Based on New Procedures issued APR 01 2016
WARNING!

What you’ve been doing before is probably *not* what you’ll be doing in your next source selection.

Read the Department of Defense Source Selection Procedures dated APR 01 2016.
What’s New?

• Applicability
• New competitive acquisition strategy (i.e., Value Adjusted Total Evaluated Price (VATEP) Tradeoff)
• New terminology in rating methods
• Emphasis on Program Manager (PM) and Requirements Owner (RO)
• Emphasis on tailoring
Applicability of new procedures

• 1.2 Applicability and Waivers
• These procedures are applicable to all acquisitions conducted as part of a major system acquisition program (sic), as defined in Federal Acquisition Regulation (FAR) 2.101, and all competitively negotiated FAR part 15 acquisitions with an estimated value greater than $10 million.
Applicability of new procedures

1.2.1 These procedures are applicable to all competitively negotiated procurements meeting the requirements in paragraph 1.2, except those using:

- Federal Acquisition Regulation (FAR) subpart 8.4, Federal Supply Schedules;
- FAR part 12, Acquisition of Commercial Items, only if FAR part 12 is used solely in conjunction with part 13, Simplified Acquisition Procedures, or part 14, Sealed Bidding; and not used with FAR subpart 15.3, Source Selection (see paragraph 1.2.2);
- FAR part 13, Simplified Acquisition Procedures;
- FAR part 14, Sealed Bidding;
- FAR subpart 16.505(b)(1), Orders under multiple award contracts—Fair Opportunity (see also paragraph 1.2.3);
- FAR subpart 35.016, Broad Agency Announcements;
- FAR subpart 36.6, Architect-Engineer services; and
Applicability of New Procedures

• 1.2.4 Waivers. For solicitations valued at $1 billion or more, waivers to provisions required by paragraph 1.2 of this document may only be approved with the express, written permission of the Director, Defense Procurement and Acquisition Policy (DPAP). Waivers for solicitations valued below $1 billion must be approved by the Senior Procurement Executive (SPE). The SPE may set lower internal dollar thresholds for use of these procedures as appropriate.
Agenda

• The Environment
• Best Value Under the FAR
• Organization Responsibilities
• Pre-Solicitation Activities
• Tradeoff Source Selection Processes
• Subjective Tradeoff
• Value Adjusted Total Evaluated Price (VATEP) Tradeoff
• Lowest Price Technically Acceptable (LPTA) Source Selection Process
• How Do We Do That?
• Ethics in Source Selection
Better Buying Power 3.0
Achieving Dominant Capabilities through Technical Excellence and Innovation

Achieve Affordable Programs
- Continue to set and enforce affordability caps

Achieve Dominant Capabilities While Controlling Lifecycle Costs
- Strengthen and expand “should cost” based cost management
- Anticipate and plan for responsive and emerging threats by building stronger partnerships of acquisition, requirements, and intelligence communities
- Institutionalize stronger DoD level Long Range R&D Program Plans
- Strengthen cybersecurity throughout the product lifecycle

Incentivize Productivity in Industry and Government
- Align profitability more tightly with Department goals
- Employ appropriate contract types, but increase the use of incentive type contracts
- Expand the superior supplier incentive program
- Ensure effective use of Performance-Based Logistics
- Remove barriers to commercial technology utilization
- Improve the return on investment in DoD laboratories
- Increase the productivity of corporate IRAD

Incentivize Innovation in Industry and Government
- Increase the use of prototyping and experimentation
- Emphasize technology insertion and refresh in program planning
- Use Modular Open Systems Architecture to stimulate innovation
- Increase the return on and access to small business research and development
- Provide draft technical requirements to industry early and involve industry in funded concept definition
- Provide clear and objective “best value” definitions to industry

Eliminate Unproductive Processes and Bureaucracy
- Emphasize acquisition chain of command responsibility, authority, and accountability
- Reduce cycle times while ensuring sound investments
- Streamline documentation requirements and staff reviews
- Remove unproductive requirements imposed on industry

Promote Effective Competition
- Create and maintain competitive environments
- Improve DoD outreach for technology and products from global markets
- Increase small business participation, including through more effective use of market research

Improve Tradecraft in Acquisition of Services
- Strengthen contract management outside the normal acquisition chain – installations, etc.
- Improve requirements definition for services
- Improve the effectiveness and productivity of contracted engineering and technical services

Improve the Professionalism of the Total Acquisition Workforce
- Establish higher standards for key leadership positions
- Establish stronger professional qualification requirements for all acquisition specialties
- Strengthen organic engineering capabilities
- Ensure development program leadership is technically qualified to manage R&D activities
- Improve our leaders’ ability to understand and mitigate technical risk
- Increase DoD support for (STEM) education

Continue Strengthening Our Culture of:
Cost Consciousness, Professionalism, and Technical Excellence

- Ideas retained from BBP 2.0 and/or BBP 1.0
- New in BBP 3.0
DPAP Hot topics

1. Target Affordability and Control Cost Growth: Contract Pricing, Should Cost
2. Incentivize Productivity and Innovation In Industry: Contract Types and Incentives, Superior Supplier, CPAR
3. Promote Competition
4. Improve Tradecraft in Services Acquisition
5. Improve the Professionalism of the Total Acquisition Workforce
6. Contracting in a Combatant Command / Contingency Environment
7. Proper Use of Interagency Agreements
8. Source Selection
9. Contractor Business Systems including CBAR
10. Small Business
11. Commercial Items
12. Data Vulnerability
13. Government Property
Defense Competition Statistics

Fiscal Year 2016

Source: DPAP Memorandum, Publication of DoD Competition Reporting — 4th Quarter FY 2016, FPDS-NG Data as of 10/25/2016
Note: DoD’s competition goals for FY 2016 and 2015 were 57.0% and 59.0%. DoD’s achieved rates of competition were 52.8% and 55.1%. [Source: DPAP.]
DOD Fiscal Year 2014 Competitive Obligation Dollars and Competition Rates for Fiscal Years 2010 through 2014 for Products, R&D, and Non-R&D Services
Promote effective competition

GAO-10-833
Competition in Federal Contracting
“Henceforth I expect contracting officers to conduct negotiations with all single bid offerors and that the basis of that negotiation shall be cost or price analysis, as the case may be, using non-certified data.”
BEST VALUE UNDER THE FAR
Source Selection Objective

• The objective of Source Selection is to select the proposal that represents the best value.

  FAR 15.302

• “Best value” means the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest overall benefit in response to the requirement.

  FAR 2.101
An agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. In different types of acquisitions, the relative importance of cost or price may vary. For example, in acquisitions where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.
When Lowest Price Technically Acceptable is used, define Technically Acceptable to ensure needed quality

When LPTA is used as a source selection technique, Section M of the RFP and the Source Selection Plan must clearly describe the minimum requirements that will be used to determine the acceptability of the proposal.

Better define value in “best value” competitions

[Tradeoff Process]

The Department routinely sets “threshold” and “objective” level requirements for the products it acquires and also routinely defaults to threshold performance as the basis for selecting a product. This initiative directs the Components, where possible, to quantify the value, in terms of an increased premium they will pay, for proposals above the threshold level of performance and to include this information in solicitations to industry.
<table>
<thead>
<tr>
<th>Source Selection Process Considerations</th>
<th>Subjective Tradeoff</th>
<th>Objective/Measurable Technical Factor(s) Required</th>
<th>Performance Risk Evaluation Required</th>
<th>Lowest Eval. Cost/Price = Best Value</th>
<th>Monetized Requirements</th>
<th>Best Value Tradeoff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subjective Tradeoff</td>
<td>Yes</td>
<td>Possible</td>
<td>Yes</td>
<td>Possible</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>VATEP Tradeoff</td>
<td>Possible</td>
<td>Yes (See para. B.2)</td>
<td>Yes</td>
<td>Possible</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>LPTA</td>
<td>No</td>
<td>Yes (Acceptable/Unacceptable See Table C-1)</td>
<td>Evaluated with Technical Factor for acceptability only (See para. 2.3.4.2.1)</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>
PRE-SOLICITATION ACTIVITIES
Exchanges with Industry Before Receipt of Proposals

• Industry or small business conferences
• Public hearings
• Market research
• One-on-one meetings
• Presolicitation notices
• Draft Requests for Proposals (RFPs)
• Requests for Information (RFIs)
• Presolicitation or preproposal conferences
• Site visits

After release of the solicitation, the contracting officer must be the focal point of any exchange with potential offerors. (FAR 15.201(f))
Typical SST Structure for Solicitations ≥ $100M

- **SSA**
  - PM and RO participate on teams as requested by the SSA
  - Contracting Officer (Business Advisor)
  - Legal Counsel
  - Other Advisors (Government/Non-government)

- **SSAC**
  - Chairperson
  - Functional Area Expert
  - Functional Area Expert
  - Functional Area Expert
  - Functional Area Expert

- **SSEB**
  - Chairperson
  - Technical Team
    - Evaluates Technical Requirements & Risk
  - Cost/Price Team
    - Evaluates Cost/Price
  - Small Business Team
    - Evaluates Small Business
  - Past Performance Team
    - Evaluates Past Performance
2.3.1 Evaluation Factors/Subfactors. Evaluation factors and subfactors represent those specific characteristics that are tied to significant RFP requirements and objectives having an impact on the source selection decision and which are expected to be discriminators or are required by statute/regulation. They are the uniform baseline against which each offeror’s proposal is evaluated, allowing the Government to make a best value determination.

2.3.2 Evaluation Factor/Subfactor Weighting. The evaluation of factors and subfactors may be quantitative, qualitative, or a combination of both. However, numerical or percentage weighting of the relative importance of evaluation factors and subfactors shall not be used. [NOTE: Numerical or percentage weighting of the relative importance of evaluation factors and subfactors is different than assigning quantifiable or monetized value tradeoffs in evaluating an offeror’s proposal as addressed in Appendix B.]

2.3.3 The solicitation may prescribe minimum “go/no go” or “pass/fail” gates as criteria that an offeror’s proposal must meet before advancing in the proposal evaluation process.
Mandatory Evaluation Factors

- Evaluation Factors:
- Cost or Price – Always a factor
- Past performance
- Quality is always a consideration under the FAR
- Technical/Management
- Risk
- Key Personnel
- Others

Specified in Source Selection Plan and Section M of the solicitation.
Factor Descriptions

- 2.3.4.1 Cost or Price. The Government shall evaluate the cost or price of the supplies or services being acquired (see FAR 15.305(a)(1) and 15.404-1(a)(1)).

- 2.3.4.2 Quality of Product or Service. In accordance with FAR 15.304(c)(2), the quality of product or service shall be addressed in every source selection through consideration of one or more non-cost evaluation factors such as past performance, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience.
Factor Descriptions

2.3.4.2.1 Technical. The purpose of the technical factor(s) is to assess the offeror’s proposed approach, as detailed in its proposal, to satisfy the Government’s requirements. There are many aspects which may affect an offeror’s ability to meet the solicitation requirements.

Technical Risk. Risk assesses the degree to which the offeror’s proposed technical approach for the requirements of the solicitation may cause disruption of schedule, increased costs, degradation of performance, the need for increased Government oversight, or increased likelihood of unsuccessful contract performance.

2.3.4.2.2 Past Performance. The past performance evaluation factor assesses the degree of confidence the Government has in an offeror’s ability to supply products and services that meet users’ needs, based on a demonstrated record of performance.
Past Performance in USC and FAR

• 41 USC § 1126 - Policy regarding consideration of contractor past performance

  (b) Information Not Available.— If there is no information on past contract performance of an offeror or the information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.

• FAR 15.305(a)(2)(iv) In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.
### “Neutral” Comptroller General Decisions

<table>
<thead>
<tr>
<th>Decision Number</th>
<th>Company Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-254738.3</td>
<td>Espey Mfg. &amp; Electronics Corp.</td>
<td>03/08/1994</td>
</tr>
<tr>
<td>B-261044.4</td>
<td>Caltech Serv. Corp.</td>
<td>12/14/1995</td>
</tr>
<tr>
<td>B-271431</td>
<td>Quality Fabricators, Inc.</td>
<td>06/25/1996</td>
</tr>
<tr>
<td>B-272017</td>
<td>Excalibur Systems, Inc.</td>
<td>08/12/1996</td>
</tr>
<tr>
<td>B-272526</td>
<td>Hughes Georgia, Inc.</td>
<td>10/21/1996</td>
</tr>
<tr>
<td>B-278921.2</td>
<td>Braswell Services Group, Inc.</td>
<td>10/17/1998</td>
</tr>
<tr>
<td>B-286044.2</td>
<td>SWR, Inc.</td>
<td>11/01/2000</td>
</tr>
<tr>
<td>B-287697</td>
<td>Gulf Group, Inc.</td>
<td>07/24/2001</td>
</tr>
<tr>
<td>B-291170.4</td>
<td>MW-All Star Joint Venture</td>
<td>08/04/2003</td>
</tr>
<tr>
<td>B-295375</td>
<td>FR Countermeasures, Inc.</td>
<td>02/10/2005</td>
</tr>
<tr>
<td>B-400109</td>
<td>Systalex Corporation</td>
<td>07/17/2008</td>
</tr>
<tr>
<td>B-403085</td>
<td>Structural Associates, Inc.</td>
<td>09/21/2010</td>
</tr>
<tr>
<td>B-410881.3</td>
<td>Strategic Intelligence Group, LLC</td>
<td>06/23/2015</td>
</tr>
<tr>
<td>B-413570.5</td>
<td>Battelle Memorial Institute</td>
<td>05/23/2017</td>
</tr>
</tbody>
</table>
GAO on Past Performance vs. Experience

• Past Performance
  – Consideration of information collected by other evaluation boards in other procurements
  – Lack of relevant past performance
  – Unequal effort, on the agency’s part, in contacting references

• Experience Evaluations
  – Relevant experience
  – Evaluation of subcontractor experience

The FAR 15.3 recognizes a distinction. FAR 15.303(c)(2) uses the term “prior experience,” while FAR 15.303(c)(3) uses the term “past performance.”

DoD Source Selection Procedures do not address the distinction.
GAO on Past Performance vs. Experience

Commercial Window Shield, B-400154, July 2, 2008

- CWS’s argument, however, fails to recognize that the experience and past performance factors reflected separate and distinct concepts. Under the experience factor, the agency examined the degree to which a vendor had experience performing similar projects; under the past performance factor, the agency considered the quality of a vendor’s performance history. Given the fundamentally different nature of the evaluations, a rating in one factor would not automatically result in the same rating under the other.

Shaw-Parsons Infrastructure Recovery Consultants, LLC; Vanguard Recovery Assistance, Joint Venture; B-401679.4, March 10, 2010

- Generally, an agency’s evaluation under an experience factor is distinct from its evaluation of an offeror’s past performance. Specifically, the former focuses on the degree to which an offeror has actually performed similar work, whereas the latter focuses on the quality of the work.
Cost or Price Evaluations

FAR 15.305(a)(1)

• Cost/Price Reasonableness
  Normally, competition establishes price reasonableness. Therefore, when contracting on a firm-fixed-price or fixed-price with economic price adjustment basis, comparison of the proposed prices will usually satisfy the requirement to perform a price analysis, and a cost analysis need not be performed. In limited situations, a cost analysis (see 15.403-1(c)(1)(i)(B)) may be appropriate to establish reasonableness of the otherwise successful offeror’s price.

• Cost Realism
  When contracting on a cost-reimbursement basis, evaluations shall include a cost realism analysis to determine what the Government should realistically expect to pay for the proposed effort, the offeror’s understanding of the work, and the offeror’s ability to perform the contract.
Other Evaluation Considerations — FAR

- **FAR 15.304(c)(3)(ii)** — In solicitations that involve bundling, past performance must include extent to which the offeror attained applicable goals for small business.

- **FAR 15.304(c)(4)** — Extent of participation of small disadvantaged business concerns all be evaluated in unrestricted acquisitions expected to exceed $650,000 ($1.5 million for construction).

- **FAR 15.304(c)(5)** — In solicitations involving bundling that offer significant subcontracting opportunities, include proposed small business subcontracting participation in the subcontracting plan as an evaluation factor.
Other Evaluation Considerations — DFARS

DFARS 15.304(c)(i) – (iv)

• (i) In acquisitions that require a Small Business Subcontracting Plan, other than LPTA, extent of participation in performance of the contract shall be addressed in source selection.
• (ii) In accordance with 10 U.S.C. 2436, consider the purchase of capital assets manufactured in the United States, in source selections for MDAPs.
• (iii) Additional evaluation factors required for the direct purchase of ocean transportation services.
• (iv) Consider the manufacturing readiness and manufacturing-readiness processes for MDAPs.
Other Evaluation Considerations — DFARS

• DFARS 215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.

• 215.370-2 Evaluation factor.

• In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

• PGI 215.370-2 Evaluation factor.

• (1) This evaluation factor may be used as an incentive to encourage contractors to use employees or individual subcontractors who are members of the Selected Reserve.
**Evaluation Description in RFP**

- **FAR 15.304(d)** — All factors and significant subfactors that will affect contract award and their relative importance shall be stated clearly in the solicitation (10 U.S.C. 2305(a)(2)(A)(i) and 41 U.S.C. 253a(b)(1)(A)) (see 15.204-5(c)). The rating method need not be disclosed in the solicitation. The general approach for evaluating past performance information shall be described.

- **FAR 15.304(e)** — The solicitation shall also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are—
  - (1) Significantly more important than cost or price;
  - (2) Approximately equal to cost or price; or
  - (3) Significantly less important than cost or price (10 U.S.C. 2305(a)(3)(A)(iii) and 41 U.S.C. 3306(c)(1)(C)).
[a] determination of price realism and reasonableness will include a determination by the Contracting Officer ("CO") that proper discounts have been offered commensurate with maximum order thresholds for prime contractors and teaming partners and in accordance with subcontractor arrangements. The Government reserves the right to reject any proposal that includes any assumption or condition that impacts or affects the Government’s requirements. . . .

Evaluation of Pricing shall be based upon the proposed single, minimum “team” discount (expressed as a percentage) which shall be applicable to all labor categories, labor rates, and support products contained in the awarded BPA SINs of each team member’s GSA Schedule Contract. For price evaluation purposes, the Government will simply compare the minimum “team” discount percentage proposed, and will not apply the proposed discount to any of the underlying labor rates/support products contained in any of the proposed GSA Schedule contracts. Given this analysis, a team percentage discount of 10% will be evaluated more favorably than a discount of 5%, regardless of the underlying labor rates and/or support product prices resident in the proposed GSA Schedule contracts

UNISYS Corporation V. The United States, Court of Federal Claims, No. 09-271C
Evaluation Rating Schemes

• Schemes are generally categorized as
  – Color
  – Adjectival
  – Numerical/Points (Not Generally Used)

• This information is usually not provided in the solicitation

• DoD now requires a combination of Color and Adjectival ratings

ALL source selection rating systems are, ultimately, adjectival
TRADEOFF SOURCE SELECTION PROCESSES

- Subjective Tradeoff
- Value Adjusted Total Evaluated Price (VATEP) Tradeoff
FAR 15.101-1 Tradeoff Process

• (a) A tradeoff process is appropriate when it may be in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror.

• (c) This process permits tradeoffs among cost or price and non-cost factors and allows the Government to accept other than the lowest priced proposal. The perceived benefits of the higher priced proposal shall merit the additional cost, and the rationale for tradeoffs must be documented in the file in accordance with 15.406.
<table>
<thead>
<tr>
<th>Color Rating</th>
<th>Adjectival Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue</td>
<td>Outstanding</td>
<td>Proposal indicates an exceptional approach and understanding of the requirements and contains multiple strengths.</td>
</tr>
<tr>
<td>Purple</td>
<td>Good</td>
<td>Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength.</td>
</tr>
<tr>
<td>Green</td>
<td>Acceptable</td>
<td>Proposal indicates an adequate approach and understanding of the requirements.</td>
</tr>
<tr>
<td>Yellow</td>
<td>Marginal</td>
<td>Proposal has not demonstrated an adequate approach and understanding of the requirements.</td>
</tr>
<tr>
<td>Red</td>
<td>Unacceptable</td>
<td>Proposal does not meet requirements of the solicitation and, thus, contains one or more deficiencies and is unworthy.</td>
</tr>
<tr>
<td>Adjectival Rating</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Proposal may contain weakness(es) which have little potential to cause disruption of schedule, increased cost or degradation of performance. Normal contractor effort and normal Government monitoring will likely be able to overcome any difficulties.</td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>Proposal contains a significant weakness or combination of weaknesses which may potentially cause disruption of schedule, increased cost or degradation of performance. Special contractor emphasis and close Government monitoring will likely be able to overcome difficulties.</td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Proposal contains a significant weakness or combination of weaknesses which is likely to cause significant disruption of schedule, increased cost or degradation of performance. Is unlikely to overcome any difficulties, even with special contractor emphasis and close Government monitoring.</td>
<td></td>
</tr>
<tr>
<td>Unacceptable</td>
<td>Proposal contains a material failure or a combination of significant weaknesses that increases the risk of unsuccessful performance to an unacceptable level.</td>
<td></td>
</tr>
<tr>
<td>Color Rating</td>
<td>Adjectival Rating</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Blue</td>
<td>Outstanding</td>
<td>Proposal indicates an exceptional approach and understanding of the requirements and contains multiple strengths, and risk of unsuccessful performance is low.</td>
</tr>
<tr>
<td>Purple</td>
<td>Good</td>
<td>Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength, and risk of unsuccessful performance is low to moderate.</td>
</tr>
<tr>
<td>Green</td>
<td>Acceptable</td>
<td>Proposal meets requirements and indicates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate.</td>
</tr>
<tr>
<td>Yellow</td>
<td>Marginal</td>
<td>Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high.</td>
</tr>
<tr>
<td>Red</td>
<td>Unacceptable</td>
<td>Proposal does not meet requirements of the solicitation, and thus, contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Proposal is unworthy.</td>
</tr>
</tbody>
</table>
## Table 4. Past Performance Relevancy Rating Method

<table>
<thead>
<tr>
<th>Adjectival Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Relevant</td>
<td>Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.</td>
</tr>
<tr>
<td>Relevant</td>
<td>Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires.</td>
</tr>
<tr>
<td>Somewhat Relevant</td>
<td>Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.</td>
</tr>
<tr>
<td>Not Relevant</td>
<td>Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.</td>
</tr>
<tr>
<td>Adjectival Rating</td>
<td>Description</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Substantial Confidence</td>
<td>Based on the offeror’s recent/relevant performance record, the Government has a high expectation that the offeror will successfully perform the required effort.</td>
</tr>
<tr>
<td>Satisfactory Confidence</td>
<td>Based on the offeror’s recent/relevant performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort.</td>
</tr>
<tr>
<td>Neutral Confidence</td>
<td>No recent/relevant performance record is available or the offeror’s performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned. The offeror may not be evaluated favorably or unfavorably on the factor of past performance.</td>
</tr>
<tr>
<td>Limited Confidence</td>
<td>Based on the offeror’s recent/relevant performance record, the Government has a low expectation that the offeror will successfully perform the required effort.</td>
</tr>
<tr>
<td>No Confidence</td>
<td>Based on the offeror’s recent/relevant performance record, the Government has no expectation that the offeror will be able to successfully perform the required effort.</td>
</tr>
</tbody>
</table>
### Table 6. Small Business Rating Method

<table>
<thead>
<tr>
<th>Color Rating</th>
<th>Adjectival Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue</td>
<td>Outstanding</td>
<td>Proposal indicates an exceptional approach and understanding of the small business objectives.</td>
</tr>
<tr>
<td>Purple</td>
<td>Good</td>
<td>Proposal indicates a thorough approach and understanding of the small business objectives.</td>
</tr>
<tr>
<td>Green</td>
<td>Acceptable</td>
<td>Proposal indicates an adequate approach and understanding of small business objectives.</td>
</tr>
<tr>
<td>Yellow</td>
<td>Marginal</td>
<td>Proposal has not demonstrated an adequate approach and understanding of the small business objectives.</td>
</tr>
<tr>
<td>Red</td>
<td>Unacceptable</td>
<td>Proposal does not meet small business objectives.</td>
</tr>
</tbody>
</table>
Value Adjusted Total Evaluated Price (VATEP) Tradeoff

- The VATEP technique monetizes different levels of performance that may correspond to the traditional requirements process of defining both threshold (minimum) and objective (maximum) performance and capabilities. It identifies in the RFP the percentage price increase (or dollar amount) the Government is willing to pay for measurable levels of performance between threshold (minimum) and objective (maximum) criteria (e.g., Probability of Hit, specific operational ranges, etc.). This amount is based on the value to the Government for above minimum performance or capabilities. Value and cost are completely separate concepts that VATEP links in the RFP to inform industry decisions on what to offer to gain a competitive advantage. As described herein, VATEP is merely a structured technique for objectivizing how some (or all) of the requirements would be treated in the tradeoff process and then communicating that to offerors via the RFP.
VATEP Use

- VATEP may be appropriate when the RO wishes to optimally balance price and performance/capability above threshold (minimum) requirements to maximize the achievement of program objectives. One of the benefits of this process is that offerors may be more likely to propose innovative solutions which provide higher performance/capability if it is clear to Industry what value the end user places on exceeding the threshold (minimum) performance/capability and how that will influence the evaluated cost/price.
Figure B-1: Subjective Tradeoff Scenario

Proposals submitted in response to a solicitation using Tradeoff source selection procedures.
Figure B-2: VATEP Tradeoff Scenario
Figure B-3: VATEP Adjustment Example

- **Offeror A**: TPP = $1,000
- **Offeror B**: TPP = $990
- **Offeror C**: TPP = $950

**Threshold (Minimum) Rqmts Met?**
- Yes → **Objective (Maximum) Rqmts Met?**
  - Yes → **Offeror A**: Goal Adjustment Applied
    - TEP = TPP - ($20)
    - TEP = $1,000 - ($20)
    - TEP = $980
  - No → **Offeror B**: No TPP Adjustment
    - TEP = TPP
    - TEP = $990
- No → **Offeror C**: Ineligible for further consideration for award
Figure B-4: Value Adjusted Total Evaluated Price Steps

(Continued on next slide.)
Figure B-4: Value Adjusted Total Evaluated Price Steps

(Continued from previous slide.)
LOWEST PRICE TECHNICALLY ACCEPTABLE (LPTA) SOURCE SELECTION PROCESS
FAR 15.101-2 Lowest Price Technically Acceptable Source Selection Process

(a) The lowest price technically acceptable source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price.

(b) When using the lowest price technically acceptable process, the following apply:

1) The evaluation factors and significant subfactors that establish the requirements of acceptability shall be set forth in the solicitation. Solicitations shall specify that award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.

2) Tradeoffs are not permitted.

3) Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.

4) Exchanges may occur (see 15.306).
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<thead>
<tr>
<th>Adjectival Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>Proposal meets the requirements of the solicitation.</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>Proposal does not meet the requirements of the solicitation.</td>
</tr>
<tr>
<td>Adjectival Rating</td>
<td>Description</td>
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<td>-------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Acceptable</td>
<td>Based on the offeror’s performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort, or the offeror’s performance record is unknown. (See note above)</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>Based on the offeror’s performance record, the Government does not have a reasonable expectation that the offeror will be able to successfully perform the required effort.</td>
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</table>
HOW DO WE DO THAT?
Pre-Solicitation Process

1. Requirement
2. Market Research
3. Acquisition Strategy & Plan
   - FedBizOpps: Advisory Multi-Step DRFP Release
4. Draft Request for Proposal
5. Reading Room
6. Finalize RFP
   - RFP Release Briefing to SSA
   - Advertise RFP Release
8. Solicitation Preparation
9. Source Selection Strategy
10. RFP Release to Industry
Proposal Complexities In Government Contracts

- Contracting with the Government Requires a Proposal Process
  - Government is Sovereign with Many Laws, Rules and Regulations
    - Processes are Necessary to Ensure Compliance
    - Government Contracting Relationships are Complex (legally)

- Competitive Acquisitions Utilize Government Procedures that Provide for Little Flexibility
  - Proposals Must be IAW Proposal Instructions, Laws, Regulations
  - Proposals Must also be Timely (Late proposals are rejected)
Proposal Quality

• Factors that often drive proposal quality
  – RFP and supporting document clarity
  – Early industry involvement
  – Understanding the requirement
  – Contractor Pre-planning (Business Development)
  – Proposal Development Time (Proposal Submission Dates - RFP Instructions)
  – Contractor’s Proposal Process
MEMORANDUM FOR BRIG GEN FRANK ANDERSON

SUBJECT: Acquisition Management Training

Reference is made to the attached letter from Ron Fox, Harvard University Graduate School of Business Administration, George F. Baker Foundation, dated August 2, 1999. I believe (and have believed for some time) that a far more extensive and different (i.e., much more case study oriented) program is required—as Ron Fox so eloquently describes herein. I would like you to give this some serious thought and then get together (soon) with us (including those on distribution). It may be that the required acquisition management “information” which now fills much of the DSMC curriculum could be done via a program of distance/computer-based learning; then the time at the campus could be devoted to case studies (i.e., “how to”). Or, perhaps you have some other ideas. (Obviously, Ron’s suggestion of a 10 month program is another.)

With you just taking over, this is a great time to address this issue.

Signed

J.S. Gansler

JAN 8 2008

OFFICE OF THE UNDER SECRETARY OF DEFENSE

ACQUISITION, TECHNOLOGY & LOGISTICS

MEMORANDUM FOR DIRECTORS, DEFENSE AGENCIES

DEPUTY ASSISTANT SECRETARY OF THE ARMY (POLICY AND PROCUREMENT), ASA(ALT)

DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & LOGISTICS MANAGEMENT), NA(N)A

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/ADC

DIRECTOR, ACQUISITION MANAGEMENT (DLA)

SUBJECT: Improving Communication during Competitive Source Selections

In his memorandum of August 24, 2007, the Under Secretary of Defense for Acquisition, Technology & Logistics (USD(A&T&L)) highlighted the need for open, ongoing dialogue with prospective offerors throughout the source selection process. I wish to re-emphasize the importance of such communication. The USD(A&T&L) has asked me to provide additional guidance on this important subject.

Communication is a key element in the Department’s ability to conduct reliable and successful source selections. We need to encourage government participants involved in source selections to fully engage with industry at all stages of the competitive process. The use of industry days is a good example of positive communication between the government and industry. The use of Requests for Information and draft Requests for Proposals also provide opportunities for industry and government to exchange data that is informative and consist with cooperative dialogue beneficial to all participants.

Additionally, continuing this process of engaging with industry after proposal submission affords the government the opportunity to effectively understand and evaluate a proposal and permits industry the opportunity to clearly explain any aspects of a proposal that appear to be inefficient, ambiguous, or non-conformant. Such dialogue can only lead to more efficient, effective and improved source selections. The Federal Acquisition Regulation (FAR) at Subpart 15.306, “Exchanges with offerors after receipt of proposals,” provides overarching guidance to this regard.

The focus of encouraging more open communications with industry is not the fear of protest, but rather to ensure more predictable, reliable and successful contract outcomes.

That is not to say that contract awards cannot be made without discussions. However, they should be made only in limited circumstances. Possible candidates for such an approach include mature dual-source production programs, routine procurements with open repeat.

Communication is a key element in the Department’s ability to conduct reliable and successful source selections. We need to encourage government participants involved in source selections to fully engage with industry at all stages of the competitive process.”
Source Selection Do’s

- Maintain challenging goals
- Use draft RFPs
- Use advisory multi-step process
- Limit documentation requirements
- Limit the size of proposals
- Make use of oral presentations
- Electronic submission of cost proposals
- Keep evaluation factors to a minimum
- Establish small, expert evaluation panels
- Determine need for audit and field pricing support
- Assess proposals realistically determining competitive range
- Use past performance as a key determining factor
- Provide full and complete debriefings
Source Selection Don’ts

- Do not engage in “square filling”
- Do not engage in “cover your six” actions
- Do not encourage “brochuremanship”
Document Linkage

Provided in RFP

- Model Contract
- Section L
- Section M
- SOO
- SOW Instructions
- PWBS
- Compliance & Ref. Docs
- CDRLs
- TRD
- CLINS

Provided in Proposal

- Proposal Narratives/Volumes
- IMP/IMS
- SDP (Annex to IMP)
- SOW
- CWBS
- Compliance & Ref. Docs
- CDRLs
- System Level Performance Spec
- CLINS

On Contract at Award

- Contract Sections A-K
- IMP
- SDP (Annex to IMP)
- SOW
- CWBS
- Compliance & Ref. Docs
- CDRLs
- System Level Performance Spec
- CLINS
Sample Compliance Matrix

This matrix is included in the solicitation with the following sections completed.

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>CLIN / SECTION B</th>
<th>CDRL/SECTION J</th>
<th>PWS/SECTION C</th>
<th>SECTION L</th>
<th>SECTION M</th>
<th>Preparer’s Name</th>
<th>Due Date for Proposal</th>
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<td>Administrative Support</td>
<td>0001</td>
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<td>1.1</td>
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<td>6.0</td>
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</tbody>
</table>

Columns Added by Offeror
GOVERNMENT ACTIONS
AS PROPOSALS ARE BEING
COMPiled AND SUBMITTED
DURING PROPOSAL EVALUATION
Post-Solicitation Process

- **Process/RFP Release**
- **Receipt of Proposals/Presentations**
- **Initial Evaluation**
  - Clarifications
  - Limited Communications
- **Competitive Range Determination**
- **Prepare for discussions with Remaining Offerors**
- **Face-to-Face Discussions/Negotiations**
- **Receive & Analyze Field Surveys (if requested)**
- **Brief SSAC**
- **Request Final Proposal Revision**
- **Receive & Analyze Final Proposal**
- **Brief SSA**
- **Contract Award (Distribution)**
- **SSA Decision**

(Note: Discussions)
Government Preparation and Planning

- Read key Request for Proposals (RFP) documents
  - Government Executive Summary (If used)
  - Statement of Objectives (SOO)
  - RFP Sections A-K, especially:
    - Statement of Work/Specification (Section C)
    - Delivery schedule (Section F)
    - Special Contract Requirements (Section H)
  - Work Breakdown Structure (WBS) and WBS Dictionary
  - Performance Based Statement of Work (SOW) (if used)
  - Contract Data Requirements List (CDRL) (Data Item Descriptions (DIDs))
Government Preparation and Planning

• Read key Request for Proposals (RFP) documents
  – RFP Section L - Instructions, Conditions, and Notices to Offerors or Quoters
    • Review proposal structure table
    • Specifications and Technical Requirements Documents
    • Statement of Work (SOW) Instructions (if used)
    • Cost/Price Instructions
  – Study Section M - Evaluation Factors/Criteria for Award
    • Understand RFP threshold/objectives (if used)
    • Understand how criteria relate
    • Understand the uniform baseline against which each Offeror is compared
  – Understand RFP/Proposal/Contract Document Linkage
• **Before** each Sub-Factor or Factor Team opens proposals, *strongly* recommend:
  - Team discussion of **Section M criteria** and parts of the proposal that will be reviewed for each criteria
  - Proposal parts: narrative, IMP, IMS, spec, CDRL, etc.
Initial Evaluation Example

Initial Evaluation

Receive and Open Proposals

Repeat for each offeror

Read Proposal and Write Comments

Generate:
- Strengths
- Prop Inadequacies
- Weaknesses
- Deficiencies

Generate and Approve ENs

Generate Initial Color & Risk Ratings

Generate Initial Matrix, Reports and Briefings

Proposal Traceability and Integrated Comments

Other Factor Teams Generate Ratings, Reports, Briefings

Begin Drafting Proposal Analysis Report (PAR)/PER

* Evaluation Notices (Deficiencies, Weaknesses and Clarifications)
“Rollup”

Factor Chief & PCO
- Draft ENs
- Comments
- Review Comments and Draft “Assessments”
  - Approve ENs, Assessments
  - Draft Briefing Charts

Subfactor Chiefs
- Draft ENs
- Comments
- Approve ENs, Assessments
- Draft Ratings (Colors, Prop. Risk)

Evaluators
- Comments
- Review Ratings (Colors, Risks, Price)
- Draft Briefing Charts

Advisors
- (Advisor) Comments
- Draft ENs, based in part, on Advisor Comments

With “Suggested Questions”
Integrating Ratings

Core Team: SSEB Chair, Factor Chiefs, Sub-Factor Chiefs, PCO, Recorder (admin)

Price = $Ms / Preliminary PC at Comp Range = $Ms
Price = $Ms/Probable Cost (PC) at Decision = $Ms

CONFIDENCE

<table>
<thead>
<tr>
<th>SUB</th>
<th>SAT</th>
<th>LIM</th>
<th>SUB</th>
<th>SAT</th>
<th>LIM</th>
</tr>
</thead>
</table>

SUB = Substantial Confidence  
SAT = Satisfactory Confidence  
LIM = Limited Confidence  
NO = No Confidence  
UN = Unknown Confidence

MC TR & RR Teams

PCAG

Cost Team

Offeror A

Offeror B

Offeror C

Offeror D
Exchanges with Industry After Receipt of Proposals

- Clarifications and award without discussions
- Communications with offerors before establishment of the competitive range
- Exchanges with offerors after establishment of the competitive range
- Limits on exchanges
Example Decision Phase

Source Selection Evaluation Board → Brief SSAC → SSAC Develop Recommendation → Source Selection Advisory Council

SSA or Contracting Officer Calls Offerors → Notify Congress → SSA Decision → Brief SSA

SSAC Develop Recommendation → Notify Congress

Contract Award → Debriefings
Source Selection Decision

• “The source selection authority’s (SSA) decision shall be based on a comparative assessment of proposals against all source selection criteria in the solicitation. While the SSA may use reports and analyses prepared by others, the source selection decision shall represent the SSA’s independent judgment.”

Federal Acquisition Regulation 15.308
• “The source selection decision shall be documented, and the documentation shall include the rationale for any business judgments and tradeoffs made or relied on by the SSA, including benefits associated with additional costs. Although the rationale for the selection must be documented, that documentation need not quantify the tradeoffs that led to the decision.”

Federal Acquisition Regulation 15.308
“Contrary to Contracting Officer Shivers' position, the destruction of the individual TEP members’ score sheets is barred by the FAR provisions. The current contract file for the challenged procurement does not “constitute a complete history of the transaction,” FAR § 4.801(b) (emphasis added), nor does it “[f]urnish[ ] essential facts in the event of litigation.” FAR § 4.801(b)(4). FAR § 4.801(b) expressly refers to § 4.803, which provides “examples of the records normally contained ... in contract files.” FAR § 4.803. Specifically, the record as submitted does not contain all “[s]ource selection documentation,” as required by FAR § 4.803(a)(13).”

“Contracting Officer Shivers' destruction of the rating sheets raises issues of spoliation of evidence. ‘Spoliation is the destruction or significant alteration of evidence, or failure to preserve property for another's use as evidence in pending or reasonably foreseeable litigation.’” See United Med. Supply Co. v. United States, 77 Fed.Cl. 257, 263 (2007) (quoting West v. Goodyear Tire & Rubber Co., 167 F.3d 776, 779 (2d Cir.1999)).”
Contract Award

- Affirmative Responsibility Determination
- Contract award
- Notification of unsuccessful offerors
- Debriefings

Not all solicitations result in contract award. Solicitations may be cancelled prior to award.
Debriefings of Unsuccessful Offerors

- May be done orally or in writing
- Minimum information to be provided
  - Government’s evaluation of significant weaknesses and deficiencies in the proposal
  - Overall evaluated cost/price and technical rating of successful and debriefed offerors
  - Overall ranking of all offerors, if created
  - Summary rationale for award
- Make and model of commercial items
- Reasonable responses to relevant questions
Debriefing Timelines & Rules

• 3 Days -- Written request for debriefing
• 5 Days -- Debriefing
• An offeror excluded from the competition, but failed to submit a timely request, is not entitled to a debriefing.
• Untimely debriefing requests may be accommodated.
• Government accommodation of a request for delayed debriefing or any untimely debriefing request, does not automatically extend the deadlines for filing protests.
• Debriefings delayed pursuant to 15.505(a)(2) could affect the timeliness of any protest filed subsequent to the debriefing.
* When the agency receives notice of a protest from the GAO within 10 days after contract award or within 5 days after a debriefing date offered to the protester for any debriefing that is required by 15.505 or 15.506, whichever is later, the contracting officer shall immediately suspend performance or terminate the awarded contract. . . .
FAR Based Protests Forums

Interested Parties

Agency (PCO) → GAO → Court of Federal Claims → Court of Appeals for Fed Circuit
<table>
<thead>
<tr>
<th></th>
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<td>Cases Filed</td>
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<td>2,561</td>
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<td>Merit (Sustain + Deny) Decisions</td>
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<td>556</td>
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<td>19%</td>
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<td>96%</td>
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<td>6.17%</td>
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<td>6%</td>
<td>8%</td>
<td>11%</td>
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Overall DoD Bid Protest statistics

Source: CRS analysis of GAO data.
Note: Based on number of protests closed.
DoD Protests vs. sustains
DOD Contract Actions, protests and sustains

Note: In Fiscal Year 2005 the contract action reporting threshold was significantly reduced, resulting in a jump in reported contract actions.
BACK-UP