



# **Defense Acquisition University:**

## **Acquisition Community Symposium**

### ***Better Buying Power Key Policy Documents***

April 12, 2011



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## OFFICE OF THE UNDER SECRETARY OF DEFENSE

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SEP 14 2010

ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

### MEMORANDUM FOR ACQUISITION PROFESSIONALS

**SUBJECT: Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending**

On June 28, I wrote to you describing a mandate to deliver better value to the taxpayer and warfighter by improving the way the Department does business. I emphasized that, next to supporting our forces at war on an urgent basis, this was President Obama's and Secretary Gates' highest priority for the Department's acquisition professionals. To put it bluntly: we have a continuing responsibility to procure the critical goods and services our forces need in the years ahead, but we will not have ever-increasing budgets to pay for them. We must therefore strive to achieve what economists call productivity growth: in simple terms, to **DO MORE WITHOUT MORE**. This memorandum contains specific Guidance for achieving the June 28 mandate.

Secretary Gates has directed the Department to pursue a wide-ranging Efficiencies Initiative, of which this Guidance is a central part. This Guidance affects the approximately \$400 billion of the \$700 billion defense budget that is spent annually on contracts for goods (weapons, electronics, fuel, facilities etc., amounting to about \$200 billion) and services (IT services, knowledge-based services, facilities upkeep, weapons system maintenance, transportation, etc., amounting to about another \$200 billion). We estimate that the efficiencies targeted by this Guidance can make a significant contribution to achieving the \$100 billion redirection of defense budget dollars from unproductive to more productive purposes that is sought by Secretary Gates and Deputy Secretary Lynn over the next five years.

Since June, the senior leadership of the acquisition community – the Component Acquisition Executives (CAEs), senior logisticians and systems command leaders, OSD officials, and program executive officers (PEOs) and program managers (PMs) – has been meeting regularly with me to inform and craft this Guidance. We have analyzed data on the Department's practices, expenditures, and outcomes and examined various options for changing our practices. We have sought to base the specific actions I am directing today on the best data the Department has available to it. In some cases, however, this data is very limited. In these cases, the Guidance makes provision for future adjustments as experience and data accumulate so that unintended consequences can be detected and mitigated. We have conducted some preliminary estimates of the dollar savings anticipated from each action based on reasonable and gradual, but steady and determined, progress against a clear goal and confirmed that they can indeed be substantial.

Changing our business practices will require the continued close involvement of others. We have sought out the best ideas and initiatives from industry, many of which have been adopted in this Guidance. We have also sought the input of outside experts with decades of experience in defense acquisition.

Going forward we will need the support of Congress, which will be essential to the success of this endeavor and we have tried to take their concerns fully into account in formulating this Guidance.

A capable, qualified, and appropriately sized acquisition workforce will be key to achieving efficiency. While Secretary Gates has directed a scrub of the oversight staff in OSD and the military commands, he has also determined that the acquisition workforce increases planned last year should proceed, since they are focused on specific skill sets near to the point of execution. You, the acquisition leaders, and your workforce will be essential to the success of this Guidance.

This Guidance contains 23 principal actions to improve efficiency organized in five major areas. Specific guidance is contained in directives I am issuing today or in the near future. Over the coming months, the acquisition leadership will discuss with each of you how you can implement this Guidance and monitor progress against its metrics.

There is every reason to believe the efficiencies we are seeking can be realized. It has taken years for excessive costs and unproductive overhead to creep into our business practices, but over the coming years we can surely work them out again. Those who hesitate to go down the road of greater efficiency must consider the alternative: broken or cancelled programs, budget turbulence, uncertainty and unpredictability for industry, erosion of taxpayer confidence that they are getting value for their defense dollar and, above all, lost capability for the warfighter in a dangerous world. Not only can we succeed: we must.

## **TARGET AFFORDABILITY AND CONTROL COST GROWTH**

Mandate affordability as a requirement. Affordability means conducting a program at a cost constrained by the maximum resources the Department can allocate for that capability. Many of our programs flunk this basic test from their inception. As the Department begins new programs like the Ohio-class SSBN(X) replacement, the new Presidential Helicopter, the Army's Ground Combat Vehicle (GCV), and the joint Family of Systems for long-range strike in the near future, I will require program managers to treat affordability as a requirement before granting milestone authority to proceed with the program. *Specifically, at Milestone A, my Acquisition Decision Memorandum (ADM) approving formal commencement of the program will contain an affordability target to be treated by the program manager (PM) like a Key Performance Parameter (KPP) such as speed, power, or data rate – i.e., a design parameter not to be sacrificed or compromised without my specific authority. At Milestone B, when a system's detailed design is begun, I will require presentation of a systems engineering tradeoff analysis showing how cost varies as the major design parameters and time to complete are varied.* This analysis would allow decisions to be made about how the system could be made less expensive without loss of important capability. This analysis would then form the basis of the 'Affordability Requirement' that would be part of the ADM decision. I will be issuing a directive in the near future to implement this guidance that will apply to both elements of a program's life cycle cost – the acquisition cost (typically 30 percent) and the operating and support cost (typically 70 percent). For smaller programs, the CAEs will be directed to do the same at their level of approval. I recognize that we need to improve the Department's capability to perform this kind of engineering tradeoff analysis, but the ability to understand and control future costs from a program's inception is critical to achieving affordability requirements.

The Navy has been conducting just this sort of analysis in connection with the commencement of the Ohio-class replacement. This submarine will be the bulwark of our survivable nuclear deterrent for the indefinite future as required by the Nuclear Posture Review, but at the price originally estimated, its construction would swamp the Navy's shipbuilding budget during the 2020-2030 periods. By conducting the kind of design tradeoffs I will require at Milestone B and trimming requirements as a result without compromising critical capability, the Navy has reduced the estimated average procurement cost by 16 percent with a goal of fully 27 percent. Over the next five years, the Department expects to begin new programs with acquisition costs in the FYDP of over \$50 billion and totaling over \$200 billion. If the forecast costs of these new programs can be scrubbed down by even a fraction of that achieved in the SSBN(X) program, billions of dollars just within the FYDP can be reallocated to more productive purposes.

Drive productivity growth through Will Cost/Should Cost management. During contract negotiation and program execution, our managers should be driving productivity improvement in their programs. They should be scrutinizing every element of program cost, assessing whether each element can be reduced relative to the year before, challenging learning curves, dissecting overheads and indirect costs, and targeting cost reduction with profit incentive – in short, executing to what the program *should cost*. The Department's decision makers and Congress use independent cost estimates (ICE) – forecasts of what a program *will cost* based upon reasonable extrapolations from historical experience – to support budgeting and programming. While ICE Will Cost analysis is valuable and credible, it does not help the program manager to drive leanness into the program. In fact, just the opposite can occur: the ICE, reflecting business-as-usual management in past programs, becomes a self-fulfilling prophesy. The forecast budget is expected, even required, to be fully obligated and expended.

To interrupt this vicious cycle and give program managers and contracting officers and their industry counterparts a tool to drive productivity improvement into programs, *I will require the manager of each major program to conduct a Should Cost analysis justifying each element of program cost and showing how it is improving year by year or meeting other relevant benchmarks for value. Meanwhile, the Department will continue to set the program budget baseline (used also in ADMs and Selected Acquisition Reports (SARs)) using an ICE.* We will use this method, for example, to drive cost down in the Joint Strike Fighter (JSF) program, the Department's largest program and the backbone of tactical air power for the U.S. and many other countries in the future. This aircraft's ICE (Will Cost) average unit price grew from \$50 million Average Unit Procurement Cost (APUC) when the program began (in 2002 dollars, when the program was baselined) to \$92 million in the most recent ICE. Accordingly, the JSF program had a Nunn-McCurdy breach last year and had to be restructured by the Secretary of Defense. As a result of that restructuring, a Should Cost analysis is being done in association with the negotiation of the early lot production contracts. The Department is scrubbing costs with the aim of identifying unneeded cost and rewarding its elimination over time. The result should be a negotiated price substantially lower than the Will Cost ICE to which the Department has forecasted and budgeted. Secretary Gates indicated in his Efficiency Initiative that monies saved in this way could be retained by the Service that achieved the efficiency; in this case the Air Force, Navy, and Marine Corps could reallocate JSF funds to buy other capabilities.

The Department will obligate about \$2 trillion in contracts over the next five years according to Will Cost estimates, so savings of a few percent per year in execution are significant.

The metric of success for Should Cost management leading to annual productivity increases is annual savings of a few percent from all our ongoing contracted activities as they execute to a lower figure than budgeted. Industry can succeed in this environment because we will tie better performance to higher profit, and because affordable programs will not face cancellation.

Eliminate redundancy within warfighter portfolios. The Army recently determined that it could forego the Non-Line-of-Sight Launch System (NLOS-LS) short-range guided missile because it already had weapons that had some (though not all) of the same features as NLOS-LS and because the cost of NLOS-LS – almost \$300,000 each – was too high for the narrow capability gap it would fill. This was a classic value decision that could not have been made by looking at the NLOS-LS program in isolation. The Army had to look at the entire “warfighting portfolio” of precision weapons to see that NLOS-LS’s cancellation would not, in fact, result in a major sacrifice of military capability.

*I intend to conduct similar portfolio reviews at the joint and Department-wide level with an eye toward identifying redundancies.* These reviews will initially cover Ground Moving Target Indicator (GMTI) systems and Integrated Air and Missile Defense. *I am directing the components to do the same for smaller programs and report the results.* The savings from these reviews cannot be estimated until they are conducted, but the savings could be substantial.

Make production rates economical and hold them stable. Government and industry both benefit from economic order quantity (EOQ) rates of production, and from stability in production year after year. Unfortunately, quantity cutting and turbulence to meet budget targets is widespread. Production rates are a critical part of any acquisition strategy approved by me. *Therefore, beginning immediately, I will expect production rate to be part of the affordability analysis presented at Milestones A and B. Furthermore, at Milestone C, I will set a range of approved production rates. Deviation from that range without my prior approval will lead to revocation of the Milestone.*

Recent examples where the Department ensured cost savings by implementing economical production rates include the Navy's E-2D Advanced Hawkeye program and the Air Force's Small Diameter Bomb II program. During reviews for initial production for both programs, business case analyses demonstrated significant dollar savings and more rapid achievement of operational capability, with the use of aggressive but attainable production profiles. Those EOQs were directed and are expected to realize savings of \$575 million for the E-2D and \$450 million for the SDB II as a result.

*I expect to see a 5 percent annual increase in the number of ACAT 1D and 1C programs executing at their EOQ level.*

Set shorter program timelines and manage to them. The leisurely 10-15 year schedule of even the simplest and least ambitious Department programs not only delays the delivery of needed capability to the warfighter, but directly affects program cost. As all programs compete for funding, the usual result is that a program settles into a level-of-effort pattern of annual funding that does not deviate much from year to year. The total program cost is the level-of-effort times the length of the program. Thus a one-year extension of a program set to complete in 10 years can be expected to result in 10 percent growth in cost as the team working on the project is kept on another year.

Yet managers who run into a problem in program execution generally cannot easily compromise requirements and face an uphill battle to obtain more than their budgeted level of funding. The frequent result is a stretch in the schedule.

An example of the importance of addressing schedule directly as an independent variable is the Army's GCV. An initial acquisition plan had this program taking approximately 10 years to complete a first production vehicle, typical of the normal leisurely pace of programs. (In contrast, the MRAP-ATV began in 2009 and delivered more than 5,700 vehicles to Afghanistan by August 2010.) Given the large investment in ground vehicle technology made in the cancelled Future Combat Systems (FCS) program, there was no need to take this much time, especially if the basic requirements were limited to those essential to an infantry fighting vehicle and incorporating the lessons of recent wars. The Department determined that the GCV program should have a seven-year schedule to first production vehicle. Requirements and technology level for the first block of GCVs will have to fit this schedule, not the other way around.

*When requirements and proposed schedules are inconsistent, I will work on an expedited basis with the Services and the Joint Staff to modify requirements as needed before granting authority for the program to proceed. In particular, I will not grant authority to release requests for proposals until I am confident requirements and proposed schedules are consistent. From now on, I will also require as part of the cost tradeoff analysis at Milestone B to support affordability, a justification for the proposed program schedule. This justification will be part of the ADM authorizing the program to proceed. Deviation from that schedule without my prior approval will lead to revocation of the Milestone.*

## **INCENTIVIZE PRODUCTIVITY AND INNOVATION IN INDUSTRY**

Reward contractors for successful supply chain and indirect expense management. The Department pays profit/fee to prime contractors on work they conduct themselves, work subcontracted by the prime contractor to subcontractors, and allowable overhead and administrative costs. All three are appropriate, but in each instance the level of profit should be calculated to reward performance. Profit on subcontracted work is meant to compensate the prime for taking on the burden of managing subcontractor risk and delivering subcontractor value. Otherwise, the government would have to manage the subcontractor itself (an alternative called "breakout"). It follows that higher profit should be awarded to management of higher-risk subcontracts, and higher profit should be given when the prime succeeds in driving down subcontractor costs every year. Likewise, profit on overhead should incentivize control of overhead cost. There is evidence, however, that blanket profit levels are set and, what is more, are not revisited periodically in light of actual performance. This should be done as a matter of course. Additionally, incentives have not kept pace with fundamental changes in the defense industrial environment, among them the growth of services contracts and a shift in the role of prime contractors from manufacturers to integrators of components manufactured by subcontractors.

*I am instructing the Director of Defense Procurement and Acquisition Policy (DPAP) to review the Weighted Guidelines for profit with the aim of emphasizing the tie between profit and performance. In the meantime and effective immediately, I expect all managers of ACAT 1D programs to provide to me, as part of their acquisition strategy, the reward and incentive strategy behind their profit policy, including consideration of breakout alternatives where*

*appropriate. I direct the CAEs to do the same in programs for which they have acquisition authority.*

*It is important to note that the savings to be expected from this direction will be in cost, not in profit. Savings are not expected in profit per se since in some instances profit will increase to reward risk management and performance. But if profit policy incentivizes reduction in program cost, the overall price to the taxpayer (cost plus profit) will be less.*

The value of considering a breakout option is illustrated by the results of a recent review of DDG-51 Destroyer costs. During this review, it was noted that the new cost for the Restart Main Reductions Gears (MRG), previously subcontracted by two construction shipyards as Class Standard Equipment, was now more than three times the previous cost. The incumbent manufacturer had exited the market for MRGs and had sold its intellectual property to another firm. The prime passed on this subcontractor's new bill to the government without aggressive cost management. The PEO broke out the MRG from the prime contract and conducted a full and open competition, which resulted in savings over \$400 million to the government for a lot buy of nine ship sets.

Increase the use of Fixed-Price Incentive Firm Target (FPIF) contract type where appropriate using a 50/50 share line and 120 percent ceiling as a point of departure. Choosing contract type is one important way of aligning the incentives of the government and the contractor. One size does not fit all. At one time, the Department attempted to impose fixed-price contracts on efforts where significant invention (and thus unknowable costs) could be anticipated. More recently, Cost Plus Award Fee (CPAF) contracts with subjective measures of award fee not clearly tied to cost control became widespread. In between these extremes is the FPIF contract, which should be the contracting officer's point of departure whenever conditions obtain (or can be created) that make it appropriate. "Fixed Price" is appropriate when the government knows what it wants and does not change its mind, and when industry has good control of its processes and costs and can thus name a price. While these preconditions do not always exist (as in, for example, a risky development where invention is needed), they are certainly desirable, and both parties to the contract should aspire to fulfilling them. "Incentive" is important, since it shares the costs of overruns and rewards of underruns between government and industry, giving both sides of the transaction an incentive for good performance. FPIF will normally be appropriate early in production and in single-source production where year-on-year price improvement can be rewarded.

A 50/50 share line suggests that the government and contractor have a common view of the likely contract execution cost. A 50/50 share line should represent a point where the estimate is deemed equally likely to be too low or too high. A flat or steep share line suggests that the government and contractor do not see project cost the same way. These differences in view should be discussed and considered as the basis for adjusting the target cost before an uneven share line is agreed to in contract. This might occur, for example, earlier in a program where the costs are inherently more uncertain.

A ceiling of 120 percent on an FPIF contract sets a 20 percent limit on the government's liability for overrun of the contract target cost. This is reasonable in view of historical experience in program overruns, and also reasonable because programs that overrun more than this amount in an era of relatively flat defense budgets should face review with an eye to cancellation.

A higher proposed ceiling requires explanation to the relevant head of contracting authority. Likewise, a lower ceiling than 120 percent suggests that perhaps a firm fixed-price contract is appropriate.

*I am considering whether to issue more formal guidance on this matter, but effective immediately, I will require a justification of contract type for each proposed contract settlement be made to the relevant acquisition executive before negotiations are concluded. The metric for success of this measure would be fewer programs that overrun their cost targets.*

The Navy, for example, recently concluded negotiations for a multi-year procurement of 124 F/A-18 strike fighter and E/A-18 electronic attack aircraft, which will yield over \$600 million (greater than 10 percent) savings to the Department and the taxpayer. The F-18 program was able to drive down cost for each lot of aircraft procured in the framework of a fixed-price incentive contract that meets the Department's objectives for realistic costs, reasonable profit, a 50/50 shareline, and a 120 percent ceiling.

Adjust progress payments to incentivize performance. The government is an exceptionally reliable customer in terms of financing. The Department pays up front and regularly, sometimes before products are delivered. The Department also finances most industry investment needed to prepare products for the defense market. The Department can therefore offer its contractors a high cash flow return on invested capital, a feature highly valued by investors. This financial environment in turn offers another opportunity to reward good performance. The Department should take advantage of this circumstance through the use of innovative contract financing methods to incentivize vendors with the time value of money in exchange for lower prices/costs. *As a matter of practice, on all fixed price type contracts, I expect that the basis of negotiations shall be the use of customary progress payments. After agreement on price on the basis of customary progress payments, the contractor shall have flexibility to propose an alternate payment arrangement for the Government's consideration. By having determined the projected contract cost, the contracting officer should be able to determine the consideration being offered by the contractor for a more favorable payment structure. The benefits of that improved cash flow shall be documented and the contracting officer will clearly identify in the business clearance the amount of consideration the Government received for the use of the improved cash flow opportunity. I will direct that the Director of DPAP develop for my review a cash flow model to be used by all contracting officers contemplating financing other than customary progress payments and make certain that the guidance is developed to ensure that the improved cash flow opportunities provide benefit to both industry (at both prime and subcontractor level) and the taxpayer.*

Extend the Navy's Preferred Supplier Program to a DoD-wide pilot. The Department should recognize and reward businesses and corporations that consistently demonstrate exemplary performance. The Department has experience with these types of programs in certain parts of our business. For example, the Defense Logistics Agency's Strategic Supplier Alliance (SSA) has established long term relationships with major original equipment manufacturers (OEMs) within commodity groups for parts and supplies, and they are eligible to receive contract awards on a sole source basis. SSA suppliers have their performance tracked via a vendor scorecard tool that reports administrative lead time, production lead time, percent obligations and other measures and are eligible for preferred status based upon these measures.

The Navy has announced a pilot program that would allow contracting authorities to set favorable post-award special terms and conditions that recognize those businesses and corporations that have demonstrated, over time, superior performance in delivering quality products and services, robust subcontracting management, cost containment, and on-time delivery. In the Navy's pilot, the special terms and conditions can, for example, include more favorable progress payments, higher designated ranges in the weighted guidelines, special award fee pools, and other potential post-award advantages. I believe this has significant potential to appropriately reward those corporate/business suppliers that the Department can count on to repeatedly deliver the value that we expect. *I am directing the Navy to continue to lead the pilot program but to immediately include the other Services and DoD components in order to transition to a full DoD program as soon as practical.*

Reinvigorate industry's independent research and development and protect the defense technology base. The Department reimburses industry as an allowable cost over \$3 billion annually in "Independent Research and Development" (IRAD). This is one of the Department's principal investments in technology innovation, larger than any single military department's annual Science and Technology (6.1-6.3) program. Yet, we do not have insight into how or where these funds go or if they benefit the Department or promote the technological prowess of our industry. Beginning in the 1990s, the Department reduced its technical exchanges with industry, in part to ensure the "independence" of IRAD. The result has been a loss of visibility into the linkage between funding and technological purpose. Additionally, there is some evidence that the defense industry has reduced its in-house laboratory infrastructure to a point not envisioned in the 1990s.

The capability to perform work in science and technology has increased throughout the world. Data suggests U.S. world share is continuing to decline. In order to maintain our innovative edge, secure the basis for a strong economy, and provide for national security, we must implement new policies to effectively use Department resources and maintain appropriate investment in technology development and lower cost and time required for providing those capabilities.

Understanding that industry needs to maintain independence, but acknowledging that the public funds these investments, I am reviewing how we can work with industry to identify and eliminate impediments to innovation, provide better feedback to industry researchers, and better define the Department's needs to our industry partners.

*I intend to take action to align the purpose of IRAD to actual practice. Unfortunately, as noted above, the Department does not have the information about how the program is actually functioning that I would need to undergird a policy change at this time. Accordingly, I am today directing three steps that I will review in six months with the objective of issuing a directive on this subject at that time. First, the Director of Defense Research and Engineering (DDR&E) should engage with the largest of the performers of IRAD to collect data on how they have used these funds in recent years, the resulting benefits to government and industry, and how they obtain insight into technical areas of potential interest to the government. Second, I will ask the Defense Contract Audit Agency (DCAA) to collect and provide to me IRAD financial data from all firms with allowable IRAD costs. Third, I direct the DDR&E to provide to me within 60 days a plan for a pilot program, to improve the return on IRAD investments for industry and*

*government. The pilot program is to apply to as much as a third of the IRAD allocation, and will reflect early insights from the data we will collect.*

## **PROMOTE REAL COMPETITION**

Real competition is the single most powerful tool available to the Department to drive productivity. Real competition is to be distinguished from a series of directed buys or other contrived two-source situations which do not harness the full energy of competition. Competition is not always available, but evidence suggests that the government is not availing itself of all possible competitive situations.

Present a competitive strategy at each program Milestone. Since it is not practical to develop two of everything the Department needs, competition must be found in other forms. Program managers should have a competitive strategy for their program even if they do not have classic head-to-head competition. This might take the form of a related program that could serve as partial substitute for the program in question, a plan to re-gain competition in an unproductive sole source situation, breakout of subcontracted work, adapting commercial products, or other strategies.

*I will require a presentation of a competitive strategy for each program at each Milestone and expect the CAEs to do the same at their level.*

A highly successful example of a competitive strategy is the Navy's Littoral Combat Ship. This program was in danger of falling into a pattern of directed buys rather than real competition, with the result that the price of an LCS was creeping up towards that of a destroyer. The Navy decided to select only one of the LCS designs for production, doing so in an additional competitive selection. Competition in a different form will then be introduced into the program, as other shipbuilders are provided the technical data to build the same ship design competitively. This strategy is expected to save the Navy over \$1 billion over the FYDP, with additional savings expected over the life of the LCS acquisition program.

Remove obstacles to competition. In recent years, the Department has achieved the highest rates of competition in its history. Having said that, the fact is that a significant fraction of those competitive procurements have involved what is termed "ineffective competition," since only one offer to a solicitation was received even when publicized under full and open competition. This occurs in about \$55 billion of Department contracts annually. One step the Department can take is to mitigate this loss of savings from the absence of competition. A common practice has been to conclude that either a bid or proposal submitted by a single offeror in response to a full and open competition met the standard for adequate price competition because the bid or proposal was submitted with the expectation of competition. As a result, no certified cost or pricing data was requested, no cost or price analysis was undertaken, and often, no negotiations were conducted with that single offeror. *Henceforth I expect contracting officers to conduct negotiations with all single bid offerors and that the basis of that negotiation shall be cost or price analysis, as the case may be, using non-certified data.*

A more important approach is to remove obstacles to competitive bidding. For example, the Air Force's PEO for Services reviewed the Air Force's Design and Engineering Support Program (DESP) for effective competition. She found 39 percent of the task order competitions under the

Indefinite Delivery/Indefinite Quantity (IDIQ) contract resulted in one bid. The Air Force team undertook an analysis to determine why they were getting the one bid and made two changes. First, they amended their source selection methodology so that technical, cost, and past performance factors were more equally weighted. No one factor can be less than 25 percent or more than 50 percent. This served to lessen the advantage of the incumbent contractor since the technical factor could not overshadow past performance and cost. Second, the team provided a monthly report to all DESP IDIQ holders listing all known requirements in the pipeline. The report includes sufficient information to allow contractors to evaluate whether or not to bid and to start to prepare a bid package. The team has effectively added an additional 45 days to the time a requirement is made known to the potential offerors and the bid due date. These two changes have reduced the percentage of task orders receiving one bid by 50 percent. The team continues to evaluate its processes to further reduce the percentage.

Each service component and agency has a competition advocate. *I am directing each competition advocate to develop a plan to improve both the overall rate of competition and the rate of effective competition. Those plans should establish an improvement rate of at least 2 percent per year for overall competition and an improvement rate of at least 10 percent per year for effective competition. Those plans are to be approved by the CAEs. The Department's competition advocate shall brief me on the overall progress being made to achieve those goals.*

○ Require open systems architectures and set rules for acquisition of technical data rights. *At Milestone B, I will require that a business case analysis be conducted in concert with the engineering trade analysis that would outline an approach for using open systems architectures and acquiring technical data rights to ensure sustained consideration of competition in the acquisition of weapons systems. A successful example of the strategic use of open architecture and buying of appropriate technical data rights is the Navy's Virginia-class SSN program. The Virginia program uses a modular open systems architecture and selective sub-component technical data rights procurement that promotes a robust competition at the component supplier level, while still supporting continual and effective block upgrades to the existing systems that reduces the overall life cycle cost of the system.*

Increase dynamic small business role in defense marketplace competition. Small businesses have repeatedly demonstrated their contribution to leading the nation in innovation and driving the economy by their example of hiring over 65 percent of all new jobs and holding more patents than all the nation's universities and large corporations combined.

Our defense industry must leverage that innovation and opportunity into our competitions, as small business representation on programs has demonstrated lower costs to the government. For many small businesses, subcontracting on Department contracts is the first step to becoming a Department prime contractor. Components must understand the small business capabilities within their industry and increase market research and outreach efforts to ensure small business utilization is maximized. In order to remove barriers to small business participation in Department contracts and competition, *I direct the CAEs to institute in all competitive and non-competitive procurement actions emphasis on small business utilization through weighting factors in past performance and in fee construct.*

## IMPROVE TRADECRAFT IN SERVICES ACQUISITION

Contract support services spending now represents more than 50 percent of our total contract spending. In 2009, the Department spent more than \$212 billion in contracting services, using more than 100,000 contract vehicles held by more than 32,200 contractors — with more than 50 percent of the spend awarded to about 100 contractors.

This contractor support is critical to the Department. For professional services, for example, the Department depends upon three sources: the government workforce, the unique not-for-profit FFRDCs and UARCs, and for-profit professional services companies. Management mechanisms are in place for the first two, but far less for the third.

The Department's practices for buying such services are much less mature than for buying weapons systems. It is critically important that we have a cohesive and integrated strategy with regard to the acquisition of services. This substantial amount of spend demands a management structure to strategically source these goods and services.

Create a senior manager for acquisition of services in each component, following the Air Force's example. In order to achieve efficiencies in services contracting commensurate with the scale of the Department's spend, new governance is necessary. *I am directing the CAEs of the military departments and the commanders and directors of the other DoD components to establish a senior manager for acquisition of services, who will be at the General Officer, Flag, or SES level. This senior manager will be responsible for governance in planning, execution, strategic sourcing, and management of service contracts. The senior manager will be the Decision Authority for Category I service acquisitions valued at \$250 million or less or as delegated and collaborate with requiring activities which retain funding authority on service contract spend.*

Adopt uniform taxonomy for different types of services. Today, the Department lacks a standard taxonomy for service contract spend that can be used among the components to understand the Department's aggregate spending and value of specific services contracting. Without a standard approach, the Department has no way of measuring productivity in more than 50 percent of its contracting investment. *I am directing, therefore, each component to use the following primary categories of service spend: Knowledge-based services; Electronics and Communications Services; Equipment Related Services; Medical Services; Facility Related Services; and Transportation Services. These are derived from, and consistent with, Product Service Code (PSC) categories contained in the PSC manual maintained by the General Services Administration, Federal Procurement Data Center, and Office of Management and Budget (OMB). This taxonomy will be used by each component to ensure basic consistency.*

Address causes of poor tradecraft in services acquisition.

○ *Assist users of services to define requirements and prevent creep via requirements templates.* The Department has experienced significant increases in mission/requirements creep for services spending, particularly in knowledge management services, which has increased 400 percent in the last decade. These requirements often require the same function or service to be provided but are written uniquely among various commands so that competition is limited. *Therefore, I am directing two initiatives to address mission/requirements creep. First, the Services and DoD components should establish, through their senior managers for services,*

*maximum use of standard templates in developing Performance Work Statements (PWS) to improve contract solicitations. Successful examples of the use of standard templates are the Navy's SEAPORT acquisitions and DLA's use of templates to acquire Headquarters support services. Second, I also expect market research to be strengthened in order to understand industry's capabilities and appropriate pricing within the market in which we are buying. I expect the military departments and DoD components will achieve this by establishing dedicated market research teams at the portfolio management level.*

- *Enhance competition by requiring more frequent re-competes of knowledge based services. Although 89 percent of the Department's services contracting spend was awarded under competitive conditions, in 24 percent of those cases only one bid was received. This suggests bona fide competition (two or more bids) is not occurring in the \$31 billion represented by those cases. To improve competition in services, I will require the military departments and DoD components to review the length of time that services contracts remain in effect before re-competition occurs. Single-award contract actions should be limited to three years (including options) unless, by exception, it is fully justified for longer periods by the senior manager for services. Contract length should be appropriate for the activity performed. Knowledge-based services readily meet the three-year limit. Other services such as Performance Based Logistics (PBL), LOGCAP, and environmental remediation, as examples, may not. The intent is that each service requirement will be reviewed by the appropriate official and only those with a sound business rationale will contain longer contract performance provisions. Multiple award IDIQ contracts may be up to five years if on-ramp provisions are included to refresh/update the competitor pool. In addition, I expect Service components to align contract spend data, to the maximum extent that is practical, to the functional/requirements elements executing the spend. This will focus all elements of the Department on the importance of achieving improved results.*

- *In cases where "1-bid" proposals are received, I will require fully negotiated pricing and cost data as appropriate. Further, I will require solicitations that receive only one bid, and that were open to industry for less than 30 days, to be re-advertised for a minimum additional period of 30 days.*

- *Limit the use of time and materials and award fee contracts for services. Today, more than 20 percent of the Department's services acquisitions are written using Time & Material (T&M) or Cost Plus Award Fee (CPAF) contract types. At a time when the Department is driving toward more fiscal discipline, we spend about \$24 billion in services using T&M contract types, which are the least preferred contract type for understanding costs. Similarly, CPAF contract types provide only limited motivation for cost discipline. The acquisition of services differs greatly from the acquisition of supplies and equipment. The contractor at-risk capital is typically much lower for most service acquisitions and must be factored into the contract decision process. I will issue further detailed guidance for establishing a taxonomy of preferred contract types in services acquisition, but starting immediately, I expect services acquisitions to be predisposed toward Cost-Plus-Fixed-Fee (CPFF), or Cost-Plus-Incentive-Fee (CPIF) arrangements, when robust competition or recent competitive pricing history does not exist to build sufficient cost knowledge of those services within that market segment. I expect that cost knowledge gained from those contracts to inform the Should Cost estimates of future price and contract type negotiations. When robust competition already exists, or there is recent competitive pricing history, I expect components to be predisposed toward Firm-Fixed-Price*

*(FFP) type contract arrangements. FFP should also be used to the maximum extent reasonable when ongoing competition is utilized in multiple award contract scenarios.*

○ *Require that services contracts exceeding \$1 billion contain cost efficiency objectives. With large Department outlays of capital for services contracting, it is important that the Department incentivize, achieve, and share in cost improvements over the period of performance for support services acquisitions, including knowledge management services. In acquisitions of material and production end items, we expect the contractor to be on a learning or efficiency curve to drive costs down and value up. We should incentivize and expect similar cost improvement on high-value services contracts. Beginning immediately, I will require services contracts valued at more than \$1 billion to contain provisions in the contract to achieve productivity improvements and cost efficiencies throughout the contract period.*

Increase small business participation in providing services. Small businesses provide the Department with an important degree of agility and innovation, even in support services, and they do so with generally lower overhead structures. To strengthen and improve opportunities for small businesses in the acquisition of services, *I am directing the OSD Office of Small Business Programs to review acquisition plans for services acquisitions exceeding \$1 billion, and to be members of the OSD peer reviews of services acquisitions. Additionally, when multiple award contracts are used for services acquisitions, specific tasks suitable for small businesses will be set aside and military departments and DoD components will seek opportunities to compete Multiple Award/IDIQ contracts among small businesses.*

## **REDUCE NON-PRODUCTIVE PROCESSES AND BUREAUCRACY**

Unnecessary and low-value added processes and document requirements are a significant drag on acquisition productivity and must be aggressively identified and eliminated. We cannot achieve Should Cost goals solely by providing incentives to industry to reduce overhead and increase productivity; the government must also eliminate unnecessary and often counterproductive overhead. Some of this overhead is required by statute, and I will work with the Congress to reduce these requirements that neither add value nor improve operational performance. Some of it is imposed by OSD, and is the natural bureaucratic growth in oversight that staffs generate over time and which has to be trimmed back periodically to more effective and productive levels. Secretary Gates has emphasized that the Department's efficiency initiative does not just extend to the \$400 billion of contracted work outside the Department's walls, but to the \$300 billion spent on the people and facilities that comprise the Department itself. He has reached into his own OSD staff and to senior commands to require greater leanness. Within OSD, he has directed my office (AT&L) to conduct a much-needed bottom-up scrub of process and staffing. Secretary Gates' determination to increase the overall acquisition workforce remains steadfast; however he intends for those additional positions to be filled with specific skill sets in short supply near the point of program execution, not an across-the-board increase or an increase in oversight staff. We must use these, and all our resources, effectively. I am calling on all participants in the acquisition system and all those who affect its processes to work with me to remove non-productive processes and bureaucracy. The following are just some of the steps we can take to address this problem:

Reduce the number of OSD-level reviews to those necessary to support major investment decisions or to uncover and respond to significant program execution issues. The number and

frequency of OSD-level program reviews has increased significantly over the past several years. The year prior to August 2010 showed that over 240 major reviews and significant USD (AT&L)/staff reviews required more than 100,000 labor-hours to complete. This practice has tended to relieve the Senior Acquisition Executives (SAEs), PEOs, and PMs from responsibility and accountability for the programs they are executing. Insight at the AT&L level into program execution performance can generally be achieved through established status reporting mechanisms and informal staff contacts. While I expect a certain level of staff oversight, I expect the staff reviews to be focused primarily on major decision points for which I am responsible and on surfacing and solving execution problems. I also expect the OSD staff in AT&L and elsewhere to remain cognizant of our programs' progress and to identify problems quickly so that they can be dealt with as early as possible. There is a balance between this appropriate level of oversight and that which is excessive and tends to relieve the chain of command from management responsibility. I believe we have tipped the balance too far in favor of additional oversight and need to restore it to a more appropriate and effective level.

- *Realign OSD Acquisition Reviews to add more value.* It is important that we align AT&L resources to address the most significant investment decisions required at the Under Secretary level. Therefore, *I am directing ARA to review the current list of OSD reviews — DABs, Pre-DABs, OIPTs, PSRs, and TRLs etc., to recommend specific realignment of these reviews/meetings to ensure they focus their purpose on the major acquisition investment decisions made by the Department.*

- *Review DAB documentation requirements to eliminate non-relevant content.* Our DAB documents have become bloated and at the same time often fail to provide necessary and important content. A team has already been established to review DAB documents beginning with the Acquisition Strategy Report. *I am directing ARA to complete the review of all DAB documents by March 1, 2011 and to provide me with recommendations for streamlining and focusing these documents on needed content to support AT&L level decisions.*

- *Reform TRL reviews to focus on technology as opposed to engineering and integration risk.* The TRL review and certification process has grown well beyond the original intent and should be reoriented to an assessment of technology maturity and risk as opposed to engineering or integration risk. *I am directing the DDR&E to review this process and to make recommendations to refocus the TRL certification process to be consistent with its original intent.*

Eliminate low-value-added statutory processes. I recognize the importance of keeping programs within cost and schedule and agree on the need to reevaluate the viability of programs that incur large overruns or schedule slips. I fully support the spirit and the intention of the Nunn-McCurdy review process. However, I believe the process can be streamlined in a way that we can make sound decisions about the future of programs and provide Congress with the information and certifications they need without overly burdening programs and, in some cases, without reviewing programs that experience average unit cost growth because of decisions made by the Department, such as changed quantities resulting from requirements changes. As an example of overhead costs, my staff calculated the number of hours and attendant costs for Nunn-McCurdy evaluations that the Department undertook this year for the most recent six programs that breached the critical Nunn-McCurdy thresholds. The estimates for these six evaluations exceeded \$10 million and 95,000 hours of overhead labor. Notwithstanding the legal

requirement, two of the six evaluations were for technical breaches since the breaches were the result of production quantity changes or acquisition strategy changes rather than a result of cost growth per se. The knowledge we gained by conducting full evaluations was not significantly greater than what we already knew at the outset and had no effect on the decision to continue the programs. To curb this, *I am targeting specific oversight processes, described below, to reduce or eliminate costs associated with what I believe are unnecessary overhead burdens that add marginal or questionable value to meeting the needs of our warfighters or expectations of the taxpayer. I am also directing the streamlining of some processes that are important to keep, but that require significant efficiency improvement to be effective. The Department will continue to comply with all statutory requirements, but where it makes sense we will tailor how we achieve compliance to be consistent with the circumstances, and we will work with Congress to modify statutory requirements where the intended goal is clearly not being achieved.*

- *Request Nunn-McCurdy Rules for Special Situations. I will work with Congress to eliminate the requirement for the full suite of Nunn-McCurdy assessments and reporting activities in special circumstances where quantity-induced or other external reasons cause critical breaches to occur.*

- *2366a and 2366b Certification Process Review. I will work with OSD staff and the Congress to reassess both the need for and the overall method of implementation we have imposed on ourselves to respond to the requirement for retroactive 2366a/b certifications to ensure objectives are met without burdensome and inefficient bureaucracy.*

- *Congressionally-mandated organizational changes within AT&L. Congress has correctly identified and mandated some changes to the AT&L organization that are improving our ability to oversee acquisition programs and make better decisions about specific investments and about acquisition policy. It is important, however, that AT&L have the flexibility to balance the internal staff elements in order to effectively execute all the functions for which AT&L is responsible. I intend to work with the Congress to ensure that all oversight functions are adequately staffed and performed without inserting inefficiencies and unnecessary overhead into the acquisition process at the same time.*

Reduce by half, the volume and cost of internal and congressional reports. The time and resources spent on one-time and recurring internal and congressional reports are costly to the Department and take the acquisition workforce away from executing programs. For internal reports, the Department must suppress its appetite for non-critical information and resist the temptation to become checkers of checkers. For congressional reports, in the past 10 years, the total number levied on the Department has grown from 514 to 719. During that same span, the number of reports assigned to my office (AT&L) grew from 102 to 156. Many of these reports, once they are introduced into legislative language, continue to be required year after year — long after the immediate relevancy and value of the information have passed. None of these reports are free. A conservative cost estimate of the resources consumed in producing the 719 congressional reports is \$350 million annually. Consequently, *I am directing my staff to conduct a bottom-up review of all internally-generated reporting requirements and to work with ASD (Legislative Affairs) to conduct a bottom-up review of all congressionally mandated acquisition reports to assess the value of the reports with a goal to eliminate at least 50 percent of the reports and to substantially shorten the ones remaining. I am also tasking ARA to impose*

*reasonable page count caps (given the information requested) when reports are assigned for production and to indicate the estimated cost to prepare each report on its cover.*

Reduce non-value-added overhead imposed on industry. Industry has its own internal unproductive processes which add to project costs, but these are in some part a reflection of the requirements which the government imposes. A great number of the inputs I received from industry were directed at what was viewed as excessive overhead expenses based solely on non-value-added mandates and reporting requirements which may have been relevant at some point in time, but have little relevance in the world in which we now find ourselves. *In order to identify and reduce these costly requirements, I am directing the Director of Industrial Policy, with support from DPAP, to more fully survey our industrial base to identify, prioritize, and recommend a path forward to unwind duplicative and overly rigorous requirements that add to costs, but do not add to quality of product or timeliness of delivery. As we remove these requirements, I will expect a decline in the overhead charged to the Department by our industrial base that reflects these reduced costs.*

Align Defense Contract Management Agency (DCMA) and Defense Contract Audit Agency (DCAA) processes to ensure work is complementary. It is well known that during the last 20 years, due to budget constraints, DCMA and DCAA have progressively reduced staff and capability. As a result, critical functions they perform have become blurred and require clarification, and where necessary should be de-conflicted to avoid unnecessary overlap and redundancies. In this vein, industry has expressed concern regarding overlapping roles and missions between DCMA and DCAA, resulting in duplication of data requests submitted by contractors and inefficient application of Department resources. Over the past several months, at my direction, the Director of DPAP has been working with DCAA and DCMA to identify areas of potential overlapping responsibility, such as Accounting, Estimating, Purchasing, Financial Capability Reviews, Earned Value Management System (EVMS), MMAS, Property Management, and Forward Pricing, and propose methods to eliminate the duplication. *I am tasking the Director of DPAP to develop guidance that will clearly spell out the roles and responsibilities of each organization in those areas where duplication and overlap occur.*

Increase use of Forward Pricing Rate Recommendations (FPRRs) to reduce administrative costs. Contract negotiations can administratively benefit from the use of Forward Pricing Rate Agreements (FPRAs). Certainly a quality FPRAs will result in reduced administrative costs associated with negotiating and managing acquisitions. However, it is also recognized that establishing FPRAs just for the sake of having FPRAs is not beneficial and has been costly to the taxpayer. For multiple reasons, including but not limited to complexity of contractor rate structures and audit process changes today, DCMA has only established 32 percent of expected FPRAs. It has, on the other hand, established 85 percent of the expected FPRRs. Clearly the opportunity exists to re-examine how best to ensure contracting officers obtain the support they need to negotiate rates. We will strive to have FPRAs, when possible, but we will not do so when FPRR's are available if we believe that there is not a legitimate and thoughtful basis for departing from them. *Accordingly, I am tasking DCMA to be responsible for the promulgation of all FPRRs. In those cases, where DCAA has completed an audit of a particular contractor's rates, DCMA shall adopt the DCAA recommended rates as the Department's position with regard to those rates.*

This letter is not the end of a process, but the beginning of vigorous implementation and further refinement. Today I have signed out directive memoranda to my key staff elements, DPAP, ARA, DDR&E, and the leaders of the OIPTs that coordinate the OSD-level oversight of major programs setting those offices on the course to begin implementing this guidance. I have provided the Component Acquisition Executives with a draft directive memorandum that I intend to sign within the next few days for their review and comments. Starting today but extending over the next several months we will be putting the actions I have described in this guidance into more formal direction and practice. Today, however, I am tasking all of you to absorb this guidance memo and begin acting on it within the scope of your existing authority. There is no time to lose.



Ashton B. Carter

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# Guidance Roadmap

## Target Affordability and Control Cost Growth

- Mandate affordability as a requirement
  - At Milestone A set affordability target as a Key Performance Parameter
  - At Milestone B establish engineering trades showing how each key design feature affects the target cost
- Drive productivity growth through Will Cost/Should Cost management
- Eliminate redundancy within warfighter portfolios
- Make production rates economical and hold them stable
- Set shorter program timelines and manage to them

## Incentivize Productivity & Innovation in Industry

- Reward contractors for successful supply chain and indirect expense management
- Increase the use of FPIF contract type where appropriate using a 50/50 share line and 120 percent ceiling as a point of departure
- Adjust progress payments to incentivize performance
- Extend the Navy's Preferred Supplier Program to a DoD-wide pilot
- Reinvent industry's independent research and development and protect the defense technology base

## Promote Real Competition

- Present a competitive strategy at each program milestone
- Remove obstacles to competition
  - Allow reasonable time to bid
  - Require non-certified cost and pricing data on single offers
  - Require open system architectures and set rules for acquisition of technical data rights
- Increase dynamic small business role in defense marketplace competition

## Improve Tradecraft in Services Acquisition

- Create a senior manager for acquisition of services in each component, following the Air Force's example
- Adopt uniform taxonomy for different types of services
- Address causes of poor tradecraft in services acquisition
  - Assist users of services to define requirements and prevent creep via requirements templates
  - Assist users of services to conduct market research to support competition and pricing
  - Enhance competition by requiring more frequent re-compete of knowledge-based services
  - Limit the use of time and materials and award fee contracts for services
  - Require that services contracts exceeding \$1B contain cost efficiency objectives
- Increase small business participation in providing services

## Reduce Non-Productive Processes and Bureaucracy

- Reduce the number of OSD-level reviews to those necessary to support major investment decisions or to uncover and respond to significant program execution issues
- Eliminate low-value-added statutory processes
- Reduce by half the volume and cost of internal and congressional reports
- Reduce non-value-added overhead imposed on industry
- Align DCMA and DCAA processes to ensure work is complementary
- Increase use of Forward Pricing Rate Recommendations (FPRRs) to reduce administrative costs



# Objectives

- Deliver the warfighting capability we need for the dollars we have
- Get better buying power for warfighter and taxpayer
- Restore affordability to defense goods and services
- Improve defense industry productivity
- Remove government impediments to leanness
- Avoid program turbulence
- Maintain a vibrant and financially healthy defense industry

Obtain 2-3% net annual growth in warfighting capabilities without commensurate budget increase by identifying and eliminating unproductive or low-value-added overhead and transfer savings to warfighting capabilities. Do more without more.



# Providing Incentives for Greater Efficiency in Industry

- **LEVERAGING REAL COMPETITION:** Avoid directed buys and other substitutes for real competition. Use technical data packages and open systems architectures to support a continuous competitive environment.
- **USING PROPER CONTRACT TYPE FOR DEVELOPMENT AND PROCUREMENT:** Phase out award-fee contracts and favor fixed-price or cost-type incentive contracts in which government and industry share equally in overruns and underruns, and overruns have analytically-based caps. Use cost-reimbursement contracts only when either government requirements or industry processes cannot be adequately specified to support pricing. Adjust sole-source fixed-price contracts over time to reflect realized costs. Work down undefinitized contract actions. Seek authority for multi-year contracts where significant savings are possible.
- **USING PROPER CONTRACT TYPE FOR SERVICES:** Phase out Time and Material and sole-source ID/IQ contracts wherever possible. Utilize fixed-price performance-based contracts when requirements are firm and can be measured, with payments tied to performance. Utilize fixed-price level of effort or cost-plus-fixed-fee contracts (with profit/fee tied to weighted guidelines) when requirements are still being defined. Award fees should be used only by exception. Maximize the use of multiple-source, continuously competitive contracts.
- **ALIGNING POLICY ON PROFIT AND FEE TO CIRCUMSTANCE:** Align opportunity to earn profits/fees to both value to the taxpayer and risk to the contractor. Apply weighted guidelines to profit/fee levels. Reward higher productivity with higher profits. Incentivize investment in innovation.
- **SHARING THE BENEFITS OF CASH FLOW:** Ensure that taxpayers receive adequate consideration (price reductions) for improved cash flows. Progress payments must reflect performance but can be increased above customary levels in return for consideration by the contractor. Reduce over time the gap between proposed and actual rates in forward price rate agreements.
- **TARGETING NON-VALUE-ADDED COSTS:** Identify and eliminate non-value-added overhead and G&A charged to contracts. Limit fees for subcontractor management to reflect actual value provided (risk assumed by prime and continuous subcontractor risk reduction). Limit B&P allowable costs in sole source contracts and encourage effective use of IRAD.
- **INVOLVING DYNAMIC SMALL BUSINESS IN DEFENSE:** When establishing multiple award contracts for services, make every effort to provide for small business participation. If at least two small businesses are deemed capable of performing on such a contract, consider setting aside that work for competition among them.
- **REWARDING EXCELLENT SUPPLIERS:** Emulate the Navy's pilot program to provide special benefits to consistently excellent industrial performers.



# Adopting Government Practices that Encourage Efficiency

- **ADOPTING "SHOULD-COST" AND "WILL-COST" MANAGEMENT:** Use historically informed independent cost estimation ("will-cost" estimates) to inform managing of programs to cost objectives ("should-cost" estimates).
- **STRENGTHENING THE ACQUISITION WORKFORCE:** Achieve SECDEF goal of adding to government acquisition workforce with increased skill levels. Leverage unique qualities of non-profit FFRDCs and UARCs to augment acquisition workforce capability.
- **IMPROVING AUDITS:** Improve consistency and quality of government audits, and focus them on value-added content.
- **MANDATING AFFORDABILITY AS A REQUIREMENT:** In new programs such as the SSBN-X nuclear missile submarine, the Presidential Helicopter, the Ground Combat Vehicle, and the Air Force/Navy Long Range Strike Family of Systems, cost considerations must shape requirements and design.
- **STABILIZING PRODUCTION RATES:** To ensure more programs are in stable, economically favorable rates of production and avoid cost escalation, program managers may not adjust production rates downward without head of component authority.
- **ELIMINATING REDUNDANCY WITHIN WARFIGHTING PORTFOLIOS:** Emulate the Army's Precision Fires Capability Portfolio approach to identify where multiple programs are pursuing similar objectives.
- **ESTABLISHING SENIOR MANAGERS FOR PROCUREMENT OF SERVICES:** Follow the Air Force lead in establishing a Program Executive Officer for services in each DOD component to focus on improving policy and practice in this high-dollar-value area.
- **PROTECTING THE TECHNOLOGY BASE:** Protect the future by sustaining investment while focusing on high value-added work.





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

OFFICE OF FEDERAL  
PROCUREMENT POLICY

February 2, 2011

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES  
CHIEF INFORMATION OFFICERS

FROM: Daniel I. Gordon  
Administrator for Federal Procurement Policy

SUBJECT: “Myth-Busting”: Addressing Misconceptions to Improve Communication  
with Industry during the Acquisition Process

With expenditures of over \$500 billion annually on contracts and orders for goods and services, the federal government has an obligation to conduct our procurements in the most effective, responsible, and efficient manner possible. Access to current market information is critical for agency program managers as they define requirements and for contracting officers as they develop acquisition strategies, seek opportunities for small businesses, and negotiate contract terms. Our industry partners are often the best source of this information, so productive interactions between federal agencies and our industry partners should be encouraged to ensure that the government clearly understands the marketplace and can award a contract or order for an effective solution at a reasonable price. Early, frequent, and constructive engagement with industry is especially important for complex, high-risk procurements, including (but not limited to) those for large information technology (IT) projects. This is why increasing communication, in the form of a “myth-busters” educational campaign, is one of the key tenets of the Office of Management and Budget’s 25 Point Implementation Plan to Reform Federal IT Management.<sup>1</sup>

The Federal Acquisition Regulation (FAR) authorizes a broad range of opportunities for vendor communication<sup>2</sup>, but agencies often do not take full advantage of these existing flexibilities. Some agency officials may be reluctant to engage in these exchanges out of fear of protests or fear of binding the agency in an unauthorized manner; others may be unaware of effective strategies that can help the acquisition workforce and industry make the best use of their time and resources. Similarly, industry may be concerned that talking with an agency may create a conflict of interest that will preclude them from competing on future requirements, or industry may be apprehensive about engaging in meaningful conversations in the presence of other vendors.

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<sup>1</sup>25 Point Implementation Plan to Reform Federal Information Technology Management available at

<http://cio.gov/documents/25-Point-Implementation-Plan-to-Reform-Federal%20IT.pdf>

<sup>2</sup> For example, FAR 10.002(b)(2) authorizes a wide range of techniques for conducting market research, including participation in interactive, online communications with industry.

In light of these challenges, the purposes of this memorandum are to:

- 1) identify common misconceptions about vendor engagement that may be unnecessarily hindering agencies' appropriate use of the existing flexibilities, and provide facts and strategies to help acquisition professionals benefit from industry's knowledge and insight;
- 2) direct agencies to remove unnecessary barriers to reasonable communication and develop vendor communications plans, consistent with existing law and regulation, that promote responsible and constructive exchanges; and
- 3) outline steps for continued engagement with agencies and industry to increase awareness and education.

Nothing in this memorandum should be read to alter, or authorize violations of, applicable ethics rules, procurement integrity requirements, or other statutes or regulations that govern communication and information sharing. However, all methods of communication that are not prohibited, either by those rules or otherwise, should be considered, if they would be helpful.<sup>3</sup> In addition, contracting officers, program managers, and other acquisition officials should continue to exercise appropriate discretion to balance the practical limitations of frequent vendor engagement, including the demand such engagement places on the time of the acquisition workforce, with the need to better understand the market and make decisions in the best interest of the government.

### Top 10 Misconceptions and Facts

The Office of Federal Procurement Policy (OFPP) held a series of outreach sessions with industry representatives, acquisition professionals, agency procurement attorneys, and others to identify and address core misconceptions about communication between the government and industry during the pre-award acquisition process. While these conversations will continue, as discussed later, ten misconceptions were mentioned frequently, and so are addressed by this memorandum. Attachment 1 lists these issues, and provides additional information and strategies to help agencies promote fair and appropriate engagement during various acquisition phases.

### Vendor Communication Plan

Some agencies have developed policies for communicating with industry while others have not, resulting in disparate practices and confusion. To provide better direction to the workforce and to clarify the nature and schedule of engagement opportunities for industry, each agency should develop a high-level vendor communication plan. The plan should discuss how the agency will reduce unnecessary barriers, publicize communication opportunities, and prioritize engagement

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<sup>3</sup> See FAR Part 1.102(d) stating that if a specific strategy, practice, policy or procedure is in the best interests of the government and is not addressed in the FAR, nor prohibited by law (statute or case law), Executive Order or other regulation, then the strategy, practice, policy or procedure is a permissible exercise of authority.

opportunities for high-risk, complex programs or those that fail to attract new vendors during re-competitions. Details on the required elements of this plan are included in Attachment 2.

The 24 Chief Financial Officer (CFO) Act agencies are required to develop a vendor communication plan; to make these plans available to their workforce and the public, as appropriate; and to update them at least annually. These agencies shall submit their draft plans, by June 30, 2011, for review by the Office of Management and Budget. The draft plans will be reviewed by the Administrator for Federal Procurement Policy and the Federal Chief Information Officer (CIO) to ensure that agencies are encouraging more communication, taking advantage of existing authorities, and educating their workforce on communication opportunities. Based on this review, the agencies will finalize their plans and make them available to their workforce and to the public, as appropriate, no later than 30 days after the completion of OMB's review. Small agencies are encouraged to review their existing vendor communication guidance in light of the principles discussed in this memorandum and make appropriate modifications to encourage more communication, or develop guidance if none exists.

### Increasing Awareness

Throughout 2011, OFPP will work with the Federal Acquisition Institute (FAI), the Defense Acquisition University (DAU), and agency training practitioners to conduct an awareness campaign to eliminate unnecessary barriers to engagement. As agencies work to develop and refine their vendor communications plans, they will be supported by a number of efforts:

#### *Continued Discussion*

Expansion of the conversation between industry and government and the education on both sides must continue in an open, transparent forum. To support this discussion, agencies and industry are invited to join a moderated, online dialogue starting in mid-February to help identify additional misconceptions, concerns, perceived conflicts in policies, and success stories that will help improve communications between government and industry. Additional information on how to participate in this and other discussions will be made available on [www.caoc.gov](http://www.caoc.gov) and [www.cioc.gov](http://www.cioc.gov).

#### *Community of Practice (COP)*

To help agencies increase and improve vendor engagement, OFPP and E-Gov will launch an online COP no later than June 2011 that will provide additional strategies, do's and don'ts for agencies and for vendors, frequently asked questions, agency and industry success stories, case studies, and other tools to improve engagement. Next month, OFPP will convene a working group of federal acquisition professionals to help define the requirements of this site. If you are interested in participating in this working group, please identify your agency's point of contact by February 14 to Mindy Connolly of OFPP at [mconnolly@omb.eop.gov](mailto:mconnolly@omb.eop.gov).

### *Training and Outreach*

FAI will develop a continuous learning module that contracting officers, program managers, procurement attorneys, and others can utilize to develop a better understanding of the types of permissible communication. This is scheduled to be available early in the third quarter of FY 2011 on the FAI website – [www.fai.gov](http://www.fai.gov). Additionally, FAI and OFPP will provide sessions at widely-attended procurement conferences throughout 2011 to increase awareness of the need for more industry engagement. Agencies should provide similar training or outreach efforts, especially to their front line acquisition and program personnel.

### *Acquisition Communication Platform*

In accordance with the 25 Point Implementation Plan to Reform Federal IT Management, the General Services Administration is seeking input from agencies, industry, and other stakeholders on developing a communication platform that would facilitate exchanges for specific planned acquisitions. This platform will allow the government to more easily engage the vendor community during the pre-solicitation stage, and may be further developed to facilitate communication during other stages of the acquisition. Development of the requirements will consider existing platforms and functionality and will be developed in collaboration with the Integrated Acquisition Environment. Additional details will be communicated to the community as they become available.

### Conclusion

While agencies do not have the resources, and are not required, to meet with every vendor at every step of the acquisition process, information gathered from industry sources plays an invaluable role in the acquisition process. For this reason, agencies must develop practices that will ensure early, frequent, and constructive communication during key phases of the process. The federal government's ability to achieve successful program outcomes, effectively and efficiently, depends upon agencies establishing effective strategies for industry engagement and supporting those strategies with senior-level commitment.

Thank you for your commitment to this important matter. Please contact Mindy Connolly on (202) 395-7724 or [mconnolly@omb.eop.gov](mailto:mconnolly@omb.eop.gov) if you have any questions.

### Attachments

Attachment 1 – Misconceptions and Facts about Vendor Communication

Attachment 2 - Vendor Communication Plans

cc:

Agency General Counsels and Solicitors  
Agency Ethics Officers

Misconceptions and Facts about Vendor Communication

<b>1.</b>	<b>Misconception – “We can’t meet one-on-one with a potential offeror.”</b>
	<b>Fact – Government officials can generally meet one-on-one with potential offerors as long as no vendor receives preferential treatment.</b>

Prior to issuance of the solicitation, government officials – including the program manager, users, or contracting officer – may meet with potential offerors to exchange general information and conduct market research related to an acquisition. In fact, the FAR, in Part 15, encourages exchanges of information with interested parties during the solicitation process, ending with the receipt of proposals. There is no requirement that the meetings include all possible offerors, nor is there a prohibition on one-on-one meetings. Any information that is shared in a meeting that could directly affect proposal preparation must be shared in a timely manner with all potential offerors to avoid providing any offeror with an unfair advantage (FAR 15.201(f)).

The government ethics rules and Competition in Contracting Act, (10 U.S.C. § 2304), prohibit preferential treatment of one vendor over another. Where vendor interaction is expected to include contract terms and conditions, any one-on-one meetings should include, or at least be coordinated with, the contracting officer (FAR 15.201).<sup>4</sup> After the solicitation is issued, the contracting officer shall be the focal point for these exchanges. (Special rules govern communications with offerors after receipt of proposals; that situation is not addressed here.)

Some vendors have expressed concern that involvement in pre-solicitation discussions might lead to exclusion resulting from organizational conflict of interest (OCI) concerns. This should not be the case. While a vendor who, as part of contract performance, drafts the specification for a future procurement will almost certainly be barred by OCI rules from competing for that future procurement, pre-solicitation communications are generally less structured, less binding, and much less problematic. When a vendor, in its role supporting the government, is drafting specifications for a future acquisition, the government is relying on the vendor to provide impartial advice regarding the requirements needed to meet the government’s future needs. Ensuring that the vendor will not be motivated by a desire to win the future contract is the way we try to ensure that this advice will be impartial. This differs dramatically from the pre-solicitation context. In the latter context, the government is not looking for impartial advice from one source, but is instead looking for a variety of options from a variety of sources, each one understandably, and reasonably, attempting to demonstrate the value of its own approach. These marketing efforts, in themselves, do not raise OCI concerns.

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<sup>4</sup> Under sealed bidding procedures, in accordance with FAR Part 14, only the contracting officer, superior, or other authorized individual can transmit this information.

<b>2.</b>	<p><b>Misconception – “Since communication with contractors is like communication with registered lobbyists, and since contact with lobbyists must be disclosed, additional communication with contractors will involve a substantial additional disclosure burden, so we should avoid these meetings.”</b></p>
	<p><b>Fact – Disclosure is required only in certain circumstances, such as for meetings with registered lobbyists. Many contractors do not fall into this category, and even when disclosure is required, it is normally a minimal burden that should not prevent a useful meeting from taking place.</b></p>

Disclosure is an important tool that ensures public trust in our contracting process, but it should not be an impediment to meeting with contractors and is not required in every circumstance. In the case of meetings where registered lobbyists are employed, contractors are required to track the costs and activities of their lobbying activities, as required by FAR Part 31, but that obligation places the disclosure burden on the contractor and does not require the government to take any steps. In this “standard” case, additional communication with contractors will not involve an additional disclosure burden, though conduct of all communications should be consistent with the principles of fairness and accountability. Moreover, this rule only applies in those circumstances where a contractor or one or more of its employees are registered lobbyists, which will not be the case in every meeting.

There have been additional requirements for disclosure regarding spending under the American Recovery and Reinvestment Act (ARRA). Government officials are required by the March 2009 Presidential memorandum on “Ensuring Responsible Spending of Recovery Act Funds”<sup>5</sup> to disclose discussions with registered lobbyists related to ARRA procurements. Any ARRA procurement that was conducted with involvement from registered lobbyists does carry this additional disclosure requirement (only a small number of all procurements during this period were obligated using funding from ARRA).

Another source of concern might be the additional ethical commitments required of political appointees by Executive Order 13490, “Ethics Commitments by Executive Branch Personnel.” While the ethics pledge required by this Executive Order does extend and strengthen certain limitations on actions by government personnel, most notably with respect to pre- and post-employment restrictions, the pledge does not create general barriers to meeting with industry to discuss procurements. The pledge prohibits some contact with former clients and former employers for two years, which might create a specific limitation in some circumstances, but it does not establish a general prohibition on meeting with registered lobbyists, even in one-on-one circumstances.

Finally, even in the special situations where disclosure is required, that should not be a reason for avoiding communication in situations where the communication will improve the procurement and provide better value to the taxpayer.

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<sup>5</sup> Available at [http://www.whitehouse.gov/the\\_press\\_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-20-09/](http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-20-09/).

<b>3.</b>	<b>Misconception – “A protest is something to be avoided at all costs - even if it means the government limits conversations with industry.”</b>
	<b>Fact – Restricting communication won’t prevent a protest, and limiting communication might actually increase the chance of a protest – in addition to depriving the government of potentially useful information.</b>

Protests are, in fact, quite rare. At least 99 percent of procurements are never protested, although high dollar procurements, of course, are more likely to be protested. The overriding goal of the agency and its program managers, contracting officers, and attorneys should be the best procurement solution, and industry engagement can improve the supplies or services received or can reduce the price paid by the government. If contracting officers conduct responsible, meaningful, and constructive communications during the course of a procurement, issues that could give rise to a bid protest are likely eliminated. Trying to make a procurement ‘protest-proof’ is rarely a good use of agency resources, and it may lead to decisions that aren’t in the interest of the government. Moreover, restricting communication for fear of protests may actually increase the likelihood of a protest – for example, by a vendor that hopes to get more information through ‘discovery’ during the protest.

<b>4.</b>	<b>Misconception – “Conducting discussions/negotiations after receipt of proposals will add too much time to the schedule.”</b>
	<b>Fact – Whether discussions should be conducted is a key decision for contracting officers to make. Avoiding discussions solely because of schedule concerns may be counter-productive, and may cause delays and other problems during contract performance.</b>

Although the government often states it intends to award without discussions/negotiations, the clause at FAR 52.215-1<sup>6</sup> reserves the government’s option to conduct discussions and it is usually a good practice to retain that option.

While discussions may add time to the acquisition schedule, the contracting officer should make a thoughtful decision as to whether to conduct discussions and, if so, what the scope and extent of discussions required should be. Schedule pressures should generally not be the primary, or even a strong, driver in the contracting officer’s decision on whether or not to hold discussions. One consideration the contracting officer should take into account is that conducting robust pre-solicitation communications with industry may actually minimize the need for discussions and result in a better technical solution and improved contract performance. Other considerations include the complexity of the procurement, and the history of change orders on previous or related contracts that were due to lack of a clear understanding of the requirements and contract terms and conditions by the parties. In situations where discussions are not held, post-award contract

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<sup>6</sup> When preparing solicitations, contracting officers should carefully evaluate whether to include the clause at 52.215-1 or its Alternate 1.

modifications that increase the government’s costs are often required. These costly changes are negotiated after the government has lost the benefits of a competitive environment.

When discussions are considered helpful to obtaining the best outcome in a procurement, the schedule should be developed accordingly. Contracting officers should be empowered by their management to make these judgment calls on a case-by-case basis and should have the full support of their customers.

<b>5.</b>	<b>Misconception – “If the government meets with vendors, that may cause them to submit an unsolicited proposal and that will delay the procurement process.”</b>
	<b>Fact – Submission of an unsolicited proposal should not affect the schedule. Generally, the unsolicited proposal process is separate from the process for a known agency requirement that can be acquired using competitive methods.</b>

All acquisition officials should be familiar with FAR Subpart 15.6 and their agency’s procedures for receiving and evaluating an unsolicited proposal. Receipt of unsolicited proposals should not cause delay in an acquisition.

<b>6.</b>	<b>Misconception – “When the government awards a task or delivery order using the Federal Supply Schedules, debriefing the offerors isn’t required so it shouldn’t be done.”</b>
	<b>Fact – Providing feedback is important, both for offerors and the government, so agencies should generally provide feedback whenever possible.</b>

Although debriefings are not required when using the Federal Supply Schedules (FSS) under FAR Part 8.4 procedures, even in those situations, agencies are instructed to “provide a brief explanation of the basis for the award decision” where the award was based upon factors other than price (FAR 8.405-2(d)). Agencies that order from FSS contracts regularly are missing an important feedback opportunity if they do not take time to explain to FSS offerors how to improve their offers in the future. For newer contracting officers, the less structured explanation required for FSS offerors can be a valuable learning opportunity to prepare for structured debriefings. In both FSS and FAR Part 15 procurements, agencies are encouraged to provide the maximum amount of relevant information to offerors, rather than focusing on sharing only the minimum that is legally required.

<b>7.</b>	<b>Misconception – “Industry days and similar events attended by multiple vendors are of low value to industry and the government because industry won’t provide useful information in front of competitors, and the government doesn’t release new information.”</b>
	<b>Fact – Well-organized industry days, as well as pre-solicitation and pre-proposal conferences, are valuable opportunities for the government and for potential vendors – both prime contractors and subcontractors, many of whom are small businesses.</b>

Industry days, as well as pre-solicitation and pre-proposal conferences, directly benefit the government by promoting a common understanding of the procurement requirements, the solicitation terms and conditions, and the evaluation criteria. These events also benefit industry – especially small businesses – by providing prime contractors and subcontractors an opportunity to meet and develop relationships or teaming agreements that benefit contract performance. However, the value of these events derives from the government providing the maximum information to potential offerors on its requirements, answering questions, and improving the solicitation based on feedback from the potential offerors. In that way, the requirements can be made as clear as possible to assist potential offerors in providing the best solution to the government.

*Strategy - where appropriate, use interactive web-based technology to expand the reach of the exchange, such as a live webinar with streaming video to immediately address questions from stakeholders. Consider combining this with immediate one-on-one meetings with vendors to make these engagements more useful, especially for large, complex requirements.*

<b>8.</b>	<b>Misconception – “The program manager already talked to industry to develop the technical requirements, so the contracting officer doesn’t need to do anything else before issuing the RFP.”</b>
	<b>Fact – The technical requirements are only part of the acquisition; getting feedback on terms and conditions, pricing structure, performance metrics, evaluation criteria, and contract administration matters will improve the award and implementation process.</b>

Issuing a high quality solicitation requires engaging with industry on issues that go beyond the government’s technical requirements. In order to appropriately price proposals and reduce the number of potential change orders, industry needs information about any unique terms and conditions, small business set-aside requirements, subcontracting goals, and other matters about which the contracting officer is the expert. Although industry may have had their best technical representatives engaged with the program manager, the contracting officer should communicate to vendors as much information as possible about the government’s needs as early as possible. As a result of early communication, the contracting officer may learn some things that suggest that an

approach somewhat different than planned may cause increased competition, more small business participation, lower prices, or even a better definition of the government’s technical requirements.

*Strategy – Issue an RFI to make sure the government not only understands the capabilities of industry, but can develop or improve its acquisition strategy regarding contract type, performance requirements, performance work statements/statements of work, and performance metrics. Release a draft request for proposal, including sections L and M, to be sure the solicitation instructions are clear.*

<b>9.</b>	<b>Misconception – “Giving industry only a few days to respond to an RFP is OK since the government has been talking to industry about this procurement for over a year.”</b>
	<b>Fact – Providing only short response times may result in the government receiving fewer proposals and the ones received may not be as well-developed - which can lead to a flawed contract. This approach signals that the government isn’t really interested in competition.</b>

While the FAR does contain some requirements on the length of time between issuance of solicitations and proposal due dates, often task and delivery orders do not have these requirements. Contracting officers should consider that allowing offerors additional time to prepare their proposals will likely yield better proposals, streamlined evaluations, and a reduction in the need for (or scope of) discussions. While the workforce is stretched thin and requirements often arise unexpectedly, shortcutting the proposal development process often results in fewer proposals, and/or proposals that are more difficult to evaluate. This situation can lead to expensive outcomes. Providing adequate time for vendor communication throughout the procurement process – including adequate time for proposals – indicates that the government is interested in obtaining the best outcomes. Contracting officers should have the full support of their customers in determining the right amount of time for receipt of proposals.

<b>10.</b>	<b>Misconception – “Getting broad participation by many different vendors is too difficult; we’re better off dealing with the established companies we know.”</b>
	<b>Fact – The government loses when we limit ourselves to the companies we already work with. Instead, we need to look for opportunities to increase competition and ensure that all vendors, including small businesses, get fair consideration.</b>

FAR Section 10.002 expressly allows for participation in interactive, online communications among industry, acquisition personnel, and customers. While agencies should ensure that these tools can be used securely and appropriately, their use should be encouraged to the maximum extent practicable. In accordance with OMB’s 25 Point Implementation Plan to Reform

Federal IT Management, GSA and OMB will be developing an acquisition communications platform for launch in June 2011 that will increase collaboration on RFIs and draft RFPs, improve communication during question and answer periods, and otherwise support better engagement. Agencies may also have similar tools, and their use should be encouraged.

*Strategy – Use the procurement forecast to generate interest and publicize those opportunities available to small businesses. Ensure that the points of contact on the forecast are aware of the content and timing of the release of the document so they can address any inquiries, consider holding an outreach session or webinar to announce the release or update, and don't bundle or overpromise requirements. Hold industry days, public meetings, or small business conferences, and consider hosting multiple outreach sessions for large or complex requirements.*

### Vendor Communication Plans

Agencies should provide clear, consistent direction to their workforce and industry partners about how to engage with industry prior to the award of contracts and task and delivery orders under the Federal Supply Schedule, government-wide acquisition contracts, and other indefinite delivery/indefinite quantity contracts.

To ensure this, agencies shall develop high-level plans that include the core elements listed below. These plans should be general in nature and can build on existing guidance. OFPP will work with the agencies in the development of the community of practice discussed earlier to identify best practices, training opportunities, samples of guidance, and other information that may be helpful in developing these communication plans.

- 1) Statement of agency commitment to:
  - a) Communicate early, frequently, and constructively with industry;
  - b) Include small businesses and subgroups of small businesses in communications with industry;
  - c) Include vendors that the agency has not worked with in the past;
  - d) Identify, in the agency's published procurement forecast, which procurements are likely to involve opportunity for additional communication with industry;  
and
  - e) Protect non-public information including vendors' confidential information and the agency's source selection information.
- 2) Identification of senior agency and bureau (if applicable) official responsible for promoting vendor engagement;
- 3) Brief description of efforts undertaken or planned to reduce barriers and promote engagement;
- 4) Criteria for identifying which acquisitions must include vendor input in the pre-award phase and the extent of the required engagement as a condition of approval by the agency's investment review board (or similar body). At a minimum, acquisition plans for high-risk, large-dollar, and complex programs, such as those for major IT systems and for re-competitions that need to attract new entrants to ensure adequate competition, should include a comprehensive vendor engagement strategy that:
  - includes at least one industry day or a pre-solicitation or pre-proposal conference; and
  - allows for a reasonable amount of one-on-one engagement; and
  - allows time for discussions, as needed and in accordance with FAR Part 15, during the proposal evaluation process; or
  - requires a written justification as to why those steps are unnecessary.

- 5) Publication of engagement events to include industry days, small business outreach sessions, pre-solicitation conferences, RFP question and answer sessions, etc. These shall be posted and updated regularly using the existing “special notices” function on [www.fedbizopps.gov](http://www.fedbizopps.gov) and on other sites as identified by the agency.<sup>7</sup>
- 6) Brief description of roles and responsibilities of the –
  - a) Contracting Officer
  - b) Program Manager
  - c) COR/COTR
  - d) General Counsel
  - e) Ethics Officers
  - f) OSDBU
  - g) Other Officials<sup>8</sup>
- 7) Training and awareness efforts for employees and contractors;
- 8) Links to existing policies; and
- 9) Plans to follow-up with employees and industry representatives within 6 months of posting the vendor engagement plan, to further refine and improve communication, (e.g., post-award surveys of the contracting officers, program managers, and offerors for large, complex procurements, focus group meetings for general feedback).

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<sup>7</sup> Instructions for posting such events on [www.fedbizopps.gov](http://www.fedbizopps.gov) will be provided to agency points of contact for vendor communication as needed.

<sup>8</sup> Such as those identified in the procurement forecast.





ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

NOV 24 2010

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION & LOGISTICS MANAGEMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

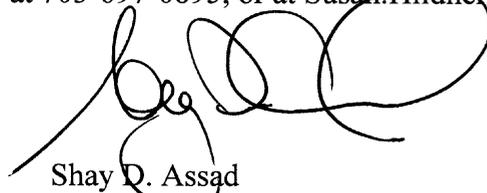
SUBJECT: Improving Competition in Defense Procurements

This memorandum provides additional guidance for competitive situations in which only one offer is received in response to a solicitation and is based on the direction provided in the USD(AT&L) memorandum "Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending" dated September 14, 2010. To maximize the savings that are obtained through competition, contracting officers will no longer use the standard at FAR 15.403-1(c)(1)(ii) or (iii) to determine that the offered price is based on adequate competition when only one offer is received.

Effective immediately, you will ensure that if a solicitation was open for less than 30 days and only one offer was received, the contracting officer shall re-advertise the solicitation for a minimum of an additional 30 days, unless a waiver is obtained from the head of the contracting activity. Further, if the solicitation was open for at least 30 days, or has been re-advertised and still only one offer is received, the contracting officer shall conduct negotiations with the offeror, unless this requirement is specifically waived by the head of the contracting activity. The basis for these negotiations shall be either certified cost or pricing data or other than certified cost or pricing data, as appropriate. In no event, should the negotiated price exceed the price originally offered.

Contracting officers shall document the results of the negotiations in the Business Clearance/Pricing Negotiation Memorandum in accordance with FAR 15.406-3 and DFARS PGI 215.406-3 in the same manner as any negotiated procurement. Contract Review Boards or other similar review mechanisms should be used to ensure the Business Clearance/Pricing Negotiation Memorandum documents the process and supports the negotiated price as being fair and reasonable. The Peer Reviews conducted post award will be the mechanism for assessing the application of this process.

The intent of this guidance is to ensure more effective competition that will result in more effective use of the Department's resources and savings for the taxpayer. Should you have any questions, please contact Mrs. Susan Hildner at 703-697-0895, or at [Susan.Hildner@osd.mil](mailto:Susan.Hildner@osd.mil).

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Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

JAN - 4 2011

ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION AND LOGISTICS MANAGEMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending; “Align Defense Contract Management Agency (DCMA) and Defense Contract Audit Agency (DCAA) Processes to Ensure Work is Complementary”

The Under Secretary of Defense (USD) for Acquisition, Technology, and Logistics (AT&L), signed memorandum “Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending,” dated September 14, 2010, called for a better work alignment and reduction in DCMA/DCAA overlap. The Directors of Defense Procurement and Acquisition Policy (DPAP), the Defense Contract Management Agency (DCMA) and the Defense Contract Audit Agency (DCAA) have been working to ensure that USD AT&L’s guidance is effected. To that end the following actions have been implemented:

- **Increased Thresholds for Cost/Price Proposal Audits**

DCAA will no longer perform field pricing audits on cost-type proposals less than \$100M and fixed-type proposals less than \$10M per change to DoD Policy Guidance and Information (PGI) 215.404-2 effective September 17, 2010. Requests below the dollar threshold set in the PGI will be referred to DCMA for field pricing assistance. This policy change will allow DCAA to move more audit resources to higher risk work that presents greater opportunity for greater return to the taxpayers. In anticipation of the increased workload at DCMA, during the past year, DCMA has hired an additional 215 new cost/price analysts (on its way to hiring 300 by the end of 2011) to meet increasing demand for cost/pricing services. Note: DCAA will still perform assist audits on “under threshold” price proposals, irrespective of dollar value, if it is conducting an audit of the prime.

- **Forward Pricing Rate Agreements (FPRAs) / Forward Pricing Rate Recommendations (FRRs)**

DCMA will be the single Agency responsible for issuing all Forward Pricing Rate Agreements and Forward Pricing Rate Recommendations for contractors where DCMA is the cognizant contract administration office. In those cases where DCAA has completed an audit of a particular contractor's rates, DCMA shall adopt the DCAA recommended rates as the Department's FRR position. DCMA has coordinated a draft Forward Pricing Rate policy with DCAA reflecting the associated change and on December 9, 2010, briefed the senior contracting community in the Department on the changes to the Forward Pricing Rate process the two agencies have made. This policy supports the goal of better aligning the work of the two agencies by ensuring a single department rate position is provided to DCMA/DCAA customers at all times.

- **Financial Capability Reviews**

DCAA plans to withdraw from performing Financial Capability Reviews and Audits. DCMA will continue to conduct Financial Capability Reviews as part of the Pre-Award Survey Process in accordance with FAR part 9.106 and DFARS PGI Part 209.106. DCMA has established a Financial Analysis Division under its Cost and Pricing Center and is adding additional staff to meet the increased workload requirements.

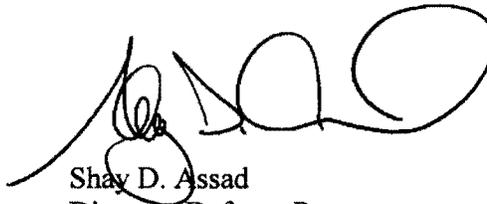
- **Purchasing System Reviews**

DCAA plans to withdraw from performing regularly scheduled Purchasing System Audits. DCMA will continue to conduct Contractor Purchasing System Reviews in accordance with FAR Part 44.3 and DFARS part 244.3. DCMA has a Purchasing System Review Center under its Contracting Division and is increasing both the number of analysts assigned to the Center and reviews performed per year to meet the increased workload requirements. DCAA will continue to audit subcontract costs as part of its incurred cost audits and report any deficiencies found in the contractor's system to the ACO for resolution.

- **Contractor Business Systems Rule**

A proposed rule is out for public comment. When implemented, the revised policy will clearly define DCMA/DCAA responsibility with respect to each Agency's role in assessing and determining status of the contractor's Accounting, Estimating, Earned Value Management, Material Management and Accounting, Purchasing and Property systems.

DCMA and DCAA are well underway in their implementation of these changes to improve alignment and reduce overlap. As other potential areas for efficiency are identified by the two agencies and coordinated with this office, we will keep you apprised of any additional initiatives undertaken.

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Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy



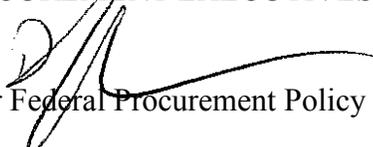


OFFICE OF FEDERAL  
PROCUREMENT POLICY

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

January 21, 2011

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES

FROM: Daniel I. Gordon   
Administrator for Federal Procurement Policy

SUBJECT: Improving Contractor Past Performance Assessments: Summary of  
the Office of Federal Procurement Policy's Review, and Strategies  
for Improvement

Source selection officials rely on clear and timely assessments of contractor past performance to make informed business decisions when awarding federal contracts. Meaningful past performance assessments are critical to ensuring that the government does business with companies that deliver quality goods and services on time and within budget. In July 2009, the Office of Federal Procurement Policy (OFPP) issued a memorandum, *Improving the Use of Contractor Performance Information*<sup>1</sup>, to reinforce changes to the Federal Acquisition Regulation (FAR) subpart 42.15 that mandate the use of the Past Performance Information Retrieval System (PPIRS) and require assessments for task and delivery orders. The memorandum also establishes a process for OFPP's review of agencies' past performance assessments. The purpose of this memorandum is to share the findings of our initial review and recommend additional steps and strategies for improving the collection of past performance information.

### Summary of Review

To determine how well agencies are managing these efforts, OFPP reviewed the management guidance and sampled assessments from the ten agencies<sup>2</sup> that do the most contracting, together obligating about 94% of the \$550 billion obligated on federal contracts in FY2009. Because agencies are in the process of migrating to the Contractor Performance Assessment Reporting System (CPARS)<sup>3</sup> to submit their data to PPIRS and are now capturing performance assessments on task and delivery orders, compliance rates are difficult to determine, but an informal comparison of data from the Federal Procurement Data System (FPDS) and PPIRS indicate that past performance assessments have been completed for only a small percentage of awards, especially in civilian

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<sup>1</sup> Memorandum on Improving the Use of Contractor Performance Information is available at [http://www.whitehouse.gov/sites/default/files/omb/assets/procurement/improving\\_use\\_of\\_contractor\\_perf\\_info.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/procurement/improving_use_of_contractor_perf_info.pdf).

<sup>2</sup> Those agencies are: Department of Defense, Department of Homeland Security, Department of Energy, National Aeronautics and Space Administration, Department of Veterans Affairs, Department of Health and Human Services, General Services Administration, Department of State, Department of Justice, and Department of Transportation.

<sup>3</sup> The current website for CPARS is <http://www.cpars.csd.disa.mil/>.

agencies. We note that the Department of Defense (DoD) developed a compliance tracking tool, in accordance with OFPP's compliance criteria, and it estimates that the Department has conducted past performance evaluations on about 50% of eligible awards.<sup>4</sup> A similar tracking tool will be rolled out in PPIRS and CPARS to all agencies in early FY2011 and should significantly assist agencies in their compliance and oversight efforts.

While the fact of compliance with reporting requirements is important, the quality of the reports submitted is what really matters, in terms of providing source selection officials with useful and meaningful information. To evaluate the quality of agencies' assessments, OFPP evaluated nearly 700 past performance reports from the same ten agencies to determine how well the four required rating factors were addressed in the assessments. Those four factors are the quality of the product or service, the ability to control cost, the ability to meet schedule, and the quality of business relations, such as customer satisfaction. In our review, which was a subjective assessment based on the quality guidelines found in OFPP's *Best Practices for Collecting and Using Current and Past Performance Evaluation Guide* and DoD's *Contractor Performance Assessment Reporting System Guide*<sup>5</sup>, we found that the reports generally lacked sufficient information, such as details about how the contractor exceeded expectations or corrected poor performance, to support the rating, or did not include a rating for all performance areas. For some factors, only 4% of the assessments sampled from an agency had both a rating and sufficient supporting narrative, and no more than 63% of the assessments of any agency had both an appropriate rating and sufficient information. Attachment 1 includes additional details about our review by factor and by agency.

Our findings are consistent with the April 2009 Government Accountability Office report (GAO-09-374), *Federal Contractors: Better Performance Information Needed to Support Agency Contract Award Decisions*<sup>6</sup>, which also found that agencies were not documenting information sufficiently in PPIRS. Both the GAO report and our review highlight the need to improve the quantity and quality of information available in PPIRS so that source selection officials have greater confidence in the reliability and relevance of the information there. In accordance with recent FAR changes<sup>7</sup>, contracting officers must now check the Federal Awardee Performance and Integrity Information System (FAPIIS) which also links to performance data in PPIRS, in addition to information collected about a vendor's business ethics, prior to making an award<sup>8</sup>. This is an important step in ensuring we do business with vendors who are responsible and

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<sup>4</sup> This is DoD's 2009 data that includes the exceptions outlined in DoD's 1999 class deviation to FAR 15.304(c)(3) and 42.1502(a) requiring assessments on all awards greater than \$5,000,000 for systems and operations support, \$1,000,000 for services and information technology, and \$100,000 for fuels and health care.

<sup>5</sup> The OFPP Guidance at [www.whitehouse.gov/omb/best\\_practice\\_re\\_past\\_perf](http://www.whitehouse.gov/omb/best_practice_re_past_perf) and the DOD CPARS guidance, specifically Attachment 2, at [www.cpars.csd.disa.mil/cparsfiles/pdfs/DoD-CPARS-Guide.pdf](http://www.cpars.csd.disa.mil/cparsfiles/pdfs/DoD-CPARS-Guide.pdf) includes information about the type of quality narration that corresponds with the strength of a rating.

<sup>6</sup> GAO Report 09-374 is available at <http://www.gao.gov/new.items/d09374.pdf>.

<sup>7</sup> Related final FAR rules that affect information collected in PPIRS: the Contractor Performance Information rule was published on July 1, 2009 (74 Fed. Reg. 31557), Termination for Default Reporting rule was published on September 29, 2010 (75 Fed. Reg. 60258) and the FAPIIS rule was published on March 23, 2010 (75 Fed. Reg. 14059)

<sup>8</sup> FAPIIS, a module within PPIRS, is available at [www.ppirs.gov/fapiis.html](http://www.ppirs.gov/fapiis.html) (past performance reviews are not publicly available).

capable of performing the work, and in helping source selection officials make informed decisions. In this regard, agencies should increase their management efforts to make PPIRS a robust and useful tool for the workforce.

### **Strengthening Agency Guidance and Management Controls**

To improve the collection of useful and timely contractor past performance information, agencies are asked to strengthen their past performance reporting guidance and management controls. The steps and strategies below should help to improve agency compliance and increase the quality of the assessments. (Attachment 2 provides additional strategies and links to agency best practices.)

Agencies should review their existing past performance reporting guidance and ensure that it:

- establishes roles and responsibilities for those responsible for preparing and reviewing the interim and final evaluations<sup>9</sup>, including but not limited to the contracting officer (CO), contracting officer's representative (COR)/contracting officer's technical representative (COTR), program manager, end-user, and others;
- addresses the training needs of all acquisition personnel, such as the CO, COR/COTR, program manager, and others, so they can prepare clear and useful evaluation reports<sup>10</sup>;
- includes in all COR/COTR designation letters the requirement that the COR/COTR provide input to the assessment, as appropriate;
- requires performance issues be documented promptly during contract performance instead of waiting until the end of the performance period when critical details may have been forgotten;
- prioritizes assessments of contracts and orders that: 1) use high-risk vehicles, such as cost-reimbursement or time-and-materials type contracts, 2) are complex in nature, such as large software development and implementation, or 3) involve high dollar values or major acquisitions, regardless of the contract type;
- addresses the recent changes to the FAR requiring reporting of non-responsibility determinations, defective cost and pricing data, terminations for cause, and terminations for default to FAPIIS;
- addresses how an award fee determination, if required under the terms of the contract, will be reflected in the contractor's performance assessment; and
- requires that assessments clearly and completely describe the contractor's performance in the narrative statement to justify the rating. At a minimum, the narrative statements should include:
  - an appropriate level of documentation that provides evidence and establishes a basis for the rating assigned;

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<sup>9</sup>See FAR 42.1503 for past performance procedures at [https://www.acquisition.gov/far/current/html/Subpart%2042\\_15.html](https://www.acquisition.gov/far/current/html/Subpart%2042_15.html).

<sup>10</sup> For CPARS training information, visit [http://www.cpars.csd.disa.mil/allapps/cpartng/cpars\\_training.htm](http://www.cpars.csd.disa.mil/allapps/cpartng/cpars_training.htm). For PPIRS training information, visit <https://www.ppirs.gov/webtrain/webtrain.htm>.

- an explanation of how problems were resolved and the extent to which solutions were effective;
- any explicit details that are unique to the circumstances of the contract;
- objective and subjective statements and examples of the contractor's impact on improving or hindering government performance; and
- if a subcontracting plan is required, an assessment of the contractor's performance against, and efforts to achieve, the goals identified in the small business subcontracting plan.

Agencies should also improve management oversight of past performance information to monitor both compliance and quality. These efforts should include, at a minimum:

- setting compliance and quality targets for FY2011 and FY2012 that prioritize high-risk or complex actions (as described above) and communicating the importance of meeting the targets to the acquisition community. (Although full reporting compliance is expected, prioritizing these kinds of actions will help agencies implement recent policy and systems changes);
- establishing a review process, similar to the sampling review conducted by OFPP, that can help an agency measure compliance and assess the quality of their information throughout the year; and
- assigning an agency point of contact who will be accountable for updating agency guidance (as described above), training the workforce, developing oversight mechanisms, and identifying improvements to CPARS and PPIRS.

### **Improving Past Performance Assessments**

We recognize that there may be a number of challenges contributing to the low number and quality of contractor past performance assessments, such as staff shortages, the transition to a central system, and evolving requirements. We are sensitive to the burden that preparing and entering past performance assessments can impose on our acquisition workforce, but ensuring that COs have access to meaningful past performance assessments is so important to improving source selection decisions that we want to do everything we can to improve both the quantity and quality of past performance assessments in PPIRS. We in OFPP are committed to assisting agencies with their past performance efforts, and we are working with the FAR Council and the Integrated Acquisition Environment Program Management Office to take concrete steps to help our acquisition professionals.

- *Regulatory Changes* – The FAR will be changed to include standard evaluation factors and performance ratings, which should improve how agencies input this information. FAR Case 2009-042, Documenting Past Performance, was established to standardize this process and is under consideration by the FAR Council.

- *System Changes* –
  - a change control board (CCB), made up of agency representatives, was established in the 1<sup>st</sup> quarter of FY2011 for the PPIRS/CPARS/FAPIIS suite of capabilities to approve new federal-wide requirements;
  - CPARS, the input function of PPIRS, will be modified in the 3<sup>rd</sup> quarter of FY2011 to reflect any changes resulting from the pending FAR revisions so that assessments will be more uniform; and
  - additionally, earlier this fiscal year, CPARS and PPIRS established an interface with FPDS to allow agencies to more easily monitor their reporting, such as DOD does today. Agencies can identify delinquent past performance reports and use this enhanced functionality to sample their reports for quality control.
  
- *Guidance and Training Improvements* –
  - in FY2011, the PPIRS CCB will update the current DoD CPARS Policy Guide, for submitting past performance reports, which can be used today by all agencies, to be the Governmentwide CPARS Policy Guide. When supplemented by agency-specific past performance guidance, this CPARS Policy Guide will further improve reporting and consistency of contractor assessments.
  - in FY2011, the Federal Acquisition Institute (FAI), with the Department of Homeland Security as a leading partner agency, will establish federal-wide training on conducting past performance reporting. OFPP will work with FAI to ensure that COR/COTR training is updated to cover the responsibilities of past performance reporting.

## Next Steps

To support the efforts outlined above, OFPP will work closely with the PPIRS CCB to discuss past performance reporting issues, share information and best practices, identify additional training needs, and suggest system improvements. Agencies<sup>11</sup> that have not already done so should provide the contact information of the individual accountable for past performance reporting and oversight to [Keith.Parker@gsa.gov](mailto:Keith.Parker@gsa.gov) or [Donna.Davis@gsa.gov](mailto:Donna.Davis@gsa.gov) no later than January 31, 2011.

OFPP will continue to monitor agencies' efforts to improve their contractor past performance assessments through ongoing Acquisition Status (AcqStat) meetings held with agency senior leadership to assess progress in meeting high-priority acquisition improvement goals. At the next AcqStats, agencies will be asked to address how they have strengthened their management controls and improved the quality and quantity of their reporting. Please ensure broad distribution of this memorandum and direct any questions to Julia Wise of our office at [jwise@omb.eop.gov](mailto:jwise@omb.eop.gov) or (202) 395-7561.

Thank you for your attention to this matter.

## Attachments

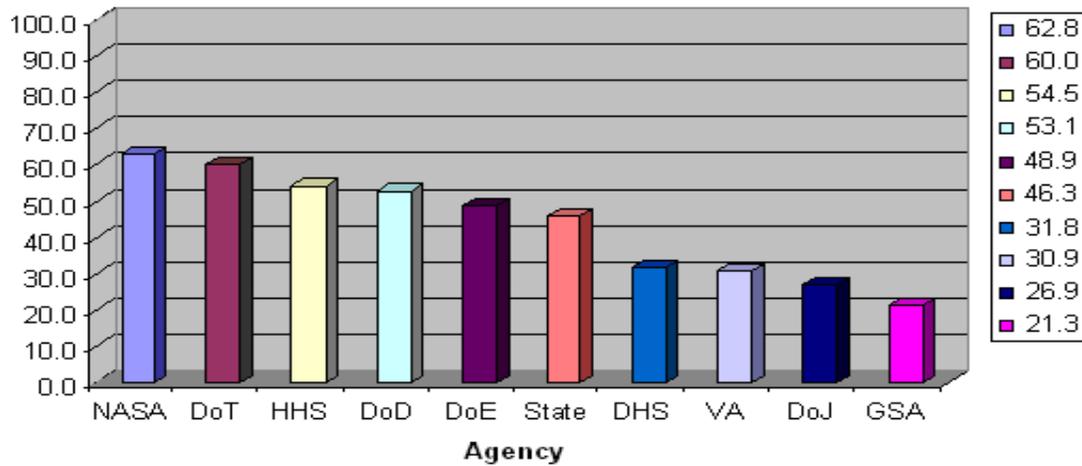
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<sup>11</sup> At a minimum, all Chief Financial Officers Act agencies should participate; the Small Agency Council is welcome to include several representatives as well.

**Summary of Agencies' Past Performance Assessment Review**

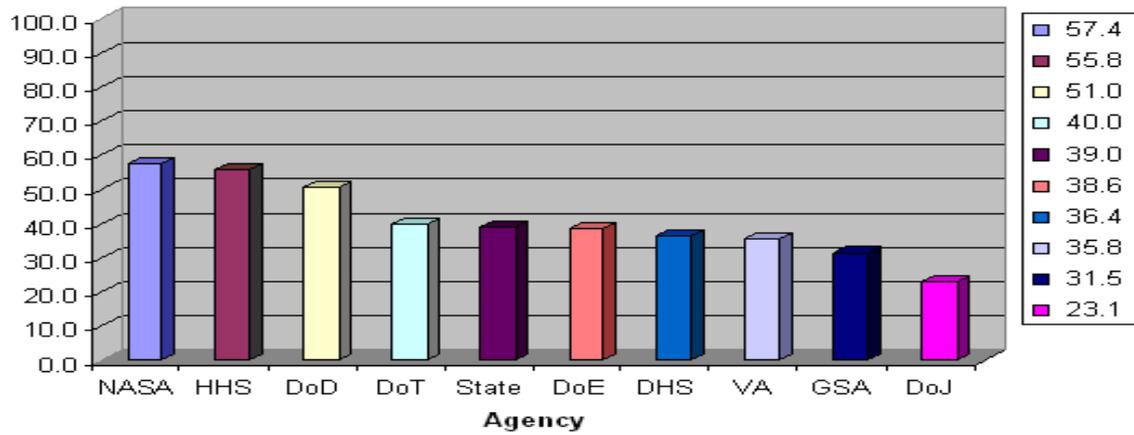
OFPP evaluated almost 700 past performance reports from the ten agencies responsible for nearly 94% of the \$550 billion obligated on federal contracts in FY2009 to determine how well the four rating factors - quality of the product or service, ability to control cost, ability to meet schedule, and quality of business relations such as customer service - were addressed. The review indicated that the reports generally lacked sufficient information to make the reports useful to other contracting officers during source selection. OFPP used the procedures outlined in OFPP's publication, *Best Practices for Collecting and Using Current and Past Performance Evaluation*, along with relevant DOD guidance, for evaluating the quality of the assessments. The findings for each factor are shown below.

Percent of Reports with Sufficient Narrative for Quality of Product/Service



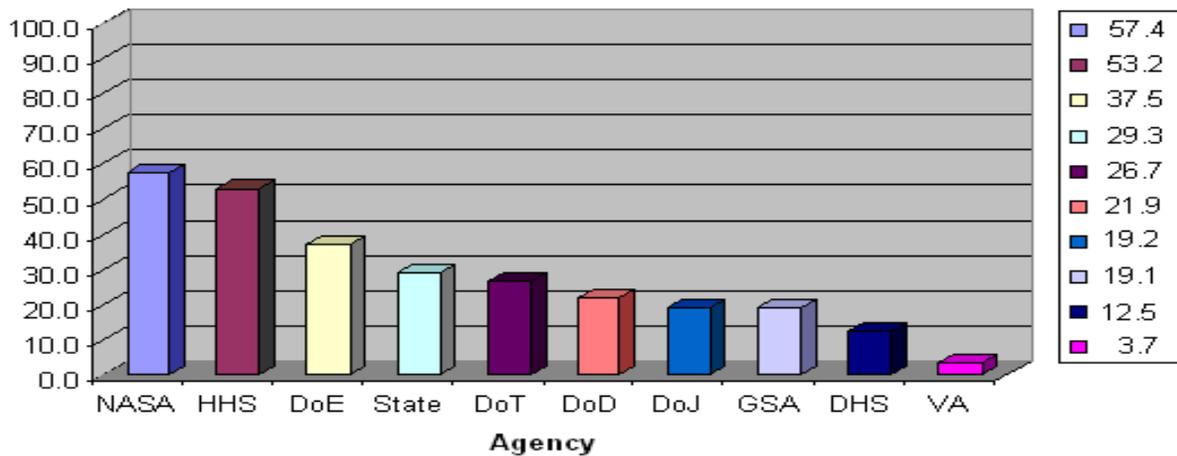
Agencies often omitted narrative statements about the quality of the goods or services. The Government expects a certain level of quality, as defined in the contract, and the rating assigned should be supported by useful details, especially if the quality was described as *excellent or poor*.

Percent of Reports with Sufficient Narrative for Schedule Control



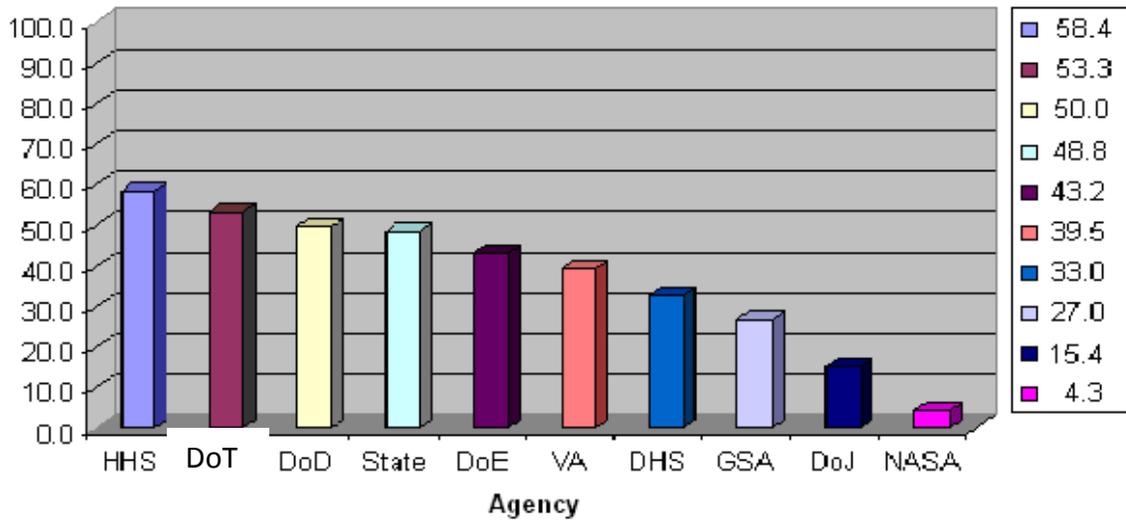
Some agencies' narrative statements regarding the ability of a contractor to meet schedule requirements were not clear or did not include useful information. Statements regarding the contractor's ability to meet, or reasons for not meeting, deadlines are more useful when they explain the contracting environment and the steps the contractor took, or failed to take, to adhere to the schedule.

Percent of Reports with Sufficient Narrative for Cost Control



Narrative statements about a contractor's ability to control costs are especially important to source selection officials awarding a cost-reimbursement contract. Assessments for cost reimbursement contracts, or other high-risk vehicles, should reflect details about the contractor's ability to control cost and manage performance in a high-risk environment.

Percent of Reports with Sufficient Narrative for Business Relations



Some agencies did not rate this factor at all or provided limited input. Agencies should assess contractors on their responsiveness to inquiries, level of commitment to customer satisfaction, and ability to effectively manage their subcontractor relationships. For example, if a subcontracting plan is required, the assessment should reflect the contractor's performance against it, and efforts to achieve the goals identified in its small business subcontracting plan.

## Attachment 2

### Best Practices

As agencies review and update their past performance guidance, they should consider some of the best practices other agencies have implemented. Listed below are some agencies' internal procedures and strategies for improving their efforts.

Department of Defense (DOD)	DOD manages the Contractor Performance Assessment Reporting System (CPARs) which includes extensive past performance guidance (e.g. DOD CPARS Policy Guide; DOD Guide to Collection and Use of Past Performance Information; CPARS quality checklist, CPARS User Manual, etc.). CPARS information is available at <a href="http://www.cpars.csd.disa.mil/cparsmain.htm">http://www.cpars.csd.disa.mil/cparsmain.htm</a> .
Department of Commerce (DOC)	DOC's guidance addresses award fee contracts/orders and encourages the past performance evaluations to align with the fee determination. DOC's guidance is available at <a href="http://oam.eas.commerce.gov/docs/CAM%201342%2015-%20Contractor%20Performance%20Information%20-%20Rev%20April%202010%20Final.pdf">http://oam.eas.commerce.gov/docs/CAM%201342%2015-%20Contractor%20Performance%20Information%20-%20Rev%20April%202010%20Final.pdf</a>
Department of Education	Education's guidance focuses on the roles and responsibilities of participants and includes reporting guidelines on rating elements, methodology and rating system and their internal oversight process.
Department of Energy (DOE)	DOE's guidance includes narrative examples of desirable and inappropriate past performance language. DOE's guidance is available at <a href="http://management.energy.gov/documents/AttachmentFlash2010-17.pdf">http://management.energy.gov/documents/AttachmentFlash2010-17.pdf</a>
Department of Health and Human Services (HHS)	HHS' National Institute of Health (NIH) managed the Contractor Performance System (CPS) since 1996. HHS Transitioned from the CPS to the Contractor Performance Assessment Reporting System (CPARS) in FY 2010. The transition was completed on September 30, 2010. When using CPS, HHS adopted the proven best practices of other agencies. HHS guidance is available at <a href="http://dhhs.gov/asfr/og/acquisition/policies/apm2009_07_contractor_past_performance_information_12_23_2009.doc">http://dhhs.gov/asfr/og/acquisition/policies/apm2009_07_contractor_past_performance_information_12_23_2009.doc</a> .
Department of Homeland Security (DHS)	DHS's improvements include the following strategies: <ul style="list-style-type: none"> <li>• transitioning to the CPARS for entering contractor performance reports into PPIRS and quickly trained employees to use CPARS and PPIRS;</li> <li>• revising their DHS Acquisition Manual to strengthen policy related to the collection and use of contractor performance information;</li> <li>• enhancing their policy and procedures to promote the collection and use of contractor performance information and reports;</li> <li>• developing a quality checklist to improve the information included in their past performance evaluation reports; and</li> <li>• establishing departmental oversight to determine the extent to which performance evaluations are overdue and assess the quality and timeliness of contractor past performance evaluations</li> </ul> DHS's guidance is available at <a href="http://www.dhs.gov/xlibrary/assets/opnbiz/cpo_hsam.pdf">http://www.dhs.gov/xlibrary/assets/opnbiz/cpo_hsam.pdf</a> .
Environmental Protection Agency (EPA)	EPA has an annual past performance stand-down day for the express purpose of entering or getting caught up on past performance reporting; feedback on COR participation is at the highest leadership level; and the Senior Procurement Executive provides past performance reporting status in an annual meeting with program officials. The EPA regulations include instructions for timely past performance reporting when there is a novation and successor-in-interest. Links to EPA's guidance is available at: <a href="http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;sid=7a5bcb3506b59ef2f5218ab5430c2df8&amp;rgn=div6&amp;view=text&amp;node=48:6.0.1.2.8.2&amp;i_dno=48">http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;sid=7a5bcb3506b59ef2f5218ab5430c2df8&amp;rgn=div6&amp;view=text&amp;node=48:6.0.1.2.8.2&amp;i_dno=48</a>
National Aeronautics Space Administration (NASA)	The Senior Procurement Executive receives a monthly delinquency report to monitor and manage compliance. NASA's guidance is available at <a href="http://www.hq.nasa.gov/office/procurement/regs/pic09-09.html">http://www.hq.nasa.gov/office/procurement/regs/pic09-09.html</a>





ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

MAR - 4 2011

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
ASSISTANT SECRETARY OF THE ARMY FOR  
ACQUISITION, LOGISTICS AND TECHNOLOGY  
ASSISTANT SECRETARY OF THE NAVY FOR  
RESEARCH, DEVELOPMENT AND ACQUISITION  
ASSISTANT SECRETARY OF THE AIR FORCE FOR  
ACQUISITION  
ASSISTANT SECRETARY OF DEFENSE FOR NETWORKS  
AND INFORMATION INTEGRATION  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Department of Defense Source Selection Procedures

The Source Selection Joint Analysis Team (JAT) was established on November 10, 2008, by the Under Secretary of Defense (Acquisition, Technology and Logistics). The objective of the JAT was to standardize the methodology and approach the Department uses to conduct competitively negotiated source selections. The JAT has concluded its examination of the current source selection processes utilized within the Department and identified the key elements of a successful source selection.

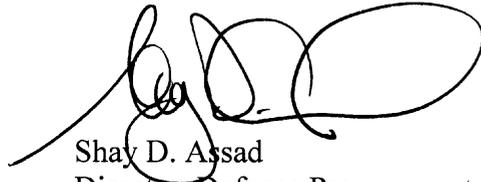
The attached document provides the procedures to be used within the Department when conducting negotiated, competitive acquisitions utilizing FAR Part 15 procedures. Highlights of the procedures include:

- required use of standardized rating criteria and descriptions for the “technical” and “past performance” factors and;
- a requirement that a Source Selection Advisory Council (SSAC) be appointed on Source Selections valued at over \$100M. The SSAC will also be required to provide the Source Selection Authority (SSA) with a written comparative analysis of proposals and award recommendation for the SSA’s consideration.

Overall, the DoD Source Selection Procedures are designed to provide for uniform Source Selection guidance within the Department and simplify the Source Selection process.

These procedures are effective July 1, 2011, and are mandatory for all competitive acquisitions utilizing FAR Part 15 procedures. All request for proposals (RFPs) issued after July 1, 2011, are subject to these procedures.

My staff point of contact is Mr. Warren Arneson. He can be reached at 703-695-4258 or warren.arneson@osd.mil.

A handwritten signature in black ink, appearing to read 'Shay D. Assad', with a large, stylized flourish extending to the right.

Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated



# **DEPARTMENT OF DEFENSE**

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## **SOURCE SELECTION PROCEDURES**

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**Appendix A. Lowest Price Technically Acceptable Source Selection Process**

**Appendix B. Debriefing Guide**

## Chapter 1

### Purpose, Roles, and Responsibilities

#### 1.1 Purpose

This document provides the Department of Defense (DoD) procedures for conducting competitively negotiated source selections and outlines a common set of principles and procedures for conducting such acquisitions. The goal of this procedure is to ensure the Department's source selection process delivers quality, timely products and services to the Warfighter and the Nation at the best value for the taxpayer.

#### 1.2 Best-Value Continuum

This document describes two of the acquisition processes and techniques that may be used to design competitive acquisition strategies suitable for the specific circumstances of the acquisition: Tradeoff Source Selection Process and Lowest Price Technically Acceptable Source Selection Process.

- Tradeoff Source Selection Process (see FAR 15.101-1). This process allows for a tradeoff between non-cost factors and cost/price and allows the Government to accept other than the lowest priced proposal or other than the highest technically rated proposal to achieve a best-value contract award. Further, it describes various rating approaches to evaluating proposals when using a tradeoff process. The application of this process, as well as general source selection principles, is discussed in the body of this document.
- Lowest Price Technically Acceptable (LPTA) Source Selection Process (see FAR 15.101-2). The LPTA process is appropriate when best value is expected to result from selection of a technically acceptable proposal with the lowest evaluated price. The application of LPTA is discussed in Appendix A. In addition, the general principles outlined in the body of this document also apply to LPTA (see preface to Appendix A for exemptions).

In the best-value continuum described in Federal Acquisition Regulation (FAR) 15.101, an agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. However, regardless of the source selection approach taken, agencies are required to utilize the standardized rating tables as detailed in this procedure. For any factors/subfactors evaluated on other than an "acceptable/unacceptable" basis, the ratings at Section 3.1 shall be utilized. For any factors/subfactors evaluated on an "acceptable/unacceptable" basis, the ratings at Appendix A, Table A-1 and A-2 shall be utilized.

### **1.3 Applicability**

This procedure is required for all best-value, negotiated, competitive acquisitions under FAR Part 15. Compliance with law, FAR Part 15, Defense Federal Acquisition Regulation Supplement (DFARS) 215 and the companion resource Procedures, Guidance and Information (PGI) is required. These procedures are not required for the following acquisitions:

- Competitions where the only evaluated factor is price
- Basic research and acquisitions where Broad Agency Announcements (BAA) are used in accordance with FAR Part 35 to solicit proposals and award contracts,
- Small Business Innovative Research (SBIR), Small Business Technology Transfer Research (STTR) and Small Business Technology Transfer (SBTT) acquisitions solicited and awarded in accordance with 15 United States Code (U.S.C.), Section 638.
- Architect-engineer services solicited and awarded in accordance with FAR Part 36,
- FAR Part 12 Streamlined Acquisitions,
- Acquisitions using simplified acquisition procedures in accordance with FAR Part 13 (including Part 12 acquisitions using Part 13 procedures),
- Orders under multiple award contracts – Fair Opportunity (FAR 16.505 (b)(1)), and
- Acquisitions using FAR subpart 8.4.

The procedures in this guide may be waived only with the express permission of the Director, Defense Procurement and Acquisition Policy.

### **1.4 Source Selection Team Roles and Responsibilities**

Source selection is accomplished by a team that is tailored to the unique acquisition. Composition of the team generally consists of the Source Selection Authority (SSA), Procuring Contracting Officer (PCO) (if different from the SSA), Source Selection Advisory Council (SSAC), Source Selection Evaluation Board (SSEB), Advisors, Cost or Pricing Experts, Legal Counsel, Small Business Specialists, and other subject-matter experts. Team members may include personnel from other Governmental sources such as headquarters or joint service members. Key members of the Source Selection Team (SST)—such as the SSA, SSEB, chairperson and functional leads, and the PCO— should have source selection experience. All members of the team shall be designated early in the source selection process, and agencies shall provide the needed training to execute that specific source selection.

1.4.1. SSA. The SSA is the individual designated to make the best-value decision.

1.4.1.1. Appointment of SSA: The appointment of the individual to serve as the SSA shall be commensurate with the complexity and dollar value of the acquisition. For acquisitions with a total estimated value of \$100M or more, the SSA shall be an individual other than the PCO. For all other acquisitions, the PCO may serve as the SSA in accordance with FAR 15.303 unless the Agency head or designee appoints another individual.

1.4.1.2. SSA Responsibilities. The SSA shall:

1.4.1.2.1. Be responsible for the proper and efficient conduct of the source selection process in accordance with this procedure and all applicable laws and regulations.

1.4.1.2.2. Appoint the chairpersons for the SSEB and, when used, the SSAC.

1.4.1.2.3. Ensure that personnel appointed to the SST are knowledgeable of policy and procedures for properly and efficiently conducting the source selection. Ensure the SST members have the requisite acquisition experience, skills, and training necessary to execute the source selection, and ensure the highest level of team membership consistency for the duration of the selection process.

1.4.1.2.4. For major weapon system or major service acquisitions, ensure no senior leader is assigned to or performs multiple leadership roles in the source selection in accordance with DFARS 203.170(a).

1.4.1.2.5. Ensure that realistic source selection schedules are established and source selection events are conducted efficiently and effectively in meeting overall program schedules. The schedules should support proper and full compliance with source selection procedures outlined in this document and the established Source Selection Plan (SSP) for the acquisition.

1.4.1.2.6. Ensure all involved in the source selection are briefed and knowledgeable of Subsection 27(a) of the Office of Federal Procurement Policy Act, [41 U.S.C., Section 423](#), and FAR 3.104 regarding unauthorized disclosure of contractor bid and proposal information, as well as source selection information. Ensure that all persons receiving source selection information are instructed to comply with applicable standards of conduct (including procedures to prevent the improper disclosure of information) and sign a Non-Disclosure Agreement and a conflict of interest statement. Ensure Conflict of Interest Statements (from both Government members/advisors and non-Government team advisors) are appropriately reviewed and actual or potential conflict of interest issues are resolved prior to granting access to any source selection information. (See CFR 2635).

1.4.1.2.7. Make a determination to award without discussions or enter into discussions.

1.4.1.2.8. Select the source whose proposal offers the best value to the Government in accordance with evaluation established criteria in Section M (or a non-Uniform Contract Format (UCF) solicitation).

1.4.1.2.9. Document the rationale in the Source Selection Decision Document (SSDD) (as detailed in Chapter 4).

1.4.2. PCO. The PCO will serve as the primary business advisor and principal guidance source for the entire Source Selection.

1.4.2.1. Selection of PCO: Agencies have discretion in the selection of the individual to serve as the PCO. However, the PCO, as the principal guidance source, should have experience in the source selection process.

1.4.2.2. PCO Responsibilities. The PCO shall:

1.4.2.2.1 Manage all business aspects of the acquisition and advise and assist the SSA in the execution of the responsibilities as outlined in 1.4.1, and work with the SSEB Chair to ensure the evaluation is conducted in accordance with the evaluation criteria specified in the solicitation.

1.4.2.2.2. Ensure that required approvals are obtained and the appropriate notification clause is included in the solicitation before non-Government personnel are allowed to provide source selection support (e.g. FAR 7.503 and 37.205).

1.4.2.2.3. In accordance with FAR 3.104 and DFARS 203.104, ensure that procedures exist to safeguard source selection information and contractor bid or proposal information. Approve access to or release of source selection information and contractor bid or proposal information after consulting Legal Counsel before and after contract award.

1.4.2.2.4. Maintain as a minimum, the documents and source selection evaluation records as detailed in Chapter 4.

1.4.2.2.5. Release the final solicitation only after obtaining all required approvals including the SSA approval of the SSP.

1.4.2.2.6. Serve as the single point of contact for all solicitation-related inquiries from actual or prospective offerors.

1.4.2.2.7. After receipt of proposals, control exchanges with offerors in accordance with FAR 15.306.

1.4.2.2.8 With the approval of the SSA to enter discussions, establish the competitive range and enter into discussions.

### 1.4.3. SSAC.

#### 1.4.3.1. Establishment and Role of SSAC.

1.4.3.1.1. The SSA establishes an SSAC to gain access to functional area expertise to provide the support the SSA requires throughout the source selection process.

1.4.3.1.2. Organizations shall establish an SSAC for acquisitions with a total estimated value of \$100M or more. An SSAC is optional for acquisitions with a total estimated value of less than \$100M.

1.4.3.1.3. The primary role of the SSAC is to provide a written comparative analysis and recommendation to the SSA. When an SSAC is established, it will provide oversight to the SSEB.

1.4.3.1.4. The SSA may convene the SSAC at any stage in the evaluation process as needed.

#### 1.4.3.2. Composition of SSAC.

1.4.3.2.1. The SSAC is comprised of an SSAC Chairperson and SSAC Members.

1.4.3.2.2. SSAC Members should represent the specific functional areas from which the SSA may require expertise.

#### 1.4.3.3. Responsibilities of SSAC.

1.4.3.3.1 SSAC Chairperson shall:

1.4.3.3.1.1. Appoint SSAC members, subject to SSA approval.

1.4.3.3.2. The SSAC Members shall:

1.4.3.3.2.1. Review the evaluation results of the SSEB to ensure the evaluation process follows the evaluation criteria and the ratings are appropriately and consistently applied.

1.4.3.3.2.2. Consolidate the advice and recommendations from the SSAC into a written comparative analysis and recommendation for use by the SSA in

making the best-value decision. Ensure that minority opinions within the SSAC are documented and included within the comparative analysis.

#### 1.4.4. SSEB.

##### 1.4.4.1. Composition of the SSEB.

1.4.4.1.1. The SSEB is comprised of a Chairperson and Evaluators (also known as SSEB Members). Frequently, the SSEB Members will be organized into functional teams corresponding to the specific evaluation criteria (e.g., Technical Team, Past Performance Team, Cost Team, etc). In those instances, a Functional Team Lead may be utilized to consolidate the evaluation findings of the team and serve as the primary team representative to the SSEB Chair. Use of non-Government personnel as voting members of the SSEB is prohibited. (See FAR 7.503(c)(12)(ii), FAR 37.203 and FAR 37.204).

1.4.4.1.2. Government personnel assigned to the SSEB shall consider this duty as their primary responsibility. Their source selection assignment shall take priority over other work assignments. Supervisors are responsible for ensuring that other work assignments do not adversely impact the source selection process.

##### 1.4.4.2. Responsibilities of the SSEB.

###### 1.4.4.2.1. SSEB Chairperson shall:

1.4.4.2.1.1. Be responsible for the overall management of the SSEB and act as the SSEB's interface to the SSAC (if utilized) and the SSA.

1.4.4.2.1.2. Establish functional evaluation teams, as appropriate, to support an efficient source selection evaluation. Appoint chairpersons and members to the functional evaluation teams, subject to approval of the SSA.

1.4.4.2.1.3. Ensure the skills of the personnel, the available resources, and time assigned are commensurate with the complexity of the acquisition.

1.4.4.2.1.4. Ensure members of the SSEB are trained and knowledgeable on how an evaluation is conducted prior to reviewing any proposals.

1.4.4.2.1.5. Ensure the evaluation process follows the evaluation criteria and ratings are being consistently applied.

1.4.4.2.1.6. Provide consolidated evaluation results to the SSA or the SSAC if the SSAC is designated as the interface between the SSEB and SSA.

1.4.4.2.1.7. Support any post source selection activities such as debriefings and post-award reviews/meetings, as required.

1.4.4.2.2. The SSEB members shall:

1.4.4.2.2.1. Conduct a comprehensive review and evaluation of proposals against the solicitation requirements and the approved evaluation criteria.

1.4.4.2.2.2. Ensure the evaluation is based solely on the evaluation criteria outlined in the RFP.

1.4.4.2.2.3. Assist the SSEB Chairperson in documenting the SSEB evaluation results.

1.4.4.2.2.4. Support any post-source-selection activities, such as debriefings and post-award reviews/meetings, as required.

1.4.4.2.3. Neither the SSEB Chairperson nor the SSEB members shall perform comparative analysis of proposals or make source selection recommendations unless requested by the SSA.

1.4.5. Advisors.

1.4.5.1. Government Advisors. When an SSAC is not used, consideration should be given to the use of Government advisors to assist the SSA. These advisors can provide expertise within specific functional areas, similar to the involvement of the SSAC, but need not provide the formal written comparative analysis required of an SSAC. Government advisors may also be used to provide assistance to the SSEB as subject-matter experts.

1.4.5.2. Non-Government Advisors. Use of non-Government personnel as advisors may be authorized, but should be minimized as much as possible. Non-Government advisors, other than Federally Funded Research and Development Centers (FFRDCs), shall be supported by a written determination based on FAR 37.203 and 37.204.

1.4.5.2.1. Requirements for use of non-Government advisors. All non-Government advisors shall sign the non-disclosure agreement required to be signed by all Government employees who are participating in the source selection. They shall also submit documentation to the PCO indicating their personal stock holdings prior to being allowed access to source selection sensitive information. In addition, the PCO must ensure that before the non-Government advisor is given access to proprietary information, that the Government has received the consent of the submitting contractor(s) to provide access to the contractor who is to assist in the source selection.

1.4.5.2.2. Limitations on use of non-Government advisors. Non-Government advisors may assist in and provide input regarding the evaluation, but they may not determine ratings or rankings of offerors' proposals. Disclosure of past

performance information to non-Government personnel is strictly prohibited (reference DoD Contractor Performance Assessment Report System (CPARS) Policy Guide, Architect-Engineer Contract Administration Support System (ACASS) Policy Guide, and Construction Contractor Appraisal Support System (CCASS) Policy Guide). Accordingly, non-Government advisors shall not participate in the review and evaluation of past performance information. (See FAR 42.1503).

## **1.5. Program Management/Requirements Office Roles and Responsibilities**

The requirements community is vital to the success of the overall source selection process. The leadership of the Program Management/Requirements Office shall:

1.5.1 Ensure the technical requirements—consistent with the cognizant requirements document—are approved and stable, establish technical specifications, and develop a Statement of Work (SOW), Statement of Objectives (SOO), or Performance Work Statement (PWS).

1.5.2. Allocate the necessary resources including personnel, funding and facilities to support the source selection process.

1.5.3. Assist in the establishment of the SST to include serving as an advisor or member to the SSAC and/or the SSEB as needed.

1.5.4. Assist in the development of the evaluation criteria consistent with the technical requirements/risk.

## Chapter 2

### Pre-Solicitation Activities

#### 2.1 Conduct Acquisition Planning

2.1.1. Acquisition Planning. Appropriate acquisition planning is paramount for a successful source selection. FAR subpart 7.1 and DFARS subpart 207.1 address policies related to acquisition planning and development of written Acquisition Plans.

2.1.1.1. Requirements. The SST is responsible for maintaining effective liaison with the requiring office to ensure requirements are effectively addressed within the requirements documents.

2.1.1.2. Risk Assessment. The requiring office—in conjunction with the acquisition team members, initial membership of the SST, and stakeholders—shall conduct the risk analysis in accordance with FAR 7.105 necessary to support the acquisition planning process. This assessment will be critical in developing evaluation factors.

2.1.1.3. Acquisition of Services. Existing DoD policy requires all non-information technology (IT) service acquisition over \$1B (\$500M for acquisition of IT services) to have their acquisition strategy reviewed and approved by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)), the Assistant Secretary of Defense for Networks and Information Integration (ASD(NII)), or their designees (see DoD Instruction (DODI) 5000.2, Enclosure 9). Specifically, senior officials of the Military Departments and decision authorities in DoD Components outside the Military Departments shall, before the final solicitation is issued, notify the USD(AT&L), Defense Procurement and Acquisition Policy (DPAP) of any proposed acquisition of non-IT services with a total estimated value over \$1 billion (base year(s) and options), or the ASD(NII)/DoD Chief Information Officer of any proposed acquisition of IT services with a total estimated value over \$500 million (base year(s) and options). Reference DODI 5000.02, Enclosure 9, Acquisition of Services, for specific requirements and further instructions.

2.1.1.4. Independent Management Reviews (“Peer Reviews”). Pre-Award Peer Reviews shall be conducted on all Supplies and Services, solicitations, and contracts over \$1B (including options). The Director, DPAP, in the Office of the USD(AT&L), shall organize the Peer Reviews. The reviews shall be advisory in nature and conducted in a manner that preserves the authority, judgment, and discretion of the PCO and senior officials of the acquiring organization. Reference DFARS 201.170 and DODI 5000.02, Enclosure 2, Section 9 and Enclosure 9, Section 6 for specific requirements for these Pre-Award Peer Reviews of Services and Supply contracts over \$1B. Finally, Pre-Award procedures in Paragraph 6.a. of Enclosure 9 shall also apply to Peer Reviews of Supplies. (Reference Enclosure 2, Procedures Section 9, Paragraph g, of DODI 5000.02.) The acquisition team must build these

review requirements into their acquisition planning milestones. (See DFARS 201.170 and PGI 201.170).

2.1.2. Market Research. Market research is essential to identifying capabilities within the market to satisfy the agency's needs and is key in determining whether a commercial item or small business can meet the Government's needs. Market research significantly influences the work statement, is central to designing an acquisition strategy and identifying candidate evaluation criteria which influence the overall source selection process. Thorough and complete market research is the foundation of an effective source selection process toward meeting the agency's needs. See FAR 10.001 and DFARS 201.001 for requirements and benefits of conducting and documenting market research. As an effective part of Market Research, early industry involvement is vital to the source selection process. Exchanging information on upcoming acquisitions improves understanding of Government requirements and Government understanding of industry capabilities.

2.1.2.1. Industry Day(s). A vital tool in collecting information and feedback important to framing the Government's acquisition strategy is the use of industry day(s) (e.g., pre-solicitation conference, pre-proposal conference, etc.). An industry day(s) is highly recommended for all acquisitions.

2.1.2.2. Utilization of Draft Request for Proposals (RFP). The draft RFP is an important tool to seek input from industry on the Government requirement and ensure greater understanding on both sides of the acquisition. Use of a draft RFP is highly recommended for all acquisitions. The specific content of the draft RFP will be determined by the PCO.

## **2.2. Develop an SSP**

An SSP is required for all best-value, negotiated, competitive acquisitions under FAR Part 15. The SSA shall approve the SSP before the final solicitation is issued. At a minimum, the SSP shall include:

2.2.1. Background and Objectives. Include a brief description of the requirement, a summary of the objectives, and any reference to applicable guidance.

2.2.2. Acquisition Strategy. Provide a summary of the planned acquisition approach to include a description of how the specific acquisition being competed fits into the entire program.

2.2.3. SST. Describe the organizational structure and identify the various roles and responsibilities of each of the source selection teams, such as the SSET, the SSAC, the PCO, and the SSA, during the phases of the source selection. List members and advisors by name, position title, company affiliation, if applicable, or by functional area. (See PGI 215.303).

2.2.4. Communications. Describe the process and controls for communication with industry as well as internal Government team communication, to include the use of e-mail, during the source selection, and outline the security measures that will be utilized to ensure the information is protected as source selection information. (See FAR 2.101 and FAR 3.104.)

2.2.5. Evaluation Factors and Subfactors. Identify the evaluation factors, subfactors, their relative order of importance; the importance of all non-cost or price factors to the cost or price factor; and the evaluation process, including specific procedures and techniques to be used in evaluating proposals. Include within the SSP document or attach the relevant and most current portions of Sections L and M in the RFP (or a non-UCF solicitation) to preclude inconsistencies between the SSP and RFP.

2.2.6. Documentation. Identify the types of documents that will be prepared during the course of the source selection, to include at a minimum an SSEB Report covering the initial evaluation, updated as necessary following responses to discussion questions, and a final SSEB Report after receipt of Final Proposal Revisions, an SSAC Report, if there is an SSAC, which reflects the SSAC's consideration of the final SSET Report and makes the SSAC's recommendation to the Source Selection Authority, and in accordance with FAR 15.308, the Source Selection Decision Document (SSDD), which reflects the SSA's independent determination. A power point presentation is acceptable to brief the SSA and the SSAC on the status of the procurement, but should not as a general rule, constitute the official Reports required for the source selection.

2.2.7. Schedule of Events. List the major acquisition activities and projected completion dates. Reference 2.1.1.4, 2.1.2.1, and 2.1.2.2 for information on the use of independent management reviews, Industry Days, and draft RFPs as significant source selection activities.

2.2.8. Non-Government Personnel. Address the use of non-Government personnel and compliance with requirements of 1.4.5.2.

2.2.9. Securing Source Selection Materials. Detail the plan for securing all source selection materials throughout the evaluation process.

### **2.3. Develop the Request for Proposals**

A well-written RFP is absolutely critical to the success of the source selection. There shall be consistency between the requirements documents, SSP, and RFP. The acquisition team must ensure a clear linkage between the requirements and evaluation factors to maximize the accuracy and clarity of the RFP.

2.3.1. Evaluation factors and subfactors represent those specific characteristics that are tied to significant RFP requirements and objectives having an impact on the source selection decision and are expected to be discriminators, or are required by statute/regulation. They are the uniform baseline against which each offeror's proposal is

evaluated allowing the Government to make a best-value determination. The evaluation of factors and subfactors may be quantitative, qualitative, or a combination of both. However, numerical or percentage weighting of the relative importance of evaluation factors and subfactors shall not be used. The evaluation factors and subfactors, their relative order of importance, and the importance of non-cost or price factors to cost or price factors shall be set forth in the solicitation in enough depth to communicate what will be evaluated. The evaluation factors and subfactors shall be the primary determinant of the detailed information requested in the solicitation's instructions to offerors. If subfactors are used, they are to be evaluated separately. All source selections shall evaluate cost or price, and the quality of the product or services.

2.3.1.1. Cost or Price. The Government shall evaluate the cost or price of the supplies or services being acquired. See 3.1.1 for more information.

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

All source selection evaluations shall utilize one or more quality of product or service evaluation factors tailored to the source selection process employed.

The term "technical," as used below and throughout the document, refers to non-cost factors other than past performance. More than one "technical" factor can be used and titled to match the specific evaluation criteria appropriate for the RFP. However, the ratings in Tables 1, 2, and 3 shall be used for all quality of product or service factors other than past performance, regardless of the "technical" factor title.

2.3.1.2.1. Technical. The purpose of the technical factor(s) is to assess the offeror's proposed approach, as detailed in its proposal, to satisfy the Government's requirements. There are many aspects which may affect an offeror's ability to meet the solicitation requirements. Examples include technical approach, risk, management approach, personnel qualifications, facilities, and others. The evaluation of risk is related to the technical assessment.

Technical Risk. Risk assesses the degree to which the offeror's proposed technical approach for the requirements of the solicitation may cause disruption of schedule, increased costs, degradation of performance, the need for increased Government oversight, or the likelihood of unsuccessful contract performance. All evaluations that include a technical evaluation factor shall also consider risk. Risk can be evaluated in one of two ways:

- As one aspect of the technical evaluation, inherent in the technical evaluation factor or subfactor ratings (reference 3.1.2.1).

- As a separate risk rating assigned at the technical factor or subfactor level (reference 3.1.2.2).

Finally, the technical factor may be divided into subfactors that represent the specific areas that are significant enough to be discriminators and to have an impact on the source selection decision. When subfactors are used, establish the minimum number necessary for the evaluation of proposals.

2.3.1.2.2. Past Performance. The past performance evaluation factor assesses the degree of confidence the Government has in an offeror's ability to supply products and services that meet users' needs, based on a demonstrated record of performance. A past performance evaluation is required in accordance with Director of Defense Procurement Class Deviation 99-O0002 dated January 29, 1999, which states the requirement thresholds are: (1) \$5 million for systems and operations support; (2) \$1 million for services, IT; and (3) \$100,000 for fuels or health care. A past performance evaluation may be accomplished for acquisitions below these thresholds at the discretion of the SSA. Past performance need not be evaluated if the PCO documents the reason past performance is not an appropriate evaluation factor for the acquisition (see FAR 15.304(c)(3)(iii)).

2.3.1.2.3. Small Business. Where required by FAR 15.304(c), FAR 19.1202, and DFARS 215.304(c)(i), the SST shall evaluate the extent of participation of small business concerns. This may be accomplished by one of the following:

- Establishing a separate Small Business Participation evaluation factor,
- Establishing a Small Business Participation subfactor under the technical factor, or
- Considering Small Business Participation within the evaluation of one of the technical subfactors.

2.3.2. Relative Importance of Factors. The solicitation shall state, at a minimum, whether all evaluation factors other than cost or price, when combined, are (1) significantly more important than cost or price; (2) approximately equal to cost or price; or (3) significantly less important than cost or price. (FAR 15.101)

## **2.4. Release the Request for Proposals**

Use of a draft RFP is highly recommended. The specific content of the draft RFP will be determined by the PCO. Prior to release of the final RFP, a thorough, consolidated review by a multi-disciplined team is recommended

## Chapter 3

### Evaluation and Decision Process

#### 3.1. Evaluation Activities

The SSEB shall conduct an in-depth review of each proposal against the factors and subfactors established in the solicitation, and assign evaluation ratings.

3.1.1. Cost or Price Evaluation. Cost or price to the Government shall be evaluated in every source selection. However, no adjectival ratings shall be utilized for evaluating cost or price since cost or price is not rated. The level of detail of analysis required will vary among acquisitions depending on the complexity and circumstances of the acquisition, including the degree of competition, the phase of the program, the type of product/services to be acquired, and the contract type. In order to enable offerors to make informed decisions on how best to propose, every solicitation will provide an adequate description of the cost or price evaluation. In all source selections, the analysis must include a determination, by the PCO, of whether the proposed cost or price is fair and reasonable. In addition to determining reasonableness of the proposed cost or price, the PCO must also conduct a cost realism analysis if contracting on a cost reimbursement basis. Cost realism analysis may also be used on competitive, fixed-price incentive contracts or, in exceptional cases, on other competitive fixed-price-type contracts. FAR Subpart 15.4 and the Contract Pricing Reference Guides ([http://www.acq.osd.mil/dpap/cpf/contract\\_pricing\\_reference\\_guides.html](http://www.acq.osd.mil/dpap/cpf/contract_pricing_reference_guides.html)) provide additional guidance on cost or price evaluation.

3.1.2. Technical Rating Evaluation Processes. The technical rating reflects the degree to which the proposed approach meets or does not meet the minimum performance or capability requirements through an assessment of the strengths, weaknesses, deficiencies, and risks of a proposal.

As referenced in 2.3.1.2.1, one of two distinct methodologies can be used to evaluate the technical approach and related risk. Methodology 1, outlined at 3.1.2.1, includes risk associated with the technical approach in a single rating. Methodology 2, outlined at 3.1.2.2, provides separate technical and risk ratings.

3.1.2.1. Methodology 1: Combined Technical/Risk Rating. The combined technical/risk rating includes consideration of risk in conjunction with the strengths, weaknesses, and deficiencies in determining technical ratings. Combined technical/risk evaluations shall utilize the combined technical/risk ratings listed in Table 1.

<b>Table 1. Combined Technical/Risk Ratings</b>		
Color	Rating	Description
Blue	Outstanding	Proposal meets requirements and indicates an exceptional approach and understanding of the requirements. Strengths far outweigh any weaknesses. Risk of unsuccessful performance is very low.
Purple	Good	Proposal meets requirements and indicates a thorough approach and understanding of the requirements. Proposal contains strengths which outweigh any weaknesses. Risk of unsuccessful performance is low.
Green	Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements. Strengths and weaknesses are offsetting or will have little or no impact on contract performance. Risk of unsuccessful performance is no worse than moderate.
Yellow	Marginal	Proposal does not clearly meet requirements and has not demonstrated an adequate approach and understanding of the requirements. The proposal has one or more weaknesses which are not offset by strengths. Risk of unsuccessful performance is high.
Red	Unacceptable	Proposal does not meet requirements and contains one or more deficiencies. Proposal is unawardable.

### 3.1.2.2. Methodology 2: Separate Technical/Risk Rating Process.

3.1.2.2.1. Technical Rating. The offeror's technical solution will be rated separately from the risk associated with its technical approach. The technical rating evaluates the quality of the offeror's technical solution for meeting the Government's requirement. The risk rating considers the risk associated with the technical approach in meeting the requirement. Technical evaluations shall utilize the ratings listed in Table 2.

<b>Table 2. Technical Ratings</b>		
Color	Rating	Description
Blue	Outstanding	Proposal meets requirements and indicates an exceptional approach and understanding of the requirements. The proposal contains multiple strengths and no deficiencies.
Purple	Good	Proposal meets requirements and indicates a thorough approach and understanding of the requirements. Proposal contains at least one strength and no deficiencies.
Green	Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements. Proposal has no strengths or deficiencies.
Yellow	Marginal	Proposal does not clearly meet requirements and has not demonstrated an adequate approach and understanding of the requirements.
Red	Unacceptable	Proposal does not meet requirements and contains one or more deficiencies and is unawardable.

3.1.2.2.2. Technical Risk Rating. Assessment of technical risk, which is manifested by the identification of weakness(es), considers potential for disruption of schedule, increased costs, degradation of performance, the need for increased Government oversight, or the likelihood of unsuccessful contract performance. Technical risk shall be rated using the ratings listed in Table 3. For firm-fixed-price contracts, the reference to increased cost may be removed from the risk rating descriptions.

<b>Table 3. Technical Risk Ratings</b>	
Rating	Description
Low	Has little potential to cause disruption of schedule, increased cost or degradation of performance. Normal contractor effort and normal Government monitoring will likely be able to overcome any difficulties.
Moderate	Can potentially cause disruption of schedule, increased cost or degradation of performance. Special contractor emphasis and close Government monitoring will likely be able to overcome difficulties.
High	Is likely to cause significant disruption of schedule, increased cost or degradation of performance. Is unlikely to overcome any difficulties, even with special contractor emphasis and close Government monitoring.

3.1.3. Past Performance Evaluation. The past performance evaluation results in an assessment of the offeror's probability of meeting the solicitation requirements. The past performance evaluation considers each offeror's demonstrated recent and relevant record of performance in supplying products and services that meet the contract's requirements. One performance confidence assessment rating is assigned for each offeror after evaluating the offeror's recent past performance, focusing on performance that is relevant to the contract requirements. See FAR 15.305.

3.1.3.1. There are two aspects to the past performance evaluation. The first is to evaluate the offeror's past performance to determine how relevant a recent effort accomplished by the offeror is to the effort to be acquired through the source selection. The criteria to establish what is recent and relevant shall be unique to each source selection and shall be stated in the solicitation. In establishing what is relevant for the acquisition, consideration should be given to those aspects of an offeror's contract history that would give the greatest ability to measure whether the offeror will satisfy the current procurement. Common aspects of relevancy include similarity of service/support, complexity, dollar value, contract type, and degree of subcontract/teaming.

There are four levels of relevancy as shown in Table 4. When source selections require a greater level of discrimination within the past performance evaluation, the SST shall use all four of the relevancy ratings identified below. However, for those source selections requiring less discrimination in the past performance evaluation, the past performance evaluation team may use, as a minimum, "Relevant" and "Not Relevant" past performance ratings. The SSP shall clearly identify the treatment of relevancy within past performance evaluation. With respect to relevancy, more relevant past performance will typically be a stronger predictor of future success and have more influence on the past performance confidence assessment than past performance of lesser relevance.

Rating	Definition
Very Relevant	Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.
Relevant	Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires.
Somewhat Relevant	Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.
Not Relevant	Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

The second aspect of the past performance evaluation is to determine how well the contractor performed on the contracts. The past performance evaluation performed in support of a current source selection does not establish, create, or change the existing record and history of the offeror's past performance on past contracts; rather, the past performance evaluation process gathers information from customers on how well the offeror performed those past contracts. Requirements for considering history of small business utilization are outlined at FAR 15.304(c)(3)(ii) and DFARS 215.305(a)(2).

3.1.3.2. Sources of Past Performance Information for Evaluation are as follows:

- Past performance information may be provided by the offeror, as solicited.
- Past performance information may be obtained from questionnaires tailored to the circumstances of the acquisition.
- Past performance information shall be obtained from any other sources available to the Government, to include, but not limited to, the Past Performance Information Retrieval System (PIRS), Federal Awardee Performance and Integrity Information System (FAPIIS), Electronic Subcontract Reporting System (eSRS), or other databases; interviews with Program Managers, Contracting Officers, and Fee Determining Officials; and the Defense Contract Management Agency.

The Past Performance Evaluation Team will review this past performance information and determine the quality and usefulness as it applies to performance confidence assessment.

3.1.3.3. Performance Confidence Assessment. In conducting a performance confidence assessment, each offeror shall be assigned one of the ratings in Table 5. (Reference FAR 15.305(2) for information on assigning an unknown/neutral confidence rating.)

<b>Table 5. Performance Confidence Assessments</b>	
<b>Rating</b>	<b>Description</b>
Substantial Confidence	Based on the offeror’s recent/relevant performance record, the Government has a high expectation that the offeror will successfully perform the required effort.
Satisfactory Confidence	Based on the offeror’s recent/relevant performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort.
Limited Confidence	Based on the offeror’s recent/relevant performance record, the Government has a low expectation that the offeror will successfully perform the required effort.
No Confidence	Based on the offeror’s recent/relevant performance record, the Government has no expectation that the offeror will be able to successfully perform the required effort.
Unknown Confidence (Neutral)	No recent/relevant performance record is available or the offeror’s performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned.

3.1.3.4. Small Business Evaluation. When required by 2.3.1.2.3, the SST shall evaluate the extent of participation of small business concerns. (Reference 2.3.1 for evaluation methodologies.) The ratings utilized for the small business evaluation will be dependent on the small business evaluation methodology utilized.

3.1.3.4.1 When evaluating small business participation as a stand-alone evaluation factor or a subfactor under the technical factor, there are two rating options as follows:

3.1.3.4.1.1. Use the ratings acceptable and unacceptable only (i.e., pass/fail), or

3.1.3.4.1.2. Utilize all ratings outlined in Table 1 or 2, depending on the treatment of risk. References to the term “requirements” in the technical rating description at Table 1 or 2 shall equate to small business requirements, often reflected in the RFP as small business objectives.

3.1.3.4.2. When small business participation is not evaluated as a stand-alone evaluation factor or subfactor but instead is considered within the evaluation of one of the technical subfactors, a separate small business rating is not applied. However, the small business participation shall be considered in determining the appropriate technical rating to be applied. References to the term “requirements”

in the technical ratings description at Table 1 or 2 shall equate to small business requirements, often reflected in the RFP as small business objectives.

### **3.2. Documentation of Initial Evaluation Results**

3.2.1. Following the initial round of evaluations, the SSEB Chairperson will consolidate the inputs from each of the evaluation teams for presentation to the SSA. The PCO and the SSEB Chairperson shall ensure that proposals are evaluated solely on the criteria contained in Section M (or a non-UCF solicitation). All evaluation records and narratives shall be reviewed by the PCO, Legal Counsel, and the SSEB Chairperson for completeness and compliance with the solicitation. When an SSAC has been established, it will consolidate the advice and recommendations from the SSAC into a written comparative analysis and recommendation for use by the SSA in making the best-value decision. It will ensure that minority opinions within the SSAC are documented and included within the comparative analysis

3.2.2. Based upon review of the initial evaluation results the SSA will decide to either (1) approve award without discussions, or (2) enter into the discussion process.

### **3.3. Award without Discussions**

3.3.1. The SSA may choose, in rare circumstances, to award a contract on the basis of the initial proposals received without conducting discussions. Offerors may be given a chance to clarify certain aspects of their proposal and to resolve minor or clerical mistakes. However, offerors are not given an opportunity to respond to any identified weaknesses or deficiencies or revise their proposals. Instead, the SSA makes a best-value decision based upon the evaluations of the initial proposal as submitted. To award without discussions, the RFP must contain the solicitation provision at FAR 52.215-1, which notifies offerors that the Government intends to evaluate proposals and award a contract without discussions. This clause provides incentive to offerors to provide in their initial proposal their best terms from a cost or price and technical standpoint as there may not be an opportunity to revise their proposals.

3.3.2. The process of engaging with industry after proposal submission affords the Government the opportunity to effectively understand and evaluate a proposal and permits industry the opportunity to clearly explain any aspects of a proposal that appear to be deficient, ambiguous or non-compliant. Such dialogue leads to more efficient, effective and improved source selections. Therefore, award without discussions shall occur in only limited circumstances.

3.3.3. If the SSA chooses to award without discussions, the SSA shall prepare a SSDD (reference 3.9). Once the SSDD is signed and all contractual requirements have been met (e.g., Congressional Notification, Equal Employment Opportunity Compliance.), the PCO may award the contract.

## **3.4 Discussion Process**

3.4.1. Discussions are highly recommended for source selections. The primary objective of discussions is to maximize the Government's ability to obtain best value, based on the requirement and the evaluation factors set forth in the solicitation.

3.4.2. If discussions are to be conducted, the PCO shall, with the approval of the SSA, establish a competitive range based on the ratings of each proposal against all evaluation criteria (see FAR 15.306(c)). Prior to the establishment of the competitive range, and after the decision to conduct discussions has been made, the PCO may enter into limited communications with offerors whose inclusion or exclusion from the competitive range is uncertain. These communications are limited in accordance with FAR 15.306(b)(1). The establishment of the competitive range is formally documented by the PCO in a competitive range determination. The PCO will only enter discussions with those offerors determined to be in the competitive range.

3.4.3. Discussions are tailored to each offeror's proposal and must be conducted by the PCO with every offeror within the competitive range. The scope and extent of discussions are a matter of PCO judgment. As a minimum, during discussions, the SSEB through the PCO shall indicate to, or discuss with, each offeror in the competitive range the following: (a) any adverse past performance information to which the offeror has not yet had an opportunity to respond, (b) significant weaknesses, and (c) any deficiencies that have been identified during the evaluation. This is accomplished through the release of Evaluation Notices (ENs). ENs are prepared by the SSEB and reviewed by the PCO and Legal Counsel. All ENs shall clearly indicate the type of exchange being conducted (e.g. clarification, communication, etc). Any EN addressing a proposal deficiency or weakness shall clearly indicate that a deficiency/weakness exists. The PCO is encouraged to discuss other aspects of the offeror's proposal that could in the opinion of the PCO be altered or explained to enhance materially the proposal's potential for award. However, the PCO is not required to discuss every area where the proposal could be improved as outlined at FAR 15.306(d) and (e). All discussions shall be documented in writing.

## **3.5 Final Proposal Revisions**

3.5.1. At the conclusion of discussions, each offeror still within the competitive range shall be given an opportunity to submit a Final Proposal Revision (FPR) by a common cutoff date and time, as established by the PCO (FAR 15.307(b)). When the PCO is not the SSA, the PCO shall obtain the SSA's concurrence prior to releasing the FPR request.

3.5.2. After receipt of the FPR, the SSEB shall complete evaluation of the FPR. The evaluation criteria from Section M or equivalent solicitation provision shall continue to be the basis for evaluation.

### **3.6. Documentation of Final Evaluation Results**

3.6.1. The SSEB shall prepare documentation of the evaluation results. The format should be in a written narrative report, although in rare instances, a decision briefing may be acceptable, depending on the complexity of the acquisition. The report shall be in sufficient detail to serve as a clear and concise record of the source selection decision and shall be included in the contract file. When only a decision briefing is utilized, it should contain supporting narrative or note pages to serve as a complete record of the decision process. The report or briefing charts with supporting narratives or script must be suitable to serve as the official record of SSEB proceedings in support of source selections. However, additional documentation of the SSEB proceedings may be maintained in accordance with Agency/Service supplements. The results of the evaluation shall be presented to the SSAC (when used) and to the SSA.

3.6.2. In the event that there is significant disagreement among the SSEB members regarding the evaluation results that should be presented to the SSAC (when used) and the SSA, a minority opinion(s) shall also be presented at the decision briefing providing the SSA with sufficient information to fully consider the minority view(s).

### **3.7. Conduct and Documentation of Comparative Analysis**

3.7.1. The SSAC, if utilized, shall review the evaluation and findings of the SSEB to ensure their accuracy, consistency, and supportability in accordance with the evaluation criteria and shall provide advice, analysis, briefings, and consultation as requested by the SSA. This will culminate in a written comparative analysis of proposals and award recommendation for the SSA's consideration.

3.7.2. In the event that there is significant disagreement among the SSAC members regarding the recommendation, a minority opinion shall be documented and presented to the SSA as part of the comparative analysis.

3.7.3. If an SSAC is not utilized, the SSEB should not conduct a comparative analysis of the proposals or make an award recommendation unless specifically requested by the SSA or required by the SSP.

### **3.8. Best-Value Decision**

3.8.1. The SSA shall select the source whose proposal offers the best value to the Government in accordance with established criteria in Section M or equivalent solicitation provision (see FAR Part 12).

3.8.2. This best-value decision shall be based on a comparative assessment of proposals against all source selection criteria in the solicitation, considering recommendations and minority opinions presented to the SSA. While the SSA may use reports and analyses prepared by others, the source selection decision shall represent the SSA's independent judgment.

3.8.3. The SSA shall document the supporting rationale in the SSDD.

### **3.9. Source Selection Decision Document**

3.9.1. An SSDD shall be prepared for all source selections; shall reflect the SSA's independent, integrated, comparative assessment and decision; shall include the rationale for any business judgments- tradeoffs made or relied on by the SSA (e.g., including benefits associated with additional costs); and shall be included in the source selection file. The SSDD shall be the single summary document supporting selection of the best-value proposal consistent with the stated evaluation criteria; it shall clearly explain the decision and document the reasoning used by the SSA to reach the decision consistent with FAR 15.308.

3.9.2. The SSDD is fully releasable to the Government Accountability Office and others authorized to receive proprietary and source selection information. When releasing a copy of the SSDD to offerors or to anyone not authorized to receive proprietary and source selection information, redacted material shall be limited to that which is proprietary and that which shall continue to be protected as source selection information. The need to redact such information is not a sufficient reason to refrain from preparing a properly written SSDD.

### **3.10. Debriefings**

The PCO shall ensure offerors are debriefed, if requested, in accordance with FAR 15.505 and FAR 15.506, as applicable. The PCO shall document the debriefing(s) provided to offeror(s). At the request of the PCO, members of the SST shall participate in debriefings to offerors. The PCO is encouraged to use the debriefing guide provided in Appendix B.

## **Chapter 4**

### **Documentation Requirements**

At a minimum, the following Source Selection Documents must be maintained in the contract file:

- 4.1. The SSP and any revisions thereto.
- 4.2. Non-disclosure and conflict of interest statements.
- 4.3. The draft RFP, along with all comments received and Government responses thereto, if a draft RFP is issued.
- 4.4. The RFP, any amendments thereto, and FPR request.
- 4.5. Past performance information (e.g., questionnaires; interviews; CPARS reports).
- 4.6. Offeror proposals, including all revisions, annotated with the date of receipt.
- 4.7. Competitive range and supporting documentation.
- 4.8. ENs, responses, and Government evaluation thereof.
- 4.9. Evaluation results (SSEB evaluation report and SSAC evaluation report if there was an SSAC).
- 4.10. Any comparative analysis and recommendations provided to the SSA.
- 4.11. The SSDD.
- 4.12. Debriefing documents.
- 4.13. Approval documentation (e.g., determination to award without discussions, FPR approval, etc.).

## Chapter 5

### Definitions

- 5.1. Clarifications** are limited exchanges between the Government and offerors that may occur when award without discussions is contemplated.
- 5.2. Communications** are exchanges, between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range.
- 5.3. Competitive Range** See FAR 15.306(c).
- 5.4. Deficiency** is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level. See FAR 15.001.
- 5.5. Discussions** are negotiations conducted in a competitive acquisition. Discussions take place after establishment of the competitive range.
- 5.6. Evaluation Notice (EN)** is the PCO's written notification to the offeror for purposes of clarifications, communications, or in support of discussions.
- 5.7. Lowest Price Technically Acceptable (LPTA)** is a process used in competitive negotiated contracting where the best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price. See FAR 15.101-2.
- 5.8. Performance Confidence Assessment** is an evaluation of the likelihood (or Government's confidence) that the offeror will successfully perform the solicitation's requirements; the evaluation is based upon past performance information.
- 5.9. Recency**, as it pertains to past performance information, is a measure of the time that has elapsed since the past performance reference occurred. Recency is generally expressed as a time period during which past performance references are considered relevant.
- 5.10. Relevancy**, as it pertains to past performance information, is a measure of the extent of similarity between the service/support effort, complexity, dollar value, contract type, and subcontract/teaming or other comparable attributes of past performance examples and the source solicitation requirements; and a measure of the likelihood that the past performance is an indicator of future performance.
- 5.11. Requirements Documents** are all aspects of the RFP that convey the needs of the Government to offerors, including the SOO, SOW, PWS, technical requirement documents, and system requirement documents.

**5.12. *Requiring Office*** is the entity (for example, a program management office or other organizational entity) responsible for translating user requirements into the requirements documents within the RFP that communicate those requirements to offerors.

**5.13. *Risk***, as it pertains to source selection, is the potential for unsuccessful contract performance. The consideration of risk assesses the degree to which an offeror's proposed approach to achieving the technical factor or subfactor may involve risk of disruption of schedule, increased cost or degradation of performance, the need for increased Government oversight, and the likelihood of unsuccessful contract performance. (For firm-fixed-price contracts, the reference to increased cost may be removed from the risk definition.)

**5.14. *Source Selection Advisory Council (SSAC)*** is a group of senior Government personnel who provide counsel during the source selection process and must prepare the comparative analysis of the SSEB's evaluation results, when directed by the SSA.

**5.15. *Source Selection Authority (SSA)*** is the official designated to make the source selection decision.

**5.16. *Source Selection Team (SST)*** is a team that is tailored to the unique acquisition, tasked with carrying out a source selection. Composition of the team generally consists of the SSA, PCO (if different from the SSA), SSAC, SSEB, Advisors, Cost or Price Experts, Legal Counsel, Small Business Specialists, and other subject-matter experts.

**5.17. *Significant Weakness*** in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. See FAR 15.001.

**5.18. *Source Selection Decision Document (SSDD)*** is the document that reflects the SSA's independent, integrated, comparative assessment and decision.

**5.19. *Source Selection Evaluation Board (SSEB)*** is a group of Government and, if needed, approved non-Government personnel, representing the various functional disciplines relevant to the acquisition.

**5.20. *Source Selection Plan (SSP)*** is a plan that describes how the source selection will be organized, how proposals will be evaluated and analyzed, and how source(s) will be selected.

**5.21. *Strength*** is an aspect of an offeror's proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance.

**5.22. *Weakness*** means a flaw in the proposal that increases the risk of unsuccessful contract performance. See FAR 15.001.



# Appendix A

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## ***Lowest Price Technically Acceptable Source Selection Process***

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## Preface

When using the LPTA source selection process, Chapters 1 through 5 of the tradeoff source selection process apply, with the exception of 3.1, 3.7, and 3.8. In addition, the comparative analysis discussed in Chapters 1 through 5 is not required for LPTA. Requirements for evaluation factors/subfactors, the evaluation process, and the best-value decision are established below.

### A.1. Introduction

The LPTA process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price. LPTAs may be used in situations where the Government would not realize any value from a proposal exceeding the Government's minimum technical or performance requirements, often for acquisitions of commercial or non-complex services or supplies which are clearly defined and expected to be low risk. The LPTA process does not permit tradeoffs between price and non-price factors. See FAR 15.101-2.

### A.2. Evaluation Factors and Subfactors

Evaluation factors and subfactors represent those specific characteristics that are tied to significant RFP requirements. They are the uniform baseline against which each offeror's proposal is evaluated allowing the Government to make a determination of acceptability. The evaluation factors and subfactors shall be set forth in the solicitation in enough depth to communicate what will be evaluated. The evaluation factors and subfactors shall be the primary determinant of the detailed information requested in the solicitation's instructions to offerors. If subfactors are used, they are to be evaluated separately. The SST will establish the factors and subfactors to be evaluated on an "acceptable" or "unacceptable" basis. These factors and subfactors will identify the minimum requirements that are key to successful contract performance. All LPTAs shall evaluate cost/price and the acceptability of the product or services.

A.2.1. Acceptability of product or service. The acceptability of product or service shall be addressed in every LPTA source selection through consideration of one or more non-price evaluation factors/subfactors. For LPTAs, this is done through the establishment of minimum requirements to be evaluated on an "acceptable" or "unacceptable" basis. Proposals are evaluated for acceptability, but not ranked using the non-price factors/subfactors. In order to be considered awardable, there must be an "acceptable" rating in every non-price factor/subfactor. LPTA non-price factors/subfactors may include the following:

A.2.1.1. Technical. The term "technical," as used herein, refers to non-price factors other than past performance. More than one "technical" factor can be used and titled to match the specific evaluation criteria appropriate for the RFP. The purpose of the technical factor is to assess whether the offeror's proposal will satisfy the Government's minimum requirements. Some of the aspects affecting an offeror's

ability to meet the solicitation requirements may include technical approach, key personnel and qualifications, facilities, and others. Once the minimum requirements are established, the team shall evaluate the offeror’s proposal against these requirements to determine whether the proposal is acceptable or unacceptable, using the ratings and descriptions outlined in Table A-1.

<b>Table A-1. Technical Acceptable/Unacceptable Ratings</b>	
Rating	Description
Acceptable	Proposal clearly meets the minimum requirements of the solicitation.
Unacceptable	Proposal does not clearly meet the minimum requirements of the solicitation.

A.2.1.2. Past Performance. Past performance shall be used as an evaluation factor within the LPTA process, unless waived by the PCO in accordance with FAR 15.101-2(b). It shall be evaluated in accordance with FAR 15.305 and DFARS 215.305. However, the comparative assessment in FAR 15.305(a)(2)(i) does not apply. Therefore, past performance will be rated on an “acceptable” or “unacceptable” basis using the ratings in Table A-2.

<b>Table A-2. Past Performance Evaluation Ratings</b>	
Rating	Description
Acceptable	Based on the offeror’s performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort, or the offeror’s performance record is unknown. (See note below.)
Unacceptable	Based on the offeror’s performance record, the Government has no reasonable expectation that the offeror will be able to successfully perform the required effort.

**Note:** In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available or so sparse that no meaningful past performance rating can be reasonably assigned, the offeror may not be evaluated favorably or unfavorably on past performance (see FAR 15.305 (a)(2)(iv)). Therefore, the offeror shall be determined to have unknown past performance. In the context of acceptability/unacceptability, “unknown” shall be considered “acceptable.”

A.2.1.2.1 Aspects of Past Performance Evaluation. The past performance evaluation results is an assessment of the offeror’s probability of meeting the minimum past performance solicitation requirements. This assessment is based on the offeror’s record of relevant and recent past performance information that pertain to the products and/or services outlined in the solicitation requirements.

There are two aspects to the past performance evaluation. The first is to evaluate whether the offeror's present/past performance is relevant or not relevant to the effort to be acquired. The criteria to establish what is recent and relevant shall be unique to each LPTA source selection. Therefore, the solicitation shall establish the criteria for recency and relevancy in relation to the specific requirement being procured. In establishing what is relevant for the acquisition, consideration should be given to what aspects of an offeror's contract history would give the most confidence that the offeror will satisfy the current procurement.

The second aspect of the past performance evaluation is to determine how well the contractor performed on the contracts. The past performance evaluation performed in support of a current source selection does not establish, create, or change the existing record and history of the offeror's past performance on past contracts; rather, the past performance evaluation process gathers information from customers on how well the offeror performed those past contracts.

### **A.3 Sources of Past Performance Information for Evaluation**

Sources are as follows:

- Past performance information may be provided by the offeror, as solicited.
- Past performance information may be obtained from questionnaires tailored to the circumstances of the acquisition.
- Past performance information shall be obtained from any other sources available to the Government to include, but not limited to, PPIRS or other databases; interviews with Program Managers, Contracting Officers, and Fee-Determining Officials; and the Defense Contract Management Agency.

The past performance evaluation team will review this past performance information and determine the quality and usefulness as it applies to performance competence assessment. See FAR 15.101-2(b)(1) for treatment of past performance relative to small business.

### **A.4. Small Business Participation**

In LPTAs, small business participation is exempted from evaluation in accordance with and DFARS 215.304(c)(i). However, in the event that it is an appropriate evaluation factor, it should be considered one of the "technical" factors/subfactors.

### **A.5. Price**

The LPTA procedure is applied to known, firm requirements, usually readily available in the commercial marketplace where a fair and reasonable price determination is based on adequate price competition. Therefore, price analysis will normally be used to determine the total

evaluated price to support the selection of the lowest priced, technically acceptable offeror. Although in exceptional cases when the determination of fair and reasonable price requires additional information, the PCO may conduct a cost analysis to support the determination of whether the proposed price is fair and reasonable. Regardless of the specific evaluation methodology, in order to enable offerors to make informed decisions on how best to propose, every solicitation will provide an adequate description of the cost or price evaluation. FAR Subpart 15.4 and Contract Pricing Reference Guides ([http://www.acq.osd.mil/dpap/cpf/contract\\_pricing\\_reference\\_guides.html](http://www.acq.osd.mil/dpap/cpf/contract_pricing_reference_guides.html)) provide additional guidance on cost or price evaluation.

#### **A.6. Best-Value Decision and Documentation**

A.6.1. The SSA shall select the source whose proposal offers the best value to the Government in accordance with established criteria in Section M or equivalent solicitation provision.

A.6.2. The SSA shall ensure the proposals are evaluated for acceptability but not ranked using the non-cost/price factors.

A.6.3. The SSA shall document the supporting rationale in the SSDD. The SSDD shall be the single summary document supporting selection of the best-value proposal consistent with the stated evaluation criteria.



# Appendix B

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## *Debriefing Guide*

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## **B.1. Purpose of Debriefing**

The PCO must debrief an offeror upon receipt of its written, timely request (See FAR 15.503 and 15.505). The debriefing serves to assure offerors that the Government properly evaluated their proposals and made the award determination in accordance with the RFP. Since each offeror puts considerable resources into preparing and submitting a proposal, fairness dictates that the PCO promptly debrief offerors and explain why a proposal was excluded from the competitive range or was successful or unsuccessful. Timely and thorough debriefings increase competition, encourage offerors to continue to invest resources in the Government marketplace, and enhance the Government's relationship and credibility with industry. The debriefing also provides feedback to offerors to assist in improving future proposal submissions. An effective debriefing often deters a protest by demonstrating that the Government conducted a thorough, fair evaluation and made a sound decision according to the established source selection methodology.

## **B.2. Requirements**

See FAR 15.505, Preaward debriefing of offerors; and FAR 15.506, Postaward debriefing of offerors for requirements relative to debriefings. Also reference FAR 3.104-4, Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

## **B.3. Notification of Debriefing**

The PCO should inform the offeror of the scheduled debriefing date by electronic means with immediate acknowledgment requested. The PCO should follow up with written notification to the offeror. If the offeror requests a later date, the PCO should require the offeror to acknowledge in writing that it was offered an earlier date, but requested the later date instead.

## **B.4. Debriefing Location**

The PCO is responsible for selecting the location of the debriefing. The location should provide a professional and non-distracting environment. Debriefings are normally held at Government facilities, however, they may be held at any facility that is mutually acceptable to all parties involved (see FAR 15.505). Although face-to-face debriefings are frequently used, the PCO may also conduct a debriefing by telephone or electronic means. It may be burdensome for an offeror to attend in person and the needs of the offeror should be afforded due consideration. Likewise, if some of the Government personnel are located at an installation other than where the debriefing will be conducted, they may participate by telephone or videoconference.

## **B.5. Debriefing Attendees**

B.5.1. Government Personnel. The PCO should normally chair and control the debriefing and select the Government attendees. It is extremely important to ensure appropriate Government personnel attend so that a meaningful debriefing is achieved.

The PCO's Legal Counsel should participate in preparation of the debriefing and also may attend the debriefing. Legal Counsel should attend the debriefing when the offeror's Legal Counsel will attend the debriefing. In the event there are indicators that a protest is likely, inform Legal Counsel. However, the PCO should not deny a debriefing because a protest is threatened or has already been filed.

B.5.2. Debriefed Offeror Personnel. The PCO should ask the offeror to identify all of the firm's individuals by name and position who will attend the debriefing. Normally, do not restrict the number of personnel the debriefed offeror may bring unless there are space limitations.

## **B.6. Preparing for the Debriefing**

The PCO should ensure that documents relevant to the source selection have been thoroughly reviewed by the debriefing team and are readily available to the Government during the debrief. A best practice is to have those documents available, during the debriefing, in a separate Government caucus room.

The PCO should conduct a "dry run" prior to the actual debrief. Role-playing is a vital part of the dry run. Teams are encouraged to simulate interactions with disappointed or disgruntled offerors and practice addressing questions on contentious issues. The PCO should develop a set of anticipated questions that offerors might ask at the debriefing (See Section B.9 for sample questions). In anticipating possible questions, it is often useful to review questions asked during the discussion phase (if held) of the competition. Also, the PCO should ask each offeror scheduled for a debriefing to submit written questions in advance. The PCO should coordinate responses with Legal Counsel.

A poorly prepared debriefing is the surest way to lose the confidence of the offeror and increase the prospects of a protest. Because debriefings are time sensitive, preparation must begin before proposal evaluation is complete. The PCO should brief all Government personnel that will attend the debriefing on their roles, level of participation and expected demeanor during the debriefing.

## **B.7. Outline for the Debriefing**

The following is a general outline for a typical debriefing. See FAR 15.505 (preaward) and FAR 15.506 (postaward) for specific requirements.

1. Introduction
2. Purpose of the Debriefing
3. Ground Rules and Agenda
4. Source Selection Process
5. Evaluation Factors/Subfactors
6. Evaluation Results for the Offeror's Proposal

7. Rationale for Eliminating Offeror from Competition (pre-award debriefing only)/ Rationale for Award Decision Based on the SSA's Decision Document (postaward debriefing only)
8. Responses to Relevant Questions
9. The PCO's statement that the debrief has concluded.

## **B.8 Conducting the Debriefing**

B.8.1. Roles. The PCO, as the Chair, controls the debriefing. The PCO may defer to others for specific portions of the debriefing but will control all exchanges. There are many different approaches that the PCO can take in leading the debriefing. One of the common approaches is for the PCO to conduct the entire debriefing presentation and defer to his team to answer questions as needed. Another approach is for the PCO to start the debriefing and then turn over portions of the presentation to experts in those areas, e.g. Technical Team Leader presents the Technical evaluation portion of the presentation.

B.8.2. Questions. The PCO should advise offerors at the start that the Government believes the presentation will address any questions they may have. Additional questions may be answered during the debrief. The PCO should be open to discussion but not drawn into a debate. A Government caucus may be needed to address some questions. The Government should request that the questions be written for the caucus as needed.

If the debriefing team cannot adequately answer additional questions presented in writing by the offeror at the debriefing, the PCO should provide written answers as soon as possible. However, promising additional information at a later date should be avoided if possible, because the period for protest may be deemed to start from the time new relevant information is provided.

B.8.3. Information Not Appropriate for Disclosure.

B.8.3.1. The debriefing team should not disclose *documentation that was not presented to/considered by the SSA*. The crux of any postaward debriefing is the SSA award decision and whether that decision is well supported and resulted from a source selection conducted in a thorough, fair and sound manner consistent with the requirements and source selection methodology established in the RFP. The key of any preaward debrief is the offeror's elimination from the competitive range.

B.8.3.2. The debriefing team shall not discuss validity of requirements or prohibited information (see FAR 15.506(e)).

B.8.3.3. The debriefing team shall not provide names of individuals providing reference information about an offeror's past performance. In addition, the names of individuals on the SST, not participating in the debriefing, should not be disclosed. However, the name of the SSA may be revealed in postaward debriefings.

B.8.3.4. The debriefing team must not disclose any unit prices which are not freely releasable under the Freedom of Information Act. Even though the FAR includes unit prices in the list of information to be provided in a debriefing, unit prices may not be releasable.

B.8.4. Offeror Feedback. The PCO should allow the offeror an opportunity to provide feedback regarding the quality of the solicitation document, e.g., proposal instructions, the appropriateness of discussions, and the source selection process itself.

B.8.5. Debriefing documentation. The debriefing slides, the offeror's request for debriefing (if any), previously submitted questions, any handouts, a list of written questions/answers, and any other relevant documents, must be included in the source selection file.

## **B.9. Sample Offeror Questions That May Be Used for “Dry Run”**

As referenced in Section B.6, teams are encouraged to have a dry run prior to the actual debrief. The following is a list of sample questions the team should be prepared to address during the debriefing. Answers should be tailored to the unique circumstances of each acquisition and should, where possible, be tied directly to language within the RFP (particularly Sections L and M). The “notes” below are provided as points for consideration and are not intended to be responses.

Topic Area 1: The Government’s evaluation of the significant weaknesses or deficiencies in the proposal.

- a) Please explain the basis for the strengths, weaknesses, or deficiencies in our proposal for each evaluation factor and subfactor.

NOTE: Typically this is done as part of the debriefing presentation; however, you may not disclose detailed information regarding the strengths, weaknesses and/or deficiencies in other proposals. Such a disclosure could amount to a point-by-point comparison of proposals, prohibited per FAR 15.506(e), and/or could involve disclosure of protected/privileged information. However, if a strength is evident from the awarded contract (for example, a more attractive delivery schedule) the PCO may be able to highlight that fact—consult Legal Counsel for guidance.

- b) Did you discuss all weaknesses, significant weaknesses, and deficiencies?

NOTE: If discussions were held, all significant weaknesses and deficiencies, at a minimum, should have been addressed and documented. The FAR does not require discussion of all weaknesses, although it is considered a best practice.

- c) Were there any solicitation requirements that we failed to address? If so, what were they?

NOTE: If discussions were held, these matters should have been addressed and documented.

- d) How is the evaluation consistent with Sections L and M of the solicitation?
- e) Were any deficiencies identified by the Government during discussions not adequately addressed in our response to your ENs? If so, how did the evaluation of the deficiencies change during the evaluation of our FPR?
- f) Were there any specific considerations that precluded us from being selected as the awardee? If so, what were those considerations?

NOTE: If discussions were held, these matters should have been addressed.

- g) What, if anything, did the Government desire that was missing from our proposal?

NOTE: Be careful how you answer—the Government does not evaluate based on “desires” but rather on requirements contained within the RFP.

- h) Please explain how past performance was evaluated. What was our rating? How was that rating applied to the source selection process?
- i) Was experience evaluated? If so, what was our rating and how was that information used in the source selection process?
- j) Please explain the procedure for the evaluation of risk? What risks were identified in our proposal? How did they impact the rating of our proposal?

Topic Area 2: The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror; and the overall ranking of all offerors, when any ranking was developed by the agency during the source selection. FAR 15.506(e): the debriefing shall not include point-by-point comparisons of the debriefed offeror’s proposal with those of other offerors. Moreover, the debriefing shall not reveal any information prohibited from disclosure by FAR 24.202 or exempt from release under the Freedom of Information Act.

- a) Please provide the evaluated cost or price and technical, management, and past performance ratings for our proposal and all other offerors.

NOTE: Information on the overall evaluated cost or price and technical ratings is not provided for all offerors; only for the successful offeror and the offeror being debriefed.

- b) Please provide the overall ranking for all offerors.

NOTE: Generally an overall ranking is not developed. However, if an overall ranking was developed during the source selection process, this shall be provided during the

debriefing. The name of every offeror shall be redacted except for the offeror being debriefed and the successful offeror(s).

- c) In what areas was our proposal considered “overpriced”?
- d) Were we compliant with all technical requirements?

NOTE: If discussions were held, these matters should have been addressed.

- e) In the risk portion of the technical/management area, what criteria did the Government use to determine the final evaluation ratings? How was this risk reflected in the other areas of the evaluation?
- f) Was there anything not required by the solicitation that we could have offered that might have made us more competitive for the award?

NOTE: An answer to this question would be conjecture, which is not appropriate.

- g) Were our responses to ENs adequate? If not, how could we have improved our responses? How were our responses to ENs on past performance evaluated?

Topic Area 3: A summary of the rationale for award.

- a) Please explain in detail the methodology used to determine which proposal offered the greatest overall value to the Government, especially with respect to any comparisons/trade-offs made between technical factors and costs proposed.
- b) Please provide a copy of the SSDD.

NOTE: If the SSDD is to be released to offerors, it should be redacted and appropriate coordination with Legal Counsel should be obtained.

Topic Area 4: Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

NOTE: Answers to questions relative to source selection procedures should reference Section M language.

- a) Please describe the evaluation process used for this procurement.
- b) How important was cost in the source selection decision relative to past performance and technical considerations?
- c) If the costs were “normalized” please explain how the normalization was conducted.
- d) Was a cost realism analysis used? If so, please describe the process used.

- e) Did the Government prepare an independent cost estimate?
- f) What was the basis for not selecting us?
  
- g) Did the Government make a cost/technical trade-off?
  
- h) In order of importance, which evaluation criteria were the most critical to the determination of our overall rating?
  
- i) What were the most critical evaluation criteria that proved to be tiebreakers in the evaluation of proposals?
  
- j) Please identify any information not contained in our proposal that was used by the evaluators in assessing our offer.

Topic Area 5: Other potential questions.

- a) Who was on the Source Selection Advisory Committee?

NOTE: In order to prevent offerors from contacting individuals after the debriefing and to avoid creating tension in ongoing working relationships on existing Government contracts, do not disclose the names of individual evaluators or members of the SST (e.g., the SSEB, SSAC). However, those people in attendance at the debriefing should be introduced.

- b) Did the SSA and the SSAC (if applicable) fully accept the recommendations of their respective staffs (SSAC or SSEB)? If not, why not? Did either reach any independent determinations? If so, what independent determinations were made?
  
- c) Were there any common areas of weaknesses or deficiencies in the proposals in the competitive range?

NOTE: The debriefing team shall avoid point-by-point comparisons of proposals. In addition, providing detailed information regarding the strengths, weaknesses or deficiencies of other proposals may disclose protected/privileged information. See FAR 15.506(e).

- d) What management structure did the agency consider as optimal for performing the contract? How did our proposal rate against this standard?

NOTE: The Government does not have any preconceived ideas regarding how to meet the RFP requirements.

- e) Please identify any and all evaluation factors, subfactors, and elements not identified in the solicitation that were used to evaluate the proposals.

NOTE: There should *never* be any evaluation factors, subfactors and/or elements not identified in the solicitation that were used to evaluate proposals.