data necessary to justify the restriction.

### **B2 Competition Requirements**

#### **Contracting Functions**

- Determine if full and open competition can be obtained. If not, determine whether to solicit from a limited number of sources or from a sole source.
- Determine if a set-aside is appropriate or if a competition should be limited to establish or maintain an industrial base.
- Identify any international agreement that would restrict competition.
- Approve justification for other than full and open competition.
- Obtain clearances/approvals from the competition advocate and/or other responsible officials.
- Prepare and issue a synopsis.

#### **Customer/COR Functions**

- Prepare supporting justification (e.g., lead time requirement, limited rights in data, industrial base mobilization, and an essential engineering, development, or research capability) if recommending other than full and open competition.
- Consider production competition below the end-item, such as competition for subcontract. Assess the associated risks.
- Assess past performance histories of potential suppliers.

**The Competition in Contracting Act (CICA) of 1984 and DoD regulations and policies require competition to the maximum extent whenever possible.**

### **C. Source Selection Planning**

The objective of Source Selection Planning is to establish criteria to determine that the selected source(s) will provide the best value to the Government, in meeting the customer's needs.

#### **C1 Lease vs. Purchase**

##### **Contracting Functions**

- Determine whether to solicit for lease, purchase, or both.

##### **Customer/COR Functions**

- Determine the product's expected life and life cycle cost, considering factors such as:
  - Potential obsolescence.
  - Maintenance and repair.
  - Operation.

- Training
- Prepare a lease versus buy analysis using information gained from market research.

## **C2 Price Related Factors**

### **Contracting Functions**

- Identify applicable factors, such as multiple awards, Buy American, energy efficiency, transportation, multiyear options, and reverse auction.

### **Customer/COR Functions**

- Establish technical criteria for price-related factors and their relative importance. Determine the product's expected quality and life-cycle cost.
- Establish technical requirements for evaluating performance, quality, maintenance concept, technical/logistics documentation, and skills.

## **C3 Non-Price Factors**

### **Contracting Functions**

- Select non-price evaluation factors (if any) for award and determine how the Government will apply the factors (e.g., as go/no-go or rating factors) to screen out high-risk bids or proposals.
- Determine whether to award to the lowest priced, technically acceptable proposal or through a trade-off analysis.
- Organize and brief the source selection team. The higher the business and technical risk, the greater the emphasis on factors other than price.

### **Customer/COR Functions**

- Establish technical criteria for non-price related factors and their relative importance.
- Evaluate past performance, personnel qualifications, products proposed by a vendor with different characteristics other than price, and technical realism of proposed resources.
- Perform technical/non-price factor trade-off analyses and determine the best value or minimum technical requirements for award.

## **C4 Method of Procurement or Purchasing**

### **Contracting Functions**

- Determine the method for procurement and soliciting quotes/proposals.

### **Customer/COR Functions**

- Review acquisition history and market research and recommend procurement methods. For selections based on oral presentations, develop sample technical tasks and evaluation criteria for oral presentations.

## **D. Planning for Solicitation Terms and Conditions**

The objective of developing solicitation terms and conditions is to minimize the risk that the solicitation will not meet performance, cost, and schedule requirements.

### **D1 Contract Type (Pricing Arrangement)**

#### **Contracting Functions**

- Identify and solicit the type of contractual pricing arrangements that will best mitigate and apportion expected risks.
- Consider the use of incentive contracts that include definitive, measurable incentives.

#### **Customer/COR Functions**

- Provide input on technical risks.

### **D2 Recurring Requirements**

#### **Contracting Functions**

- Determine the appropriate method to solicit for currently unfunded requirements. Alternatives include blanket purchase agreements, options, and indefinite delivery types of contracts.

#### **Customer/COR Functions**

- Identify requirements.

### **D3 Contract Financing**

#### **Contracting Functions**

- Determine what type of Government financing is available (e.g., progress payments, advance payments, performance based payments, etc.).

#### **Customer/COR Functions**

- Provide technical support, as required by the contracting office.

### **D4 Method of Payment**

#### **Contracting Functions**

- Determine the method of payment (i.e., impact card, electronic funds transfer, etc.).

#### **Customer/COR Functions**

- Provide technical support as required by the contracting office.

## **PHASE II CONTRACT FORMATION**

Contract Formation consists of three steps that lead to contract award.

- Solicitations are prepared and publicized in order to obtain offers from as many qualified sources as feasible.
- Offers are evaluated to select the source that offers the best value to the Government or, if sole source, to negotiate a fair and reasonable price.
- The contractual document and necessary supporting documentation are reviewed and approved by appropriate contracting authorities.

### **A. Solicitation of Offers**

The objective in preparing and issuing a solicitation is to give all qualified offerors the opportunity to compete for a contract award that best meets the Government's needs. The Standard Procurement System (SPS)/Procurement Desktop Defense (PD2) must be used in developing solicitations and contracts, in order to minimize redundant data entry and to standardize contract documentation across DoD.

#### **A1 Solicitation Preparation**

##### **Contracting Functions**

- Identify, complete and incorporate FAR clauses and provisions into the Request for Quote (RFQ), or Request for Proposal (RFP).
- Identify customary commercial terms and conditions and determine which to incorporate.
- Assemble the IFB/RFQ/RFP.
- Make the solicitation available to all parties.

##### **Customer/COR Functions**

- Review the documents that authorize the requirement and define its basic objectives.
- Use market research to determine whether COTS/NDIs are available to meet customer's requirements.
- Use market research to identify customary commercial terms and conditions and recommend which to incorporate.
- Identify all organizations and persons who will participate in preparing the PWS, and determine each participant's area of responsibility.
- Prepare the PWS covering all of the Work Breakdown Structure (WBS) work elements included in the RFP/contract.
  - For each WBS work element, identify tasks that define the scope of the work effort to satisfy the minimal needs of the customer and identify required data deliverables.

- Ensure that the PWS only contains tasks that add value to the product, whether part of a management system or the technical requirements.

## **A2 Description of Requirement**

### **Contracting Functions**

- Based on market research information; assure that the description of the requirement:
  - States minimum functional needs in terms that the market can satisfy.
  - Does not contain nonessential requirements or preferences that would exclude available products or services that can meet the needs of the Government.

### **Customer/COR Functions**

- Ensure that technical requirements are adequately reflected in the PWS.
- Describe the basic objectives in the documents that authorize the requirement.
- Ensure that the requirements and the PWS are consistent with other elements (pricing, evaluation elements, etc.)

## **A3 Section L Instructions, conditions, and notices to offerors or respondents**

### **Contracting Functions**

- Assure that:
  - FAR/DFARS/DSCA provisions that advise offerors of statutory and other requirements are included.
  - Instructions for proposal organization, volumes, page limitations, cost proposals and other formatting requirements are provided.
  - Instructions are consistent with taskings in the PWS, evaluation criteria in Section M, special provisions in Section H, and other parts of the solicitation.

### **Customer/COR Functions**

- Identify contractor critical design, test, and other technical requirements, such as:
  - Critical design processes.
  - Design analyses.
  - Special test requirements.
  - Risk management.

## **A4 Section M Evaluation factors for award**

### **Contracting Functions**

- Make certain that evaluation factors/subfactors relate to the customer objectives and are in consonance with material requirements of the solicitation.

- Ensure that the evaluation factors being used are consistent with the Source Selection Plan (SSP) approved by the Source Selection Authority (SSA).
- Ensure consistency with the rest of the RFP.

**Customer/COR Functions**

- Ensure that the factors/subfactors match the factors/subfactors approved in the SSP.
- Describe the relative weights of the technical performance factors developed in Section L.

**A5 CDRL/DIDs**

**Contracting Functions**

- Review the Contract Data Requirements List (CDRLs) and confirm with the technical personnel that:
  - Data Item Descriptions (DIDs) referenced in the CDRLs are current and approved.
  - Reports called for in the CDRLs are necessary.
  - The number of copies called for and required distributions are appropriate.

**Customer/COR Functions**

- Identify, justify, and support the need for the deliverable data on the contract.
- Base data requirements on the acquisition strategy. Data requirements should only be acquired for two purposes:
  - Information the Government needs for management, control, and decision making, such as cost and performance data.
  - Information that pertains to the product itself, such as maintenance and operation manuals, specifications, and engineering drawings.

**A6 Warranty**

**Contracting Functions**

- Develop contractual language to implement the warranty.
- Conduct warranty cost/benefit analysis.

**Customer/COR Functions**

- Assess warranty conditions for commercial off the shelf/non-developmental (COTS/NDI) products.
- Develop warranty terms based on the objectives and circumstances of the acquisition considering planned operational, maintenance and supply concepts.
- Conduct warranty cost/benefit analysis.

## **A7 Publicizing Proposed Procurements**

### **Contracting Functions**

- Prepare and publicize in Federal Business Opportunities (FedBizOpps) on the Internet and use any other appropriate method of advertising.

### **Customer/COR Functions**

- Provide technical inputs for preparing the FedBizOpps synopsis or other advertising methods, as required.

## **A8 Preaward Inquiries**

### **Contracting Functions**

- Answer questions about the solicitation. Process Freedom of Information Act Requests (FOIA).

### **Customer/COR Functions**

- Forward preaward and FOIA inquiries to the contracting office. Provide technical responses, when requested, to the contracting office.

## **A9 Prequote/Prebid/Preproposal Conferences**

### **Contracting Functions**

- Provide offerors with a public forum to review and question the solicitation. Brief the solicitation.

### **Customer/COR Functions**

- Brief the key technical requirements in the PWS and provide other technical support, as requested by the contracting office.

## **A10 Amending and Canceling Solicitations**

### **Contracting Functions**

- Determine whether there is a need to amend or cancel a solicitation.
  - Prepare and issue the amendments when needed.
  - Cancel the solicitation, if a cancellation decision is made.

### **Customer/COR Functions**

- Provide technical justification for amendment or cancellation of a solicitation.

## **B. Source Selection**

The objective of source selections is to select the source that offers the best value solution that satisfies the needs of the Government.

### **B1 Processing and Accepting Offers**

#### **Contracting Functions**

- Receive and control offers submitted in response to the solicitation.
- Identify the acceptance period for the offer.

- Make determination and provision for delayed offers and late offers.

#### **Customer/COR Functions**

- Provide technical support, as required by the contracting office.

### **B2 Proposal Price and Responsiveness**

#### **Contracting Functions**

- Conduct a price reasonableness analysis, with input from the technical evaluators as deemed necessary by the contracting officer.

#### **Customer/COR Functions**

- Provide technical evaluation. Provide input on the price reasonableness analysis, as requested by the contracting officer.

### **B3 Processing Quotes and Proposals**

#### **Contracting Functions**

- Serve as the official point of contact with all offerors.
- Ensure that the "evaluation factors for award" in Section M of the solicitation are consistent with the SSP approved by the SSA.
- Identify and solicit services of technical personnel for proposal evaluation.
- Provide complete and correct instructions to technical evaluators for evaluating technical proposals.
- Prior to receipt of offers, brief the SSA and SSEB on rules and regulations applicable to the evaluation process.
- Chair the cost/price team that evaluates each proposal and determine if:
  - The cost/price is reasonable/realistic.
  - The offeror understands the work and is capable of performing the contract.
- Determine which proposals are in the competitive range for the purpose of conducting written or oral discussions. (The competitive range is generally limited to those proposals that are most highly rated or otherwise have the best chance of being selected for award from a technical and price standpoint.)
- Ensure that evaluator ratings of technical proposals are reliable and valid, in terms of the evaluation factors in the RFP.
- Conduct debriefings of unsuccessful offerors, with assistance from the technical evaluators as deemed necessary by the contracting officer.

#### **Customer/COR Functions**

- Evaluate the technical proposals and produce facts and findings required in the technical evaluation plan and source selection process.

- Support the cost/price team with an assessment of the scope (e.g., labor categories/mix/hours, materials, etc) of the proposals relative to their respective technical approach.
- The findings and recommendations of the technical evaluation board, should provide sufficient data to:
  - Determine the need for communications before establishment of competitive range.
  - Determine the need to amend or cancel the solicitation.
  - Present and support negotiation objectives (i.e., areas of discussion).
  - Support the contracting officer's determination of the competitive range.
- Provide constructive information to offerors regarding their technical proposals after award, as requested by the contracting officer.

#### **B4 Applying Past Performance, Technical, and Non-Price Factors**

##### **Contracting Functions**

- Check latest performance information in the Past Performance Information Retrieval System (PPIRS), at <http://www.ppirs.gov/>
- Review technical findings and recommendations to ensure that the evaluation documentation would sustain the Government's ratings in a protest forum.
- Invite contractor comments regarding adverse past performance information.
- Reconcile discrepancies between the contractor version of events and reported past performance information.

##### **Customer/COR Functions**

- Provide technical evaluations and recommendations for each offeror, regarding:
  - Ratings and acceptability.
  - Any deficiencies or clarifications and the need for fact finding.
  - The relative standing of the offers/quotes in terms of strengths and weaknesses, and the application of non-price factors.
  - Quality/reliability histories.
- Review each offeror's recent past performance in relevant areas to assess its performance risk. In assessing the offeror's probability of successful performance, consider areas such as quality, timeliness, cost, schedule, operational effectiveness and suitability.

#### **B5 Price Analysis, Negotiation, Information, and Audits**

##### **Contracting Functions**

- Prior to soliciting:
  - Critique the independent Government cost estimate.

- Collect price related information during market research.
- Forecast likely prices.
- Investigate trade-offs.
- After receipt of quotes/offers, determine the reasonableness/realism of the proposed prices, as follows:
  - Apply price related factors in the solicitation.
  - Obtain any required audits and cost or pricing data.
  - Obtain any necessary information other than cost or pricing data
  - Evaluate and compare prices.
  - Develop price related negotiation objectives for discussion with offerors in the competitive range.

#### **Customer/COR Functions**

- Provide supporting technical inputs and analyses.
- Identify fact finding/clarification issues/recommendations.
- Participate in best value trade-offs, as requested by the contracting officer.

#### **B6 Cost Analysis**

##### **Contracting Functions**

- Develop prenegotiation positions on proposed elements of cost and profit/fee.

##### **Customer/COR Functions**

- Perform types and quantities analysis.
- Provide supporting technical analyses.
- Identify significant technical factors, including contingencies and assumptions that affected the contractor's proposed cost estimate.
- Participate in analysis considering, for example, inefficient or uneconomical contractor methods and processes proposed.

#### **B7 Evaluating Other Terms and Conditions**

##### **Contracting Functions**

- Develop prenegotiation positions on terms and conditions other than price.

##### **Customer/COR Functions**

- Provide technical assistance, as requested by the contracting office.

#### **B8 Communications/Fact-Finding**

##### **Contracting Functions**

- Prior to competitive range determination, identify and collect information from the offeror necessary to complete the Government's analysis of the proposal.

### **Customer/COR Functions**

- Identify technical fact-finding requirements and participate in their collection, as requested by the contracting officer.

### **B9 Extent of Discussions (Competitive Range)**

#### **Contracting Functions**

- Determine necessity and extent of clarifications and other communications with the offerors before establishing the competitive range.
- Define the competitive range and notify offerors outside the range.

#### **Customer/COR Functions**

- Participate in clarification and communications with offerors before establishment of the competitive range, as requested by the contracting officer. Adjust the technical ratings, if appropriate.
- Provide technical inputs into the competitive range determination, as requested by the contracting officer.

### **B10 Discussions and Negotiations**

#### **Contracting Functions**

- Prepare a prenegotiation plan that establishes objectives, priorities, and potential trade-offs for discussions with the offeror(s).
- Conduct the negotiation sessions and document the elements of the negotiated agreement.
- Debrief vendors as requested.

#### **Customer/COR Functions**

- Provide technical inputs to the prenegotiation plan for each offeror, including:
  - Significant weaknesses/deficiencies/risks.
  - Recommend technical questions to address noted weaknesses/deficiencies.
  - Technical approach that could be altered to significantly enhance the proposal award.
  - Should-cost analysis for cost comparison.
- Participate in negotiations and debriefs, as required by the contracting officer.

## **C. Approvals and Contract Award**

The objective of contract award is to prepare and issue the contract.

### **C1 Responsibility**

#### **Contracting Functions**

- Determine if the offeror meets the general and any special standards of responsibility.

### **Customer/COR Functions**

- Participate in applicable pre-award surveys, as required by the contracting officer.

### **C2 Subcontracting Requirements**

#### **Contracting Functions**

- Determine whether to review the contractor's purchasing system. If the purchasing system is deficient:
  - Negotiate improvements and monitor implementation.
  - Take measures to protect the Government.
- Obtain a small business subcontracting plan from the contractor and negotiate make or buy programs.
- Monitor compliance with make-or-buy plans.
- Determine whether consent is required under the terms of the contract.

#### **Customer/COR Functions**

- Assess the following:
  - The small business subcontracting plan for acceptability and risk to the contract requirements.
  - The adequacy of the contractor's purchasing system and the contractor rating system, including the use of failure/discrepancy reporting data.
  - The contractor make/buy program for acceptability and risk to the contract requirements.

### **C3 Preparing and Issuing the Award**

#### **Contracting Functions**

- Verify funding.
- Make/obtain the final source selection decision.
- Prepare the contract and document the recommendation for award.
- Obtain approvals for awarding the contract.
- Execute the contract.
- Notify the awardee and other parties.
- Defend the Government's selected outcome, as required.

#### **Customer/COR Functions**

- Review the contract technical package for compliance with requirements.

## **C4 Protests**

### **Contracting Functions**

- Research and prepare Government positions.
- Respond to any protest as provided in the procedures or forums in which the protest has been filed.

### **Customer/COR Functions**

- Providing any technical evaluation, as requested by the assigned contracting office.

## **PHASE III CONTRACT PERFORMANCE**

After contract award, acquisition team members should maintain the same level of cooperation displayed during Phases I and II.

### **A. Initiation of Work and Modification**

The first objectives are to plan for proper contract administration, conduct any necessary post award briefings, determine the need for subcontract consent and other subcontracting requirements, and prepare for any modifications, options, and tasks/delivery orders.

#### **A1 Contract Administration Planning**

##### **Contracting Functions**

- Review the contract and related acquisition histories.
- Determine the criticality of the contract. Identify key milestones.
- Delegate authority to the contracting officer's representative and/or administrative contracting officer.

##### **Customer/COR Functions**

- Define the roles of supporting organizations for:
  - Surveillance of contractor activities.
  - Quality assurance.
  - GFP.
  - Reporting requirements.

#### **A2 Post Award Orientations**

##### **Contracting Functions**

- Conduct post award orientations.
- Confirm that the contractor's understanding of key contract provisions matches the Government's understanding.

##### **Customer/COR Functions**

- Identify issues that may affect performance, such as apparent contractor misinterpretations of technical requirements.

#### **A3 Contract Modifications**

##### **Contracting Functions**

- Review proposed modifications against the scope of work and availability of funds.
- Determine whether to modify the contract and implement the modification.

##### **Customer /COR Functions**

- Assess proposed modifications for technical content.

- Consult the contracting officer on all changes or additions.

**Only the contracting officer can modify the contract!**

#### **A4 Task Order and Delivery Order Contracting**

##### **Contracting Functions**

- Check on availability of existing contract vehicles.
- Establish task and delivery order contracts.
- Issue orders for supplies and services.

##### **Customer/COR Functions**

- Prepare PWS and task order technical requirements.
- Evaluate proposal including past performance, sample tasks, management controls, etc., as applicable.

#### **A5 Options**

##### **Contracting Functions**

- Verify and document the validity of an option.
- Determine whether to exercise the option and document the determination accordingly.
- Notify the contractor.

##### **Customer/COR Functions**

- Monitor the expiration dates and notice requirements for options. Provide technical concurrence/non-concurrence for exercise of the option to the contracting office.

#### **B. Contract Performance Assurance**

The objective of design and production assurance is to monitor the performance of the contractor against contract requirements to enable timely corrective action.

##### **B1 Monitoring, Inspection, and Acceptance**

##### **Contracting Functions**

- Obtain feedback on contractor performance or deliverables.
- Verify and document evidence of actual or potential performance problems, constructive changes, or other breaches.
- Determine potential impact of technical issues on cost, schedule, and delivery, and investigate/resolve rationale for potential or actual delays.

- Determine whether to ratify constructive changes, modify the contract as required, and invoke appropriate remedies.
- Investigate and resolve contractual problems reported by the contractor or Government.

#### **Customer/COR Functions**

- Specify technical criteria for the quality of the product and acceptance criteria.
- Assess performance, quality, and other technical issues.
- Provide technical evaluations to contracts to:
  - Adjust contract administration.
  - Identify necessary contract modifications.
  - Take steps to ensure compliance with the contract.

### **B2 Risk Management**

#### **Contracting Functions**

- Monitor and assess contract risk.

#### **Customer/COR Functions**

- Monitor the risk management process to identify technical risk as well as cost, schedule, and performance risk.

### **B3 Design Reviews**

#### **Contracting Functions**

- Participate in design review planning meetings, in the event of potential impact to the contract (e.g., constructive change clauses, etc.).

#### **Customer/COR Functions**

- Lead the design review team and specify the material to be reviewed.
- Determine exit criteria that help the review team determine whether the material being reviewed is acceptable.
- Review final report and concur/nonconcur with recommended corrective actions.

### **B4 Delays**

#### **Contracting Functions**

- Determine whether a delay is excusable and negotiate consideration when acquiring commercial and noncommercial items.
- Seek consideration for delays that are not excusable.

#### **Customer/COR Functions**

- Determine if any performance delays are caused by factors beyond the contractor's control and without fault or negligence by the contractor.

- For excusable delays, recommend corrective actions, such as modification of the contract to allow additional time to perform or to remove inappropriate requirements.

## **B5 Stop Work**

### **Contracting Functions**

- Determine whether to stop work; prepare and issue the stop work order. Unless the contract is terminated, initiate resumption of work and modify the contract as necessary.

### **Customer/COR Functions**

- Recommend stop work when contractor deficiencies are expected to result in delivery of non-conforming technical products.
- Evaluate contractor proposals to stop work for technical reasons.
- Assess the impact of stop work orders on contractor performance of the technical and programmatic requirements.

**Only the contracting officer can issue a Stop Work Order!**

## **B6 Remedies**

### **Contracting Functions**

- Identify contractual remedies and apply the appropriate remedy.

### **Customer /COR Functions**

- Collect specific facts relating to the contractor's failure to perform or any breach of technical requirements.
- Determine if the non-conformance has major or minor impact.
- Participate in determining and preparing technical remedies, such as redesign, rejection of supplies, and acceptance with considerations, considering the impact on the needs of the customer.

## **B7 Property Administration**

### **Contracting Functions**

- Assist with the administration, control, and disposition of GFP as necessary.

### **Customer/COR Functions**

- Determine if GFP is necessary to perform the contract. Provide for the administration, control, and disposition of GFP.

## **B8 Intellectual Property**

### **Contracting Functions**

- Assist with the compliance with contract provisions on patents, patent infringement, licensing, and Government data rights, as necessary.

### **Customer/COR Functions**

- Ensure compliance with contract provisions on patents, patent infringement, licensing, and Government data rights.

## **B9 Administering Socioeconomic & Other Miscellaneous Terms**

### **Contracting Functions**

- Ensure that correct contract provisions are included to ensure compliance with workplace requirements regarding labor laws, the environment, security, insurance, and small, disadvantaged, and women owned small businesses.

### **Customer/COR Functions**

- Provide technical assistance, as required by the contracting office.

## **C. Payment and Accounting**

Payment and accounting is a joint effort between the contracting officer and the comptroller. The contracting officer is responsible for delineating the payment and accounting terms in the contract. The comptroller provides funding and identifies appropriate payment accounts.

## **C1 Administering Financial Terms**

### **Contracting Functions**

- Ensure the contract contains the correct payment terms and that payment is made for work performed or products successfully delivered to the Government.

### **Customer/COR Functions**

- Provide technical support, as required by the contracting office. Contract the Small Business Advisor for assistance on all matters concerning small business.

## **C2 Cost Accounting Standards**

### **Contracting Functions**

- Determine the applicability of cost accounting standards and include proper the provisions and clauses in the contract.
- Ensures that disclosure statements and accounting practices comply with applicable cost accounting standards.

### **Customer/COR Functions**

- Provide technical support, as required by the contracting office.

## **C3 Accounting and Estimating Systems**

### **Contracting Functions**

- Monitor the contractor's accounting and cost estimating systems and assess the adequacy of those systems.
- Assess the contractor's financial health to protect the Government's best interests.

**Customer/COR Functions**

- Understand the fiscal rules on the availability of funding, misappropriation law, and anti-deficiency law.

**C4 Defective Pricing**

**Contracting Functions**

- Determine if cost or pricing data submitted by the contractor was accurate, and complete, and calculate any adjustment in price.

**Customer/COR Functions**

- Provide technical support, as required by the contracting office.

**C5 Unallowable Costs**

**Contracting Functions**

- Review vouchers and determine when costs are unallowable, as necessary.
- Ensure that the contractor is not paid for unallowable costs and that the Government is reimbursed for any that have been paid by the Government.

**Customer/COR Functions**

- Review vouchers and determine when costs are unallowable.
- Ensure that the contractor is not paid for unallowable costs and assist the contracting office to ensure that the Government is reimbursed for any that have been paid by the Government.

**C6 Indirect Costs**

**Contracting Functions**

- Adjust billing rates, as applicable.

**Customer/COR Functions**

- Provide technical support, as required by the contracting office.

**C7 Limitation of Costs**

**Contracting Functions**

- Exercise/implement actions when notified of a potential or actual cost overrun.

**Customer/COR Functions**

- Provide technical support, as required by the contracting office.

**C8 Price and Fee Adjustments**

**Contracting Functions**

- Implement price adjustments to the contract for economic terms and conditions, incentives, award fees, and price redetermination.

**Customer/COR Functions**

- Provide technical support, as required by the contracting office.

**C9 Collecting Contractor Debts**

**Contracting Functions**

- Recover money due to the Government from the contractor, to include collection through legal actions.

**Customer/COR Functions**

- Provide technical support, as required by the contracting office.

**C10 Invoices**

**Contracting Functions**

- When disagreements occur between the COR and the contractor, determine the payment to which the contractor is entitled under the terms and conditions of the contract.

**Customer/COR Functions**

- Serve as the Billing Office and forward the contractor invoice and receiving report to the Payment Office identified in the contract.

**D. Contract Closeout and Termination**

The objective is to administer contract closeout and termination with equitable results for both the Government and the contractor.

**D1 Claims**

**Contracting Functions**

- Respond to contractor claims for additional money or contract adjustment, and determine if it constitutes a payable claim.
- Prepare the Government position on the claim.
- Attempt to resolve claims, prepare the contracting officer's decision and obtain legal review.
- Issue decision and payment to the contractor, as applicable.
- Participate in any appeal processes, such as preparation of claims files, legal proceedings, etc.

**Customer/COR Functions**

- For claims that relate to performance or technical objectives, provide the contracting officer with feedback on performance, reliability, quality or other information to determine if the contractor has a legitimate claim.

- Provide any technical or engineering investigations needed to dispose of the claim.

## **D2 Termination**

### **Contracting Functions**

- Determine whether to terminate a contract.

### **Customer/COR Functions**

- Provide technical reason for termination (e.g., deficient response to cure notice, continued failure to pass qualification tests, pursuit of alternative methods to satisfy the customer's needs, failure to perform).

**Only the contracting officer can terminate or closeout a contract!**

## **D3 Closeout**

### **Contracting Functions**

- Verify that the contract is physically complete.
- Obtain from both the Government activities and contractor all forms, reports, and clearances required at closeout.
- Ensure that both the Government and contractor have met all applicable terms and conditions for closeout.
- Settle all outstanding claims, issues, and disputes.
- Ensure final payment has been made and deobligate excess funds, if any.
- Prepare contract completion documentation.

### **Customer/COR Functions**

- Assist the contracting office in determining the status of technical terms and conditions of the contract.
- Assist the contracting office in identifying or settling unresolved issues, such as performance issues.

## **D4 Performance Assessment, Evaluation, and Reporting**

### **Contracting Functions**

- Obtain performance information from PPIRS.
- Reconcile discrepancies between the contractor version of events and reported past performance. Document the file.

**Customer/COR Functions**

- Report significant contractor technical performance, both positive and negative (e.g., marginal or unacceptable quality of products, tests, or documentation).

## **PART V COMMON TRAPS**

### **ACQUISITION PLANNING**

- Poor market research. Don't stop with just a synopsis in FedBizOpps! Define ALL the possibilities. Do not rely just on how we did this type of buy in the past. Consider the following questions:
  - What is out there that can meet your need?
  - Are there any commercial standard practices that apply?
  - Are there any upcoming new products that might meet your need?
  - Has another Federal agency already paid a contractor to develop something that is close to meeting your need?
  - Early involvement of the Small Business Advisor can provide valuable guidance for new requirements or follow-on requirements.
- Schedules that do not allow sufficient time to obligate funds.
- Not completing initial pre procurement conferences and acquisition planning efforts (and Justification and Approval (J&A) if needed) prior to development of the solicitation documents.
- The improper use of sole source justification to expedite contract award.
- Over reliance on the use of source selection plans from prior acquisitions as templates. Each source selection plan should be based on the customer's requirements in the instant acquisition.
- Giving insufficient consideration to the use of multi-year contracts.
  - Actively seek out, and discuss with contracting officers, contracts that would be suitable candidates for multiyear procurement.
  - Use of multiyear contracts provides for level pricing of requirements and can save money if it results in purchase of economic order quantities and reduces the contractor's risk in purchasing long lead items and committing to expensive up-front set up costs.
  - Early identification is desirable so that the contracting office can provide accurate information in the preparation of their semiannual report of all multiyear candidates.

### **Purchase Requests**

- Not including independent Government cost estimates with the Purchase Request (PR).
- Justifications and/or waivers that are not adequately documented.
- Quantities or units not consistent with the requirement.
- Unreasonable cost estimates, given the requiring activity's supporting data.

- Vague, ambiguous, overly restrictive or insufficiently restrictive descriptions.
- Vague inspection and acceptance criteria or testing procedures.
- Special contract administration requirements that are vague, ambiguous, overly restrictive, or not consistent with the specification, statement of work, or that require special contract administration procedures.

**Market Research (see DSCA Market Research Guide for further guidance)**

- The use of new technologies without conducting trade studies to identify risks.
- Commercial suppliers with no documentation to support their claims for product performance, reliability, and logistics support.
- Product reliability, quality and supportability requirements being traded for cost, schedule and functional performance gains.

**Competition**

- Noncompetitive acquisitions that cannot be justified. Check for suppliers and data that could enable a competitive acquisition. If the item is clearly sole source, justification should be presented from the beginning.
- Insufficient research into portions of larger competitive or noncompetitive procurements.
  - Review for potential small business innovation research, set-asides, or small business competition.
  - Encourage prime contractors to subcontract in areas they do not have expertise.
- Techniques for controlling and reducing costs which do not consider the following:
  - Subcontract competition.
  - Use of incentive or award fee contracts.
  - Should-Cost analysis of the sole source prime.
  - Product improvement of existing item.
  - Use of COTS/NDI.
- The source selection plan not finalized prior to issuance of the RFP.

**Solicitation**

- PWS that does not include sufficient emphasis on risk management.
- Evaluation factors and subfactors different from the source selection plan.
- A source selection plan that does not address the following:
  - An adequate description of all the factors/subfactors to be considered in making the selection.

- Minimum requirements that apply to particular evaluation factors/subfactors that must be met.
- The cost factors between thresholds and goals.
- A clear explanation of how goals or features will be evaluated and whether or not credit will be given in the evaluation for exceeding such desirables; and
- A linkage between solicitation requirements, each evaluation factor and subfactor and the proposal preparation instructions.

### **Warranties**

- Warranties that are, in effect, fixed-price maintenance agreements.

### **Design Reviews**

- Design review boards staffed with managers rather than technical experts. This may result in a lack of technical focus.
- Design reviews that are schedule oriented, rather than technical maturity oriented.
- Informal reviews that fail to define roles, document and track results, and define exit criteria.
- Developing test and inspection points without a knowledge of contractor critical processes.
- Insufficient planning and preparation prior to the review.

## **PART VI ATTACHMENTS**

1. Memorandum: “Dos and Don’ts of Dealing with Government Contractor Employees,” dated November 5, 2009.
2. Memorandum: “Procurement Administrative Lead Time (PALT),” dated June 9, 2010.
3. Memorandum: “Acquisition Cut-Off Dates for Fiscal Year End 2010,” dated June 9, 2010