

## Contract Formation

# Activity 18: Contracting by Negotiation

*Procedures governing competitive and noncompetitive negotiated acquisitions.*

**Related Flow Charts:** [Flow Chart 18](#)

**Related Courses:** [CON 090](#), [CON 124](#), [CON 170](#), [FCN 190](#), [CON 200](#), [CON 290](#), [HBS 428](#)

Tasks	FAR Reference(s)	Additional Information
1. Determine that the acquisition is above the simplified acquisition threshold (SAT), sealed bidding is not appropriate, and the simplified procedures for certain commercial items described in FAR Subpart 13.5 are not applicable.	FAR 6.401 Sealed bidding and competitive proposals [competition requirements]. FAR 13.500 General [simplified procedures for certain commercial items]. FAR Part 15 Contracting by negotiation.	Select negotiation procedures if any one of the following is true: <ul style="list-style-type: none"><li>• There is not a reasonable expectation of receiving more than one offer;</li><li>• Time does not permit the solicitation, submission, and evaluation of sealed bids;</li><li>• Award will be based in part on comparative criteria other than price and price-related factors; or</li><li>• Discussions with offerors are necessary and cannot be limited to the question of technical acceptability.</li></ul>

Tasks	FAR Reference(s)	Additional Information
<p>2. Determine whether to conduct presolicitation exchanges.</p>	<p>FAR 15.101 Best value continuum [source selection processes and techniques].</p>	<p>Exchanges of information among all interested parties, from the earliest identification of a requirement through receipt of proposals, are encouraged. Any exchange of information must be consistent with procurement integrity requirements (see FAR 3.104).</p> <p>Some techniques to promote early exchanges of information are:</p> <ul style="list-style-type: none"> <li>• Industry or small business conferences;</li> <li>• Public hearings;</li> <li>• Market research, as described in FAR Part 10;</li> <li>• One-on-one meetings with potential offerors;</li> <li>• Presolicitation notices;</li> <li>• Draft RFPs;</li> <li>• RFIs;</li> <li>• Presolicitation or preproposal conferences; and</li> <li>• Site visits.</li> </ul>
<p>3. Issue a synopsis of proposed contract action.</p>	<p>FAR 5.203 Publicizing and response time [synopses of proposed contract actions].</p> <p>FAR 12.603 Streamlined solicitation for commercial items.</p>	<p>Transmit a notice of the proposed contract action to the Governmentwide Point of Entry (GPE). The notice must be published at least 15 days before issuance of a solicitation, or a proposed contract action the Government intends to solicit and negotiate with only one source under the authority of 6.302, except that, for acquisitions of commercial items, the contracting officer may—</p> <ul style="list-style-type: none"> <li>• Establish a shorter period for issuance of the solicitation; or</li> <li>• Use the combined synopsis and solicitation procedure (see FAR 12.603).</li> </ul> <p>Establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond to each proposed contract action, (including actions where the notice of proposed contract action and solicitation information is accessible through the GPE), in an amount estimated to be greater than \$25,000,</p>

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		<p>but not greater than the simplified acquisition threshold; or each contract action for the acquisition of commercial items in an amount estimated to be greater than \$25,000.</p> <p>Consider the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency, when establishing the solicitation response time.</p> <p>Except for the acquisition of commercial items, agencies must allow at least a 30-day response time for receipt of bids or proposals from the date of issuance of a solicitation, if the proposed contract action is expected to exceed the simplified acquisition threshold.</p> <p>Agencies must allow at least a 30 day response time from the date of publication of a proper notice of intent to contract for architect-engineer services or before issuance of an order under a basic ordering agreement or similar arrangement if the proposed contract action is expected to exceed the simplified acquisition threshold.</p> <p>Agencies must allow at least a 45-day response time for receipt of bids or proposals from the date of publication of the notice required in 5.201 for proposed contract actions categorized as research and development if the proposed contract action is expected to exceed the simplified acquisition threshold.</p>

4. Determine whether to use the advisory multi-step process.

FAR 15.202. Advisory multi-step process [solicitation and receipt of proposals and information].

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4a. Prepare a pre-solicitation notice with a general description of the scope or purpose along with the evaluation criteria.	FAR 15.202(a) Advisory multi-step process [solicitation and receipt of proposals].	<p>Information sought may be limited to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance, and limited pricing information).</p> <p>At a minimum, the notice must contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition. This process should not be used for multi-step acquisitions where it would result in offerors being required to submit identical information in response to the notice and in response to the initial step of the acquisition.</p>
4b. Synopsise the special pre-solicitation notice.	<p>FAR 5.204 Pre-solicitation notices.</p> <p>FAR 15.202(a) Advisory multi-step process [solicitation and receipt of proposals].</p>	
4c. Evaluate the information received in response to the special pre-solicitation notice.	FAR 15.202(b) Advisory multi-step process [solicitation and receipt of proposals].	Evaluate all responses in accordance with the evaluation criteria stated in the pre-solicitation notice.
4d. Advise each respondent in writing either that it will be invited to participate in the resultant acquisition or, based on the information submitted, that it is unlikely to be a viable competitor.	FAR 15.202(b) Advisory multi-step process [solicitation and receipt of proposals].	Advise respondents considered not to be viable competitors of the general basis for that opinion. Respondents must be informed that, notwithstanding the advice provided by the Government in response to their submissions, they may participate in the resultant acquisition.
5. Prepare the source selection plan.	<p>FAR 2.101 Source selection information [defintions].</p> <p>FAR 7.105(b) Plan of action [contents of written acquisition plans].</p>	The most important aspect of the source selection plan is determining the source selection technique that will be used.

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5a. Determine the source selection technique and evaluation factors.	FAR 15.101 Best value continuum.	<p>Decide between using a tradeoff process or the lowest price technically acceptable (LPTA) source selection process.</p> <ul style="list-style-type: none"> <li>• A tradeoff process is appropriate when it may be in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror.</li> <li>• The LPTA source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price.</li> </ul>
5(a)(i). Determine the non-price evaluation factors and subfactors and their relative importance to each other. State this relationship in the source selection plan.	<p>FAR 15.101-2 Lowest price technically acceptable source selection process.</p> <p>FAR 15.304 Evaluation factors and significant subfactors [source selection].</p>	<p>Select those non-price evaluation factors and subfactors that will be most advantageous to the Government in making the award decision and distinguishing the offerors.</p> <p>Factors should be tailored to the acquisition; do not merely use the same factors in every acquisition.</p> <p>If using LPTA, past performance need not be an evaluation factor. If the contracting officer elects to consider past performance as an evaluation factor, it must be evaluated in accordance with FAR 15.305. However, the comparative assessment in FAR 15.305(a)(2)(i) does not apply. If the contracting officer determines that a small business' past performance is not acceptable, the matter must be referred to the Small Business Administration (SBA) for a Certificate of Competency determination, in accordance with the procedures contained in FAR Subpart 19.6 and 15 U.S.C. 637(b)(7).</p>

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5(a)(ii). If using the tradeoff process, determine the relative importance of the factors and subfactors, and state their relative importance in the solicitation.	<p>FAR 15.304(d) Evaluation factors and subfactors [source selection].</p> <p>FAR 15.305(a) Proposal evaluation [source selection].</p>	<p>A number of different methods of specifying the relative importance of factors may be used, to include:</p> <ul style="list-style-type: none"> <li>• Offerors are expected to assume that all non-price/cost evaluation criteria are approximately equal in importance.</li> <li>• List the factors or subfactors and state that they are listed in descending order of importance.</li> <li>• Provide an adjectival description of the importance of each evaluation factor.</li> </ul> <p>Disclose the numerical point score or percentage for each evaluation criterion in the request for proposal (RFP).</p>
5(a)(iii). If using the tradeoff process, determine the relationship of cost/price factors to non-cost/-price factors, and state this relationship in the solicitation.	FAR 15.304(e) Evaluation factors and significant subfactors [source selection].	<p>At a minimum, the solicitation must state whether all evaluation factors other than cost or price, when combined are:</p> <ul style="list-style-type: none"> <li>• Significantly more important than cost or price;</li> <li>• Approximately equal to cost or price; or</li> <li>• Significantly less important than cost or price.</li> </ul> <p>This requirement is only applicable when the tradeoff process is being used. When the LPTA proposal process is being used, the RFP should state that price is the deciding factor.</p>
5b. Establish the source selection team.	FAR 15.303(b)(1) Responsibilities [source selection].	The evaluation team should include appropriate contracting, legal, logistics, technical, and other expertise to ensure comprehensive evaluation of offers.
5(b)(i). Determine what cost and/or management information will be provided to evaluators.	FAR 15.305 Proposal evaluation [source selection].	<p>Ensure that all evaluators have access to information of value in performing their respective roles.</p> <p>For example, technical evaluators may be provided limited cost information for determining whether the technical approach and price are consistent and represent a reasonable amount of risk (i.e., for cost realism analysis).</p>

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<p>5(b)(ii). Brief and advise evaluators on the requirements and evaluation criteria.</p>	<p>FAR 3.104 Procurement integrity [improper business practices and personal conflicts of interest].</p> <p>FAR 15.303(c) Responsibilities [source selection].</p> <p>FAR 15.304 Evaluation factors and significant factors [source selection].</p> <p>FAR 15.306 Exchanges with offerors after receipt of proposals [source selection].</p>	<p>Instructions should be clear and enumerate all responsibilities of evaluator(s) and concerns of the contracting officer.</p> <p>The evaluation should normally include:</p> <ul style="list-style-type: none"> <li>• An analysis of technical and managerial elements of the proposal;</li> <li>• An overall comparative assessment of each proposal's potential for award;</li> <li>• Initial ratings and/or analysis of how each proposal fares against the solicitation's factors and, if any, subfactors;</li> <li>• Factual support for all findings and conclusions;</li> <li>• Consideration of any need for communications to clarify offerors' proposals and, if necessary, specifics on what must be asked of the offeror; and</li> <li>• Consideration of any need to amend or cancel the RFP, and, if necessary, the nature of any such amendment.</li> </ul> <p>When award will be made to the firm with the proposal that offers the best combination of price and non-price factors, the evaluation should include details on the proposal's specific deficiencies and relative strengths.</p> <p>Recommended negotiation objectives may be included when discussions are expected.</p> <p>Each evaluation should be signed. The head of the evaluation team should sign the overall evaluation report. Other signatures may be required by agency policy.</p> <p>As appropriate, provide an orientation, advice, and answers to questions related to the evaluation process.</p>
<p>6. Determine what pricing information to request.</p>		<p>See Activity 19: Cost/Pricing Information from Offerors for further discussion.</p>

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<p>7. Determine whether to require each offeror to submit part of its proposal through oral presentations.</p>	<p>FAR 15.102 Oral presentations [source selection processes and techniques].</p>	<p>If oral presentations are to be used, ensure that the solicitation includes ground rules that provide prospective offerors with information sufficient to prepare for the oral presentation. The solicitation may describe:</p> <ul style="list-style-type: none"> <li>• Types of information to be presented orally and the associated evaluation factors that will be used;</li> <li>• Qualifications for personnel that will be required to provide the oral presentation(s);</li> <li>• Requirements for, and any limitations and/or prohibitions on, the use of written material or other media to supplement the oral presentations (e.g., the number copies of any visual aids that must be provided to the Government before the presentation begins);</li> <li>• Location, date, and time for the oral presentations. Whenever possible, include information on the availability of support equipment (e.g., overhead projector);</li> <li>• Restrictions governing the time permitted for each oral presentation; and</li> <li>• Scope and content of exchanges that may occur between Government and offeror participants at time of the oral presentations, including whether or not discussions as described at FAR 15.306(d) will be permitted.</li> </ul> <p>Only select areas/topics that directly relate to evaluation factors. Typical areas/topics may include understanding of the requirement, offeror’s capability or work plans or approaches.</p> <p>In deciding what information to obtain through an oral presentation, consider the Government’s ability to adequately evaluate the information, the effect on the efficiency of the acquisition, the cost, and small businesses.</p>
<p>8. Prepare the solicitation.</p>	<p>FAR 12.603(c) Streamlined solicitation for commercial items. FAR 15.203 Request for proposals.</p>	<p>Select the appropriate solicitation format:</p> <ul style="list-style-type: none"> <li>• Streamlined synopsis/solicitation for commercial items: <ul style="list-style-type: none"> <li>○ Tailor Item 17 of the synopsis to the acquisition</li> </ul> </li> </ul>

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	FAR 15.204 Contract format [solicitation and receipt of proposals and information].	<p>requirement and include the appropriate information identified in FAR 12.603(c).</p> <ul style="list-style-type: none"> <li>• Commercial item solicitation where streamlined synopsis/solicitation is not appropriate: <ul style="list-style-type: none"> <li>○ Prepare the RFQ using the SF 1449, Solicitation/Contract/Order for Commercial Items. Identify and incorporate all provisions and clauses required by FAR Part 12.</li> <li>○ To the maximum extent practicable, follow the format requirements at FAR 12.303.</li> <li>○ Complete the solicitation-related portion of SF 1449.</li> <li>○ Insert the provisions and clauses required by FAR and agency guidance appropriately modified for the acquisition.</li> <li>○ Tailor the FAR 52.212-1, Instructions to Offerors—Commercial Items, and FAR 52.212-4, Contract terms and Conditions—Commercial Items, to adapt to market conditions.</li> <li>○ Never tailor any clause or include any term or condition that is inconsistent with commercial practice for the item unless a waiver to include the requirement is obtained following agency procedures.</li> <li>○ Never tailor the paragraphs of FAR 52.212-4 that implement statutory requirements (e.g., payment and invoicing requirements).</li> </ul> </li> <li>• Noncommercial item letter request for proposals (RFP) when soliciting less than full and open competition for other than simplified acquisition. Use of a letter RFP does not relieve the contracting officer from complying with other FAR requirements. The letter RFPs should be as complete as possible and, at a minimum, should contain the following:</li> </ul>

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		<ul style="list-style-type: none"> <li>○ RFP number and date;</li> <li>○ Name, address (including electronic address and facsimile address, if appropriate), and telephone number of the contracting officer;</li> <li>○ Type of contract contemplated;</li> <li>○ Quantity, description, and required delivery dates for the item;</li> <li>○ Applicable certifications and representations;</li> <li>○ Anticipated contract terms and conditions;</li> <li>○ Instructions to offerors and evaluation criteria for other than sole source actions;</li> <li>○ Proposal due date and time; and</li> <li>○ Other relevant information (e.g., incentives, variations in delivery schedule, cost proposal support, and data requirements).</li> </ul> <ul style="list-style-type: none"> <li>● Noncommercial item RFP using the Uniform Contract Format: <ul style="list-style-type: none"> <li>○ The contract provisions in Parts I, II, and III of the Uniform Contract Format constitute a complete contract except for the prices or costs and fee in Part B, which the offeror must fill out when the proposals submitted.</li> <li>○ Standard Form 33 (Solicitation, Offer and Award) FAR 53.301-33; or Optional Form 308 (Solicitation and Offer—Negotiated Acquisition) may be used as the cover sheet for the RFP and will constitute Section A of the contract.</li> </ul> </li> <li>● Master solicitation when appropriate for repetitive requirements: It is a document containing special clauses and provisions that have been identified as essential for the repetitive acquisition of a specific type of supply or service. When using a master solicitation: <ul style="list-style-type: none"> <li>○ Provide a copy to potential sources and request</li> </ul> </li> </ul>

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		<p>that they retain it for continued and repetitive use.</p> <ul style="list-style-type: none"> <li>○ Assure that individual solicitations reference the date of the current master solicitation and any changes thereto.</li> <li>○ Make copies of the master solicitation available on request.</li> <li>○ Provide cognizant contract administration activities with a current copy of the master solicitation.</li> </ul>
<p>9. Specify the method of submission of offers and information.</p>	<p>FAR 4.502(a) Policy [electronic commerce in contracting].</p> <p>FAR 15.203 Request for proposals.</p> <p>FAR 15.209(a) Solicitation provisions and contract clauses [solicitation and receipt of proposals and information].</p>	<p>There is no standard FAR solicitation provision specifying the method to be used. The use of electronic commerce is encouraged whenever practicable or cost effective.</p>
<p>10. When applicable, hold pre-award conference or site visits.</p>	<p>FAR 15.201 Exchanges with industry before receipt of proposals.</p>	<p>A conference may be used:</p> <ul style="list-style-type: none"> <li>● To explain a complex requirement and/or technical evaluation factors.</li> <li>● When contractors need to physically inspect work sites or property to be furnished by the Government.</li> <li>● To highlight or explain changes in a longstanding requirement.</li> <li>● When there has been a long period of time between awards.</li> </ul> <p>When contractor inquiries suggest that key terms and conditions are vague, ambiguous, or unattractive to industry.</p>

Tasks	FAR Reference(s)	Additional Information
11. Issue the RFP.	FAR 15.205 Issuing solicitations. FAR 5.102 Availability of solicitations.	The contracting officer must make available through the GPE solicitations synopsisized through the GPE, including specifications, technical data, and other pertinent information determined necessary by the contracting officer. Transmission to the GPE must be in accordance with the interface description available via the Internet at <a href="https://www.fbo.gov">https://www.fbo.gov</a>
12. Respond to questions from potential offerors, if any.	FAR 15.201(d) [Exchanges with potential offerors].	After release of the solicitation, the contracting officer must be the focal point of any exchange with potential offerors.
13. Determine if the solicitation must be amended or canceled.	FAR 15.206 Amending the solicitation [solicitation and receipt of proposals and information].	Consider changes in government requirements, such as changes in funding, requirements, specifications or delivery schedules.  If an amendment proposed is so substantial, that additional sources likely submitted based on the amendment, then cancel the original solicitation and issue a new one.  Resolicitation may expand the filed of competition.  Document in writing proposed changes and complex concerns.
13a. Issue the solicitation amendment notice.	FAR 15.206(c) Amending the solicitation [solicitation and receipt of proposals and information].	Amendments issued before the established time and date for receipt of proposals must be issued to all parties receiving the solicitation even if an offeror has been eliminated from the competition.
13b. Issue the cancelation notice.	FAR 15.206(e) Amending the solicitation [solicitation and receipt of proposals and information].	When canceling a solicitation, return all proposals received, and purge any proposals received electronically from both primary and backup data storage systems.

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14. Receive proposals.	<p>FAR 3.104 Procurement integrity [improper business practices and personal conflicts of interest].</p> <p>FAR 15.207 Handling proposals and information [solicitation and receipt of proposals and information].</p>	<p>Establish an effective and understandable system:</p> <ul style="list-style-type: none"> <li>• Identify the quotations/proposals received, the firms that submitted them, and the items included with each.</li> <li>• When appropriate, record the quoted/proposed prices.</li> <li>• Mark multiple copies of a quote/proposals.</li> <li>• Establish a system to identify who currently has each copy of the quotation/proposal.</li> </ul> <p>Safeguard all procurement-sensitive information and proprietary source selection information.</p> <p>If any portion(s) of an electronic or facsimile proposal is unreadable, immediately notify the quoter/offeree and permit resubmission of the unreadable portion(s).</p> <p>Consider the resubmission as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the prescribed time and format requirements for resubmission.</p>
15. If applicable, determine whether to accept any late proposals.	FAR 15.208 Submission, modification, revision, and withdrawal of proposals [solicitation and receipt of proposals and information].	Follow the procedures for late bids to the extent practicable.
16. Eliminate proposals that will not receive further consideration.	FAR 9.405(d) Effect of listing [debarment, suspension, and ineligibility].	For example, do not give further consideration to a proposal from a firm known to be debarred, suspended, or proposed for debarment, unless the agency head or a designee determines, in writing, that there is a compelling reason.
17. If applicable, accept withdrawals.	FAR 15.208 Submission, modification, revision, and withdrawal of proposals [solicitation and receipt of proposals and information].	<p>Proposals can be withdrawn at any time up to acceptance of the contract. Acceptance may be indicated by delivery or by written acceptance.</p> <p>One copy of a proposal withdrawn after the time set for receipt of offers should be retained in the contract file.</p>

Tasks	FAR Reference(s)	Additional Information
18. Determine whether amendment or cancelation after receipt of RFP is necessary.	FAR 15.206(a) Amending the solicitation [solicitation and receipt of proposals and information].	
18a. Issue the solicitation amendment notice.	FAR 15.206(c) Amending the solicitation [solicitation and receipt of proposals and information].	Amendments issued before the established time and date for receipt of proposals must be issued to all parties receiving the solicitation even if an offeror has been eliminated from the competition.
18b. Issue the cancelation notice.	FAR 15.206(e) Amending the solicitation [solicitation and receipt of proposals and information].	When canceling a solicitation, return all proposals received, and purge any proposals received electronically from both primary and backup data storage systems.
19. Conduct evaluations to include communications with orders for minor or clerical errors or clarification.	<p>FAR 15.305 Proposal evaluation [source selection].</p> <p>FAR 15.306(a) Clarifications and award without discussions.</p> <p>FAR 15.404 Proposal analysis [contract pricing].</p>	<p>Evaluations of technical acceptability must be based solely on factors and subfactors in the solicitation, including any special standards of responsibility and/or non-price factors for evaluating technical acceptability.</p> <p>Ratings or scoring must be based solely on evaluation factors identified in solicitation and the established methodology and standards for evaluation.</p>
20. If applicable, conduct oral presentations.	FAR 15.102 Oral presentations [source selection processes and techniques].	Oral presentations may occur at any time in the acquisition process, and are subject to the same restrictions as written information, regarding timing (see FAR15.208) and content (see FAR 15.306).

Tasks	FAR Reference(s)	Additional Information
<p>20a. Prepare for oral presentations.</p>	<p>FAR 15.102(a) Oral presentations [source selection processes and techniques].</p> <p>FAR 15.102(d) Oral presentations [source selection processes and techniques].</p>	<p>Establish an environment that will facilitate effective oral presentations. Consider the following:</p> <ul style="list-style-type: none"> <li>• Select offerors for oral presentation based on solicitation criteria.</li> <li>• Determine the order of the presenters.</li> <li>• Obtain advance copies of presentation materials for the evaluation team.</li> <li>• For on-site presentations, set up the facility.</li> <li>• Prepare the evaluation team by: <ul style="list-style-type: none"> <li>○ Reviewing the ground rules in the solicitation;</li> <li>○ Reminding team members of their roles and responsibilities, including dialogue limitations; and</li> <li>○ Stressing the need for compliance with policies.</li> </ul> </li> <li>• Review documentation requirements.</li> </ul>
<p>20b. Manage the exchange of information during presentations.</p>	<p>FAR 3.104 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.</p> <p>FAR 15.102 Oral presentations [source selection processes and techniques].</p> <p>FAR 15.306 Exchanges with offerors after receipt of proposals.</p>	<p>Control the exchange of information by ensuring that dialogue does not exceed the FAR-specified limitations.</p> <p>Prior to the competitive range determination, dialogue must be limited to clarifications or communications.</p> <p>After the competitive range determination, dialogue may be expanded to include discussions. In particular, ensure that government team members do not engage in conduct that appears to reveal any proprietary information without the offeror's permission to another offeror.</p>

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20c. Document the presentations.	<p>FAR 15.102(e) Oral presentations [source selection processes and techniques].</p> <p>FAR 15.102(f) Oral presentations [source selection processes and techniques].</p>	<p>Require the offeror to put in writing any information that may be included in the contract. Incorporation by reference of oral statements is not permitted.</p> <p>If you record the presentation of one offeror, then similarly record all presentations.</p> <p>Documentation should be sufficient to permit evaluators to verify information and to support the Government's position in a protest.</p>
20d. Use presentation information in offer evaluation.	FAR 15.102(a) Oral presentations [source selection processes and techniques].	Immediately apply information from the presentations in evaluating proposals and preparing for additional clarification, communications, or discussions.
21. Determine whether to award without discussions or establish a competitive range and conduct discussions.	FAR 52.215-1 Instructions to Offerors—Competitive Acquisition.	
21a. Make award without discussions.	FAR 15.303 Responsibilities [source selection].	<p>Make award without discussions if:</p> <ul style="list-style-type: none"> <li>• The solicitation states that the Government intends to evaluate proposals and make award without discussions; and</li> <li>• Offer evaluation reveals that award without discussions will provide best value to the Government.</li> </ul>
21(b)(i). Establish the competitive range.	FAR 15.306(c)(1) Competitive range [exchanges with offerors after receipt of proposals].	Based on the ratings of each proposal against all the evaluation criteria in the solicitation, establish a competitive range comprised of all of the most highly rated proposals.
21(b)(ii). Document the competitive range decision.	FAR 4.803 Contents of contract files.	Document the decision as required to comply with the source selection plan and any applicable agency or activity requirements.

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21(b)(iii). Notify unsuccessful offerors of their elimination from the competitive range.	FAR 15.306(c)(3) Competitive range [exchanges with offerors after receipt of proposals] FAR 15.503 Notifications to unsuccessful offerors.	Notify offerors promptly in writing. The notice to each offeror must state: <ul style="list-style-type: none"> <li>• The basis for excluding/eliminating its offer; and</li> <li>• That a revision of its offer will not be considered.</li> </ul>
21(b)(iv). Conduct a preaward debriefing, if requested.	FAR 15.505(e) Preaward debriefing of offerors. FAR 15.505(f) Preaward debriefing of offerors.	A preaward debriefing must: <ul style="list-style-type: none"> <li>• At a minimum, include:               <ul style="list-style-type: none"> <li>○ The agency's evaluation of significant elements in the offeror's proposal;</li> <li>○ A summary of the rationale for eliminating the offeror from the competition; and</li> <li>○ Reasonable responses to relevant questions.</li> </ul> </li> <li>• Do not disclose:               <ul style="list-style-type: none"> <li>○ The number of offerors;</li> <li>○ The identity of other offerors;</li> <li>○ The content of other offerors' proposals;</li> <li>○ The ranking of other offerors;</li> <li>○ The evaluation of other offerors; or</li> <li>○ Any of the information prohibited in FAR 15.506(e).</li> </ul> </li> </ul>
21(b)(v). Conduct discussions.	FAR 15.306(d) Exchanges with offerors after establishment of the competitive range [exchanges with offerors after receipt of proposals]. FAR 15.307(b) Proposal revisions [source selection].	Bargaining includes persuasion, alteration of assumptions and positions, as well as give and take on the issues, including price, schedule, technical requirements, contract type, and other terms of the proposed contract.

Tasks	FAR Reference(s)	Additional Information
21(b)(vi). Request final proposal revisions.	FAR 15.307(a) Proposal revisions [source selection].	<p>Request or allow proposal revisions to clarify and document understandings reached during negotiations. At the conclusion of discussions, each offeror still in the competitive range must be given an opportunity to submit a final proposal revision. The contracting officer is required to establish a common cut-off date only for receipt of final proposal revisions. Requests for final proposal revisions must advise offerors that the final proposal revisions must be in writing and that the Government intends to make award without obtaining further revisions.</p> <p>If during the course of discussions it becomes evident that an offer previously included in the competitive range is no longer among the proposals rated most highly, that proposal may be dropped without giving the offeror an opportunity to revise it. In this situation, the eliminated offeror would be entitled to a pre-award debriefing.</p>

Tasks	FAR Reference(s)	Additional Information
22. Conduct price/cost analysis.	FAR 15.404 Proposal analysis.	<p>The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable.</p> <p>The contracting officer is responsible for evaluating the reasonableness of the offered prices. The analytical techniques and procedures may be used, singly or in combination with others, to ensure that the final price is fair and reasonable. The complexity and circumstances of each acquisition should determine the level of detail of the analysis required.</p> <p>Price analysis is to be used when certified cost or pricing data are not required.</p> <p>Cost analysis is to be used to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required. Price analysis should be used to verify that the overall price offered is fair and reasonable.</p> <p>Cost analysis may also be used to evaluate data other than certified cost or pricing data to determine cost reasonableness or cost realism when a fair and reasonable price cannot be determined through price analysis alone for commercial or non-commercial items.</p> <p>See Activity 20: Price Analysis and Activity 22: Cost Analysis for further discussion.</p>
23. Conduct cost realism analysis, if required.	FAR 15.404-1(d) Proposal analysis techniques [cost realism analysis].	<p>Cost realism analyses must be performed on cost-reimbursement contracts.</p> <p>Cost realism analyses may also be used on competitive fixed-price incentive contracts or, in exceptional cases, on other competitive fixed-price-type contracts when new requirements may not be fully understood by competing offerors, there are quality concerns, or past experience indicates that contractors' proposed costs have resulted in quality or service shortfalls.</p>
24. Make an affirmative determination of responsibility.	FAR 9.103 Policy [responsible prospective contractors].	<p>The contracting officer must make an affirmative determination of responsibility prior to award. See Activity 22: Responsibility Determinations for further discussion.</p>

Tasks	FAR Reference(s)	Additional Information
25. Make or obtain the final award decision (or reject all offers).	FAR 1.602-1 Authority [contracting officer]. FAR 15.305(b) Proposal evaluation [source selection]. FAR 15.308 Source selection decision.	Never award a contract unless all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met.
26. Prepare the contract.	FAR 15.504 Award to successful offeror.	<p>Obtain from the contractor any outstanding certificates or representations required before award.</p> <p>Ensure that the contract includes the appropriate government acceptance statement, as well as, the contracting officer's name, signature, and date.</p> <p>Do not include in the contract elements of the solicitation related exclusively to preaward requirements, such as representation and certification requirements and offer evaluation criteria. However, retain all applicable representations and certifications in the contract file.</p>
27. Obtain any reviews or approvals required prior to contract award.	General Practices.	Obtain any approvals required by agency or contracting activity procedures. Do not award until all required reviews and approvals have been obtained.
28. Notify each offeror in writing when setting aside an acquisition for a small business concerns.	FAR 15.503(a)(2) Preaward notices for small business programs [notifications to unsuccessful offerors].	<p>The contracting officer must notify each offeror in writing prior to award, upon completion of negotiations, determinations of responsibility:</p> <ul style="list-style-type: none"> <li>• When using a small business set-aside;</li> <li>• When a small disadvantaged business concern receives a benefit based on its disadvantaged status and is the apparently successful offeror;</li> <li>• When using the Historically Underutilized Business Zones (HUBZone) procedures;</li> <li>• When using the service-disabled veteran-owned small business (SDVOSB) procedures; or</li> <li>• When using the Woman-Owned Small Business (WOSB) Program Procedures.</li> </ul>

Tasks	FAR Reference(s)	Additional Information
29. Ensure that appropriate funding is available.	FAR 32.7 Contract funding.	<p>Before executing any contract, match the type and availability of funding with the contract obligation.</p> <ul style="list-style-type: none"> <li>If the contract is conditioned upon the availability of funds, prohibit acceptance of any deliverable until the contracting officer gives written notice to the contractor that funds are available.</li> </ul>
30. Make the award using Standard Form (SF) 33 or SF 26 and Optional Form (OF) 307.	<p>FAR 15.504(c) Award to successful offeror.</p> <p>FAR 36.701(a) Standard Form 1442 [standard and optional forms for use in contracting for construction or dismantling, demolition, or removal of improvements.</p>	<p>If OF 307, Contract Award, SF 26, Award/Contract, or SF 33, Solicitation, Offer and Award, is not used to award the contract, the first page of the award document must contain the Government's acceptance statement from Block 15 of that form, exclusive of the Item 3 reference language, and must contain the contracting officer's name, signature, and date. In addition, if the award document includes information that is different than the signed proposal, as amended by the offeror's written correspondence, the first page must include the contractor's agreement statement from Block 14 of the OF 307 and the signature of the contractor's authorized representative.</p>
31. Synopsize the contract award.	FAR 5.301 General.	Contract awards exceeding \$25,000 must be synopsized through the GPE.
32. Report the award to the Federal Procurement Data System-Next Generation (FPDS-NG).	FAR 4.603 Policy.	Contracts whose estimated value exceeds the micro-purchase threshold and any modifications to those actions that change previously reported contract action report data, regardless of dollar value must be reported to FPDS-NG.
33. Furnish a written notice to unsuccessful offerors.	FAR 15.503(b) Postaward notices [notifications to unsuccessful offerors].	Within three days after the date of contract award, the contracting officer must provide written notification to each offeror whose proposal was in the competitive range but was not selected for award.

Tasks	FAR Reference(s)	Additional Information
<p>34. Conduct a postaward debriefing, if requested.</p>	<p>FAR 15.506(d) Postaward debriefing of offerors.  FAR15.506(e) Postaward debriefing of offerors.</p>	<p>A postaward debriefing must:</p> <ul style="list-style-type: none"> <li>• At a minimum, include: <ul style="list-style-type: none"> <li>○ The evaluation of the significant weaknesses or deficiencies, if applicable;</li> <li>○ The overall evaluated cost or price (including unit prices) and technical rating, if applicable;</li> <li>○ The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;</li> <li>○ A summary of the rationale for award;</li> <li>○ For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and</li> <li>○ Reasonable responses to relevant questions about source selection procedures.</li> </ul> </li> <li>• Do not include: <ul style="list-style-type: none"> <li>○ Point-by-point comparisons;</li> <li>○ Any information prohibited from disclosure by or exempt from release under the Freedom of Information Act (5 U.S.C. 552).</li> </ul> </li> </ul>
<p>35. Respond to any protest, if applicable.</p>	<p>FAR Part 33 Protests.</p>	<p>Contracting officers must consider all protests and seek legal advice, whether protests are filed directly with the agency, the Government Accountability Office or the U.S. Court of Federal Claims.</p> <p>See Activity 28: Protests for further discussion.</p>