



CONTRACT STRATEGY FACT SHEETS



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Introduction

These **Contract Strategy Fact Sheets** are intended to give you an introductory overview of a particular procurement methodology to consider when developing a contract strategy. The Fact Sheets will get you started, with definitions that apply to the methodology and then some applications and considerations for using the methodology. There are many available contracting strategies and while this guide covers many of the strategies, it is not all encompassing. The following strategies are addressed:

1. Simplified Acquisition
2. Commercial Product and Commercial Service Acquisition
3. Small Business Set-Asides
4. 8(a) Sole Source Awards
5. Contracting By Negotiation
6. Federal Supply Schedules
7. Indefinite Delivery Contracts
8. Agreements
9. Broad Agency Announcements
10. Defense Commercial Solutions Opening
11. Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR)
12. Letter Contracts
13. Sealed Bidding

You should note when using this tool that dollar thresholds are subject to frequent changes, and you should always verify the most current thresholds by reviewing the appropriate statute or regulation.

This tool also includes links to resources and additional training, but links are subject to frequent change, so we apologize if you find a broken link.

To quickly navigate in this tool, you can use:

- Table of Contents - use CTRL + click to navigate to a particular sheet
- Navigation Pane - select View from the ribbon above and then check show the Navigation Pane

The following websites are commonly cited throughout these fact sheets:

- The official version of the **Federal Acquisition Regulation (FAR)** can be found on the [Acquisition.gov](https://www.acquisition.gov) website.
- The official version of the **Defense FAR Supplement (DFARS)** can be found on the [Defense Pricing and Contracting](https://www.defensepricingandcontracting.com) website and an authorized version of the DFARS on the [Acquisition.gov](https://www.acquisition.gov) website.
- The Defense Acquisition University (DAU) iCatalog provides descriptions of many courses related to contract strategy.
- The DAU ACQuipedia serves as an online encyclopedia of common acquisition topics.
- The DAU [Tools Catalog](https://www.dau.edu/tools-catalog) is a source of hundreds of acquisition-related resources.

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1 Simplified Acquisition

1.1 Regulatory References

- FAR 2.101 definition for *Simplified Acquisition Procedures*
- FAR 2.101 definition for *Simplified Acquisition Threshold*
- FAR 2.101 definition for *Commercial Product*
- FAR 2.101 definition for *Commercial Service*
- FAR part 13 Simplified Acquisition Procedures
- FAR subpart 13.2 Actions at or Below the Micro-Purchase Threshold
- FAR 13.303 Blanket Purchase Agreements
- FAR subpart 16.7 Agreements
- DFARS part 213 Simplified Acquisition Procedures

1.2 Short Introduction

Simplified acquisition is an acquisition method prescribed in FAR Part 13 for purchasing products or services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the **simplified acquisition threshold**. Simplified acquisition procedures are designed for relatively simple Government requirements, and their use is subject to designated dollar thresholds that are adjusted under legislative authority about every 5-years. Generally, the SAP threshold is equal to or less than \$250,000, however FAR subpart 13.5 permits the acquisition of **commercial supplies and commercial services** purchases OVER the SAT up to \$7,500,000 using simplified acquisition procedures.

1.3 Relevant Definitions

- **Micro-purchase** means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. The threshold is subject to legislative adjustment.
- **Blanket Purchasing Agreement** means a simplified method of filling anticipated repetitive needs for supplies or services by establishing “charge accounts” with qualified sources of supply.
- **Simplified Acquisition Procedures** means a streamlined method of acquiring goods and services that have an anticipated dollar value exceeding the micro-purchase threshold but not exceeding the simplified acquisition threshold.

1.4 Applicability

The purpose of simplified acquisition procedures is to reduce administrative costs; improve opportunities for all types of small businesses concerns to obtain a fair proportion of Government

contracts; promote efficiency and economy in contracting; and avoid unnecessary burdens for agencies and contractors.

A supplier's submission of a quotation under SAP is not considered a formal offer and cannot simply be accepted by the Government to form a binding contract. A contract is established only when the supplier accepts the Government's order, either in writing or by commencing performance.

The Government-wide commercial purchase card is the preferred method to purchase and to pay for micro-purchases. **Micro-purchases** may be awarded without soliciting competitive quotations if the contracting officer or designated official considers the price to be reasonable.

For purchases exceeding the micro-purchase threshold but not exceeding the SAT, a Request for Quotation (RFQ) is used for soliciting competitive quotations. Once quotations are received and evaluated and the award decision is made, the Government issues a purchase order.

The use of **blanket purchase agreements** (BPA) is another common SAP method. A BPA can be prepared for a wide variety of items that are routinely purchased if the exact items, quantities, and delivery requirements are not known in advance. Once the BPA is established, "calls" are placed to order items from the BPAs. Individual purchases off BPAs cannot exceed the SAT.

When using SAP, some procedures and guidance from FAR Part 12 (Acquisition of Commercial Items) and/or FAR Part 15 (Contracting by Negotiation) may apply in addition to FAR Part 13 procedures and guidance.

1.5 Considerations

The simplified acquisition threshold (SAT) is subject to adjustment and is currently \$250,000. The SAT can vary depending on the acquisition situation. For acquisitions of supplies or services for supporting a contingency operation or facilitating defense against or recovery from nuclear, biological, chemical, or radiological attack, the SAT is (i) \$800,000 for contracts awarded and performed, or purchases made, inside the United States; and (ii) \$1.5 million for contracts awarded and performed, or purchases made, outside the United States. FAR 13.5 raises the threshold for purchases OVER the SAT for commercial products and commercial services to \$7.5 million.

Agencies are required to use SAP to the maximum extent practicable for purchases of supplies or services not exceeding the SAT. However, this policy does not apply if an agency can meet its requirement using required sources of supply under FAR Part 8 (e.g., Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled); existing indefinite delivery/indefinite quantity contracts; or other established contracts. An agency must not break down or "split requirements" that are valued greater than the SAT merely to avoid having to use procedures other than SAP.

1.6 Resources Links

- [ACQuipedia Article on Simplified Acquisition Procedures](#)
- [Navy Simplified Acquisition Procedures Guide](#)

1.7 Training Links

- [CON 2370 Simplified Acquisition Procedures](#)
-

2 Commercial Product & Commercial Service Acquisition

2.1 Regulatory References

- FAR 2.101 “Commercial product” definition
- FAR 2.101 “Commercial service” definition
- FAR part 12 *Acquisition of Commercial Products and Commercial Services*
- FAR subpart 13.5 *Simplified Procedures for Certain Commercial Products and Commercial Services*
- DFARS part 212 *Acquisition of Commercial Items*
- DFARS subpart 213.5 *Simplified Procedures for Certain Commercial Items*

2.2 Short Introduction

There is no short definition for Commercial Product or Commercial Service. The FAR provides lengthy definitions for **Commercial Product** and **Commercial Service** under FAR 2.101 and it is very important to understand the elements of those FAR definitions.

NOTE: Sections 836 and 837 of the NDAA for FY 2019 (Pub. L. 115-232). Section 836 separated the definition of "commercial item" into two definitions: one for "commercial products" and another for "commercial services." The effective date of the new definitions was January 1, 2020.

2.3 Relevant Definitions

- **Commercially available off-the-shelf (COTS) item** means any item or supply (including construction material) that is a commercial item as defined in FAR 2.101; sold in substantial quantities in the commercial marketplace; and offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; but does not include bulk cargo, such as agricultural products and petroleum products.
- **Nondevelopmental item (NDI)** means any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement; any item that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or any item of supply being produced that does not meet the requirements of the first two examples, solely because the item is not yet in use.
- **Simplified Acquisition Procedures** means a streamlined method of acquiring goods and services that have an anticipated dollar value exceeding the micro-purchase threshold (MPT) but not

exceeding the simplified acquisition threshold (SAT). See FAR part 2.101 for the current thresholds

2.4 Applicability

The law has directed a preference for acquiring commercial products and services since the early 1990s. Access to commercial items and practices brings significant benefit to DoD including: creation and integration of new technology; greater product availability and reliability; reduced acquisition cycle times; lower life cycle costs; increased competition, and an expanded pool of innovative and non-traditional contractors that seek to do business with DoD. Many commercial product and commercial services procurements are relatively simple, assuming that the items or services are readily identified as commercial, and there is healthy competition in the marketplace.

FAR Part 12 implements the statutory preference for the acquisition of commercial products and commercial services. To implement the requirement, a statement of need must contain sufficient information for potential offerors to know which commercial products or services may be suitable. To the maximum extent possible, acquisition officials must state requirements in terms of: (1) functions to be performed; (2) performance required; or (3) essential physical characteristics. Requirements must be defined in terms that enable and encourage offerors to supply commercial products or services.

2.5 Considerations

Agencies must use either **firm-fixed-price contracts** (FFP) or **fixed-price contracts with economic price adjustment** (FP-EPA) for the acquisition of commercial items. **Time-and-material** (T&M) or **labor-hour** (LH) contracts may only be used for the acquisition of commercial services under the conditions established at FAR 12.207(b)(1).

FAR subpart 13.5 gives Contracting Officers the flexibility and authority to **use simplified procedures** for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding \$7.5 million (\$15 million for acquisitions supporting contingency or disaster recovery operations), including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items.

Commercial products and commercial services are not subject to the Truthful Cost or Pricing Data Act, (also known as the Truth in Negotiation Act (TINA) in DoD) because the commercial marketplace is presumed to be a competitive environment and should drive a fair and reasonable price. When determining a fair and reasonable price, market research should be conducted in order to compare the proposed price to comparable market pricing.

2.6 Resource Links

- [ACQuipedia Article on Commercial Contracting](#)
- [Commercial Item Determination Guidebook Part A](#)
- [Commercial Item Pricing Guidebook Part B](#)

2.7 Training Links

- [CLC 020 Commercial Item Determination](#)
 - [CLC 139 Acquisition of Commercial Items](#)
 - [CLG 0010 DoD Governmentwide Commercial Purchase Card Overview](#)
 - [CLM 025 Commercial-Off-The-Shelf \(COTS\) Acquisition for Program Managers](#)
 - [CON 2370 Simplified Acquisition Procedures](#)
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3 Small Business Set-Asides

3.1 Regulatory References

- The Small Business Act of 1953, as amended
- FAR part 19
- DFARS part 219
- FAR subpart 19.5 - Set-Asides for Small Business
- FAR subpart 19.8 - Contracting with the SBA (The 8(a) Program)
- FAR subpart 19.13 - HUBZone Program
- FAR subpart 19.14 - SDVOSB Program
- FAR subpart 19.15 - WOSB Program

3.2 Short Introduction

A **set-aside** is the reserving of an acquisition for exclusive participation by small business concerns.

3.3 Relevant Definitions

Concern means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. “Concern” includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative.

“The Rule of Two” is the common name for the determination that there is a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery/award will be made at fair market prices.

Small Business Concern means a concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR part 121 (see FAR [19.102](#)). Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration must be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity. (See 15 U.S.C. 632.)

3.4 Applicability

The contracting officer shall set aside an individual acquisition or class of acquisitions for competition among small business when—

(1) It is determined to be in the interest of maintaining or mobilizing the Nation's full productive capacity, war or national defense programs, or

(2) Assuring that a fair proportion of Government contracts in each industry category is placed with small business concerns; and the circumstances described in FAR 19.502-2 or FAR 19.502-3(a) exist.

This requirement does not apply to purchases *at or below the micro-purchase threshold* for acquisitions, as described in FAR 13.201(g)(1)), or purchases from required sources of supply under FAR Part 8 (e.g., Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

For acquisitions of supplies or services that have an anticipated dollar value *exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold* (definition at FAR 2.101), are automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery.

For acquisitions of supplies or services that have an anticipated dollar value exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, the requirement to exclusively reserve acquisitions for small business concerns does not preclude the contracting officer from awarding a contract to a small business under one of the small business socioeconomic contracting programs (e.g., the 8(a) Business Development, Historically Underutilized Business Zone (HUBZone), Service-Disabled Veteran-Owned Small Business (SDVOSB), or Woman-Owned Small Business (WOSB) programs).

For acquisitions of supplies or services that have an anticipated dollar value *exceeding the simplified acquisition threshold*, the contracting officer shall set aside the acquisition for small business participation when there is **a reasonable expectation that offers will be obtained from at least two responsible small business** concerns offering the products of different small business concerns (but see FAR 19.502-2(c)); and award will be made at fair market prices.

For acquisitions of supplies or services that have an anticipated dollar value exceeding the simplified acquisition threshold, the contracting officer shall first consider an acquisition for the small business socioeconomic contracting programs (i.e., 8(a), HUBZone, SDVOSB, or WOSB) before considering a small business set-aside (providing the rule of two is satisfied). However, if a requirement has been accepted by the Small Business Administration (SBA) under the 8(a) Program, it must remain in the 8(a) Program unless SBA agrees to its release in accordance with 13 CFR parts 124, 125 and 126.

Figure 3.1: Comparison of Small Business Programs

Through FAC 2022-08: 28 Oct 2022

Small Business Programs	Sources	Manufacturing NAICS ¹	All Other NAICS	FAR Reference	Notes	
8(a) ³	Set-aside ⁴	Rule of 2	Exceed \$7.5M	Exceed \$4.5M	FAR 19.805-1	
	Sole Source ²		At or below \$7M	At or below \$4.5M	FAR 19.805-1 & FAR 6.302-5(b)(4)	If below the threshold, award to any 8(a). ²
HUBZone	Set-aside	Rule of 2	Exceed micro-purchase	Exceed micro-purchase	FAR 19.1305	
	Sole Source	Only 1	Exceed micro and ≤ \$7M	Exceed micro and ≤ \$4.5M	FAR 19.1306(a) & FAR 6.302-5(b)(5)	Contracting Officer shall consider.....
SDVOSB	Set-aside	Rule of 2	Exceed micro-purchase	Exceed micro-purchase	FAR 19.1405	
	Sole Source	Only 1	Exceed micro and ≤ \$7M	Exceed micro and ≤ \$4M	FAR 19.1406(a) & FAR 6.302-5(b)(6)	Contracting Officer shall consider.....
EDWOSB	Set-aside	Rule of 2	Exceed micro-purchase	Exceed micro-purchase	FAR 19.1505	MUST be under an eligible NAICS code (Underrepresented)
	Sole Source	Only 1	Exceed micro and ≤ \$7M	Exceed micro and ≤ \$4.5M	FAR 19.1506 & FAR 6.302-5(b)(7)	MUST be under an eligible NAICS code (Underrepresented)
WOSB	Set-aside	Rule of 2	Exceed micro-purchase	Exceed micro-purchase	FAR 19.1505	MUST be under an eligible NAICS code (Substantially Underrepresented)
	Sole Source	Only 1	Exceed micro and ≤ \$7M	Exceed micro and ≤ \$4.5M	FAR 19.1506 & FAR 6.302-5(b)(7)	MUST be under an eligible NAICS code (Substantially Underrepresented)
Small Business	Set-aside	Rule of 2	Above Micro and ≤ SAT Automatically Reserved	Above Micro and ≤ SAT Automatically Reserved	FAR 19.502-2(a)	FAR 19.502-2(b) over SAT (two or more shall set aside), also FAR 6.203
	Sole Source	Only 1	Only with sole source documentation	Only with sole source documentation	FAR 6.302-1 or FAR 19.502-2(a) ⁵	

8(a), HUBZone, SDVOSB, EDWOSB, and WOSB are all Small Business Concerns. There is no preference between them, FAR 19.203(a).

² Competition below the 8(a) competitive threshold is **NOT** authorized unless approved by the SBA, FAR 19.805-1(d)

³ When a requirement is already in the 8(a) program, it must stay in the 8(a) program, FAR 19.203(c) and FAR 19.815

⁴ If a requirement is over the competitive threshold for 8(a), a sole source is still permissible IAW DFARS 219.805-1(b)(2)(A) Native Hawaiian Organization

¹ Manufacturing NAICS start with: 31, 32, and 33

⁵ If only one acceptable offer is received in response to a set-aside

3.5 Considerations

The major consideration whether to set an acquisition aside for small business concerns, to include concerns in the socioeconomic programs, is the contracting officers (CO) determination whether they have a reasonable expectation that two or more responsible small business concerns are competitive in terms of market prices, quality, and delivery/award will be made at fair market prices. So the primary question becomes how does a CO get a “reasonable expectation”? The answer - by ensuring thorough market research is accomplished. Market research is a critical element that affords the government the opportunity to engage with industry to share information with them but to also learn about them. Market research done well, will provide responsibility and capability information sufficient to aid the CO in having an informed understanding as to whether the rule of two is satisfied.

One important caution in accomplishing market research is to only request the minimum amount of information sufficient to the circumstances; the intent is to obtain a degree of reasonable expectation, not make a formal determination of responsibility.

3.6 Resource Links

- [The Small Business Act of 1953 \(as amended\)](#)
- [SBA Contracting Assistance Programs](#)
- [DoD Office of Small Business Programs](#)
- [Set-aside Decision Chart and Narrative](#)
- [Job Aide for Small Business Set-asides](#)

3.7 Training Links

- [CON 0090 Strategies for Contracting with SDVOSBs.](#)
 - [SBP 1010 Introduction to Small Business Programs, Part A](#)
 - [SBP 102V Introduction to Small Business Programs, Part B](#)
 - [SBP 110 Fundamentals of the FAR for SBP](#)
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4 8(a) Sole Source (Direct) Awards

4.1 Regulatory References

- FAR Subpart 19.8
- DFARS Subpart 19.8

4.2 Short Definition

8(a) Sole Source Awards are contract awards with total contract values, including options at or below \$7 million for acquisitions assigned manufacturing North American Industry Classification System (NAICS) codes and at or below \$4.5 million for all other acquisitions, which are awarded to 8(a) participants on a non-competitive basis.

4.3 Relevant Definitions

8(a) Business Development Program, commonly referred to as the “8(a) program”, derives its name from Section 8(a) of the Small Business Act. The Act, as amended by Congress, created the 8(a) program to provide business development and procurement assistance to small disadvantaged businesses. Program participants do business as subcontractors to the SBA through contracts with federal government agencies.

8(a) contractor is an 8(a) participant that is currently performing on a federal contract or order that was set aside for 8(a) participants. A small business that is accepted into the 8(a) program is known as a “participant.” SBA's subcontractors are referred to as “8(a) contractors.”

4.4 Applicability

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) established a program that authorizes the Small Business Administration (SBA) to enter into all types of contracts with other agencies and award *subcontracts* for performing those contracts to firms eligible for participation in the 8(a) Business Development Program. Contracts may be awarded to the SBA for performance by eligible 8(a) participants on either a sole source (direct award) or competitive basis.

Through their cooperative efforts, the SBA and an agency match the agency's requirements with the capabilities of 8(a) participants to establish a basis for the agency to contract with the SBA under the program. Selection is initiated in one of three ways:

- (1) The SBA advises the contracting activity of an 8(a) participant's capabilities through a search letter and requests the contracting activity to identify acquisitions to support the participant's business plans.
- (2) The SBA identifies a specific requirement for one or more 8(a) participant(s) and sends a requirements letter to the agency's Office of Small and Disadvantaged Business Utilization, or for the Department of Defense, Office of Small Business Programs, requesting the contracting

office offer the acquisition to the 8(a) program.

(3) Agency contracting officers (CO) may review its agencies upcoming acquisitions for the purpose of identifying requirements which may be offered to the SBA. Where agencies independently, or through the self-marketing efforts of an 8(a) participant, identify a requirement for the 8(a) program, the CO may issue an offering letter on behalf of a specific 8(a) participant, or for the 8(a) program in general for competition or as a sole source requirement.

4.5 Considerations

The contracting officer shall comply with FAR 19.203 before deciding to offer an acquisition to a small business concern under the 8(a) program. For acquisitions above the simplified acquisition threshold, the contracting officer shall consider 8(a) set-asides or sole source awards before considering small business set-asides.

An acquisition offered to the SBA under the 8(a) program shall be awarded on the basis of competition limited to eligible 8(a) participants when there is a reasonable expectation that at least two eligible and responsible 8(a) participants will submit offers and that award can be made at a fair market price; and the anticipated total value of the contract, including options, will exceed \$7 million for acquisitions assigned manufacturing North American Industry Classification System (NAICS) codes and \$4.5million for all other acquisitions (the competitive thresholds). Thus, when the anticipated total value of the contract, including options, *does not exceed* the competitive thresholds, the contract shall be awarded on a sole source (direct award) basis.

On the other hand, the SBA may accept an acquisition that exceeds the competitive threshold for a sole source 8(a) award if there is not a reasonable expectation that at least two eligible and responsible 8(a) participants will submit offers at a fair market price; *or* the requirement is accepted on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation.

However, The SBA may not accept for a sole-source 8(a) contract a requirement that exceeds \$22 million unless the requesting agency has completed a justification in accordance with the requirements of FAR 6.303.

SBA has the authority to delegate its 8(a)-program contract execution authority to an agency, and it does this by entering into "Partnership Agreements". The contracting officer must refer to its agency supplement or other policy directives for appropriate guidance.

The requirements of FAR clause 52.219-14, Limitations on Subcontracting (Sep 2021) (DEVIATION 2021-00008) , are applicable to 8(a) contract awards. This includes multiple-award contracts when orders may be set aside for 8(a) participants as described in FAR 8.405-5 and 16.505(b)(2)(i)(F).

4.6 Resource Links

- [SBA 8\(a\) Business Development Program](#)
- [DoD Office of Small Business Programs](#)
- [DoD and SBA Partnership Agreement](#)
- [ACQuipedia Article Socioeconomic Programs](#)
-

4.7 Training Links

- [CSBP 1010 Introduction to Small Business Programs, Part A](#)
 - [SBP 102V Introduction to Small Business Programs, Part B](#)
 - [SBP 110 Fundamentals of the FAR for SBP](#)
 - [ON 0090 Strategies for Contracting with SDVOSBs](#)
-

5 Contracting by Negotiation

5.1 Regulatory References

- FAR subpart 6.3 Other Than Full and Open Competition
- FAR part 15 Contracting by Negotiation
- DFARS part 215 Contracting by Negotiation

5.2 Short Introduction

Contracting by Negotiation is an acquisition method prescribed in FAR part 15 for awarding either competitive or non-competitive acquisitions using a combination of source selection approaches depending on the relative importance of cost or price.

5.3 Relevant Definitions

- **Competitive acquisition** means the contract is awarded in a competitive environment. The procedures of FAR part 15 are intended to minimize the complexity of the solicitation, the evaluation, and the source selection decision, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to selection of the proposal representing the best value to the Government.
- **Sole source acquisition** means the contract is awarded in a sole source environment, allowing for the tailoring of the request for proposals (RFP) to remove unnecessary information and requirements, e.g., evaluation criteria and voluminous proposal preparation instructions.
- **Source Selection** means an evaluation process that may be formal or informal. Formal source selection is used for high-dollar value or complex acquisitions where someone other than the procuring contracting officer is the source selection authority (SSA). The process begins with the establishment of an evaluation plan for a proposed acquisition and ends when the SSA selects a contractor to receive a contract award and debriefs the offerors. Informal source selection procedures are less complex, as the procuring contracting officer (PCO) can determine which offer constitutes best value for the Government without formal input from other Government officials specifically designated for that purpose.

5.4 Applicability

Contracting by negotiation is one of six common methods of contracting used. These methods are illustrated in Figure 5.1.

Figure 5.1: Methods of Contracting

Method of Contracting	Covered in FAR...	Evaluation Factors
Sealed bidding	FAR part 14	Price and price-related factors
Competitive Negotiation	FAR part 15	Price and Non-price factors
Two-Step Sealed Bidding	FAR subpart 14.5	Price and Non-price factors
Simplified Acquisition Procedures	FAR part 13	Price and price-related factors only or Price and Non-price factors
Architecture-Engineering Selection Procedures	FAR subpart 36.6	Non-price factors
Broad Agency Announcement	FAR 35.016	Non-price factors

Within contracting by negotiation there are two types of negotiated acquisitions – ***sole source acquisition*** and ***competitive acquisition***. The competitive acquisition process is more commonly referred to as the ***source selection*** process. The objective of source selection is to deliver quality and timely products and services at the best value to the taxpayer. Requests for proposals (RFPs) are used in negotiated acquisitions to communicate Government requirements to prospective contractors and to solicit proposals.

The benefits of contracting by negotiation using competitive acquisition is that it allows for flexibility by permitting discussions between the government and the offerors and greater discretion in the basis of evaluation and selection of the successful proposal with discretionary use of tradeoffs between cost or price and other factors along the ***best value continuum***. See FAR 15.101.

The Best Value Continuum means that an agency can obtain best value by using any one or a combination of source selection approaches, as illustrated in Figure 5.2, below. 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.

Figure 5.2: Source Selection Approaches

	Subjective Technical Factor(s) Required	Objective/ Measurable Technical Factor(s) Required	Performance Risk Evaluation Required	Lowest Eval. Cost/Price= Best Value	Monetized Requirements	Best Value Tradeoff
Subjective Tradeoff	Yes	Possible	Yes	Possible	Possible	Yes
VATEP Tradeoff	Possible	Yes (See para. B.2)	Yes	Possible	Yes	Yes
LPTA	No	Yes (Acceptable/ Unacceptable See Table C-1)	Evaluated with Technical Factor for acceptability only (See para. 2.3.4.2.1)	Yes	No	No

*Figure Source: [DoD Source Selection Procedures Guide](#)

5.5 Considerations

The amount of flexibility to hold discussions with the offer and the negotiation procedures used in a **sole source acquisition** environment differ significantly from those used in competitive acquisitions. The determination to pursue a sole source acquisition must be justified in accordance with FAR Subpart 6.3 Other Than Full and Open Competition.

As described in the *DoD Source Selection Procedures*, the **competitive acquisition** process must be structured and conducted in a manner to communicate the Government’s requirements and objectives in clear, meaningful ways to encourage offerors to propose the best possible array of solutions, allowing the Government to make meaningful differentiations among proposals, and ensure that the award represents the best value.

Prior to determining the type of source selection appropriate for an acquisition the acquisition team must consider all aspects of the requirement. The team must ensure the aspects of a potential solution that will influence the ultimate awarded contract are reflected in the evaluation criteria, in clear, concise, and assessable terms. The DoD Source Selection procedures may be tailored as appropriate to the particular acquisition to maximize competition and the efficiency and effectiveness of the process, while ensuring the award can withstand scrutiny. As illustrated in Figure 5.3, on the next page, with flexibility comes complexity and the competitive acquisition process requires extensive planning and participation by the acquisition team.

Special note must be made of DoD’s limitations and prohibitions when considering the use of Lowest Price Technically Acceptable (LPTA) as a source selection approach. These limitations are outlined in DFARS 215.101-2-70.

Figure 5.3: The Standard Negotiation Process

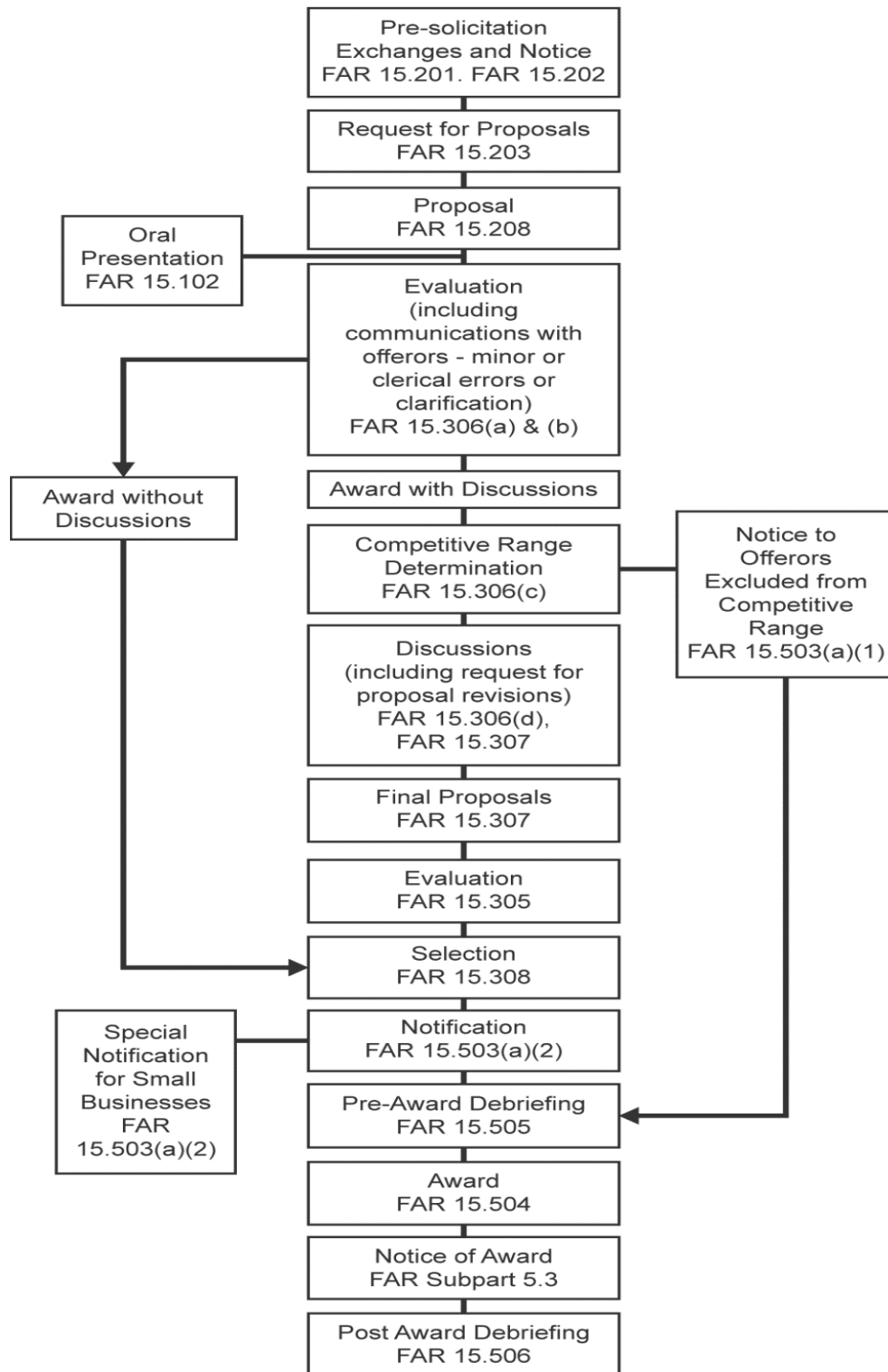


Figure Source: Cibinic, Jr, Nash, & O'Brien-DeBakey, 2011, p. xxxii

5.6 Resource Links

- [DoD Source Selection Procedures](#)
- [ACQuipedia Article – Best Value Continuum](#)
- [ACQuipedia Article – Lowest Price Technically Acceptable \(LPTA\)](#)
- [ACQuipedia Article – Negotiation Techniques](#)
- [ACQuipedia Article - Source Selection](#)
- [ACQuipedia Article – Value Adjusted Total Evaluated Price \(VATEP\)](#)
- [Media: Best Value Continuum](#)
- Book: Cibinic, Jr, J., Nash, R. C., & O'Brien-DeBakey, K. R. (2011). Competitive Negotiation - The Source Selection Process (Third Edition). Washington DC: Wolters Kluwer Law & Business.

5.7 Training Links

- [CLC 002 Sole Source Streamlining ToolBox](#)
 - [CLC 047 Contract Negotiation Techniques](#)
 - [CLC 063 Sole Source Proposal Technical Evaluations](#)
 - [CON 0072 Source Selection](#)
 - [CON 1300V Contract Award](#)
 - [WSC 005 Source Selection](#)
 - [WSC 023 Negotiation Orientation Workshop](#)
 - [WSC 032 Source Selection Simulation Workshop](#)
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6 Federal Supply Schedules

6.1 Regulatory References

- FAR part 38 Federal Supply Schedule Contracting
- FAR subpart 8.4 Federal Supply Schedules
- FAR subpart 16.5 Indefinite Delivery Contracts
- DFARS subpart 208.4 Federal Supply Schedules
- DFARS PGI 208.4 Federal Supply Schedules
- Class Deviation 2014-O-0011 Determination of Fair and Reasonable Prices When Using Federal Supply Schedule Contracts

6.2 Short Introduction

Federal Supply Schedules are managed by the General Services Administration (GSA) (also referred to as Multiple Award Schedules (MAS) and GSA Schedules) and are non-mandatory, government-wide contracts with commercial firms providing federal, state, and local government buyers access to commercial products, services, and solutions at pre negotiated pricing.

6.3 Relevant Definitions:

- **Blanket Purchasing Agreement (BPA)** means an agreement established by a government buyer with a Schedule contractor to fill repetitive needs for supplies or services. BPAs are like "charge accounts" set up with trusted or qualified suppliers.
- **Assisted acquisition** means the type of interagency contracting through which acquisition officials of a non-DoD agency award a contract or a task or delivery order for the acquisition of supplies or services on behalf of DoD.
- **Delivery order** means an order for supplies placed against an established contract or with Government sources.
- **Direct acquisition** means the type of interagency contracting through which DoD orders a supply or service from a government-wide acquisition contract maintained by a non-DoD agency.
- **Task order** means an order for services placed against an established contract or with Government sources.

6.4 Applicability

The **Federal Supply Schedules**, also known as multiple award schedules (MAS), provide a long term, simplified process for obtaining commercial supplies and services at prices associated with volume buying. Indefinite delivery contracts are awarded to provide supplies and services at stated prices for given periods of time. GSA Schedule Contracts were developed to assist federal employees in purchasing products and services; they contain pre-negotiated prices, delivery terms, warranties, and other terms and conditions which streamline the buying process.

The schedules allow ordering offices to issue delivery or task orders directly to listed schedule contractors and administer the orders themselves under direct acquisition authority or with the assistance of GSA using assisted acquisition authority. Using a FSS is not an exemption from acquisition planning as required by FAR Part 7. Orders placed against a Schedule contract must follow the procedures set forth in FAR 8.4 and may be set aside for small business at the ordering Contracting Officer's discretion. Before considering the use of FSS consult your agency specific supplements, for additional requirements or limitations. Orders over \$600,000 will require additional determinations to validate the best procurement approach.

The government often uses **Blanket Purchase Agreements** in conjunction with GSA Schedule contracts, the latter of which establish the purchasing terms and conditions and the pricing. BPAs are used by government agencies for simplifying the government purchasing process, allowing for the placement of orders through the BPA over the course of the year. A BPA between the government and a vendor allows purchasers authorized to use the BPA to place orders by telephone or in person with simplified documentation. BPAs make it easier for the contractor and buyer to fill recurring needs with the customer's specific requirements in mind, while using the buyer's full buying power by taking advantage of quantity discounts, saving administrative time, and reducing paperwork.

6.5 Considerations

There are many different schedules available with each geared to particular types of products or services. Two of the largest schedule contracts are Schedule for Information Technology Equipment, Software and Services and the Professional Services Schedule. There are many benefits to using a schedule contract to include the following:

- Streamlined procedures to increase acquisition speed
- Access to small businesses to support socioeconomic goals
- FAR compliance
- Pre-qualified contractors
- Pre-negotiated ceiling prices to achieve best value (Note: DoD Buyers must follow Class Deviation CD-2014-O-0011)
- Access to emerging technologies and innovative solutions

The process for placing orders against an existing schedule varies depending on whether there is no Statement of Work required (FAR 8.405-1) or if a Statement of Work is required (FAR 8.405-2) and the potential size of the order.

It is very important to consult your local agency regulations before proceeding with a FSS order. There are also numerous excellent training courses available on using schedule contracts – see resource links below.

6.6 Resources Links

There are many excellent resources available on Federal Supply Schedules and current schedule information readily available on the GSA website. Here are just a few links:

- [Information on Buying Off Schedules](#)
- [GSA eLibrary](#)
- [GSA Information on BPAs](#)
- [List of Federal Supply Schedules](#)
- [Class Deviation 2014-O-0011](#)

6.7 Training Links

- [CLC 030 Essentials of Interagency Acquisition/Fair Opportunity](#)
 - [Training on GSA Website](#)
 - [GSA YouTube Channel](#)
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7 Indefinite Delivery Contract Vehicles

7.1 Regulatory References

- FAR subpart 16.5 Indefinite Delivery Contracts
- DFARS subpart 216.5 Indefinite Delivery Contracts
- FAR subpart 17.5 Interagency Acquisitions
- DFARS subpart 217.5 Interagency Acquisitions

7.2 Short Introduction

Indefinite Delivery Vehicles (IDV) are commonly referred to under the umbrella term **Indefinite Delivery Indefinite Quantity (IDIQ)** contracts and there are three types of indefinite-delivery contracts: definite-quantity contracts, requirements contracts, and indefinite-quantity contracts. They may be awarded to one (single award) or more (multiple award) contractors. IDIQs are characterized by the delivery arrangements they specify and can include a variety of pricing arrangements (see [Major Contract Types Chart](#)) and are used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award.

7.3 Relevant Definitions:

- **Definite Quantity Contract** provides for delivery of a definite quantity of supplies or services for a fixed period, with deliveries to be scheduled at designated locations upon order.
- **Delivery-order contract** means a contract for supplies that does not procure or specify a firm quantity of supplies (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of supplies during the period of the contract. These can be any Indefinite Quantity/delivery or Requirements type contracts.
- **The Economy Act** (31 U.S.C. §§ 1535-1536) provides authority for federal agencies to order goods and services from other federal agencies, or with a major organizational unit within the same agency, if: 1) funds are available; 2) the head of the ordering agency or unit decides the order is in the best interests of the government; 3) the agency or unit filling the order can provide or get by contract the ordered goods or services; and 4) the head of the agency decides that the ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.
- **Government-Wide Acquisition Contracts (GWAC)** is a multi-agency task or delivery order contract, typically for information technology, established by one agency for government-wide use under the authority of the Economy Act.
- **Indefinite Quantity Contract** provides for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period with deliveries to be scheduled by placing orders with the contractor. The contract shall require the Government to order and the

contractor to furnish at least a stated minimum quantity of supplies or services and, if ordered, the contractor to furnish any additional quantities not to exceed a stated maximum.

- **Interagency Acquisition** means the procedure by which an agency needing supplies or services (the requesting agency) obtains them through another federal government agency (the servicing agency). This can be through use of **Direct Acquisitions** where the requesting agency places an order directly against a servicing agency's contract or **Assisted Acquisitions**, where the servicing agency and requesting agency enter into an interagency agreement pursuant to which the servicing agency performs acquisition activities on behalf of the requesting agency, such as awarding a contract or issuing a task or delivery order, to satisfy the requirements of the requesting
- **Multiple Award Contracts** means a contracting agency awards two or more contracts under a single solicitation where the award to a single supplier would be impractical or fail to satisfy the total requirements. These contracts allow agencies to establish a group of prequalified contractors to compete for future orders under streamlined ordering procedures once agencies determine their specific needs.
- **Requirements Contract** provides for filling all purchase requirements of designated government activities for supplies or services during a specified contract period, with deliveries to be scheduled by placing orders with the contractor.
- **Single-award IDIQ Contracts** means when only one contract is awarded under a solicitation. These IDIQ contracts may have been competed or may have been awarded on a non-competitive basis. If a contract is awarded without competition, it must follow certain procedures, in accordance with FAR Subpart 6.3.
- **Task-order contract** means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract. These can be any Indefinite Quantity/delivery or Requirements type contracts.

7.4 Applicability

Under an IDIQ contract, the government must order, and the contractor must provide, a minimum agreed-upon quantity of products or services, also known as a minimum guarantee. In addition, the contractor must provide any other quantities ordered by the government up to a stated maximum. IDIQ contracts and/or orders under the contract can be awarded on a competitive or noncompetitive basis, as appropriate.

The contracting officer determines whether, for a specific solicitation, to award **multiple award** IDIQ contracts or only one under a **single award**. IDIQs help streamline the contract process and speed service delivery. IDIQs standardize the ordering process for the business and provide flexibility for the agency. This contract type requires delivery of an indefinite quantity of products or services, within

stated maximum or minimum limits, see Figure 1, during a specific contract period of performance, with deliveries scheduled by placing orders against the base contract.

IDIQ contracts also provide more funding flexibility as funds are obligated as needed through orders and not at contract award—as may be required for some other types of contracts. Once the minimum guarantee is satisfied on an IDIQ contract, there is no further government obligation to procure additional products and services under an IDIQ contract. This contract type allows work to be performed on an as ordered need basis.

Figure 7.1: Indefinite Delivery Contract Types

Method	Government’s Promise	Contractor’s Promise
Indefinite Delivery – Definite Quantity	Purchase the quantity of supplies or services specified in the contract	Deliver supplies or services as specified in delivery or task orders issued under the basic contract
Indefinite Delivery – Requirements	Purchase all requirements for specified supplies/services from the contractor, as needed, over a specified time period	Deliver supplies or services as specified in delivery or task orders issued under the basic contract
Indefinite Delivery – Indefinite Quantity	Purchase a minimum amount of supplies or services from the contractor over a specified time period	Deliver supplies or services as specified in delivery or task orders issued under the basic contract up to the contract maximum

7.5 Considerations

Flexibility is the main advantage for using IDIQ contracts, as it is generally easier and faster to place an order under an existing IDIQ contract than to award a separate contract when a specific need arises. Price and technical approach can still be evaluated at the time of placing an order, but the overall turnaround time, is significantly less than for a new contract. IDIQ contracts are usually easier to administer, as it is more efficient to track funds and requirements for different customers through orders, rather than making modifications to stand-alone contracts for the same purpose. Close-out of orders from IDIQ contracts can also be much faster, as each order can be closed-out individually when the last payment is made rather than waiting until the entire contract is complete.

The FAR states a preference for **multiple award** IDIQ contracts, but the following must be true when contemplating multiple award contracts:

- There are two or more contractors able to provide the supply or service
- The terms will be more favorable than for single contracts
- It is more cost effective considering the administrative cost

- The requirement is severable, and more than one contractor can accomplish the separate parts

Situations where a contracting officer must use a **single-award** approach are:

- Based on a contracting officer's knowledge of the market, a single-award IDIQ would result in more favorable terms and conditions, including price
- The expected cost of administration of multiple contracts outweighs the expected benefits of multiple awards
- The expected orders are so integrally related that only a single contractor can reasonably perform the work
- The total estimated value is less than the simplified acquisition threshold
- Multiple awards would not be in the best interest of the government.

Either a **task order** or **delivery order** is placed when a concrete need arises, obligates funds, and authorizes work. Orders must be within the scope, period of performance, and maximum value and or quantities agreed to in the basic contract. The ordering processes for a multiple-award IDIQ contract and single-award IDIQ contract differ somewhat. For orders under single award IDIQ contracts, once a requirement is known, contracting officials can place an order following the procedures outlined in the contract. When multiple-award IDIQ contracts have been awarded, and a need arises, the requirement must be generally competed, through "fair opportunity", among all the IDIQ contract holders.

The specific procedures required to provide fair opportunity differ based on the dollar value of the orders. Contracting officers must provide each contractor a fair opportunity to be considered for each order unless exceptions apply. Exceptions to fair opportunity requirements for orders are permitted in certain circumstances, such as when only one source is capable of providing the particular products or services sought. Beyond the requirement to meet a minimum guarantee, contractors can choose to submit offers or not.

While DoD encourages the use of existing IDIQ contracts, there are additional considerations when using an IDIQ, GWAC or MAC from another agency or interservice. In accordance with FAR 17.703 (a), a DoD acquisition official may request a nondefense agency to conduct an acquisition on behalf of DoD in excess of the simplified acquisition threshold only if the head of the nondefense agency conducting the acquisition on DoD's behalf has certified that the agency will comply with applicable procurement requirements for that fiscal year. A list of agencies that have certified for the current Fiscal Year can be found on the [Defense Pricing & Contracting website](#). If an agency has not certified, a DoD Component must obtain a waiver as outlined in FAR 17.703(e).

7.6 Resources

- [2023 Fiscal Law Deskbook, Chapter 6](#)
- [DAU Tool – Comparison of Major Contract Types Chart](#)
- [GSA Information on IDIQ Contracts](#)

- [Defense Pricing and Contracting, Interagency Acquisition](#)
- [ACQuipedia Article Interagency Acquisitions](#)

7.7 Training

- [CLC 030 Essentials of Interagency Acquisition/Fair Opportunity](#)
-

8 Agreements

8.1 Regulatory References

- FAR 13.303
- FAR subpart 16.7
- DFARS subpart 216.7 and PGI

8.2 Short Introduction

An **Agreement** is the meeting of minds or a mutual understanding between two or more persons about their reciprocal rights and duties regarding past or future performances. The term agreement is frequently used as a synonym for “contract”. However, it lacks an essential element of a contract, consideration. The term agreement is much broader in meaning than the term contract. Every contract would be an agreement, but every agreement is not a contract.

8.3 Relevant Definitions:

- **Basic Agreement** means a written instrument of understanding, negotiated between an agency or contracting activity and a contractor. The basic agreement contemplates separate future contracts that will incorporate the required and applicable clauses. Each contract incorporating a basic agreement shall include a scope of work and price, delivery, and other appropriate terms that apply to the particular contract. However, a basic agreement itself is not a contract.
- **Basic Ordering Agreement (BOA)** means a written understanding, negotiated between a procuring activity and a contractor, that sets forth the terms and conditions that will apply to future contracts issued during the term of the BOA. BOAs are not considered binding contracts until orders are placed against them. Those orders become the binding contracts.
- **Blanket Purchase Agreement (BPA)** in accordance with FAR 13.303(a) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply. A BPA is a way for a government buyer to simplify the process of obtaining recurring products and services.
- **Purchase Order** means an offer by the Government to buy supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures. An order under a BOA is typically a purchase order.

8.4 Applicability

There are many purposes for an Agreement and many types of agreements. In addition to the agreements identified above, there are other forms of agreements you may encounter to include: Other Transaction Agreements, Cooperative Agreements, and Technology Investment Agreements Non-Disclosure Agreements, Non-Compete Agreements, and Teaming Agreements, to name just a few.

An agreement reflects the mutual understanding regarding the rights and responsibilities of the parties, but if the agreement is not abided by on one or both sides, the other party may not be able to seek legal remedy.

The rules that apply to the placement of contracts (i.e., synopsis, competition requirements, small business requirements, etc.) do not apply to a BA or BOA. Since BAs and BOAs are not contracts, the contractor is under no legal obligation to accept work from the Government. Conversely, the Government is under no obligation to issue work.

Agreements must be reviewed annually before the anniversary of their effective dates. Additionally, their terms may be changed only by modifications of the agreement, not by any contracts incorporating the agreement or orders issued under it.

A **Basic Agreement** should be used when a substantial number of separate contracts may be awarded to a contractor during a particular period and significant recurring negotiating problems have been experienced with the contractor. Basic agreements may be used with negotiated fixed-price or cost-reimbursement contracts. A basic agreement must not cite appropriations or obligate funds or imply any agreement by the Government to place future contracts or orders with the contractor or be used in any manner to restrict competition. Each contract incorporating a BA must include a scope of work and price, delivery, and other appropriate terms that apply to the particular contract. The BA must be incorporated into the contract by specific reference (including reference to each amendment) or by attachment.

A **Basic Ordering Agreement** is not a contract itself, but contains contract clauses applying to future contracts, during its term. BOAs are highly flexible agreements that include a description of supplies and services to be provided and the methods for pricing, issuing, and delivering future orders. BOAs are a means to expedite contracting for uncertain supplies or services when specific items, quantities, and prices are not known at the time of agreement is executed, but a substantial number of requirements are anticipated to be purchased from the contractor. Using a BOA can result in economies and reduce administrative lead-time in circumstances where repetitive purchasing is anticipated.

An agency will typically enter a BOA with a contractor if they anticipate issuing the contractor a substantial number of purchase orders. By negotiating as much as possible up front in a BOA, agencies expedite their ordering process, as the only things left to specify at the time a purchase order is placed are the specific items, quantities, and/or prices. The ordering period under a BOA may not exceed 5-years. Because BOAs are not priced, are not contracts, and are not entered into pursuant to FAR Part 6, a contracting officer cannot issue an order against a BOA without first getting prices and competition.

A **Blanket Purchase Agreement** is used when the exact quantities and delivery requirements for a commercial supply or service are not known in advance. Using a BPA can help avoid issuing numerous purchase orders and can be established with more than one supplier to ensure maximum competition. BPA are often established under Federal Supply Schedule contracts, in accordance with FAR Subpart 8.4. BPAs make it easier for the contractor and buyer to fill recurring needs with the customer's specific requirements in mind, while using the buyer's full buying power by taking advantage of quantity discounts, saving administrative time, and reducing paperwork. GSA manages several BPAs that are

available to all Federal agencies. These BPAs were established to consolidate a specific need identified across government agencies for things like wireless services, janitorial supplies, and software purchases.

8.5 Considerations

- **Basic Ordering Agreement** is not a contract; therefore, the contractor is under no legal obligation to accept purchase orders from the Government under a BOA. Conversely, the Government is under no obligation to issue orders to a contractor that has a BOA with the Government. Under a BOA, either party can terminate the agreement. A BOA cannot state or imply an agreement for future contracts or work and unlike an IDIQ contract there is no purchase minimum guaranteed quantity.
- The difference between "traditional" **Blanket Purchase Agreements** and BPAs established under the GSA Schedules Program is that "traditional" BPAs are subject to the requirements of FAR Part 13. FAR Part 13 does not apply to GSA Schedule BPAs except for FAR 13.303-2(c), which states that "BPAs may be established with GSA Federal Supply Schedule contractors...", FAR 8.405-3 states that ordering activities may establish BPAs under any Schedule contract to fill recurring needs.

8.6 Resource Links

- [Defense Logistics Agency BOA Sample](#)
- [GSA Blanket Purchase Agreements](#)

8.7 Training Links

- DAU offers several classes both online and virtual on Agreements and Grants in our catalog. Look under GRT in the DAU training courses, e.g., [GRT 201V Grants and Agreements Management](#)
 - DAU offers a [Contracting for Research and Development Credential \(CCON 021\)](#) that includes courses on grants and agreements
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9 Broad Agency Announcement

9.1 Regulatory References

- FAR 35.016 Broad Agency Announcement
- FAR 6.102(d) Other Competitive Procedures
- Public Law 98-369 Competition in Contracting Act (CICA) of 1984
- DFARS 235.006-71 Competition

9.2 Short Introduction

Broad Agency Announcement (BAA) means a competitive solicitation procedure used to obtain proposals for basic and applied research. BAAs may be used by agencies to fulfill requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution. The BAA technique is only used when meaningful proposals with varying technical/scientific approaches can be reasonably anticipated.

9.3 Relevant Definitions

The following definitions represent variations on the BAA process available for use, a graphic depiction of each of these processes is available in Attachment 1 of the [AFRL BAA Guide](#).

- **One-Step:** The one-step process is used to request full technical and cost proposals from each offeror. The proposals are evaluated in accordance with the solicitation criteria and all of a selected proposal, part of a selected proposal, or none of the proposals may be selected.
- **Two-Step:** The two-step process is sometimes used when a large number of proposals are anticipated. Potential offerors are invited to submit brief descriptive white papers in lieu of full proposals. The BAA must state whether an unfavorable white paper evaluation will bar the offeror from further consideration. Full proposals are requested from those offerors selected in the white paper evaluation process. When proposals are received, they are evaluated and selected.
- **Open BAA:** This approach allows for white paper and/or proposal submittals at any time within a specified period. BAAs must be publicized no less frequently than annually. White papers/proposals are evaluated when received during the period that the BAA is open.
- **Closed BAA:** This approach allows for white paper and/or proposal submittals at a specified date and time as set forth in the BAA. Late bid and proposal provisions (IAW FAR 52.215-1(c)(3)) are usually included in the BAA.
- **BAA with Calls:** This technique allows for publication of a basic BAA solicitation that contains overarching information but does not request white papers or full proposals. The basic BAA often functions as a framework identifying the technical areas and giving the basic terms and

administrative information of the BAA, and it is usually open for at least 12 months. The requests for white papers and/or proposals are transmitted via Calls that are published separately from the basic BAA at various times during the open period of the basic BAA. The Calls may further define the technology/government needs or just request white papers or full proposals.

- **Staggered-Closed BAA:** The staggered-closed BAA states a specified date and time for receipt of proposals or white papers, but also allows for proposals/white papers after the date and time set for proposal receipt. All offerors should be cautioned, however, that the likelihood of funding proposals received after the specified date and time is substantially reduced.

9.4 Applicability

A Broad Agency Announcement is considered another form of competitive procedure authorized under the FAR 6.102(d). BAAs are used for the acquisition of basic and applied research and that part of development not related to the development of a specific system or hardware procurement. A BAA allows for funding of state-of-the-art advances without a specific programmatic requirement in place. Under a BAA a notice from the government is issued that requests scientific or research proposals from private firms concerning certain program specific areas of interest to the government. The notice provides open dates for the receipt of proposals submitted by the private firms.

Proposals may range from theoretical studies to proof-of-concept to include fabrication and delivery of a prototype. However, this is limited to research procurements for which it would be impossible to draft an adequate RFP in sufficient detail without restraining the technical response and thus hindering competition rather than expanding it.

Proposals may be submitted by any non-governmental entity, including commercial firms, institutions of higher education with degree-granting programs in science or engineering (universities), or by consortia led by such concerns.

9.5 Considerations

Agencies generally refresh and publicize their BAAs on an annual basis and open BAAs can be found on the SAM.gov web page. The BAA announcement must specify an agency's research interests including criteria for selecting proposals.

The Government may reserve the right to select for award all, some, or none of the proposals received in response to a BAA announcement. The Government is not bound to make any awards under an announcement. Funds may not be readily available for all topics under BAA and so no contract award will be made for a topic until funds are available. Just like other contract awards, only a Contracting Officer is legally authorized to commit the Government for a BAA.

Use of a BAA to solicit for research and development is encouraged when:

- The Government desires new and creative solutions to problem statements.

- Using a conventional statement of work could result in unintentionally stifling ideas and concepts given many possible approaches.
- Fulfilling requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution.
- The Government must be able to state its objectives in terms of areas of need or interest rather than specific solutions or outcomes.
- Meaningful proposals with varying technical/scientific approaches are reasonably anticipated.
- Evaluation will be based on a peer or scientific review.

9.6 Resource Links

Many DoD Agencies have BAA webpages – this list is just a sampling:

- [Air Force Research Laboratory BAA Guide for Industry](#)
- [DARPA Guide to BAAs](#)
- [Army Research Laboratory BAA Site](#)
- [Air Force BAA Site](#)
- [Naval Research Laboratory BAA Site](#)
- [Defense Logistics Agency Strategic Materials BAA Site](#)
- [Defense Advanced Research Project Agency BAA Site](#)

9.7 Training Links

- DAU offers a [Contracting for Research and Development Credential \(CCON 021\)](#) covering R&D processes and programs, including BAAs.
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10 Defense Commercial Solutions Opening

10.1 Regulatory References

- [10 U.S.C. §3458](#) – Authority to Acquire Innovative Commercial Products and Commercial Services using General Solicitation Competitive Procedure
- Class Deviation- Defense Commercial Solutions Opening CD 2022-00007

10.2 Short Introduction

The **Defense Commercial Solutions Opening** is a merit-based source selection strategy to rapidly acquire innovative commercial technologies, especially from those entities that have not traditionally done business with the Government. The approach is similar to broad agency announcements (BAAs) in that they afford offerors the maximum opportunity to propose specific tasks and a corresponding technical approach of their own choosing in response to a broadly defined area of Government interest. Each proposal is evaluated on its individual merits rather than on a comparative basis, and the Government has considerable latitude in determining which of the submitted proposals it will fund.

10.3 Relevant Definitions

- **Broad Agency Announcement (BAA)** means a competitive solicitation procedure used to obtain proposals for basic and applied research. BAAs may be used by agencies to fulfill requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution. The BAA technique is only used when meaningful proposals with varying technical/scientific approaches can be reasonably anticipated.
- **Commercial Solutions Opening** means DoD may acquire innovative commercial technologies, or services through a general solicitation and the peer review of proposals. A CSO may accordingly be used to fulfill a requirement, capability gap, or potential technological advancement that provides a solution, or a potential new capability based on its technical merit. This topic is covered in detail under Commercial Solutions Opening: How to Guide.
- **Innovative** means any technology, process, or method, including research and development, that is new as of the date of submission of a proposal; or any application that is new as of the date of submission of a proposal of a technology, process, or method existing as of such date.
- **Nontraditional defense contractor** means an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the DoD for the procurement or transaction.

10.4 Applicability

More recently, the DoD has been looking beyond its traditional contractors for ways to encourage nontraditional defense contractors (NDCs) to invest in research efforts. These are firms of all

sizes and types that do not provide defense-specific goods or services. The DoD goal is fast delivery of cutting-edge innovation and new technologies, to keep its fighting forces equipped with the best weapon and support systems available. Accessing the technology developed by these NDCs requires the use of highly flexible and agile procurement methods. CSO lowers the barrier for entry for non-traditional companies to do work with the DoD by targeting innovative commercial products while not requiring the commercial FAR clauses.

Defense Commercial Solutions Opening (CSO) is a first-of-its-kind acquisition mechanism that uses “Other Transaction Authorities” granted by Congress. It was authorized by the FY 2017 National Defense Authorization Act (NDAA). Section 879 of the NDAA specifically says, “The Secretary of Defense and the Secretaries of the military departments may carry out a pilot program, ..., under which the Secretary may acquire innovative commercial items, technologies, and services through a competitive selection of proposals resulting from a general solicitation and the peer review of such proposals.”

[Defense Innovation Unit](#) (DIU) has adopted the model to move at the speed of business to match Silicon Valley counterparts. As a result, DoD has been able to realize the true potential of modular contracting. CSO allows DoD contracting officers to select proposals received in response to a general solicitation that is like a broad agency announcement without being limited to basic or applied research projects. Offerors have the maximum opportunity to propose specific tasks and a corresponding technical approach of their own choosing in response to a broadly defined area of interest. Each proposal is evaluated on its individual merits rather than on a comparative basis, and the Government has considerable latitude in determining which of the submitted proposals it will fund.

The primary evaluation factors for selecting proposals for award are technical, importance to agency programs, and funds availability. Price needs to be considered to the extent appropriate, but at a minimum, to determine that the price is fair and reasonable. The benefits of CSO are speed and flexibility. Remember, the specific purpose is to acquire innovative commercial technologies.

10.5 Considerations

Organizations that acquire commercial items, rather than research, have never had the authority to enter into BAA arrangements, however, using CSOs, organizations can now acquire items using procurement, operations and maintenance, or any other appropriate funding to adopt innovative technologies. Agencies using CSO are limited to \$100 million per transaction without written determination from USD A&S (Acquisition & Sustainment) or the relevant Senior Acquisition Execution (SAE). The contract type is also restricted to fixed-price, including fixed-incentive fee contracts.

The general characteristics of a CSO solicitation must include the following:

- Describe the agency's interest, either for an individual program characteristic or for broadly defined areas of interest;
- Describe additional criteria for selecting the solution briefs;
- Specify applicable intellectual property (IP) terms, carefully assess the intellectual property needs of the Government, and protect the offeror’s rights in the IP it currently owns;

- Specify the period during which solution briefs submitted in response to the solicitation will be accepted;
- Contain instructions for submission of solution briefs;
- Identify the basis and procedures for payment; and
- Include other necessary terms as required for the protection of the Government and offeror.

10.6 Resource Links

- [Class Deviation- Defense Commercial Solutions Opening CD 2022-00007](#)
 - [GSA Procurement Innovation Resource Center](#)
 - [GSA CSO Guide](#)
 - [FAI Commercial Solutions Opening](#)
 - [ERDCWERK Commercial Solutions Opening](#)
 - [Blog: Commercial Solutions Opening – More Than You Think!](#)
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11 Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR)

11.1 Regulatory References

- [15 U.S. Code §638](#)
- [US Small Business Administration, SBIR Policy Directive, October 1, 2020](#)
- FAR 35.016 Broad Agency Announcement

11.2 Short Introduction

The ***Small Business Innovation Research (SBIR)*** program is a highly competitive program that encourages domestic small businesses to engage in Federal Research/Research and Development (R/R&D) that has the potential for commercialization. SBIR enables small businesses to explore their technological potential and provides the incentive to profit from its commercialization.

The ***Small Business Technology Transfer (STTR)*** program expands funding opportunities in the federal innovation research and development (R&D) arena. Central to the program is expansion of the public/private sector partnership to include the joint venture opportunities for small businesses and nonprofit research institutions. The unique feature of the STTR program is the requirement for the small business to formally collaborate with a research institution in Phase I and Phase II. STTR's most important role is to bridge the gap between performance of basic science and commercialization of resulting innovations.

11.3 Relevant Definitions:

- ***Broad Agency Announcement (BAA)*** means a competitive solicitation procedure used to obtain proposals for basic and applied research and that part of development not related to the development of a specific system or hardware procurement.

11.4 Applicability

The mission of both the SBIR and STTR programs are to support scientific excellence and technological innovation through the investment of Federal research funds in critical American priorities to build a strong national economy. Annually, the DoD SBIR budget represents more than \$1 billion in research funds. By including qualified small businesses in the nation's R&D arena, high-tech innovation is stimulated, and the United States gains entrepreneurial spirit as it meets its specific research and development needs.

The DoD SBIR/STTR Programs follow the policies and practices of the Small Business Administration (SBA) SBIR/STTR Policy Directive updated on October 1, 2020. Proposals submitted must provide sufficient information to demonstrate to the evaluator(s) that the proposed work represents an innovative approach to the investigation of an important scientific or engineering problem and is worthy of support under the stated criteria.

SBIR Goals	STTR Goals
<ol style="list-style-type: none"> 1. Stimulate technological innovation. 2. Meet federal research and development needs. 3. Foster and encourage participation in innovation and entrepreneurship by socially and economically disadvantaged persons. 4. Increase private-sector commercialization of innovations derived from Federal research and development Funding. 	<ol style="list-style-type: none"> 1. Stimulate technological innovation. 2. Foster technology transfer through cooperative R&D between small businesses and research institutions. 3. Increase private sector commercialization of innovations derived from federal R&D.
<p>Each year, Federal agencies with extramural research and development (R&D) budgets that exceed \$100 million are required to allocate 3.2 percent (FY 2017) of their R&D budget to these programs. Currently, 11 agencies participate in the SBIR program:</p> <ul style="list-style-type: none"> • Department of Agriculture • Department of Commerce – National Institute of Standards and Technology • Department of Commerce – National Oceanic and Atmospheric Administration • Department of Defense Acquisition University • Department of Education • Department of Energy • Department of Health and Human Services • Department of Homeland Security • Department of Transportation • Environmental Protection Agency • National Aeronautics and Space Administration • National Science Foundation 	<p>Each year, Federal agencies with extramural research and development (R&D) budgets that exceed \$1 billion are required to reserve 0.3% of the extramural research budget for STTR awards to small businesses. Currently, 5 agencies participate in the STTR program:</p> <ul style="list-style-type: none"> • Department of Defense • Department of Energy • Department of Health and Human Services • National Aeronautics and Space Administration • National Science Foundation
<p>Each agency administers its own individual program within guidelines established by Congress. These agencies designate R&D topics in their solicitations and accept proposals from small businesses. Awards are made on a competitive basis after proposal evaluation.</p>	

11.5 Considerations

SBIR targets the entrepreneurial sector because that is where most innovation and innovators thrive. However, the risk and expense of conducting serious R&D efforts are often beyond the means of many small businesses. By reserving a specific percentage of federal R&D funds for small businesses,

SBIR protects the small business and enables it to compete on the same level as larger businesses. SBIR funds the critical startup and development stages, and it encourages the commercialization of the technology, product, or service, which, in turn, stimulates the U.S. economy.

There are eligibility restrictions on who can participate in both SBIR and STTR:

SBIR:

- Small businesses with 500 or fewer employees
- Independently owned and operated for profit
- Have its principal place of business in the U.S.
- Be at least 51 percent owned by U.S. citizens or lawfully admitted permanent resident aliens
- The primary employment of the principal investigator must be with the small business
- A minimum of 2/3s of the research work must be performed by the proposing firm in Phase I and 1/2 in Phase II

STTR:

- Small businesses with 500 or fewer employees; there is no size limit on the research institution
- Partnership with a U.S. research institution
- 40 percent of work performed by small business
- 30 percent of work performed by research institution
- Small business must manage and control the STTR funding agreement
- Principal investigator may be employed at the small business or research institution

The DoD issues three SBIR and three STTR **Broad Agency Announcements (BAA)** for proposals annually. Each BAA has a pre-release, open, and close. During the pre-release period the government is not accepting proposals, but small businesses can discuss technical questions directly with the topic authors. Once the BAA is open, direct questions with the topic authors are no longer allowed, but technical questions may be submitted anonymously.

The SBIR and STTR programs are structured in three phases:

Phase 1 Feasibility: The objective of Phase I is to establish the technical merit, feasibility, and commercial potential of the proposed R/R&D efforts and to determine the quality of performance of the small business awardee organization prior to providing further Federal support in Phase II. Phase I awards normally do not exceed \$163,952 (inflation adjusted) total costs for 6 months for SBIR or 1 year for STTR.

Phase 2 Prototype: The objective of Phase II is to continue the R/R&D efforts initiated in Phase I. Funding is based on the results achieved in Phase I and the scientific and technical merit and commercial potential of the project proposed in Phase II. Only Phase I awardees are eligible for a Phase II award. Phase II awards normally do not exceed \$1,093,015 (inflation adjusted) total costs for 2 years.

Phase 3 Commercialization: The objective of Phase III, where appropriate, is for the small business to pursue commercialization objectives resulting from the Phase I/II R/R&D activities. The SBIR/STTR program does not fund Phase III. Some Federal agencies, Phase III may involve follow-on non-SBIR funded R&D or production contracts for products, processes or services intended for use by the U.S. Government.

Proposals are evaluated by Government scientists and engineers who are experts in a particular area review the proposals and evaluate them based on the soundness, technical merit and innovation of approach; qualifications of the principal investigators and supporting staff, and the potential for government or private sector application.

11.6 Resource Links

- [SBIR/STTR Website](#)
- [SBIR Policy Directive](#)
- [Defense SBIR/STTR innovation Portal](#)
- [DOD SBIR/STTR Website](#)
- [ACQuipedia Article Small Business Innovation Research \(SBIR\) and Small Business Technology Transfer \(STTR\) Programs](#)
- [U.S. Code, Title 15—Commerce and Trade Chapter 14A—Assistance to Small Business](#)

11.7 Training Links

- [SBIR Training Tutorials](#)
- [CON 0210 R&D Processes and Programs](#)
- [DAU offers a Contracting for Research and Development Credential \(CCON 021\) covering R&D processes and programs](#)

The following DAU courses discuss SBIR/STTR in the curriculum:

- [SBP 1010, Introduction to Small Business Programs, Part A](#)
 - [SBP 2010, Intermediate Small Business Programs, Part A](#)
 - [CLM 059, Fundamentals of Small Business for the Acquisition Workforce](#)
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12 Letter Contract

12.1 Regulatory References

- FAR 16.603
- DFARS 216.603
- DFARS 15.404-71-3(d)(2)
- DFARS subpart 217.74
- DFARS PGI 217.74

12.2 Short Introduction

A **letter contract** is a written preliminary contractual document that authorizes the contractor to begin immediately manufacturing supplies or performing services.

12.3 Relevant Definitions:

- **Undefinitized Contract Actions (UCA)** means those contract actions for which the contract terms, specifications, or price are not agreed upon before performance commences. Examples are letter contracts, orders under basic ordering agreements, and provisioned item orders, for which the price has not been agreed upon before performance has begun.
- **Definitization** means the agreement on, or determination of, contract terms, specifications, and price, which converts the undefinitized contract action to a definitive contract.

12.4 Applicability

A **letter contract** should only be used when a requirement needs to be met quickly and there is insufficient time to use normal contracting methods. The FAR governs how and when contracting officers should use letter contracts. Letter contracts fall into the category of undefinitized contract actions (UCA) and while a letter contract can be quickly entered, at a later date, the Government and contractor must agree upon the contract's final price and other terms, which is referred to as *definitizing* the contract.

Letter contracts are only appropriate for requirements of an urgent and compelling nature, therefore should only be used when the appropriate approval authority determines in, in writing, that no other contract is suitable. A letter contract should be as complete and definitive as possible under the circumstances The FAR establishes requirements as to how quickly a letter contract must be definitized, with goal of the earliest practicable date but no later than within 180 days after the award date or before 40 percent of the work is complete, whichever occurs first. To this end, letter contracts must contain a definitization schedule when they are issued, and the schedule must identify a date by which the contract will submit a proposal and dates for the start of negotiations and planned definitization.

Pricing is usually stated in terms of a “not-to-exceed” amount. The not-to-exceed price is the estimated amount necessary to cover the contractor’s requirement for funds before definitization. Letter contracts are essentially cost-reimbursement contracts until definitized, as the Government reimburses the contractor all incurred costs that are reasonable, allocable, and allowable during the undefinitized period. This contract type places the greatest cost risk on the Government. When the letter contract is definitized, the contracting officer and contractors negotiate the ultimate contract type and price including profit or fee.

12.5 Considerations

The major risk of letter contracts for the government is untimely definitization, which may result in additional costs and performance risk, changes in the availability of funds, profits without associated risk, and the potential to commit to spending more than appropriations. Letter contracts may risk not being definitized within 180 days due to the untimely receipt of an adequate proposal from the contractor, acquisition workforce shortfalls, and changing requirements. When the maximum amount of funding permitted is obligated immediately at award of the letter contract, contractors may have little incentive to quickly submit proposals. Delayed definitization transfers additional cost and performance risk to the government, since contractors are normally reimbursed for all allowable costs incurred before definitization. The contractor has no incentive to control cost and the Government has less negotiating leverage at the time the contract is definitized, resulting in the risk of the government paying additional costs. Due to the high risk to the government, there are additional reporting requirements for undefinitized contract actions.

12.6 Resource Links

- [Template for Determination for Use of an Undefinitized Contract Action \(UCA\)](#)
- [Undefinitized Contract Action \(UCA\) and Unpriced Change Order \(UCO\) Reporting FAQs](#)
- [DoD IG Audit of Military Department Management of Undefinitized Contract Actions \(DODIG-2020-084\)](#)
- [Article: A UCA by Any Other Name, September 2019](#)

12.7 Training Links

- [DoD Sole Source Streamlining Toolbox](#)
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13 Sealed Bidding/Two-Step Sealed Bidding

13.1 Regulatory References

- FAR part 14 Sealed Bidding
- FAR 6.012 Use of competitive procedures
- FAR 6.402 Sealed bidding and competitive proposals
- FAR 36.213 Special procedures for sealed bidding in construction contracting

13.2 Short Introduction

Sealed bidding (FAR part 14) is one of the three major federal procurement procedures, the other two being Simplified Acquisition (FAR part 13) and Contracting by Negotiation (FAR part 15). Sealed bidding can be used to acquire both commercial and non-commercial products and services, but it's commonly used for construction contracting.

Two-step sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available.

13.3 Relevant Definitions:

- **Invitations for Bid (IFB):** A solicitation using sealed bid procedures.
- **Sealed Bidding:** is a method of contracting that employs competitive bids, public opening of bids, and awards. Sealed bidding is primarily used when the Government's requirement is well-defined and the basis of award can be made based on price and price-related factors.

13.4 Applicability

Sealed bidding is how the government buys competitively when its requirements are very specific, clear and complete. An IFB or "Invitation for Bid" is the method used for the sealed bid process. Typically, an IFB includes a description of the product or service to be acquired, instructions for preparing a bid, the conditions for purchase, delivery, payment, and other requirements associated with the bid, including a deadline for bid submissions. Each sealed bid is opened in a public setting by a government contracting officer, at the time designated in the invitation. All bids are read aloud and recorded. A contract is then awarded by the agency to the lowest bidder who is determined to be fully responsive to the needs of the government. Under sealed bidding, the government uses full and open competition to select contractors on the basis of price competition with publicly opened bids.

Contracting officers ***are required to solicit sealed bids if the following circumstances exist*** [FAR 6.401(a)]:

- Time permits the solicitation, submission, and evaluation of sealed bids;
- The award will be made on the basis of price and other price-related factors;
- It is not necessary to conduct discussions with the responding offerors about their bids; and
- There is a reasonable expectation of receiving more than one sealed bid.

When using sealed bidding, the contracting officer is limited to either a firm-fixed-price (FFP) or fixed-price with economic price adjustment (FP-EPA) type contract (FAR 14.104).

In addition, FAR 36.103 requires contracting officers to use sealed bid procedures for construction contracts if the conditions in [6.401\(a\)](#) apply, unless the contract will be performed outside the United States and its outlying areas.

13.5 Considerations

To be considered for award, a *responsive* bid must comply in all material respects with the invitation for bid. The focus on compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding process. The contracting officer also must determine that a prospective contractor is responsible and that the prices offered are reasonable before awarding the contract. An award is made to the responsible bidder whose bid is responsive to the terms of the invitation for bids and is most advantageous to the Government, considering only price and the price related factors included in the invitation for bid. Essentially, every bidder can produce the same product, so the only thing that separates them is the price of their services. *Note that under an IFB, the award is made to responsible bidders in accordance with FAR subpart 9.1, but the experience, past performance or reputation of the bidders is not evaluated.*

The following steps are involved in sealed bidding:

(a) *Preparation of invitations for bids.* Invitations must describe the requirements of the Government clearly, accurately, and completely. Unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders are prohibited. The invitation includes all documents (whether attached or incorporated by reference) furnished prospective bidders for the purpose of bidding.

(b) *Publicizing the invitation for bids.* Invitations must be publicized through distribution to prospective bidders, posting in public places, and such other means as may be appropriate. Publicizing must occur a sufficient time before public opening of bids to enable prospective bidders to prepare and submit bids.

(c) *Submission of bids.* Bidders must submit sealed bids to be opened at the time and place stated in the solicitation for the public opening of bids.

(d) *Evaluation of bids.* Bids shall be evaluated without discussions.

(e) *Contract award.* After bids are publicly opened, an award will be made with reasonable promptness to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, considering only price and the price-related factors included in the invitation.

Two-Step Sealed Bidding: Can be used in acquisitions that require technical proposals, but the award is still made on price and price related factors. Step one consists of the request for, submission, evaluation, and (if necessary) discussion of a technical proposal. No pricing is involved. The objective is to determine the acceptability of the supplies or services offered. Step two involves the submission of

sealed priced bids by those who submitted acceptable technical proposals in step one. Bids submitted in step two are evaluated and the awards made in accordance with FAR Subparts 14.3 and 14.4.

Two-step sealed bidding is an option when:

- More than one technically qualified source is expected to be available;
- There is sufficient time for the two-step sealed bidding process;
- Discussion of offers with offerors can be limited to determining the acceptability of the offered supplies or services; and
- Final award can be made on price and price-related factors alone

Sealed Bidding and Construction Contracts: Due to the requirements of FAR 36104, sealed bidding is the predominant method used for federal construction, if award is to be made on the basis of price or price-related factors. The IFB provides the construction project clear specifications or statement of work, proposal instructions, and a draft contract. Bids are then opened publicly. The qualified construction company with the lowest price will win the bid, which will be a firm, fixed price contract.

13.6 Resource Links

[FAI Contracting Professionals Smart Guide: Activity 16 Sealed Bidding](#)

[Government Contracting - FAR part 14 Sealed Bidding -- YouTube](#)

13.7 Training Links

- [CLC 003 Sealed Bidding](#)
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