

## SUBCHAPTER C. CONTRACTING METHODS AND TYPES (PARTS 13–18)

### SUBCHAPTER C: AT A GLANCE

Subchapter C contains six *FAR* parts, and they all deal with choices that the government needs to make before forming a contract: the types of contract to be used, the method of contracting to be employed, and the flexibilities that may be available under the circumstances.

**Part 13: Simplified Acquisition Procedures:** The government can reduce its administrative costs, promote efficiency and economy in contracting, and avoid burdening agencies and contractors by employing simplified acquisition. FAR Part 13 contains the policies and procedures for its use and identifies acquisitions for which it is appropriate. Unless a mandatory source is required by Part 8, or the requirement can be met under an existing or established contract, simplified acquisition procedures shall be used to the maximum practicable extent for all acquisitions under the simplified acquisition threshold.

**Part 14: Sealed Bidding:** Outlines the use of sealed bidding, a contracting method in which the agency receives bids from prospective contractors, the amounts of which are unknown to the competitors, and publicly opens and evaluates them after a set period of time, awarding the contract to the responsible bidder offering the best value to the government.

**Part 15: Contracting by Negotiation:** Contains policies and procedures for contracting by negotiation. Negotiated acquisitions are all acquisitions not using the sealed-bid process, whether they are sole source or competitive. Part 15 includes techniques for the selection of sources, soliciting and receiving proposals, contract pricing and price negotiation, and award to the prospective contractor offering the best value to the government.

**Part 16: Types of Contracts:** Describes different types of contracts available for use: fixed-price, cost-reimbursement, incentive, indefinite-delivery, time-and-materials, labor-hour, and Letter contracts; and basic agreements, as well as various subtypes of each of these. Selecting contract type is one of the contracting officer's most important responsibilities; each type of contract involves a different degree of risk to the buyer and to the seller, as well as a different opportunity for profit.

**Part 17: Special Contracting Methods:** In some cases, the government may acquire supplies or services without a need for public solicitation, such as by exercising an option in an existing contract, or by acquiring them from another government agency. FAR Part 17 describes these and other special contracting methods.

**Part 18: Emergency Acquisitions:** Certain flexibilities are available to federal agencies that

allow them to make needed acquisitions quickly during an emergency. Most of these flexibilities are specified elsewhere in the *FAR*, and Part 18 provides them in summary form with cross-references to the *FAR* subparts that prescribe them. Flexibilities may be used in the event of a declaration of national emergency by the president, or in support of military operation or defense against or recovery from cyber, nuclear, biological, chemical or radiological attack.

## FAR PART 13. SIMPLIFIED ACQUISITION PROCEDURES

### A. POLICY (FAR PART 13)

Simplified acquisition procedures (SAP) are those methods prescribed in FAR Part 13 for making purchases of supplies and services, including construction, research and development, and commercial items, the aggregate of which does not exceed the SAT. Simplified acquisition methods include purchase orders, blanket purchase agreements, governmentwide commercial purchase cards, imprest funds, and third-party drafts. The processes may also be used for commercial items acquisitions that do not exceed the ceiling found in FAR 13.500(c)), including options.

Use of such procedures reduces administrative costs, improves opportunities for small business and small disadvantaged business concerns to obtain a fair proportion of government contracts, promotes efficiency and economy in contracting, and avoids unnecessary burdens for agencies and contractors.

These procedures should be used for all purchases of supplies or services not exceeding the (including purchases below the MPT), unless requirements can be met by using required sources of supply under FAR Part 8 (such as Federal Prison Industries), existing indefinite-delivery/indefinite-quantity contracts, or other established contracts.

Generally, each acquisition of supplies or services that has an anticipated dollar value exceeding the MPT and not exceeding the SAT, are reserved exclusively for small business concerns and shall be set aside. Some exceptions to this are detailed in FAR Part 19.

The contracting officer may make an award to a small business under the 8(a) Program (see subpart 19.8); Historically Underutilized Business Zone (HUBZone) Program (but see FAR 19.1305 and 19.1306(a)(4)); Service-Disabled Veteran-Owned Small Business (SDVOSB) Program (see 19.14); or Women-Owned Small Business (WOSB) program (see subpart 19.15).

The following contracting officer's decisions for acquisitions at or below the SAT are not subject to review under subpart 19.4: A decision not to make an award under the 8(a) Program; A decision not to set aside an acquisition for HUBZone small business concerns,

service-disabled veteran-owned small business concerns, or EDWOSB concerns and WOSB concerns eligible under the WOSB Program.

Each written solicitation under a set-aside shall contain the appropriate provisions prescribed by FAR 19. If the solicitation is verbal, however, information substantially identical to that in the provision shall be given to potential quoters.

The contracting officer is authorized to use the SAP to acquire supplies and services if the anticipated award will exceed the SAT but not exceed the ceiling amount defined in FAR 13.500(e)), including options, for acquisitions of commercial items using subpart 13.5.

Acquisition officials are prohibited from breaking down requirements aggregating more than the SAT (or for commercial items, the threshold in subpart 13.5) or the MPT into several purchases that are less than the applicable threshold merely to permit use of SAP or avoid any requirement that applies to purchases exceeding the MPT.

In addition to other considerations, contracting officers are to

- Promote competition to the maximum extent practicable,
- Establish reasonable deadlines for submission of responses to solicitations,
- Consider all quotations or offers that are received on time, and
- Use innovative approaches to the maximum extent practicable.

A quotation is not an offer, and consequently, cannot be accepted by the government to form a binding contract. A contract comes into being when the supplier accepts the order (i.e., through confirmation in writing) by furnishing the requested supplies, or by proceeding with the work to the point where substantial performance has occurred.

FAR Parts 13.005 and 13.006 list inapplicable laws, provisions, and clauses for goods and services purchased using the simplified acquisition method.

## **B. PROCEDURES (FAR 13.1)**

The contracting officer must promote competition to the maximum extent practicable to obtain supplies and services from the source whose offer is the most advantageous to the government, considering the administrative cost of the purchase. Contracting officers should use the System for Award Management database at <https://www.sam.gov> as their primary source of vendor information. Contracting officers need not solicit a new quotation for each purchase but may instead use a standing price quotation as long as it is current and the government obtains the maximum benefit of any discounts before award.

The contracting officer must not solicit quotations based on personal preference, or restrict solicitation to suppliers of well-known and widely distributed makes or brands.

Clearly articulate the basis—price alone or price and other factors (e.g., past performance and quality) upon which award will be made. It is not, however, necessary to state the relative importance assigned to each evaluation factor.

If the government is using SAP and not providing access to the notice of proposed contract action and solicitation information through the GPE, maximum practicable competition ordinarily can be obtained by soliciting quotations or offers from sources within the local trade area. Unless the contract action requires synopsis pursuant to FAR 5.101 and an exception under FAR 5.202 is not applicable, consider solicitation of at least three sources to promote competition to the maximum extent practicable. Whenever practicable, request quotations or offers from two sources not included in the previous solicitation. (See FAR 13.104.) Solicitation from one source is authorized if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreement).

Options may be included in solicitations, provided the requirements of FAR 17.2 are met and the aggregate value of the acquisition and all options does not exceed the dollar threshold for use of SAP.

The contracting officer has broad discretion in fashioning suitable evaluation procedures. Those described in FAR Parts 14 and 15 are not mandatory; however, at the contracting officer's discretion, one or more, but not necessarily all, of the evaluation procedures in FAR Parts 14 and 15 may be used. Specific criteria must be met to use lowest price technically acceptable (LPTA) source selection for all solicitations. See the criteria in Part 15.

If using price and other factors, ensure that quotations or offers can be evaluated in an efficient and minimally burdensome fashion. Formal evaluation plans and establishing a competitive range, conducting discussions, and scoring quotations or offers are not required. Rather, contracting officers are encouraged to comparatively evaluate offers and to evaluate other factors (e.g., past performance) based on information such as knowledge of and previous experience with the supply or service being acquired.

Prior to award, the contracting officer must determine that the proposed price is fair and reasonable. Whenever possible, base price reasonableness on competitive quotations or offers. However, when this is not possible, this determination may be based on market research; comparison of the proposed price with prices found reasonable on previous purchases; current price lists, catalogs, or advertisements; a comparison with similar items in a related industry; value analysis; personal knowledge of the item being purchased; comparison to an independent government estimate; or any other reasonable basis. Multiple-award contracts for the same or similar services, where the government intends to award a contract to each qualifying offeror, are not required to have price or cost as an evaluation factor. If cost and price are not evaluated, for contract award, they must be considered for orders under that contract.

In making purchases, contracting officers should:

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- Include related items (such as small hardware items or spare parts for vehicles) in one solicitation and make award on an “all-or-none” or “multiple award” basis, provided suppliers are so advised when quotations or offers are requested;
- Incorporate provisions and clauses by reference in solicitations and in awards under requests for quotations, provided the requirements in 52.102 are satisfied;
- Make maximum effort to obtain trade and prompt payment discounts (FAR 14.408-3). Prompt payment discounts shall not be considered in the evaluation of quotations; and
- Use bulk funding to the maximum extent practicable. Bulk funding is a system whereby the contracting officer receives authorization from a fiscal and accounting officer to obligate funds on purchase documents against a specified lump sum of funds reserved for the purpose for a specified period of time rather than obtaining individual obligational authority on each purchase document. Bulk funding is particularly appropriate if numerous purchases using the same type of funds are to be made during a given period.

### **C. ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD (FAR 13.2)**

The governmentwide commercial purchase card is the preferred method to purchase and to pay for micro-purchases.

Purchases at or below the micro-purchase threshold may be conducted using any of the methods described in FAR 13.3, provided the purchaser is authorized and trained, pursuant to agency procedures, to use those methods.

Micro-purchases may be awarded without soliciting competitive quotations if the contracting officer determines that the price is reasonable. Action to verify price reasonableness should be taken only when the contracting officer suspects or has information to indicate that the price may not be reasonable or when purchasing a supply or service for which no comparable pricing information is readily available. When using the governmentwide commercial purchase card as a method of payment, purchases at or below the MPT are exempt from verification in the SAM database as to whether the contractor has delinquent debt subject to collection under the Treasury Offset Program (TOP).

Micro-purchase procedures may also be used for certain contingency operations or defense against or recovery from attacks and emergencies or major disasters. Refer to FAR 2.1 DEFINITIONS, *Micro-purchase threshold*, for specifics.

### **D. SIMPLIFIED ACQUISITION METHODS (FAR 13.3)**

#### **GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (FAR 13.301)**

The governmentwide commercial purchase card is authorized for use in making and/or paying for purchases of supplies, services, or construction and may be used by contracting officers

and other designated individuals. The card may be used only for purchases that are otherwise authorized by law or regulation.

The governmentwide commercial purchase card may be used to make micro-purchases; place a task or delivery order (if authorized in the basic contract, basic ordering agreement, or blanket purchase agreement); or make payments, when the contractor agrees to accept payment by the card.

## **PURCHASE ORDERS (FAR 13.302)**

A purchase order is an offer by the government to buy supplies or services, including construction and research and development, upon specified terms and conditions, using SAP. Except as provided under the unpriced purchase order method, purchase orders are to be issued on a fixed-price basis. Electronic funds transfer (EFT) is required for most payments. When obtaining verbal quotes, the contracting officer shall inform the quoter of the EFT clause that will be in any resulting purchase order.

Unpriced purchase orders are orders for supplies or services, the price of which is not established at the time of issuance of the order. An example of this would be repairs to equipment that required disassembly to determine the nature or extent of repairs. Restrictions for use are listed in FAR 13.302-2. A realistic monetary limitation, either for each line item or for the total order, shall be placed on each unpriced purchase order. The monetary limitation shall be an obligation subject to adjustment when the firm price is established. Written acceptance of purchase order modifications is not required unless determined by the contracting officer to be necessary to ensure the contractor's compliance with the purchase order or otherwise required by agency regulation.

If a purchase order needs to be terminated, the action taken is dependent upon the circumstances. If the contractor has accepted a purchase order, the contracting officer shall proceed with the termination procedure appropriate for the item covered by the order, which is either the commercial item or noncommercial item procedure. If the purchase order has not been accepted in writing, the contracting officer shall notify the contractor in writing that the order has been cancelled and request written acceptance from the contractor. If that acceptance is received, the order is considered cancelled and no further action is required. If the contractor attempts to recover costs from starting performance, it shall be handled as either a commercial item or noncommercial item termination.

## **BLANKET PURCHASE AGREEMENTS (FAR 13.303)**

A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply.

BPAs are appropriate (1) when requirements exist for a wide variety of items within a broad class of goods, but the exact items, quantities, and delivery requirements are not known in

advance; (2) when there is a need to provide commercial sources of supply for one or more offices in a given area that do not have or need authority to purchase otherwise; (3) when the writing of numerous purchase orders can be avoided through the use of this procedure; or (4) when there is no existing requirements contract for the same supply or service that the contracting activity is required to use.

After determining that a BPA would be advantageous, contracting officers should establish the parameters to limit purchases to individual items or commodity groups or classes, or permit the supplier to furnish unlimited supplies or services. Contracting officers should consider suppliers whose past performance has shown them to be dependable, who offer quality supplies or services at consistently lower prices, and who have provided numerous purchases at or below the simplified acquisition threshold.

BPAs may be established with more than one supplier for supplies or services of the same type to provide maximum practicable competition; a single firm from which numerous individual purchases at or below the SAT will likely be made in a given period; or federal FSS contractors, if not inconsistent with the terms of the applicable Schedule contract.

BPAs include a description of the agreement, the extent of obligation, pricing, purchase limitations, notice of individuals authorized to place orders, delivery tickets, and invoices. They are considered complete when the purchases under them equal their total dollar limitation, if any, or when their stated time period expires.

The contracting officer placing orders under a BPA, or a designated representative, shall review a sufficient random sample of the BPA files at least annually to ensure that authorized procedures are being followed. The contracting officer that entered into the BPA shall ensure that each BPA is reviewed at least annually, and update if necessary. They also need to maintain awareness of changes in market conditions, sources of supply, and other pertinent factors that

may warrant making new arrangements with different suppliers or modifying existing arrangements.

## **IMPREST FUNDS AND THIRD-PARTY DRAFTS (FAR 13.305)**

An imprest fund is a cash fund of a fixed amount established by an advance of funds, without charge to an appropriation, from an agency finance or disbursing officer to a duly appointed cashier, for disbursement as needed from time to time in making payment in cash for relatively small purchases.

A third-party draft means an agency bank draft, similar to a check that is used to acquire and to pay for supplies and services.

Either imprest funds or third-party drafts may be used for purchases when the conditions identified in FAR 13.303 *CONDITIONS FOR USE* is met.

Purchases made using imprest funds or third-party drafts shall be based upon an authorized purchase requisition, contracting officer verification statement, or another agency approved method of ensuring that adequate funds are available for the purchase. Normally, purchases should be placed verbally and without soliciting competition if prices are considered reasonable. For all practical purposes, there is simultaneous placement of the order and delivery of the items. Therefore, clauses are not required for purchases using imprest funds or third-party drafts. Forms prescribed at 13.307(e) may be used if a written order is considered necessary.

### **THE SF 44 PURCHASE ORDER-INVOICE-VOUCHER (FAR 13.306)**

The SF 44 Purchase Order-Invoice-Voucher is a multipurpose pocket-sized purchase order form designed primarily for on-the-spot, over-the-counter purchases of supplies and nonpersonal services while away from the purchasing office or at isolated activities. It may be used when (1) the amount of the purchase is at or below the MPT, (2) the supplies or services are immediately available, (3) one delivery and one payment will be made, and (4) its use is determined to be more economical and efficient than use of other SAP. The form may also be used as a receiving report, invoice, or public voucher as needed.

### **E. FAST PAYMENT PROCEDURE (FAR 13.4)**

The fast payment procedure allows payment under limited conditions to a contractor prior to the government's verification that supplies have been received and accepted. They are generally used when an individual order does not exceed the limit identified in FAR 13.402 (a) and (b) and delivery must occur at a geographically separated location that would make it impractical to make timely payment based on evidence of government acceptance.

It provides for payment based on the contractor's submission of an invoice, which constitutes the contractor's representation that supplies have been delivered to a post office, common carrier, or point of first receipt by the government; and that the contractor agrees to replace, repair, or correct supplies not received at the destination, damaged in transit, or not conforming to the purchase agreement. Title to the supplies passes to the government upon delivery to a post office or common carrier for mailing or shipment to destination (or upon receipt by the government, if the shipment is by means other than Postal Service or common carrier).

The contracting officer shall be primarily responsible for determining the amounts of debts resulting from failure of contractors to properly replace, repair, or correct supplies that have been lost, damaged, or not conforming to purchase requirements.

### **F. SIMPLIFIED PROCEDURES FOR CERTAIN COMMERCIAL ITEMS (FAR 13.5)**

This subpart authorizes the use of simplified procedures for the acquisition of supplies and services in amounts greater than the SAT but not exceeding the ceiling listed for acquisitions as described in 13.500(c), including options, if the contracting officer reasonably expects,



based on the nature of the supplies or services sought and on market research, that offers will include only commercial items. Contracting officers may use any SAP in this part, subject to any specific dollar limitation applicable to the particular procedure. The purpose of these simplified procedures is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the government and industry (10 U.S.C. 2304(g) and 2305 and 41 U.S.C. 3305, 3306, and chapter 37, Awarding of Contracts).

## FAR PART 14. SEALED BIDDING

### A. USE OF SEALED BIDDING (FAR 14.1)

Sealed bidding is a method of contracting that employs competitive bids, public opening of bids, and awards. Specific steps include preparing an invitation for bids, publicizing the invitation, submission of bids, evaluating the bids, and awarding the contract.

Award is made to the responsible bidder whose bid is responsive to the terms of the invitation for bids (IFB) and is most advantageous to the government, considering only price and price-related factors included in the invitation.

Sealed bidding can only be used with firm-fixed-price and fixed-price with economic price adjustment contracts.

### B. SOLICITATION OF BIDS (FAR 14.2)

To the extent practicable, IFBs are to conform to the uniform contract format. They need not be used for acquisition of construction, shipbuilding, subsistence items, supplies or services requiring special contract forms that are inconsistent with the uniform contract format, and

firm-fixed-price or fixed-price with economic price adjustment acquisitions that use the simplified contract format. To avoid unduly restricting competition or paying higher-than-necessary prices, reasonable bidding times are to be established based upon degree of urgency, complexity of requirement, anticipated extent of subcontracting, whether use was made of presolicitation notices, geographic distribution of bidders, and normal transmittal time for both invitations and bids. However, for those actions over the SAT, at least 30 calendar days' bidding time must be provided when synopsis is required.

A **BID SAMPLE** is a sample to be furnished by a bidder to show the characteristics of a product offered in a bid. Bidders shall not be required to furnish bid samples unless there are characteristics of the product that cannot be described adequately in the specification or purchase description. Bid samples will be used only to determine the responsiveness of the

bid and will not be used to determine a bidder's ability to produce the required items. Bid samples may be examined for any required characteristic, whether or not such characteristic is adequately described in the specification. Bids will be rejected as nonresponsive if the sample fails to conform to each of the characteristics listed in the invitation. Bid samples are appropriate for products that must be suitable from the standpoint of balance, facility of use, general "feel," color, pattern, or other characteristics that cannot be described adequately in the specification. However, when more than a minor portion of the characteristics of the product cannot be adequately described in the specification, products should be acquired by two-step sealed bidding or negotiation, as appropriate.

**DESCRIPTIVE LITERATURE** means information, such as cuts, illustrations, drawings, and brochures, which shows the characteristics or construction of a product or explains its operation. It is furnished by bidders as a part of their bids to describe the products offered. The term includes only information required to determine acceptability of the product. It excludes other information such as that furnished in connection with the qualifications of a bidder or for use in operating or maintaining equipment. Bidders shall not be required to furnish descriptive literature unless the contracting office needs it to determine before award whether the products offered meet the specification and to establish exactly what the bidder proposes to furnish. The reasons why product acceptability cannot be determined without the submission of descriptive literature shall be set forth in the contract file, except when such submission is required by formal specifications (federal, military, or other) applicable to the acquisition. The contracting officer has the authority to waive the requirement for descriptive literature.

When a bid is accompanied by descriptive literature, and the bidder imposes a restriction that prevents the public disclosure of such literature, the restriction may render the bid nonresponsive. The restriction renders the bid nonresponsive if it prohibits the disclosure of sufficient information to permit competing bidders to know the essential nature and type of the products offered or those elements of the bid that relate to quantity, price, and delivery terms. The provisions of this paragraph do not apply to unsolicited descriptive literature submitted by a bidder if such literature does not qualify the bid.

Contracting officers may authorize facsimile bids. If facsimile bids are authorized, contracting officers may, after the date set for bid opening, request the apparently successful offeror to provide the complete, original signed bid. Contracting officers may also authorize use of electronic commerce for submission of bids. If electronic bids are authorized, the solicitation shall specify the electronic commerce method(s) that bidders may use.

A prebid conference may be used, generally in a complex acquisition, as a means of briefing prospective bidders and explaining complicated specifications and requirements. It shall never be used as a substitute for amending a defective or ambiguous invitation.

IFBs should not be canceled unless cancellation is clearly in the public interest; (e.g., where there is no longer a requirement for the supplies or services or where amendments to the

invitation would be of such magnitude that a new invitation is desirable). When an invitation issued other than electronically is cancelled, bids that have been received shall be returned unopened to the bidders and notice of cancellation shall be sent to all prospective bidders to whom invitations were issued. When an invitation issued electronically is cancelled, a general notice of cancellation shall be posted electronically, the bids received shall not be viewed, and the bids shall be purged from primary and backup data storage systems.

Discussions with prospective bidders regarding a solicitation shall be conducted and technical or other information shall be transmitted only by the contracting officer or superiors having contractual authority or by others specifically authorized. Such personnel shall not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others. However, general information that would not be prejudicial to other prospective bidders may be furnished upon request (e.g., explanation of a particular contract clause or a particular condition of the schedule in the invitation for bids, and more specific information or clarifications may be furnished by amending the solicitation).

### **C. SUBMISSION OF BIDS (FAR 14.3)**

A bid must comply with all material aspects of the invitation to be considered for award. It must be received in the office designated in the IFB no later than the exact time set for bid opening. It may be withdrawn or modified by written or telegraphic notice no later than the exact time set for bid opening.

Bidders are responsible for submitting bids so as to reach the government office designated in the IFB by the time specified in the IFB. If no time is specified, the time for receipt is 4:30 p.m. local time, for the designated government office on the date that bids are due. Acceptable evidence to establish the time of receipt at the government installation includes the time/date stamp of such installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or verbal testimony or statements of government personnel.

Late bids that are not considered for award are to be held unopened, unless opened for identification, until after award and then retained with other unsuccessful bids.

### **D. OPENING OF BIDS AND AWARD OF CONTRACT (FAR 14.4)**

All bids received before the time set for the opening of bids must be kept secure, generally locked in a bid box, safe, or in a secured, restricted-access electronic bid box. At bid opening, for unclassified bids, the bid opening officer personally and publicly opens all bids received, reads the bids aloud to those present, and ensures that bids are recorded. Only a bidder or its representative may attend a classified bid opening, and the individual must have the appropriate security clearance.

Bid openings may be postponed if the contracting officer believes that bids have been delayed in the mail for causes beyond the control of potential bidders or if emergency or unanticipated events interrupt normal governmental processes rendering bid opening impractical.

Cancellation of IFBs after opening may be done only after the agency head determines it to be appropriate in accordance with FAR 14.404-1.

Preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation.

Individual bids may be rejected for any of the following reasons:

- Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected.
- Any bid that does not conform to the applicable specifications shall be rejected unless the invitation authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the invitation.
- Any bid that fails to conform to the delivery schedule or permissible alternates stated in the invitation shall be rejected.
- A bid shall be rejected when the bidder imposes conditions that would modify requirements of the invitation or limit the bidder's liability to the government, since to allow the bidder to impose such conditions would be prejudicial to other bidders.

For example, bids shall be rejected in which the bidder

- Protects against future changes in conditions, such as increased costs, if total possible costs to the government cannot be determined;
- Fails to state a price and indicates that price shall be "price in effect at time of delivery";
- States a price but qualifies it as being subject to "price in effect at time of delivery";
- When not authorized by the invitation, conditions or qualifies a bid by stipulating that it is to be considered only if, before date of award, the bidder receives (or does not receive) award under a separate solicitation;
- Requires that the government is to determine that the bidder's product meets applicable government specifications, or limits rights of the government under any contract clause.

A low bidder may be requested to delete objectionable conditions from a bid provided the conditions do not go to the substance, as distinguished from the form, of the bid, or work an injustice on other bidders. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.

Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid, but the prices for individual line items as well.

Any bid may be rejected if the prices for any line items or subline items are materially unbalanced.

Bids received from any person or concern that is suspended, debarred, proposed for debarment, or declared ineligible as of the bid opening date shall be rejected unless the agency head determines in writing that there is a compelling reason to consider the bid (see subpart 9.4). Low bids received from concerns determined to be not responsible pursuant to subpart 9.1 shall be rejected (but if a bidder is a small business concern, see 9.104-3(d) with respect to certificates of competency).

Generally, when a bid guarantee is required and a bidder fails to furnish the guarantee in accordance with the requirements of the invitation for bids, the bid shall be rejected.

The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved with the papers relating to the acquisition.

After submitting a bid, if all of a bidder's assets or that part related to the bid are transferred during the period between the bid opening and the award, the transferee may not be able to take over the bid. Accordingly, the contracting officer shall reject the bid unless the transfer is affected by merger, operation of law, or other means not barred by 41 U.S.C. 15 or 31 U.S.C. 3727.

A minor informality or irregularity is one that is merely a matter of form and not of substance. In cases of apparent mistakes and in cases where the contracting officer has reason to believe that a mistake may have been made, he or she must request from the bidder a verification of the bid, calling attention to the suspected mistake. Clerical mistakes, apparent on its face, may be corrected before award.

In the case of apparent clerical mistakes before award, the contracting officer may make corrections after verification from the bidder. The authority to correct other mistakes in bids are limited to bids that, as submitted, are responsive to the invitation and may not be used to permit correction of bids to make them responsive. Mistakes after award are processed in accordance with FAR 14.407-4.

Contracts are awarded in the following order of priority in the case of equal low bids: small business concerns that are also labor surplus area concerns, other small business concerns, and then, other business concerns. If two or more bidders still remain equally eligible, award shall be made by a drawing by lot limited to those bidders.

If a bid received at the government facility by electronic data interchange is unreadable to the degree that conformance to the essential requirements of the invitation for bids cannot be ascertained, the contracting officer immediately shall notify the bidder that the bid will be rejected unless the bidder provides clear and convincing evidence:

- Of the content of the bid as originally submitted; and

- That the unreadable condition of the bid was caused by government software or hardware error, malfunction, or other government mishandling.

If less than three bids have been received, the contracting officer shall examine the situation to ascertain the reasons for the small number of responses. Award shall be made notwithstanding the limited number of bids. However, the contracting officer shall initiate, if appropriate, corrective action to increase competition in future solicitations for the same or similar items and include a notation of such action in the records of the invitation for bids.

Prompt payment discounts shall not be considered in the evaluation of bids. However, any discount offered will form a part of the award, and will be taken by the payment center if payment is made within the discount period specified by the bidder.

## **E. TWO-STEP SEALED BIDDING (FAR 14.5)**

Two-step bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. Step one consists of request for submission, evaluation, and discussion of technical proposals. No pricing is involved. Step two consists of submission of sealed bids by those who submitted acceptable technical proposals in step one. Procedures are listed in FAR 14.503.

Unless other factors require the use of sealed bidding, two-step sealed bidding may be used in preference to negotiation when all of the following conditions are present:

1. Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each source and the government;
2. Definite criteria exist for evaluating technical proposals;
3. More than one technically qualified source is expected to be available;
4. Sufficient time will be available for use of the two-step method; and
5. A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.

# **FAR PART 15. CONTRACTING BY NEGOTIATION**

This part prescribes policies and procedures governing competitive and noncompetitive (sole source) negotiated acquisitions. A contract awarded using other than sealed bidding procedures is a negotiated contract.

## **A. SOURCE SELECTION PROCESSES AND TECHNIQUES (FAR 15.1)**

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## FAR PART 16. TYPES OF CONTRACTS

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## **A. SELECTING CONTRACT TYPES (FAR 16.1)**

Contract types vary according to the degree and timing of the responsibility assumed by the contractor for the costs of performance and the amount and nature of the profit incentive offered to the contractor for achieving or exceeding goals. Contract types are grouped into two broad categories: fixed price and cost reimbursement.

Selecting the contract type is generally a matter for negotiation and requires the exercise of sound judgment. Negotiating the contract type and negotiating prices are closely related and should be considered together. The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance. A firm-fixed-price contract, which best utilizes the basic profit motive of business enterprise, shall be used when the risk involved is minimal or can be predicted with an acceptable degree of certainty. However, when a reasonable basis for firm pricing does not exist, other contract types should be considered, and negotiations should be directed toward selecting a contract type (or combination of types) that will appropriately tie profit to contractor performance.

In the course of an acquisition program, a series of contracts, or a single long-term contract, changing circumstances may make a different contract type appropriate in later periods than that used at the outset. In particular, contracting officers should avoid protracted use of a cost-reimbursement or time-and-materials contract after experience provides a basis for firmer pricing.

Factors that should be considered in selecting contract type are delineated in FAR 16.104. These include price competition, price analysis, cost analysis, type and complexity of the requirement, and its urgency. Several factors regarding the contractor also influence contract type, such as the contractor's accounting system and ability to account for a complex contract, technical capability, and financial responsibility. All considerations should be fully considered and documented in the contract file.

## **B. FIXED-PRICE CONTRACTS (FAR 16.2)**

Firm-fixed-price contracts provide for a price that is not subject to any adjustment on the basis of the contractor's costs experienced in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties. The contracting officer may use a firm-fixed-price contract in conjunction with an award-fee incentive (FAR 16.404) and performance or delivery incentives (FAR 16.402-2 and 16.402-3) when the award fee or incentive is based solely on factors other than cost. The contract type remains firm-fixed-price when used with these incentives.

A firm-fixed-price contract is suitable for acquiring commercial items (see Parts 2 and 12) or for acquiring other supplies or services on the basis of reasonably definite functional or



detailed specifications (see Part 11) when the contracting officer can establish fair and reasonable prices at the outset, such as when

1. There is adequate price competition;
2. There are reasonable price comparisons with prior purchases of the same or similar supplies or services made on a competitive basis or supported by valid cost or pricing data;
3. Available cost or pricing information permits realistic estimates of the probable costs of performance; or
4. Performance uncertainties can be identified and reasonable estimates of their cost impact can be made, and the contractor is willing to accept a firm fixed price representing assumption of the risks involved.

**FIXED-PRICE INCENTIVE CONTRACTS** are fixed-price contracts that provide for the adjustment of profit and establishment of the final contract price by a formula based on the relationship of final negotiated total cost to total target cost. This contract type is appropriate for development and production efforts.

**FIXED-PRICE WITH ECONOMIC PRICE ADJUSTMENT** provides for upward or downward revision of the stated contract price upon occurrence of specified contingencies. Economic price adjustments can be based on established prices, actual costs of labor or material, or cost indexes of labor or material. This contract type is appropriate when there is serious doubt concerning the future stability of market or labor conditions over an extended period of contract performance, and when contingencies that would otherwise be included in the contract price can be identified and covered separately.

**FIXED-PRICE WITH PROSPECTIVE PRICE REDETERMINATION** results in a firm-fixed-price for an initial period with prospective redetermination at a stated time during performance. Appropriate for production or services for which it is possible to negotiate a fair and reasonable firm fixed price for an initial period, but not for subsequent periods of contract performance.

**FIXED CEILING PRICE WITH RETROACTIVE PRICE REDETERMINATION** provides for a fixed ceiling price and price redetermination within the ceiling after contractor completion. Appropriate for research and development efforts value. Refer to FAR 16.206-2.

**A FIRM-FIXED-PRICE/LEVEL-OF-EFFORT TERM CONTRACT** requires the contractor to provide a specified level of effort over a stated period of time for work that can only be stated in general terms, and requires the government to pay a fixed dollar amount for these services. Appropriate for investigation or study in a specific research and development area.

Time-and-materials contracts and labor-hour contracts are not fixed-priced contracts.

## **C. COST REIMBURSEMENT CONTRACTS (FAR 16.3)**

A **COST REIMBURSEMENT CONTRACT** provides for payment of allowable incurred costs, to the extent prescribed in the contract. They are suitable when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. The contracting officer shall use cost reimbursement contracts only when circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed price-type contract or uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. The contracting officer shall document the rationale for selecting the contract type in the written acquisition plan and ensure that the plan is approved and signed by at least one level above the contracting officer. The use of a cost reimbursement-type contract requires that the contractor's accounting system be adequate for determining costs applicable to the contract and that adequate government resources are available to award and manage a contract other than firm-fixed-price. They may not be used to acquire commercial items.

A **COST CONTRACT** is a cost reimbursement contract in which the contractor receives no fee. These may be appropriate for research and development work, particularly with nonprofit educational institutions or other nonprofit organizations.

A **COST-PLUS-INCENTIVE-FEE CONTRACT** provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs. Appropriate for services or development and test programs, as well as others if use of both cost and technical performance incentives is desired and administratively practical.

A **COST-PLUS-AWARD-FEE CONTRACT** provides for a fee consisting of a base amount (which may be zero) fixed at inception of the contract and an award amount, based upon a judgmental evaluation by the government, sufficient to provide motivation for excellence in contract performance. They are costly to administer and appropriate for level of effort services that can only be subjectively measured.

A **COST-PLUS-FIXED-FEE CONTRACT** provides for payment of a negotiated fee that is fixed at the inception of the contract and that does not vary with actual costs incurred, though it may be adjusted as a result of changes in the work to be performed under the contract. There are two types: completion form (clearly defined task with a definite goal and specific end product) and term form (scope of work described in general terms). Completion form is preferred. This contract type is costly to administer and is the least preferred type because the contractor assumes no financial risk. Appropriate for research and development.

## **D. INCENTIVE CONTRACTS (FAR 16.4)**

Incentive contracts are appropriate when a firm-fixed-price contract is not appropriate and the required supplies/services can be acquired at lower costs and, in certain instances, with improved delivery or technical performance by relating the amount of profit or fee payable to the contractor's performance. Incentives can be applied to cost, technical performance, and/or delivery.

A **FIXED-PRICE INCENTIVE CONTRACT** is a fixed-price contract that provides for adjustment of profit and establishment of the final contract price by applying a formula based on the relationship of total final negotiated cost to total target cost. There are two forms: firm target—firm target cost, target profit, and profit-sharing formula negotiated into basic contract, with profit adjusted upon contract completion; and successive targets—initial cost and profit targets negotiated into contract but final cost target (firm) not negotiated until sometime during performance. Appropriate for development and production.

A **FIXED-PRICE CONTRACT WITH AN AWARD FEE** is appropriate when the government wishes to motivate a contractor and other incentives cannot be used because contractor performance cannot be measured objectively. Such contracts include a fixed price (including normal profit) for the effort. This price is paid for satisfactory performance. Award fee earned (if any) is paid in addition to that fixed price. This contract type is appropriate when the administrative cost of conducting award-fee evaluations is not expected to exceed the expected benefits; procedures have been established for conducting the award-fee evaluation; the award-fee board has been established; and an individual above the level of the contracting officer approved the fixed-price-award-fee incentive.

There are two forms of cost-reimbursement incentive contracts: cost-plus-incentive-fee and cost-plus-award-fee (reference paragraph c).

## **E. INDEFINITE-DELIVERY CONTRACTS (FAR 16.5)**

Indefinite-delivery contracts are appropriate when the exact times and/or quantities of future deliveries are not known at the time of contract award. There are three types:

A **DEFINITE-QUANTITY CONTRACT** provides for delivery of a definite quantity of specific supplies or services for a fixed period, with deliveries or performance to be scheduled at designated locations upon order. It is appropriate when it can be determined in advance that a definite quantity of supplies or services will be required during the contract period and the supplies or services are regularly available or will be available after a short lead time.

A **REQUIREMENTS CONTRACT** provides for acquisition of all actual purchase requirements of designated government activities for specific supplies or services during a specified period, with deliveries or performance to be scheduled by placing orders. It is appropriate for acquiring supplies or services when the government anticipates recurring requirements but cannot predetermine the precise quantities of supplies or services that designated government activities will need during a definite period.

An **INDEFINITE-QUANTITY** contract provides for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries or performance to be scheduled by placing orders. Quantity limits may be expressed in terms of numbers of units or as dollar values. The contract shall require the government to order and the contractor to furnish at least a stated minimum quantity of supplies or services. In addition, if ordered, the contractor shall furnish any additional quantities, not to exceed the

stated maximum. The contracting officer should use an indefinite-quantity contract only when a recurring need is anticipated. The government prefers to make multiple awards. The contracting officer must, to the maximum extent practicable, give preference to making multiple awards under a single solicitation for the same or similar supplies or services to two or more sources. (Exception: indefinite-quantity contracts for advisory and assistance services.)

The contracting officer must provide each awardee a fair opportunity to be considered for each order exceeding the MPT issued under multiple delivery-order contracts or multiple task-order contracts. Exceptions include:

1. Urgency of need results in an unacceptable delay;
2. Only one awardee is capable of performing;
3. The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract;
4. It is necessary to place an order to satisfy a minimum guarantee;
5. For orders exceeding the simplified acquisition threshold a statute expressly authorizes or requires that the purchase be made from a specified source; and
6. In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in Part 19 apply. Orders placed under a task-order contract or delivery-order contract awarded by another agency (i.e., a governmentwide acquisition contract or multiagency contract) are not exempt from developing acquisition plans (see subpart 7.1), and an information technology acquisition strategy (see Part 39). In addition, placing such orders may not be used to circumvent conditions and limitations imposed on the use of funds (e.g., 31 U.S.C. 1501(a)(1)).

Multiple-award contracts for the same or similar services, where the government intends to award a contract to each qualifying offeror, are not required to have price or cost as an evaluation factor. If cost and price are not evaluated, for contract award, they must be considered for orders under that contract.

## **F. TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS (FAR 16.6)**

**TIME-AND-MATERIALS CONTRACTS** provide for acquiring supplies/services on the basis of direct labor hours at specified fixed hourly rates that include wages, overhead, profit, and materials (at cost). They may be used only when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. This contract type is appropriate for engineering and design services.

**LABOR-HOUR CONTRACTS** are a type of time-and-materials contract differing only in that materials are not furnished by the contractor (often used in conjunction with other contract types).

**LETTER CONTRACTS** are written, preliminary contractual instruments that authorize the contractor to begin immediately manufacturing supplies or performing services. They must include price ceiling (“not to exceed”) and milestones for definitization. This contract type is appropriate only when the government’s interests demand that the contractor be given a binding commitment so that work can commence immediately and it is not possible to negotiate a definitive contract in sufficient time. It must be superseded by a definitized contract at the earliest possible date.

## **G. AGREEMENTS (FAR 16.7)**

A **BASIC AGREEMENT** is a written instrument of understanding that contains contract clauses applying to future contracts between the parties during its term and contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. They are not contracts.

**BASIC ORDERING AGREEMENTS** are written instruments of understanding that contain terms and conditions that apply to future orders; a description of supplies and services to be provided; and methods for pricing, issuing, and delivering future orders under the basic ordering agreement. They are not contracts.

# **FAR PART 17. SPECIAL CONTRACTING METHODS**

This part prescribes policies and procedures for the acquisition of supplies and services through special contracting methods, including multiyear contracting, options, and leader company contracting.

## **A. MULTIYEAR CONTRACTING (FAR 17.1)**

Multiyear contracting is a special contracting method to acquire known requirements in quantities and total cost not over planned requirements for up to five years unless otherwise authorized by statute, even though the total funds ultimately to be obligated may not be available at the time of contract award. This method may be used in sealed bidding or contracting by negotiation.

Using multiyear contracting is encouraged to take advantage of one or more of the following: lower costs; enhancing standardization; reducing administrative burden in placing and administering contracts; substantial continuity of production or performance, thus avoiding annual startup costs, preproduction testing costs, make-ready expenses, and phase-out costs;

stabilizing contractor work forces; avoiding the need for establishing quality control techniques and procedures for a new contractor each year; broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs; and providing incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology.

## **B. OPTIONS (FAR 17.2)**

An option is a unilateral right in a contract by which, for a specified period of time, the government may elect to purchase additional supplies/services called for in the contract or may elect to extend the term of the contract. Generally, contracting officers must ensure contract options do not extend beyond five years for services, excluding IT services.

Inclusion of options is normally not in the government's interest when foreseeable requirements involve minimum economic quantities; delivery requirements are far enough into the future to permit competitive acquisition, production, and delivery; or an indefinite quantity or requirements contract would be more appropriate than a contract with options.

Contracts may express options for increased quantities of supplies or services in terms of a percentage of specific line items, an increase in specific line items, or additional numbered line items identified as the option. Contracts may express extensions of the term of the contract as an amended completion date or as additional time for performance (e.g., days, weeks, or months).

Options may be exercised within the time period specified in the contract only after it is determined that funds are available; the contractor is not found in the System for Award Management Exclusions; the requirement covered by the option fulfills an existing government need; exercise of the option is the most advantageous method of fulfilling the government's needs, price, and other factors considered; and the option was synopsized in accordance with FAR Part 5.

## **C. LEADER COMPANY CONTRACTING (FAR 17.4)**

Leader company contracting is an extraordinary acquisition technique that is limited to special circumstances and used only when in accordance with agency procedures. A developer or sole producer of a product or system is designated under this acquisition technique to be the leader company, and to furnish assistance and know-how under an approved contract to one or more designated follower companies, so they can become a source of supply. The objectives of this technique are one or more of the following:

- Reduce delivery time;
- Achieve geographic dispersion of suppliers;
- Maximize the use of scarce tooling or special equipment;
- Achieve economies in production;

- Ensure uniformity and reliability in equipment, compatibility or standardization of components, and interchangeability of parts;
- Eliminate problems in the use of proprietary data that cannot be resolved by more satisfactory solutions; or
- Facilitate the transition from development to production and to subsequent competitive acquisition of end items or major components.

Leader company contracting is to be used only when:

1. The leader company has the necessary production know-how and is able to furnish required assistance to the follower(s);
2. No other source can meet the government's requirements without the assistance of a leader company;
3. The assistance required of the leader company is limited to that which is essential to enable the follower(s) to produce the items; and
4. Its use is authorized in accordance with agency procedures.

When leader company contracting is used, the government shall reserve the right to approve subcontracts between the leader company and the follower(s).

#### **D. INTERAGENCY ACQUISITION (FAR 17.5)**

Interagency acquisitions are commonly conducted through indefinite-delivery contracts, such as task-and-delivery-order contracts. The indefinite-delivery contracts used most frequently to support interagency acquisitions are Federal Supply Schedule (FSS) contracts, governmentwide acquisition contracts (GWACs), and multiagency contracts (MACs). An agency shall not use an interagency acquisition to circumvent conditions and limitations imposed on the use of funds.

Interagency acquisition may be accomplished through either assisted or direct acquisitions.

##### **ASSISTED ACQUISITIONS:**

Prior to the issuance of a solicitation, the servicing agency and the requesting agency shall both sign a written interagency agreement that establishes the general terms and conditions governing the relationship between the parties, including roles and responsibilities for acquisition planning, contract execution, and administration and management of the contract(s) or order(s). The requesting agency shall provide to the servicing agency any unique terms, conditions, and applicable agency-specific statutes, regulations, directives, and other applicable requirements for incorporation into the order or contract. In the event there are no agency-unique requirements beyond the *FAR*, the requesting agency shall so inform the servicing agency contracting officer in writing. For acquisitions on behalf of the Department of Defense, also see subpart 17.7. For patent rights, see FAR 27.304-2. In preparing interagency agreements to support assisted acquisitions, agencies should review the OFPP guidance, "Interagency Acquisitions," available at

[https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/procurement/interagency\\_acq/iac\\_revised.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/procurement/interagency_acq/iac_revised.pdf).

**DIRECT ACQUISITIONS:** Prior to placing an order against another agency's indefinite-delivery vehicle, the requesting agency shall make a determination that use of another agency's contract vehicle is the best procurement approach and shall obtain the concurrence of the requesting agency's responsible contracting office. At a minimum, the determination shall include an analysis, including the following factors:

- The suitability of the contract vehicle;
- The value of using the contract vehicle, including the administrative cost savings from using an existing contract and lower prices, greater number of vendors, and reasonable vehicle access fees; and
- The expertise of the requesting agency to place orders and administer them against the selected contract vehicle throughout the acquisition lifecycle.

## **E. MANAGEMENT AND OPERATING CONTRACTS (FAR 17.6)**

Management and operating contracts are agreements under which the government contracts for the operation, maintenance, or support on its behalf of a government-owned or controlled research, development, special production, or testing establishment wholly or principally devoted to one or more major programs of the contracting federal agency.

A management and operating contract is characterized both by its purpose and by the special relationship it creates between government and contractor. The following criteria can generally be applied in identifying management and operating contracts:

1. Government-owned or controlled facilities must be used; for instance,
  - In the interest of national defense or mobilization readiness;
  - To perform the agency's mission adequately; or
  - Because private enterprise is unable or unwilling to use its own facilities for the work.
2. Because of the nature of the work, or because it is to be performed in government facilities, the government must maintain a special, close relationship with the contractor and the contractor's personnel in various important areas (e.g., safety, security, cost control, site conditions).
3. The conduct of the work is wholly or at least substantially separate from the contractor's other business, if any.
4. The work is closely related to the agency's mission and is of a long-term or continuing nature, and there is a need:
  - To ensure its continuity, and
  - For special protection covering the orderly transition of personnel and work in the event of a change in contractors.



Effective work performance under management and operating contracts usually involves high levels of expertise and continuity of operations and personnel. Because of program requirements and the unusual (sometimes unique) nature of the work performed under management and operating contracts, the government is often limited in its ability to effect competition or to replace a contractor. Therefore, contracting officers should take extraordinary steps before award to assure themselves that the prospective contractor's technical and managerial capacity are sufficient, that organizational conflicts of interest are adequately covered, and that the contract will grant the government broad and continuing rights to involve itself, if necessary, in technical and managerial decision-making concerning performance.

## FAR PART 18. EMERGENCY ACQUISITIONS

This section of the *FAR* provides a consolidated listing of flexibilities that are available for emergency acquisitions. These acquisition flexibilities are NOT exempt from the requirements and limitations stemming from FAR Part 3 (Improper Business Practices and Personal Conflicts of Interests). These flexibilities are specific techniques or procedures that may be used to streamline the standard acquisition process and include generally available flexibilities and emergency acquisition flexibilities that are available only under prescribed circumstances.

### A. AVAILABLE ACQUISITION FLEXIBILITIES (FAR 18.1)

The *FAR* includes many acquisition flexibilities that are available to the contracting officer when certain conditions are met. This subpart summarizes a variety of acquisition flexibilities established elsewhere in the *FAR*. These acquisition flexibilities do not require an emergency declaration or designation of contingency operation. The full list is found at FAR 18.1:

- Contractors are not required to be registered in the System for Award Management (SAM) at the time of submission of offers or quotations for contracts awarded without full and open competition due to unusual and compelling urgency; or contracts awarded by a contracting officer deployed in a military operation or located outside the US for work to be performed in support of diplomatic or developmental operations designated for danger pay; or in the conduct of emergency operations.  
However, contractors are required to be registered in SAM to gain access to the Disaster Response Registry which contracting officers use to determine availability of contractor for debris removal, supply distribution, reconstruction, and other disaster or emergency relief activities inside the US.
- Contracting officers do not have to synopsise a requirement if there is an unusual and compelling urgency and the government would be seriously injured by complying with the notice time periods. (FAR 5.202(a)(2))