

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

<b>MD 11.1</b>		<b>NRC ACQUISITION OF SUPPLIES AND SERVICES</b>		<b>DT-24-23</b>
<i>Volume 11:</i>	Procurement			
<i>Approved By:</i>	James C. Corbett, Director of Administration			
<i>Date Approved:</i>	December 12, 2024			
<i>Cert. Date:</i>	N/A, for the latest version of any NRC directive or handbook, see the <a href="#">online MD Catalog</a> .			
<i>Issuing Office:</i>	Office of Administration Acquisition Management Division			
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<b>EXECUTIVE SUMMARY</b>				
<p>Management Directive (MD) 11.1, "NRC Acquisition of Supplies and Services," is revised to provide general policy guidance for commercial and non-commercial acquisitions. This revision—</p> <ul style="list-style-type: none"><li>▪ Incorporates current policies, standards, and procedures.</li><li>▪ Organizes the procurement process into four sequential phases: (1) Procurement Planning; (2) Procurement Execution; (3) Contract/Order Performance/Administration; (4) Contract/Order Close-Out.</li><li>▪ Emphasizes the importance of engagement and collaboration between the requiring offices and the Office of Administration, Acquisition Management Division, beginning in the procurement planning phase.</li><li>▪ Introduces the Strategic Acquisition System (STAQS) as the agency's designated contract writing system software.</li><li>▪ Removes the exhibits from the handbook; that information is now available in libraries on the NRC Enterprise Acquisition Toolset (NEAT).</li><li>▪ Deletes information in the MD that essentially duplicates information contained in the Federal Acquisition Regulation (FAR) or Nuclear Regulatory Commission Acquisition Regulation (NRCAR). Information contained in or changes made to the MD do not in any way make regulatory changes to the FAR or NRCAR.</li></ul>				

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For updates or revisions to policies contained in this MD that were published after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

- Addresses recommendations resulting from OIG Audit Report OIG-12-A-02, “Independent Evaluation of the U.S. Nuclear Regulatory Commission’s Contract Award Process,” and OIG Audit Report OIG-12-A-18, “Audit of NRC’s Contract Administration of the EPM Contract.”

In addition, the NRC has revised this MD as part of its efforts to use more inclusive language in its publications. These changes, which include changing "Chairman" to "Chair" and “Ombudsman” to “Ombuds” in some instances, are purely editorial and do not affect the meaning of the guidance in this document.

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## I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) that the acquisition of supplies and services supporting the agency's mission is planned, awarded, and administered efficiently and effectively and is accomplished in accordance with applicable Federal statutes and procurement regulations. The primary implementing regulations are Title 48 of the Code of Federal Regulations (CFR), "Federal Acquisition Regulation (FAR)" and 48 CFR Part 20, "Nuclear Regulatory Commission Acquisition Regulation (NRCAR)," which further explains NRC's implementation of the FAR.

## II. OBJECTIVES

- Achieve the best value for the NRC's acquisition of supplies and services for commercial and non-commercial acquisitions from commercial firms, nonprofit organizations, universities, States, and other Federal agencies.
- Provide for the promotion of full and open competition in agency procurement actions.
- Support innovative ideas and procurement techniques within the legislative and regulatory framework to streamline procurement processes where possible.
- Promote fairness, openness, and transparency throughout the acquisition process.
- Maximize the use of small businesses and small disadvantaged businesses.
- Maintain an open, collegial, and collaborative relationship with the public about NRC procurement opportunities.
- Ensure appropriate use of taxpayer funds when planning, negotiating, awarding, and administering contracts.
- Maximize use of category management (i.e., enterprise-wide contracting) to gain efficiencies and cost savings.
- Maximize the purchase of green products and services to the extent practicable.

- Support and promote the use of Information and Communication Technology (ICT) to achieve the agency’s objectives for accessibility, including the use of accessible devices and software for persons with disabilities.

### **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

#### **A. Chair**

1. Has contracting authority, which is delegated to the Executive Director for Operations (EDO). (See NRCAR 2001.601.)
2. Reviews quarterly agency acquisition reports.

#### **B. Executive Director for Operations (EDO)**

1. For the purposes of NRCAR 2001.601 and the FAR, serves as head of the agency to execute the procurement function.
2. Performs duties required by Executive Order 12931, “Federal Procurement Reform,” to ensure the adequacy of the agency’s procurement function.
3. Provides oversight and direction, as Audit Followup Official (AFO), to ensure that audit recommendations included in Office of the Inspector General (OIG) reports are appropriately resolved.
4. Waives the organizational conflicts of interest (OCOI) requirements in specific cases, if in the best interest of the United States, upon the recommendation of the Senior Procurement Executive (SPE) and after consultation with legal counsel.
5. Approves, as head of the agency to execute the procurement function, contracts awarded without full and open competition with a performance period exceeding 1 year based upon unusual and compelling circumstances (FAR 6.302-2). (Note that the Competition Advocate serves as the approving authority for sole source contracts with a period of performance than 1 year. See Section III.R.2(c) of this directive.)
6. Determines when it is not in the public interest to use competitive procedures and gives Congress written notice 30 days before award. This authority cannot be delegated (FAR 6.302-7).

#### **C. Deputy Executive Director for Nuclear Materials, Administrative, and Corporate Programs (DEDM)**

Serves as the co-chair of the Strategic Sourcing Group (SSG).

**D. General Counsel**

1. Reviews solicitations, ratification requests for unauthorized commitments, justifications for other than full and open competition (JOFOC), requests for advance payments, protests, claims, disputes, terminations, novations, and assignments of claims, bankruptcy, and contracts/task orders/purchase orders for legal sufficiency or when requested by the contracting officer (CO) for actions that normally do not require review by the Office of the General Counsel (OGC).
2. Advises the Senior Procurement Executive (SPE) and the CO during the acquisition process and other agency officials on a need-to-know basis, based on the legitimate requirement of the person to know, access, or possess the information on all aspects of the procurement.
3. Represents the agency when a contract award action is protested by offerors and coordinates the protest process with the Acquisition Management Division (AMD), Office of Administration (ADM) (hereafter "AMD") and affected offices.
4. Advises AMD on significant procurement issues (e.g., major acquisition planning, termination, claims based on the Prompt Payment Act of 1982 (31 U.S.C. 3901 et seq.), debarment, suspension of payment, conflict-of-interest, ethics, ratification, and protest).
5. Represents the agency before the Civilian Board of Contract Appeals and the courts when contractors file claims under the Contract Disputes Act of 1978 (41 U.S.C. 601--613) and coordinates the handling of those claims with AMD and affected offices.
6. Provides overall legal guidance, advice, and support to AMD employees regarding procurement matters during all phases of the acquisition life cycle.
7. Attends Interagency Suspension and Debarment Committee meetings.
8. Serves as a member of the SSG.

**E. Inspector General**

1. Conducts investigations and reports cases involving fraud, waste, and abuse to ascertain and verify the facts regarding contractor misconduct and the integrity of NRC programs and operations.
2. Investigates allegations of fraud within the procurement system.
3. Directs audits and evaluations to assess the management and conduct of NRC-administered or NRC-financed programs and operations.
4. Audits procurement policies, procedures, processes, and payments.

5. Has independent contracting authority under the Inspector General Act of 1978 (5 U.S.C. App.), as amended.
6. Coordinates with AMD for the conduct of pre-award and post-award external audits as required by the FAR.
7. Processes contractor disclosures submitted to meet the FAR mandatory disclosures rule in accordance with 48 CFR 52.203-13, "Contractor Code of Business Ethics and Conduct."

**F. Director, Office of Administration (ADM)**

1. Serves in the following roles:
  - (a) Senior Procurement Executive (may be delegated to the AMD Director, in accordance with delegation [ML20322A367](#)),
  - (b) Competitive Sourcing Official,
  - (c) Inventory Appeal Authority,
  - (d) Suspension and Debarment Official,
  - (e) Senior Accountable Official for Suspension and Debarment,
  - (f) Chief Acquisition Officer (may be redelegated to the Deputy Director, ADM, on a temporary basis, in accordance with the delegation [ML11341A088](#)),
  - (g) Acquisition Career Manager (may be redelegated to the Director, AMD),
  - (h) Inventory Challenge Authority (redelegated to the Deputy Director, AMD), and
  - (i) Competition Advocate (redelegated to the Director, AMD). As SPE, approves noncompetitive contracts in accordance with FAR 6.304.
2. Monitors the agency's procurement system.
3. Monitors agency procurement rules, reporting requirements, contractual requirements, certification procedures, and other administrative procedures.
4. Monitors development of procurement goals, guidelines, and innovation; measures and evaluates procurement office performance against stated goals; enhances career development for the procurement workforce; and advises the EDO on whether goals are being achieved, in accordance with Executive Order 12931.
5. Manages and monitors direction of the agency's acquisition system, the Strategic Acquisition System (STAQS), including acquisition policies, regulations, and standards of the agency.

6. Reviews and approves non-competitive justifications with former NRC employees within 2 years of the date of a requisition, after consulting with the EDO, in accordance with NRCAR 2009.100(d).
7. As Senior Accountable Official for Suspension and Debarment, performs the following functions:
  - (a) Assesses the agency's suspension and debarment program, including the adequacy of available training and resources (including, where appropriate, full-time staff).
  - (b) Ensures that the agency maintains effective internal controls and tracking capabilities, taking into consideration the agency's mission, organizational structure, and level of procurement and grant-making activities.
  - (c) Ensures that the agency participates regularly on the Interagency Suspension and Debarment Committee (note that OGC attends committee meetings, too).
  - (d) Reviews internal policies, procedures, and guidance to ensure that the agency is protecting the Government's interests and taxpayer funds by effectively using suspension and debarment when appropriate, as well as other remedies available to the agency that are designed to ensure, before an award is made, that potential contractors and recipients have the requisite business integrity.
  - (e) Ensures that the agency's award officials review relevant databases and other information sources before awarding any Federal contracts to prevent awards from being made to entities that are suspended or debarred or are otherwise not responsible.
  - (f) Takes prompt, corrective action when the agency determines that it improperly made an award to a suspended or debarred entity. Appropriate action includes addressing the specific award and the establishment of systematic controls and procedures to prevent recurrence.
8. Notifies OIG if a contract award was improperly made to a suspended or debarred entity.

#### **G. Chief Acquisition Officer (CAO)**

1. Serves as the primary official responsible for managing the agency's acquisition activities. This position is held by the Director, ADM. The CAO delegation is delegated from the DEDM to the Director, ADM per the Services Acquisition Reform Act of 2003.
2. Advises and assists the EDO, who serves as head of the agency to execute the procurement function, and other agency officials to ensure that the agency's mission is achieved through the management of the agency's acquisition activities.

3. Monitors the performance of acquisition activities and acquisition programs of the agency, including development of the agency's acquisition workforce; evaluates the performance of those programs based on applicable performance measurements; and advises the EDO regarding the appropriate business strategy to achieve the agency's mission.
4. Increases NRC use of full and open competition in the acquisition of supplies and services by establishing policies, procedures, and practices that ensure that the NRC receives enough competitive proposals from responsible sources to fulfill NRC requirements at the lowest cost or best value, considering the nature of the supplies or services procured.
5. Increases appropriate use of performance-based contracting and performance specifications.
6. Makes acquisition decisions consistent with all applicable laws and establishes clear lines of authority, accountability, and responsibility for acquisition decision-making.
7. Manages the direction of acquisition policy for the agency, including implementation of the unique acquisition policies, regulations, and standards of the agency.
8. Develops and maintains an acquisition career management program in the agency to ensure that there is an adequate professional workforce.
9. Supports the strategic planning and performance evaluation process by—
  - (a) Assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for acquisition management;
  - (b) Developing strategies and specific plans for hiring, training, and developing professionals to address any deficiency in meeting those requirements; and
  - (c) Reporting to the head of the agency on the progress made in improving acquisition management capability.
10. Collaborates with the Chief Information Officer (CIO) to ensure Section 508 of the Rehabilitation Act of 1973 requirements are incorporated into any ICT products or services procured by or for the agency.
11. Serves as a member of the SSG.

**H. Chief Information Officer (CIO)**

1. Manages and accounts for ICT resources.
2. Establishes and ensures that appropriate agencywide ICT resource acquisition policies, plans, and procedures are in place to meet the requirements of ICT-related Federal statutes, regulations, and policies. Examples include, but are not limited to, the following:
  - (a) OMB Circular No. A-123 Appendix D, "Management of Financial Management Systems – Risk and Compliance";
  - (b) OMB Circular No. A-130, "Management of Federal Information Resources";
  - (c) Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and the Standards for Section 508 of the Rehabilitation Act (36 CFR 1194.1);
  - (d) Section 208 of the E-Government Act of 2002 (44 U.S.C. 36);
  - (e) Office of Federal Procurement Policy (OFPP) Memorandum of June 14, 2012, "Contracting Guidance to Support Modular Development";
  - (f) OMB Chief Information Officer Memorandum of December 9, 2010, "25 Point Implementation Plan to Reform Federal Information Technology Management"; and
  - (g) OMB Memorandum M-17-26, "Reducing Burden for Federal Agencies by Rescinding and Modifying OMB Memoranda," dated June 15, 2017.
3. Provides guidance to NRC offices that are planning to procure ICT resources through AMD.
4. Provides support to NRC offices, as requested, in preparing statements of work for ICT resource acquisitions.
5. Reviews ICT and ICT-related requisitions for conformance with established ICT resource acquisition policies, plans, and procedures.
6. Provides unclassified technology services to all components of the agency (FAR Part 39, "Acquisition of Information Technology"; 39.001, "Applicability"). For acquisitions, the CIO—
  - (a) Serves as the primary responsible official for establishing the agency Section 508 program and provides leadership of the program. Section 508 was enacted to eliminate barriers in information technology, open new opportunities for people with disabilities, and encourage development of technologies that will help achieve these goals.

- (b) Ensures Section 508 accessibility considerations are incorporated into the planning, operation, and management of any ICT that is procured, developed, maintained, or used by the agency.
  - (c) In collaboration with the Chief Acquisition Officer (CAO), ensures Section 508 requirements are incorporated into any ICT products or services procured by or for the agency.
7. Serves as Senior Accountable Official for Data Quality.
  8. Provides senior-level oversight of strategic acquisition initiatives and established Portfolio Councils (PCs), including serving as chair of the Information Technology/Information Management Portfolio Executive Council.
  9. Serves as a member of the SSG.
- I. Chief Information Security Officer, Office of the Chief Information Officer (OCIO)**
1. Provides and updates ICT security clauses for inclusion in NRC solicitations and contracts that include ICT.
  2. Establishes and updates rules of behavior governing acceptable computer use. The rules of behavior apply to all NRC employees, contractor personnel, vendors, and agents (users) who have access to any system operated by the NRC or by a contractor or outside entity on behalf of the NRC.
  3. Establishes and updates the annual computer security awareness training course for all NRC users.
  4. Establishes and updates role-based ICT security training requirements.
  5. Reviews ICT and ICT-related requisitions for conformance with established ICT security requirements.
- J. Director, Office of Small Business and Civil Rights (SBCR)**
1. Develops, coordinates, and administers the NRC Small Business Program (SBP) (15 U.S.C. 631 et seq.) as it pertains to Sections 8 and 15 of the Small Business Act, as amended.
  2. Assists program officials in their effort to meet mission objectives using capable and qualified small businesses.
  3. Represents the NRC before Congress and Federal agency task forces on small business and economic development matters.

4. Implements, develops, and publishes small business procurement policy, procedures, and guidelines based on small business statutory authority in conjunction with AMD and the requirement offices and regions as they relate to the NRC SBP.
5. Establishes a biannual NRC small business prime and subcontract goals program, monitors the results of the program on a quarterly basis, and prepares reports of NRC's small business contract performance in making small business awards in the program areas covered by this management directive (MD).
6. Coordinates with office directors and regional administrators for early identification of requirements that offer the potential for small business set-asides, sole source awards, partial set-asides, or any other incentivized mechanisms that foster the maximum practicable prime and subcontract opportunities for small businesses.
7. Reviews NRC Form 827, "NRC Small Business Review," and NRC Form 828, "NRC Small Business Subcontracting Plan Review" (available in the NRC Forms Library), to ensure compliance with small business laws and to make appropriate acquisition method recommendations that provide the maximum practicable prime and subcontract opportunities for small businesses.
8. Reviews proposed procurements in the Advance Procurement Plan (APP) that exceed the simplified acquisition threshold to make recommendations for small business participation for the requirement offices and regions and AMD.
9. Provides capability statements for small business vendors to requirement offices and regions and AMD for fulfillment of agency requirements.
10. Reviews subcontracting plans for accuracy, completeness, and adequacy of small business usage.
11. Produces an annual agency forecast of contract opportunities, which identifies requirements suitable for small business participation, in coordination with office directors and AMD.
12. Reports small business information to the U.S. Small Business Administration (SBA) for inclusion in the SBA annual small business procurement scorecard, in collaboration with AMD.
13. Serves as a member of the SSG.

#### **K. Chief Human Capital Officer (CHCO)**

1. In the event of an Office of Management and Budget (OMB) Circular A-76, "Performance of Commercial Activities," study, verifies the number, grades, and kinds of positions associated with the activities that may be contracted out.

2. Assists AMD with implementation of the Acquisition Training and Certification Program.

#### **L. Office Directors (ODs)**

1. Serve as designating officials (DOs) within their offices for approval of procurement actions, ensure the accuracy of JOFOCs and ratification actions, and provide approval, if appropriate. The responsibilities of the DOs may not be redelegated below the level of deputy division director for actions valued at or above the micro-purchase level (see FAR 2.101), unless otherwise approved by the Director, AMD, who serves as Head of Contracting Activity (HCA).
2. Ensure that contracting officer's representatives (CORs) receive required training and certification consistent with OMB policy and NRC training guidelines.
3. Ensure SEPs have complete autonomy to evaluate contractors' proposals and make award recommendations to the CO.
4. Ensure that CORs and purchase card holders perform their responsibilities as described in the handbook to this directive and follow statutory, regulatory, and other agency policies and procedures in planning, awarding, and administering contracts and contracting actions.
5. Ensure that SSG information is submitted to AMD for concurrence, before submission to the SSG, for all new contracts or modifications estimated at or above the dollar threshold amount stated in agency guidelines.
6. Attend SSG meetings for office procurements or provide office representation in their absence.
7. Ensure that purchase cardholders comply with the ADM "Purchase Card Handbook."

#### **M. Regional Administrators (RAs)**

1. Serve as DOs within their offices for approval of requisitions and ensure the accuracy of JOFOCs and ratifications.
2. Approve ratification requests for unauthorized commitments, in consultation with OGC for all requests regardless of dollar value, and with the Competition Advocate for actions above the micro-purchase threshold.
3. Ensure that CORs perform their responsibilities as described in the handbook to this directive and follow statutory, regulatory, and other agency policies and procedures in planning, awarding, and administering contracts and contracting actions.

**N. Deputy Director, Office of Administration (ADM)**

1. Serves as CAO, as delegated by the Director, ADM, on a temporary basis during times of absences or unavailability. See [ML11341A088](#) for this delegation.
2. Serves as Inventory Challenge Authority, as delegated by the Director, ADM. See [ML072220277](#) for this delegation.

**O. Director, Acquisition Management Division (AMD), Office of Administration (ADM)**

1. Serves as HCA to develop and implement agencywide contracting policies and procedures relating to the NRC acquisition of supplies and services in coordination with affected NRC offices and ensures the provision of quality and timely assistance on procurement matters to NRC offices, as needed (NRCAR 2002.100).
2. Provides warrant authority directly to RAs, branch chiefs, COs, and contracting specialists and establishes clear lines of contracting authority and accountability, including responsibility for executing and modifying contracts, financial assistance vehicles, and other procurement-related actions.
3. Serves as agency task order/delivery order Ombuds to review contractor complaints or concerns regarding task or delivery orders and ensures that contractors are afforded a fair opportunity to be considered, consistent with the procedures in the contract and FAR 16.504.
4. Prescribes and publishes agencywide procurement policies, regulations, and procedures.
5. Establishes and makes changes to the agency's procurement system, STAQS.
6. Establishes and makes changes to the agency procurement rules, reporting requirements, contractual requirements, certification procedures, and other administrative procedures.
7. Appoints a representative in AMD to serve as the Acquisition Career Manager.
8. Establishes and updates career education programs for procurement professionals to ensure a highly qualified procurement workforce that complies with relevant OMB guidelines.
9. Notifies the AFO, who in this agency is the EDO, of any disagreement with OIG concerning resolution of contract audit recommendations before taking final action.
10. Ensures the implementation of Federal policy regarding the performance of commercial activities, following OMB Circular A-76.
11. Monitors and ensures high quality service and products provided by AMD.

12. Approves, as HCA, ratification requests of unauthorized commitments for headquarters, in accordance with FAR 1.602-3.
13. Manages, with assistance from OCHCO, the design, development, and implementation of the Federal Acquisition Certification in Contracting, Federal Acquisition Certification for Contracting Officer's Representatives acquisition training and certification programs, and Federal Acquisition Certification for Program and Project Manager.
14. Supports the category management program, including implementation and management of agency enterprise-wide contracting efforts.
15. Concurs on SSG requests and attends SSG meetings.
16. Serves as agency Competition Advocate, unless redelegated to the Deputy Director level. As HCA, approves non-competitive actions in accordance with FAR 6.304. See [ML12341A205](#) for this delegation.
17. Reviews and approves FAR deviations in accordance with FAR 1.402 and NRCAR 2001.4.

**P. Director, Division of Facilities and Security (DFS), Office of Administration (ADM)**

1. Plans, develops, establishes, and administers policies, standards, and procedures for the overall NRC Facility Security Program, including the approval of facilities for the handling and storage of Classified Information and Controlled Unclassified Information (CUI), as provided in MD 12.1, "NRC Facility Security Program."
2. Provides and updates security clauses for inclusion in NRC solicitations and contracts.
3. Reviews completed NRC Form 187, "Contract Security and/or Classification Requirements," indicating the level and type of security access needed by a contractor to perform (i.e., meet NRC contract requirements), including but not limited to access to classified information.
4. Initiates necessary actions to confirm an existing facility security clearance or establishes a clearance for the facility.
5. Reviews Standard Form (SF) 85, "Questionnaire for Non-Sensitive Positions," (e-QIP) or SF 86, "Questionnaire for National Security Positions," for proposed contractor candidates in relation to NRC contracts and conducts security investigations.
6. Issues badges or passes to approved contractor employees for required access to Government buildings, facilities, or networks.
7. Cancels or terminates security clearance access or requests.

**Q. Comptroller, Division of the Comptroller (DOC), Office of the Chief Financial Officer (OCFO)**

1. Runs the Financial Accounting and Integrated Management Information System (FAIMIS), which records obligations against contract awards and modifications that have been approved by AMD, and reviews documents for completeness and accuracy of accounting data (e.g., fiscal year, budget and reporting number, job code, and budget object classification).
2. Maintains records of payments and outstanding unpaid contract obligations, files of unpaid invoices, and provides reports to NRC program offices and AMD.
3. Coordinates with AMD regarding available unexpended obligations during early contract closeout.
4. Coordinates with AMD to ensure contract holdback funds are recorded for Cost-Plus-Fixed-Fee contracts or task orders where fixed-fee amounts obligated on the contract exceed 85 percent of the negotiated fixed-fee amount established in the contract, and that outstanding issues related to fixed-fee are resolved during contract close-out.
5. Coordinates with AMD to resolve contract payment issues.

**R. Competition Advocate**

1. The Director, AMD, serves as the agency Competition Advocate and fulfills the full complement of duties and responsibilities established in FAR 6.502. This authority may be redelegated to the Deputy Director, AMD.
2. The Competition Advocate—
  - (a) Reviews and approves JOFOCs for proposed contracts or modifications exceeding the dollar threshold in FAR 6.304(a)(2).
  - (b) Reviews and approves exceptions to the requirement to place notices of proposed contract actions (synopses) on the “Opportunities” module on [SAM.gov](https://sam.gov) based upon unusual and compelling urgency (FAR 5.202).
  - (c) Reviews and approves exceptions to the requirement for full and open competition for contracts of 1 year or less in duration based upon unusual and compelling urgency (FAR 6.302-2). (Please note that the EDO serves as the approving authority for sole source contracts with a period of performance exceeding 1 year. See Section III.B.5 of this directive.)
  - (d) Reviews and makes recommendations to the HCA and regional administrators for ratification requests of unauthorized commitments greater than the micro-purchase threshold.

**S. Strategic Sourcing Group (SSG)**

1. The SSG provides senior-level oversight of strategic acquisition business process improvements.
2. The SSG has seven members—
  - (a) DEDM, who co-chairs the SSG;
  - (b) Deputy Executive Director for Reactor and Preparedness Programs (DEDR);
  - (c) Deputy Chief Financial Officer, who co-chairs the SSG;
  - (d) Chief Acquisition Officer;
  - (e) Chief Information Officer;
  - (f) Deputy Assistant General Counsel/Special Counsel for Acquisition (OGC); and
  - (g) Director, SBCR.
3. The SSG—
  - (a) Assumes the function of the Procurement Oversight Committee (POC) to enhance the agency's procurement oversight process by ensuring that proposed procurement actions (i.e., commercial contracts, DOE laboratory agreements, interagency agreements) valued at \$5 million and above, and are considered high risk, meet agency and programmatic requirements, and that documentation adequately supports the proposed procurements.
  - (b) Ensures alignment between the acquisition process and the budget formulation and execution processes.
  - (c) Communicates status and progress to the Chair and the Commissioners.
4. When required, SSG meetings are also attended by the Director, AMD; requirement office representatives; the ADM, Acquisition Policy, Planning & Support Branch (APPSB) branch chief; the CO/CS responsible for the acquisition; and the SBP manager in SBCR.
5. ADM provides secretarial support to the SSG.

**T. Senior Procurement Executive (SPE)**

The Director, ADM, as the SPE, is responsible for managing the agency's procurement system (STAQS), and implementing unique procurement policies, regulations, and standards, as necessary. This may be redelegated to the Director, AMD in accordance with delegation [ML20322A367](#).

**U. Acquisition Career Manager**

1. Develops the acquisition workforce, including identifying agency staffing needs, professional training requirements, and other workforce development strategies.
2. Proposes an annual budget to the CAO to develop the acquisition workforce to fulfill the requirements of OMB Policy Letter 05-01, "Developing and Managing the Acquisition Workforce," dated April 15, 2005, and other agency human capital objectives.
3. Provides coordinated input to the CAO and the CHCO regarding short- and long-term human capital strategic planning for training, competency fulfillment, career development, accession, recruitment and retention, and other facets of human capital management affecting the acquisition workforce.
4. Ensures that agency policies and procedures for workforce management are consistent with those established by OFPP, as appropriate.
5. Coordinates with agency functional advisors to ensure fulfillment of the requirements of OMB Policy Letter 05-01.
6. Recommends to the SPE waivers to the GS-1102 job series for (1) education requirements; and (2) training requirements, as authorized in OMB Policy Letter 05-01.
7. Maintains and manages consistent agencywide data on those serving in the agency's acquisition workforce in FAI CSOC.
8. Manages the acquisition workforce certification programs (i.e., Federal Acquisition Certification for Contracting, Federal Acquisition Certification for Contracting Officer's Representatives, and Federal Acquisition Certification for Program and Project Managers), including the approval of certain requirements for certification of individuals under these programs.
9. Manages the warrants and delegations of procurement authority granted to acquisition workforce members.

**IV. APPLICABILITY**

The policy and guidance in MD 11.1 apply to all NRC employees.

**V. DIRECTIVE HANDBOOK**

Handbook 11.1 contains general explanations, guidelines, procedures, and management controls for acquiring supplies and services.

## VI. REFERENCES

### *Code of Federal Regulations*

2 CFR Chapter XX, "United States Nuclear Regulatory Commission."

5 CFR Part 1315, "Prompt Payment Rules."

36 CFR 1194.1, "Standards for Section 508 of the Rehabilitation Act."

41 CFR 102-39, "Federal Property Management Regulations (FMR)."

48 CFR, "Federal Acquisition Regulation (FAR)."

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**U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)**

<b>DH 11.1 NRC ACQUISITION OF SUPPLIES AND SERVICES</b>		<b>DT-24-23</b>
<i>Volume 11:</i>	Procurement	
<i>Approved By:</i>	James C. Corbett, Director of Administration	
<i>Date Approved:</i>	December 12, 2024	
<i>Cert. Date:</i>	N/A, for the latest version of any NRC directive or handbook, see the <a href="#">online MD Catalog</a> .	
<i>Issuing Office:</i>	Office of Administration Acquisition Management Division	
<i>Contact Names:</i>	Jill Daly	Raissa Forakis
<b>EXECUTIVE SUMMARY</b>		
<p>Management Directive (MD) 11.1, “NRC Acquisition of Supplies and Services,” is revised to provide general policy guidance for commercial and non-commercial acquisitions. This revision—</p> <ul style="list-style-type: none"> <li>▪ Incorporates current policies, standards, and procedures.</li> <li>▪ Organizes the acquisition process into four sequential phases: (1) Acquisition Planning; (2) Acquisition Execution; (3) Contract/Order Performance/Administration; (4) Contract/Order Close-Out.</li> <li>▪ Emphasizes the importance of engagement and collaboration between the requiring offices and the Office of Administration, Acquisition Management Division, beginning in the acquisition planning phase.</li> <li>▪ Introduces the Strategic Acquisition System (STAQS) as the agency’s designated contract writing system software.</li> <li>▪ Removes the exhibits from the handbook; that information is now available in libraries on the NRC Enterprise Acquisition Toolset (NEAT).</li> <li>▪ Deletes information in the MD that essentially duplicates information contained in the Federal Acquisition Regulation (FAR) or Nuclear Regulatory Commission Acquisition Regulation (NRCAR). Information contained in or changes made to the MD do not in any way make regulatory changes to the FAR or NRCAR.</li> </ul>		

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For updates or revisions to policies contained in this MD that were published after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

- Addresses recommendations resulting from OIG Audit Report OIG-12-A-02, “Independent Evaluation of the U.S. Nuclear Regulatory Commission’s Contract Award Process,” and OIG Audit Report OIG-12-A-18, “Audit of NRC’s Contract Administration of the EPM Contract.”

In addition, the NRC has revised this MD as part of its efforts to use more inclusive language in its publications. These changes, which include changing "Chairman" to "Chair" and “Ombudsman” to “Ombuds” in some instances, are purely editorial and do not affect the meaning of the guidance in this document.

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## I. INTRODUCTION

### A. General

1. Directive Handbook (DH) 11.1 provides procedures and guidance for the U.S. Nuclear Regulatory Commission's (NRC's) acquisition of supplies and services from commercial firms, non-profit organizations, universities, States, and other Federal agencies. These supplies and services are acquired in a wide range of administrative, technical assistance, and research areas in support of NRC programs. Section I.B of this handbook outlines NRC roles and responsibilities during the acquisition process.
2. Title 48 of the Code of Federal Regulations, "Federal Acquisition Regulation (FAR)," establishes policies and procedures for the acquisition of supplies and services by all executive agencies. It is the highest-ranking regulatory document and takes precedence over 48 CFR Part 20, "NRC Acquisition Regulations (NRCAR)," and this handbook. If there is a discrepancy between the FAR, NRCAR, or this handbook, the FAR takes precedence, except regarding organizational conflicts-of-interest (OCOI), where the NRCAR controls.

### B. Overview of the U.S. Nuclear Regulatory Commission (NRC) Acquisition Program

1. This management directive (MD) provides an overview of the NRC acquisition program. Additional important information about NRC's acquisition program can be found on the NRC's external web site at <http://www.nrc.gov/about-nrc/contracting.html>. Information that is available on the web site includes NRC's business forecast, acquisition documents, small business information, links, and tips for conducting business with the NRC, and information about quarterly business seminars.
2. The timely, efficient, and successful acquisition of supplies and services begins each fiscal year (FY) with the development of an advance procurement plan (APP). Each NRC office (requirement office) contributes to the development of the APP by identifying the need for new procurement actions.
3. The Acquisition Management Division (AMD), Office of Administration (ADM), has the lead for the APP process and conducts acquisitions. The APP—
  - (a) Provides an overview of all new awards anticipated for the ensuing FY.
  - (b) Provides the requirement office a prospective for when funds will need to be committed.
  - (c) Helps AMD ensure timely awards by enabling an efficient distribution of procurement actions and workload to procurement personnel.

4. The Strategic Acquisition System (STAQS) is the software tool that houses the agency's procurement and contract writing system software. The agency uses STAQS to process and track all procurement requisitions generated by the requirement offices and routed to AMD, as well as to generate all new solicitations, contracts, task and delivery orders, and modifications. STAQS is also used to store, file, and maintain the official agency contract files related to these contracts.

5. The NRC acquisition process is organized into four sequential stages, as follows:

(a) The Acquisition Planning Phase

This phase begins with the creation of the APP (for new awards only) and ends with the complete and final requisition package being submitted in the agency's contract writing system software, STAQS, and accepted by AMD for advancement to the acquisition execution phase. During this phase, the contracting officer's representative (COR) develops the APP, if required, and the rest of the documents that make up the completed procurement or requisition package (hereafter "requisition package"). For new contract or order awards, this phase results in a complete requisition package for a new contract or order (new award requisition package). For existing contracts or orders, this phase results in a complete requisition package for a modification to a new contract or order (modification requisition package).

(b) The Acquisition Execution Phase

This phase begins when AMD accepts the requisition package (either for a new award or modification) submitted in STAQS and ends when the resulting contract or order, or modification is awarded. This phase, led by contract specialist/contracting officer, includes solicitation development, proposal evaluation, and contract award.

(c) The Contract/Order Performance/Administration Phase

This phase begins at contract award and ends when the period of performance of the contract or order ends or is terminated. This phase encompasses all aspects of contract or order modification and administration.

(d) The Contract/Order Closeout Phase

This phase begins when the contract period of performance ends or is otherwise terminated and ends when all tasks necessary for contract close-out are complete.

### C. Sources of Information

#### 1. Forms, Templates, Checklists, and Other Documents

- (a) NRC Forms mentioned in this handbook are available in the NRC Forms Library on SharePoint, at <https://usnrc.sharepoint.com/teams/NRC-Forms-Library>.
  - (b) Sources of information, including templates, are available in the NRCC Enterprise Acquisition Toolset (NEAT) Libraries at <https://neat.nrc.gov/>. Additional procurement information is on NRC's external web site at <http://www.nrc.gov/about-nrc/contracting.html>.
2. Primary Sources
    - (a) The FAR is the primary reference for acquisition information and is available at <http://www.acquisition.gov/far>.
    - (b) The NRCAR (48 CFR Chapter 20) implements and supplements the FAR and is available at <http://www.nrc.gov/about-nrc/contracting/48cfr-ch20.html>. If a topic discussed in this handbook appears to conflict with the FAR or the NRCAR, the requirements of the NRCAR and the FAR will prevail.
  3. Secondary Sources

The NRC Purchase Card Handbook implements the General Services Administration (GSA) SmartPay®3 Program, and is available in NEAT and at <https://adamsxt.nrc.gov/WorkplaceXT/getContent?id=current&vsId=%7B4E7FC83B-3EAC-4141-92D7-46DF0956BB1B%7D&objectStoreName=Main...Library&objectType=document>.

## II. PRINCIPLES OF GOVERNMENT CONTRACTING

### A. Statutory and Regulatory References (Historical Background)

1. The FAR is the primary set of regulations that governs Federal agencies in their acquisition of supplies and services with appropriated funds.
2. The Competition in Contracting Act of 1984 (CICA) (42 U.S.C. 85) extensively changed the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), which is the procurement statute for the NRC and most civilian Federal agencies. CICA requires the use of competitive procedures to obtain full and open competition, and strictly limits the use of non-competitive procedures (other than full and open competition).
3. On May 16, 1989, amendments to the Office of Federal Procurement Policy Act (41 U.S.C. 401, et seq.) placed new requirements and restrictions on Federal employees involved in the Federal commercial procurement process. It prohibits Federal employees, private firms, and individuals from knowingly discussing, offering, or accepting anything of value, including job offers, while participating in the procurement process.

4. The NRC issued the NRCAR to supplement the FAR. The NRCAR became effective on January 22, 1993.
5. The Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355) significantly changed the procurement process. It established a category for micro-purchases, set the framework for simplified acquisition procedures, promoted electronic commerce, established a procedure for multiple awards from one solicitation, and promoted contracting for commercial items. It also affected the approach to several areas of procurement, including competition, purchase of commercial items, and certifications.
6. The Information Technology Management Reform Act of 1996 (ITMRA) (Pub. L. 104-106), which repealed the Brooks Act, assigned responsibilities to the Office of Management and Budget (OMB) and revised FAR Part 15, "Contracting by Negotiation," to implement streamlining initiatives covering acquisition techniques, source selection, and competitive range determinations.
7. The NRC has a longstanding practice of conducting its activities in an open and transparent manner, consistent with the NRC's approach to Open Government (<https://www.nrc.gov/public-involve/open.html>), [OMB's Open Government Directive](#), and the Data Quality Act (Pub. L. 106-554; H.R. 5658). The NRC reports on a monthly basis all contracts and financial assistance obligations to [USASpending.gov](https://www.usaspending.gov), in accordance with OMB Memorandum 09-19, "Guidance on Data Submission under the Federal Funding Accountability and Transparency Act (FFATA)," June 1, 2009.
8. The Privacy Act—
  - (a) The Privacy Act of 1974 (5 U.S.C. 552a) requires safeguards for the protection of records on individuals that the Federal Government collects, maintains, and uses. The Privacy Act is applicable when personally identifiable information (PII) can be retrieved from agency records by a personal identifier (name, social security number, or case number assigned to the individual).
  - (b) The purpose of the Privacy Act is to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against invasions of their privacy. The provisions described in MD 3.2, "Privacy Act," also apply to a duplicate system of records, which may be copies of agency records or like records contained in an NRC system of records. A duplicate system of records does not need to contain all the records contained in the primary system.
  - (c) Solicitations and contracts must include Privacy Act FAR clauses that explain when a contract requires NRC contractors and/or subcontractors (and their employees) to maintain or have access to a system of records or a duplicate system of records that contain PII about individuals and from which personal information can be retrieved by reference to an individual identifier (e.g., name, social security number).

## **B. Overview of Contract Law**

1. A contract is an agreement between two or more parties in which there is a promise to perform or to refrain from some action now or in the future in return for a valuable benefit (i.e., consideration). A valid and binding contract requires the following elements—
  - (a) Offer (a party must offer to enter into a contract and make an offer to another party),
  - (b) Acceptance (another party must accept the terms of the offer),
  - (c) Consideration (something of value offered by one party to another),
  - (d) Capacity of the parties (both parties must be of sound mind and legal age to enter into a contract), and
  - (e) Legality (the contract's purpose must be to accomplish a goal that is legal).
2. A well-written contract can reduce the risk of misunderstandings after the contract has been signed. Loosely written requirements, ambiguous clauses, unreasonable performance schedules, and inaccurate or faulty specifications or requirements can create serious problems for timely receipt of quality goods or services. The problems include deficient contract deliverables or products or services provided at an unreasonable cost.
3. The courts have taken the approach that individuals who enter into valid contracts are legally required to fulfill their contractual obligations, including contracts entered into by the Federal Government.
4. For pre-award and post-award matters including legal issues pertaining to contract changes and disputes, please refer to the [Acquisition Navigator](#) on NEAT.

## **C. The Law of Agency**

1. Under the principles of commercial law, the “law of agency” assumes that three parties are involved: the principal, the agent, and a third party. The contracting officer's representative (COR) or contracting officer (CO) performs as a representative (agent) of the U.S. Government (the principal) and engages with contractors (third parties). The acts of the agent may bind the principal to third parties and may give the principal rights against third parties. A Government CO cannot enter into a contract without the statutory or regulatory authority to do so. If a CO enters into a contract without express authority, or if the action is prohibited by law or regulation, the contract becomes void and does not bind the Government.
2. The courts have consistently held that persons dealing with a Government agent are presumed to have notice of limitations on that individual's authority, even though the Government representative may have been unaware of them. However, NRC CORs

who deal with a contractor should remember that their actions, even if unintended, may result in a constructive change (an informal alteration of the work being performed under the contract) for which the contractor may be entitled to compensation.

#### **D. Basic Principles of Contracting Law**

1. Promote full and open competitive acquisitions to the maximum extent possible.
  - (a) Using full and open competition allows market forces to influence contract pricing, terms, and conditions, typically yielding lower prices and more favorable results than operating in a sole source environment.
  - (b) Using full and open competition also allows all qualified vendors an equal and fair opportunity to compete for Government requirements.
2. Award contracts only to those vendors who are “responsive” and “responsible.”
  - (a) Responsive means the vendor must submit a bid or proposal that complies with all Government solicitation requirements.
  - (b) Responsible means the vendor must meet the conditions set forth in FAR 9.104.
3. Select the contract type that is most appropriate for the Government requirement. The type of contract used must coincide with the specific nature and circumstances of the procurement and address the degree of risk exposure the Government is willing to accept.
4. The NRC acquisition program implements various national, social, and economic policies. Examples include, but are not limited to—
  - (a) Maximizing use of small business programs (SBPs), including small business set-asides and sole source procurements (FAR Part 19);
  - (b) Addressing Section 508 (Rehabilitation Act) accessibility standards (FAR 39.2); and
  - (c) Adherence to Federal and State environmental laws and regulations (FAR Part 23).

#### **E. Drug-Free Workplace**

The NRC will deem any offeror unqualified for award unless the offeror has certified that it maintains a drug-free workplace. After contract award, if there is adequate evidence to suspect that the contractor submitted a false certification or failed to comply with the certification, the NRC may suspend payments, terminate the contract for default, debar or suspend the contractor, or take other appropriate action as deemed necessary by the agency.

**F. Contractor Suspension and Debarment**

1. Suspension and debarment actions prevent companies and individuals from participating in Government contracts, subcontracts, and other contractual relationships with any Federal agency for acts identified below.
2. Grounds for contractor suspension and debarment include—
  - (a) Commission of fraud or a criminal offense concerning obtaining, attempting to obtain, or performing a public contract or subcontract;
  - (b) Violation of Federal or State antitrust statutes relating to the submission of offers;
  - (c) Commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
  - (d) Intentionally affixing a label bearing a “Made in America” inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas when the product was not made in the United States or its outlying areas.
  - (e) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, including—
    - (i) Willful failure to perform under the terms of one or more contracts;
    - (ii) A history of failure to perform, or of unsatisfactory performance of, one or more contracts;
    - (iii) Violation of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690);
    - (iv) Commission of an unfair trade practice;
    - (v) Delinquent Federal taxes that exceed the micro-purchase threshold; and
    - (vi) Knowing failure by a principal, until 3 years after final payment on any Government contract award to the contractor, to timely disclose to the Government, concerning the award, performance, or closeout of the contract or a subcontract, credible evidence of—
      - Violation of Federal criminal law involving fraud, conflict-of-interest, bribery, or gratuity violations in Title 18 of the United States Code (U.S.C.);
      - Violation of the civil False Claims Act (31 U.S.C. 3729-3733);
      - Significant overpayment(s) on the contract, other than overpayments resulting from contract financing payments as defined in FAR 32.001;

- Noncompliance with Executive Order (E.O.) 12989, “Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions”; or
  - Any other cause so serious or compelling in nature that it affects the present responsibility of a Government contractor or subcontractor.
3. Suspended or debarred contractors are listed on the “System for Acquisition Management” (SAM) database, which incorporates the information formerly included on the “List of Parties Excluded from Federal Procurement and Non-procurement Programs,” available at <https://sam.gov/content/home>.
  4. The NRC cannot suspend beyond 12 months, although under the FAR the suspension may be extended beyond 12 months in certain circumstances based on a request by the United States Attorney’s Office or when legal proceedings have been initiated. The Government is precluded from soliciting offers from, awarding contracts to, or consenting to subcontracts with suspended or debarred contractors. (See FAR Subpart 9.4, “Debarment, Suspension, and Ineligibility.”)

#### **G. Contract Funding Considerations**

1. Congress appropriates funds for NRC programs but does not directly control their expenditure. This control is provided by the laws and procedures that apply to the apportionment, allotment, commitment, and obligation of funds.
2. The Anti-Deficiency Act (31 U.S.C. 1341, 1517)
  - (a) The NRC is governed by the Anti-Deficiency Act and other fiscal laws. (See MD 4.2, “Administrative Control of Funds.”) In general, appropriated funds are subject to three basic fiscal constraints: time, purpose, and dollar amount.
  - (b) The Anti-Deficiency Act prohibits Government officials or employees from authorizing or making obligations that exceed the amount available in an appropriation, an apportionment, a reapportionment, or an allotment. Any appropriation that is apportioned or reapportioned may only be divided and subdivided administratively within the limits of these apportionments or reapportionments. In addition, NRC’s policies for administrative control of funds prohibit authorizing or making obligations that exceed allowances or financial plans. CORs are responsible for monitoring contract funding under NRC contracts. No officer or employee of the Government may create or authorize an obligation in excess of funds available. This policy applies to issuance of orders in excess of funds obligated under a contract.

### 3. The Bona Fide Need Rule—

- (a) The Bona Fide Need Rule applies to the timing aspect of appropriated funds. It requires that appropriated funds be used only for supplies and services for which a need arises during the period of that appropriation's availability for obligation.
- (b) The NRC primarily uses no-year funds to finance its contractual obligations. The Bona Fide Need Rule does not apply to no-year funds. (See "[General Services Administration--Availability of No-Year Appropriations for a Modification of an Interagency Order](#)" (Sep. 28, 2015).)

### 4. Fully Funding Versus Incremental Funding

- (a) A non-severable service must be fully funded at the time of award with funds available in the current FY at the time of contract award unless a multi-year contract is authorized for use. (See FAR 17.1.) A contract that is viewed as "entire" is chargeable to the FY in which it was awarded, notwithstanding that performance may extend into subsequent FYs. Incremental funding is not permitted unless using multi-year contract procedures.
- (b) Contract Options: An option is a unilateral right in a contract by which, for a specified period, the Government may elect to procure additional supplies or services called for by the contract or may elect to extend the term of the contract. For example, for a contract with a base period followed by four 12-month option periods, the Government would fund the base period and each option period with the fiscal-year appropriation available for each period. The Government must fund options at the time the agency exercises the option.
- (c) Incremental Funding: Incremental funding is a method of funding contracts for severable services that provides specific spending limits that are less than the total estimated cost/price of the entire contract, with the understanding that additional funds are expected to be provided later. Incremental funding allows severable cost-reimbursement type contracts awarded for more than 12 months to be funded from succeeding FYs. It shall not be used in contracts for construction or A-E services. (See FAR Subpart 32.7, "Contract Funding.")
- (d) Cost-Reimbursement Contracts: Cost-reimbursement contracts may be incrementally funded when the following conditions are met—
  - (i) Includes FAR clause 52.232-22, "Limitation of Funds," and
  - (ii) The services being acquired are severable.
- (e) Time-and-Materials and Labor-Hour Contracts: T&M and labor-hour contracts may be incrementally funded when the following conditions are met—
  - (i) Incremental funding is not prohibited by the agency's applicable appropriations, financial management regulations, or acquisition regulations.

- (ii) The services being acquired are severable.
- (iii) The acquisition instrument includes any relevant agency supplement and FAR clauses necessary to limit the Government's financial liability.
- (iv) Period of Performance: It may be more appropriate at times to establish a shorter period of performance to coincide with the amount of funding available to perform the work to limit the Government's risk. Fixed price periods of performance must be fully funded at time of award or option exercise.

#### 5. Other Funding Concerns

- (a) For headquarters and regional offices, the funds certifying official certifies funds for the estimated cost of the supplies or services to be procured.
- (b) Requests for furniture and office equipment (Federal Supply Groups 71 and 74) should be sent to the NRC Property Management Officer, Facilities, Logistics, and Support Branch (FLSB), Division of Facilities and Security (DFS) for concurrence. After concurrence, the NRC Property Management Officer will send the requisition to the ADM funds certifying official for funds certification. For some Information and Communication Technology (ICT) purchases, the Office of the Chief Information Officer (OCIO) will certify funds availability.
- (c) For headquarters offices, some requisitions for administrative supplies and services or ICT resources may require certification of funds by ADM or OCIO. The requirement office's funds certification official will advise the requester in these cases.
- (d) New Work: Requisitions to add out-of-scope tasks or activities to an existing contract constitute new work and must contain a Justification for Other than Full and Open Competition (JOFOC) document. Note: Out-of-scope work of this type cannot be added to contracts solely for the purpose of exhausting available funding. (See Handbook Section IV, "The Acquisition Planning Phase," "Non-Competitive Procurements and Justifications for Other than Full and Open Competition.")
- (e) Continuing Resolutions: As continuing resolutions (CRs) become more commonplace and longer in duration, it may be advisable to award contracts that do not begin in October to lessen the impact of CR-related funding limitations.
- (f) Agency Funding Deadlines: Funding for requisitions should be provided to AMD by the cutoff date indicated in the annual acquisition planning memo, issued jointly by ADM and OCFO.

## H. The Small Business Preference Program

1. It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small business concerns such as, Veteran-Owned Small Businesses (VOSB), Service-Disabled Veteran-Owned Small Businesses (SDVOSB), Historically Underutilized Business Zone (HUBZone) small businesses, Small Disadvantaged Businesses (SDB), Women-Owned Small Businesses (WOSB), and Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) concerns. These concerns must also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any Federal agency, consistent with efficient contract performance.
2. The NRC negotiates small business procurement goals annually with SBA. To meet these goals, the NRC is committed to including small business, VOSB, SDVOSB, HUBZone small business, EDWOSB, WOSB, and EDWOSB (i.e., Section 8(a) Program) in competitive acquisitions and schedule buys, to the maximum extent possible. Many of these programs offer limited-competition or sole source procurement opportunities.
3. CORs interested in these programs for procurements are advised to refer to specific agency guidance for SBA Programs in NEAT, at <https://neat.nrc.gov> and to discuss this with their designated CO/contract specialist (CS) and the Office of Small Business and Civil Rights (SBCR) Small Business Program. Information regarding these programs may be found in FAR 19.201, "General Policies," and on the SBA Web site at <http://www.sba.gov>. In addition, SBP provides small business information pertaining to the NRC on the agency's external Web site at <http://www.nrc.gov/about-nrc/organization/sbcfuncdesc.html>.

## III. ACQUISITION ROLES AND RESPONSIBILITIES

### A. Overview of roles and responsibilities

The following information outlines the roles and responsibilities of the COR, the CO, the CS, and other individuals during the various phases of the acquisition process.

### B. The Contracting Officer's Representative (COR)

1. Overview: The term Contracting Officer's Representative "COR," as used throughout this handbook, refers to the individual responsible for developing the technical requirement and the requisition package; for managing communications between the technical office, AMD, including the CO and CS, and the contractor; and for performing various administrative duties. In the acquisition planning and execution phases, the COR is designated by the technical or requirement office and is responsible for performing technical procurement planning activities. Upon contract award, the term "COR" refers to the person formally designated by the CO through a written delegation letter (COR delegation letter) that officially authorizes that

- individual to perform a pre-defined set of technical and administrative duties in the contract performance/administration and closeout phases.
2. COR Certification: To be eligible to be appointed as a COR, a candidate must first obtain a Federal Acquisition Certification for Contracting Officer's Representative (FAC-COR). The standards for obtaining and maintaining a FAC-COR are available at the Federal Acquisition Institute Web site (<https://www.fai.gov/certification/fac-cor>).
    - (a) A candidate with a valid FAC-COR certification who is eligible to receive a formal COR designation is then nominated by the requiring office to ADM, AMD, as possessing the minimum qualifications required to perform the COR role.
    - (b) The COR candidate then receives a COR delegation letter issued by a CO, correlating to a particular contract or order (COR delegation letter). That COR delegation letter defines the COR's authorities and limitations with respect to that specific contract or order.
  3. The COR essentially serves as the CO's technical expert and advisor on the contract and monitors and evaluates contractor performance. (See FAR 2.101.) The general duties normally performed by the COR during the various phases of the acquisition process include—
    - (a) The Acquisition Planning Phase: From the time an NRC technical office identifies a need or a requirement that requires a contract, the COR retains primary responsibility for the documents constituting the requirement package, but at the same time must collaborate with the CO in reviewing and finalizing them before the package can be accepted by AMD. The COR shall also coordinate with the other offices with roles in acquisition planning, such as OCFO, OGC, and SBCR.
    - (b) The COR is responsible for preparing and submitting complete and accurate requisition packages (requisition packages) to AMD in the agency's contract writing system software. As discussed in more detail in Section IV, "The Acquisition Planning Phase," the requisition package generally includes, but is not limited to, the following documents:
      - (i) A Requisition Checklist that documents requirements and contains office market research and findings, lists of suggested sources or vendors, as appropriate, suggested evaluation factors/criteria, completed security form(s), lists of Government-furnished property (GFP), justifications, and other approvals. Please refer to specific agency guidance or the Requisition Checklist in the NRC Enterprise Acquisition Toolset (NEAT), at <https://neat.nrc.gov>, for more details on requisition package requirements and approvals. (Required for new awards only.)
      - (ii) A Statement of Work (SOW) for new requirements and any necessary modifications to existing contracts that change the scope of work. The term "SOW" is used generically, to include Performance Work Statements (PWS)

and Statements of Objectives (SOO), which are discussed in more detail below.

- (iii) An Independent Government Cost Estimate (IGCE), for any contract requirement, including any individual task, delivery, purchase order, or other modification above the micro-purchase threshold.
  - (iv) Any justifications (e.g., JOFOCs) or background information necessary to support the requirement.
- (c) The COR also must obtain organizational approval, including ensuring that funds are available, or alternatively if funds are not currently available, the COR must ensure that the requisition is identified as subject to availability of funds (SAF).
- (d) Acquisition planning duties and responsibilities of the COR include, but are not limited to—
- (i) Reviewing unsolicited proposals and advising whether offered products or services are innovative and unique. (See FAR Part 15.603.)
  - (ii) Developing APPs for office director (OD) approval and obtaining organizational approval, including budget approval, for the project.
  - (iii) Determining whether the requirement meets a direct Government need (i.e., contract) or if the purpose is to serve as a benefit to the public (i.e., grant or cooperative agreement). (See MD 11.6, “Financial Assistance Program.”)
  - (iv) Conducting market research in conjunction with the CS.
  - (v) Collaborating with the CO and other designated AMD staff in developing an acquisition strategy, including consideration of green purchasing requirements and Section 508 standards for ICT products or services.
  - (vi) Preparing documentation for IT acquisitions under agency procedures, in conjunction with the Office Information System Security Officer (ISSO).
  - (vii) Drafting and obtaining required approvals, including approvals for using classified material for a project. In this regard, the COR refers to the National Industrial Security Program Operating Manual, which contains the U.S. Government policy on the protection of classified information at industrial facilities, including contractors that use, process, or store classified information in the performance of a contract with the Government.
  - (viii) Preparing an SSG form and completing the SSG process for procurement actions exceeding the requirement threshold amount indicated in the SSG guidelines.
  - (ix) Developing a GFP list with the NRC Property Management Officer, ADM/DFS/FLB. (See MD 13.1, “Property Management.”)

- (x) Preparing NRC Form 187, "Contract Security and/or Classification Requirements," for the signature of the OD for any work requiring a contractor's access to classified or sensitive unclassified information, access to NRC facilities, the NRC local area network (LAN), and/or information systems, or for processing sensitive ICT systems or information. (See MD 12.3, "NRC Personnel Security Program.")
  - (xi) Forwarding to the CS Source Evaluation Panel (SEP) nominations (names and contact information) provided by the office director.
  - (xii) Collaborating with the CO to determine the appropriate contract type.
  - (xiii) Evaluating responses to sources-sought notices, when used, and evaluating the qualification of the responding entities to perform the work.
  - (xiv) Assisting the CS in drafting [SAM.gov](https://sam.gov) notices.
  - (xv) Preparing for and participating in any pre-solicitation or pre-proposal conferences.
- (e) Notes—
- (i) For both new awards and post-award modifications, the COR should plan, develop, and submit requisitions to AMD sufficiently in advance to allow for timely completion of all phases of the acquisition process. A copy of the PALT standards is available in the NEAT Libraries, at <https://neat.nrc.gov>.
  - (ii) When there is a risk of a gap in service between an expiring contract and a new contract, CORs should consult early with their CO to plan adequate procurement and transition time from the old to the new contract by awarding the new contract before the old contract expires. This planning will reduce the risk of a disruption in service and the need for a non-competitive extension of the previous contract.
  - (iii) Samples of the requisition package documents listed in 3(b) are available in the NEAT Libraries.
  - (iv) The Government prefers to structure SOWs using performance-based methods and techniques.
  - (v) Consider small business usage and consult with the CS and SBCR's Small Business Program on possible small business set-asides or sole source strategies under FAR Part 19, as well as small business subcontracting opportunities.

- (f) The Acquisition Execution Phase: During this phase, the COR is responsible for performing the following—
- (i) Assisting the CO and CS in developing solicitations (to include Requests for Quotations (RFQs) or Request for Proposals (RFPs)), including the following:
- Making any necessary revisions to the documents that make up the requisition package.
  - Developing an acquisition milestone schedule in collaboration with the CO and CS.
  - Working with the CO and CS, selecting the most appropriate method to evaluate proposals, such as the adjectival rating system, and developing appropriate evaluation criteria and any necessary proposal submission instructions.
  - Working with the CO and CS to answer any questions or address any concerns regarding the solicitation, and assisting the CO and CS in developing amendments to the solicitation, if necessary.
- (ii) After receipt of proposals in response to the solicitation, as the SEP chairperson or member—
- Evaluates each proposal against the evaluation criteria defined in the solicitation.
  - Identifies and documents strengths, weaknesses, significant weaknesses, and deficiencies.
  - Identifies any potential for OCOI, after consulting with OGC and AMD, as appropriate. The NRC will resolve OCOI issues on a case-by-case basis and, when necessary, to further the interests of the agency, may waive or mitigate the organizational conflict at its discretion.
  - Documents evaluation results on the technical evaluation worksheets and prepares a technical evaluation report.
  - Develops technical questions or requests for clarification that address weaknesses, significant weaknesses, deficiencies, or ambiguities in the proposal identified in the process of performing the technical evaluation.
  - Prepares a final technical evaluation report. Note: Individual technical evaluation worksheets may or may not be included in the body of this report, depending on how the technical evaluation effort is structured by the CO.
  - Assists the CS in developing purchase orders, task or delivery orders, and contracts for award.

- Participates in pre-award debriefings for offerors excluded from the competitive range, as applicable. Participates in post-award debriefings of unsuccessful offerors.
- (g) The Contract, Order Performance, Administration Phase: Once a contract or order is awarded, the CO issues a written delegation letter to the COR, authorizing the COR authority to perform specific technical or administrative functions. During this phase, the responsibilities of a COR include, but are not limited to—
- (i) Serving as the official technical liaison between the agency and contractor.
  - (ii) Chairing contract kickoff meetings with the successful contractor, in coordination with the CS, the CO, security office representative, and other agency stakeholders.
  - (iii) Ensuring that the contractor obtains security badges for contractor personnel required to have access to agency facilities or systems as part of the contract in question.
  - (iv) Monitoring performance and costs under the contractor spending plan and notifying the CS if there is a deviation in spending.
  - (v) Reviewing all invoices or vouchers compared with contractor performance during the period and costs reported in Monthly Letter Status Reports (MLSR), including contractor spending plans applicable to costreimbursement contracts and task orders.
  - (vi) Analyzing and comparing reported costs and spending plan updates against technical progress.
  - (vii) Ensuring that expenditures are reasonable and within the scope for the level of technical effort expended, including any travel reported during the period.
  - (viii) Evaluating the impact of performance problems on cost and schedule, and recommending additional funding or a reduction in the effort to stay within costs.
  - (ix) Taking proactive action to avoid schedule slippages, overruns, and delays.
  - (x) Advising the CS of appropriate action in case of schedule slippage or funding problems, including suspension or disallowance of payment under the contract, the need to issue a stop-work order or terminate the contract.
  - (xi) Monitoring and auditing the use of GFP and contractor-acquired equipment.
  - (xii) Ensuring that the contractor complies with the SOW. This means the COR confirms delivery schedules are met, ensures problems are addressed and solved expeditiously, ensures the contractor's expenditures remain within the

contract ceiling. The COR may recommend modification(s) to the contract to the CO, as necessary.

- (xiii) Inspecting contract deliverables to determine whether they meet technical and performance standards and specifications, and accepting conforming deliverables.
- (xiv) Issuing technical direction in writing: the COR shares important communications and correspondence regarding contractor performance with the CS for review and retention in the official contract file. Technical direction may include the following actions:
  - Directing the contractor to shift work priorities, authorizing unanticipated travel, filling in details, or clarifying terms in the SOW;.
  - Advising the contractor in the preparation of drawings, specifications, or technical portions of the work description.
  - Reviewing and approving technical reports, drawings, specifications, and technical information delivered by the contractor to the NRC.
  - Providing input on interim and final contractor performance evaluations.
  - Notifying DFS, ADM, immediately by email whenever a contractor employee's access to NRC facilities, the NRC LAN, or information systems is no longer required and should be terminated. (See MD 12.3.)
  - Maintaining a complete file (preferably electronic) in accordance with agency policies and procedures, to ensure that others, including auditors or follow-on CORs, can understand the project and the rationale for decisions made.
- (h) Technical direction must be within the scope of the SOW stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that—
  - (i) Constitutes either an assignment of work outside the scope of the contract, or a change as defined in the “Changes” clause of the contract (FAR 52.243-1 through 7).
  - (ii) Creates or authorizes an obligation that exceeds funds available.
  - (iii) Causes an increase or a decrease in the total estimated contract cost, fixed-fee, if any, or the time required for contract performance.
  - (iv) Changes any of the expressed terms, conditions, or specifications of the contract.
  - (v) Ends the contract, settles any claim or dispute arising under the contract, or issues any unilateral directive whatsoever.

- (i) The Work Completion and Contract or Task Order Closeout Phase: During this phase the duties of a COR include, but are not limited to—
  - (i) Submitting a requisition to AMD to initiate the contract closeout process.
  - (ii) Approving final acceptance of the contractor's deliverables and services for technical sufficiency.
  - (iii) Completing a final written evaluation of the contractor's performance in the Contractor Performance Assessment Reporting System (CPARS).
  - (iv) Ensuring that interim and final technical reports and any other required deliverables are submitted and following up to determine that the documents have been entered in the Agencywide Documents Access and Management System (ADAMS). (See MD 3.53, "NRC Records and Document Management Program.")
  - (v) Contacting AMD to request early deobligation of unexpended funds and completing an early deobligation form for submission to OCFO.
  - (vi) Responding to AMD on any closeout matters, including property disposition and logistics or other contractual issues.
  - (vii) Advising DFS, in writing, when all work and services have been completed so that the contractor employee's access to NRC facilities, the NRC LAN, and/or information systems may be ended.
- (j) Termination of COR Appointment
  - (i) If the COR's performance of delegated responsibilities and/or functions is unsatisfactory, the NRC will take steps to address concerns through providing additional guidance or training. If, after such intervention, concerns remain, it may become necessary for the CO to revoke or terminate the COR's delegated authority and nominate a successor COR.
  - (ii) For further instructions regarding the process for revoking COR delegation, please refer to specific agency guidance in NEAT for revoking COR delegation.

### **C. The Alternate Contracting Officer's Representative (Alt COR)**

1. Overview: An Alternate Contracting Officer's Representative (Alt COR) may also be formally designated by the CO to be responsible for the COR responsibilities and functions in the event the COR is not available (such as scheduled leave or sickness).

2. The Alt COR is required to take the same training as the COR, and they assume the role of the COR when the COR is in non-work status. The Alt COR stays informed of contract requirements and progress and coordinates with the COR to keep a complete COR file. The Alt COR will have discussions with the primary COR surrounding coverage, how the Alt COR will be kept informed of contract changes and contract progress, and if the Alt COR should be included on correspondence.
3. An Alternate COR cannot—
  - (a) Provide day-to-day technical direction,
  - (b) Approve invoices, and
  - (c) Execute other COR authorities as listed in III.B. unless assuming the COR role.

#### **D. The Contracting Officer (CO) and Contract Specialist (CS)**

1. Contracting Officer (CO) Overview—
  - (a) The Director, AMD delegates authority to COs through issuance of warrants (i.e., written delegations). COs are the only individuals in the NRC with the legal authority to bind the U.S. Government and to enter into, administer, and terminate contracts for the agency. COs may bind the Government only up to the extent and term of their warrant authority. COs are given a Standard Form (SF) 1402, "Certificate of Appointment," available at [https://www.gsa.gov/cdnstatic/sf\\_1402\\_2.pdf](https://www.gsa.gov/cdnstatic/sf_1402_2.pdf), which states any limitations of the scope of their authority.
  - (b) COs are responsible for ensuring performance of all necessary actions for effective contracting, compliance with the terms of the contract, and safeguarding the interests of the U.S. Government in its contractual relationships. COs have wide latitude to exercise business judgment to execute these responsibilities.
  - (c) Any Federal employee without warrant authority who attempts to bind the Government may be held personally responsible for any of their actions. COs are responsible for ensuring that any contract award or any modification of an existing contract follows all applicable requirements of Federal and State laws, Executive Orders (E.O.s), regulations, and NRC acquisition procedures.
  - (d) In collaboration with the requiring office and the COR, the CO participates in all phases of the acquisition process, beginning with the acquisition planning phase, through completion of the contract closeout phase.
  - (e) COs are authorized, within any specific limitations of their warrants, to decide or resolve all claims arising under or relating to a contract subject to the Contract Disputes Act of 1978 (41 U.S.C. 7101-7109). The authority to decide or resolve claims does not extend to (a) a claim or dispute for penalties or forfeitures prescribed by statute or regulation that another Federal agency is specifically

authorized to administer, settle, or determine or (b) the settlement, compromise, payment, or adjustment of any claim involving fraud.

2. Contract Specialist (CS) Overview—

- (a) The CS is a member of the AMD acquisition team responsible for ensuring compliance with Federal and State laws, E.O.s, regulations, policies, and NRC procurement procedures. The CS does not have the warrant authority of the CO and therefore does not have the legal authority to enter into contracts, or make modifications, on behalf of the Government; however, in support of, and as directed by the CO, the CS performs a wide array of functions in each phase of the acquisition process.
  - (b) As delegated by the CO, the CS coordinates with the COR to ensure completion of various tasks related to the acquisition process.
3. In collaboration with the requiring office and the COR, the CO and CS participate in all phases of the acquisition process, beginning with the acquisition planning phase, through completion of the contract closeout phase.
4. Except in instances directly relating to the contracting warrant held by the CO (designated as “CO only” below), the duties and responsibilities of the CO listed below also may be delegated to the CS working under the supervision of the CO, subject to CO review and approval.
5. The Acquisition Planning Phase: During this phase, the CO provides procurement and acquisition guidance and assistance to the COR, who retains primary responsibility to develop and define the requirement, in preparing the documentation that makes up the acquisition strategies, APP, SSG packages, and procurement packages. The CO may request and consider the advice of specialists in audit, law, engineering, science, administration, transportation, and other fields, as appropriate, when assisting the requirement office with planned acquisitions. The CO coordinates external communications with industry and other potential offerors. The CO reviews and provides feedback to the COR, to ensure accuracy, completeness, and contractibility on the following—
- (a) The CO reviews the acquisition strategy and APP documentation and SSG packages, when applicable. This includes, but is not limited to—
    - (i) The APP information.
    - (ii) Appropriate procurement strategies and streamlining initiatives to ensure the acquisition is achieved efficiently and meets agency needs.
    - (iii) Acquisition strategies and alternatives, including consideration of green purchasing requirements and Section 508 standards for ICT products or services.

- (iv) SSG packages before review by the Director, AMD and attending SSG meetings.
  - (b) The CO reviews the requisition package documentation. This includes, but is not limited to—
    - (i) Statements of Work (SOWs)/Performance Work Statements (PWSs)/Statements of Objectives (SOOs) to ensure that they accurately reflect the agency requirement and are not unduly restrictive against competition;
    - (ii) Independent Government Cost Estimates (IGCEs) to make sure that they are accurate, complete, and reflect the requirement as described in the SOW;
    - (iii) Market Research information and reports (The CS may assist COR in performing some market research tasks.);
    - (iv) Requisition, to ensure that provided funds are sufficient; and
    - (v) Choice of contract type.
  - (c) To maximize competition and promote agency small business contracting goals, the CO—
    - (i) Reviews and, within warrant limits, approves documentation relating to sole source and limited source justifications, as well as pre-award D&Fs to include use of time and materials-type contracts (T&M), labor-hour, or indefinite-delivery contracts (IDCs).
    - (ii) For procurements exceeding the CO's warrant limit, reviews these same documents and then submits them to the appropriate approving authority in ADM for review and approval, such as the competition advocate (CA).
    - (iii) Discusses recommendations with officials (CS, COR, SBP, OGC, SBA, etc.) for small business set-asides and appropriate small business subcontracting opportunities and percentages.
  - (d) The CO also develops or approves milestone schedules in coordination with the COR.
6. The Acquisition Execution Phase: During this phase, the CO is responsible for various tasks related to preparing the solicitation and contract documents, defining the method to be used to evaluate proposals received, evaluating proposals received, monitoring and guiding the SEP, and awarding the resulting contracts or orders, including, but not limited to, the following:

- (a) Preparing, issuing, and amending solicitations
  - (i) Preparing and amending solicitations, including clause selection, and developing evaluation criteria and proposal preparation and submission instructions.
  - (ii) Preparing, reviewing, and approving issuance of procurement notices (or other forms of advertising) and solicitations, available at [SAM.gov](https://sam.gov). (The CS prepares these documents and the CO reviews and approves them.)
  - (iii) Coordinating and resolving solicitation issues with NRC offices and the CO on issues raised by potential offerors and interested parties. (Generally, the CS performs this task under the supervision of the CO.)
  - (iv) Preparing for and conducting pre-solicitation or pre-proposal conferences, if necessary.
  - (v) Using the agency's contract writing system software to generate solicitations. (Generally, the CS performs this task under the supervision of the CO.)
- (b) Source selection, proposal evaluation, and negotiations—
  - (i) Reviewing the list of SEP nominees, appointing them as SEP members; coordinating any SEP member changes with the SEP chairperson, if needed (CO only).
  - (ii) Conducting the SEP kickoff; distributing technical evaluation worksheets and proposals; explaining the rules and procedures for performing technical evaluations.
  - (iii) Providing guidance on the technical evaluation process, addressing related concerns or issues, and approving final SEP technical evaluation reports.
  - (iv) Generally, ensuring that offerors receive fair, impartial, and equitable treatment during the proposal evaluation and source selection process.
  - (v) Establishing the competitive range (for FAR 15 procurements) after review of the SEP's technical evaluation report and cost/price analysis performed by the CS (CO only).
  - (vi) Conducting cost/price analysis of offerors' cost/price proposals (including cost realism, as applicable), or reviewing and approving cost/price analysis prepared by the CS.
  - (vii) Ensuring all requirements of the FAR are met, including Defense Contract Audit Agency (DCAA) audits, Department of Labor (DOL) wage determinations, Equal Employment Opportunity reviews, and SBA approvals.

- (viii) Ensuring all requirements of the NRCAR are met, including technical approvals and OCOI approvals.
  - (ix) Evaluating contractor past performance using CPARS and other available tools and information; and conducting responsibility checks for offerors using Federal Awardee Performance and Integrity Information System (FAPIIS). (FAR Part 9.)
  - (x) Referring small business responsibility matters to the SBA for resolution and issuance of a Certificate of Competency (COC), as applicable.
  - (xi) Ensuring that offerors are not suspended or debarred and reviewing contractor reports in [SAM.gov](https://sam.gov), which consolidates the capabilities of the Central Contractor Registration (CCR), the Online Representations and Certifications Application (ORCA), and the Excluded Parties List System (EPLS). (See the NEAT Libraries.)
  - (xii) Conducting negotiations with potential offerors. Preparing correspondence and backup documentation for contract award, including the summary of negotiations for CO review and approval.
  - (xiii) Coordinating with OGC to ensure there is no legal objection to contractual-related documents under agency policy and procedures.
  - (xiv) In the event of pre-award protest, working with the COR and OGC, and facilitating corrective action, as necessary.
  - (xv) Reviewing contract file documentation to ensure accuracy and completeness of contract source selection and award documents.
  - (xvi) Making source selection decisions and selecting successful offerors (if another source selection authority (SSA) is not designated), after reviewing the SEP's technical evaluation report, in combination with the CS's cost/price evaluation and overall proposal evaluation (CO only).
  - (xvii) Using the agency's contract writing system software to generate contract/order award documents.
  - (xviii) Approving letters notifying unsuccessful offerors (CO only).
  - (xix) Approving letters notifying the successful offeror (CO only).
  - (xx) Preparing the memorandum of negotiations recommending awards of contracts and task or delivery orders, for approval of the CO (CS).
- (c) Post-award debriefs and protests
- (i) Coordinating and attending offeror post-award debriefings and documenting the proceedings.

- (ii) Preparing and providing documentation for OGC review in support of the agency's position when a protest is filed against an agency procurement action.
  - (iii) Coordinating with SEP chairperson and OGC on any agency-level or U.S. Government Accountability Office (GAO) protests and providing OGC with the CO's Statement of Facts and supporting documents for the Agency Report.
7. The Contract/Order Performance/Administration Phase. During this phase, the CO is responsible for various tasks relating to monitoring contractor performance and payments, resolving disputes, and performing contract modifications including, but not limited to, the following:
- (a) Delegating certain contract authority to a COR to perform certain contract administration responsibilities (issuing and revoking COR delegation memorandum). For further instructions regarding the process for revoking COR delegation, please refer to specific agency guidance for revoking COR delegation, located in NEAT, <https://neat.nrc.gov>.
  - (b) Co-chairing post-award contract kickoff meetings with the COR.
  - (c) Ensuring contractor performance and compliance with the terms and conditions of the contract and assisting the COR in monitoring contractor performance.
  - (d) Monitoring contractor progress and required delivery dates per contract deliverables or reports.
  - (e) Monitoring Monthly Letter Status Reports (MLSRs), Contractor Spending Plans (CSPs), in consultation with the COR.
  - (f) Monitoring small business subcontracting plan reports to ensure compliance with small business subcontracting goals. Reviewing and updating subcontractor information in the Electronic Subcontracting Reporting System (ESRS) at [www.esrs.gov](http://www.esrs.gov).
  - (g) Monitoring the COR's technical directions to contractors to ensure consistency with delegated authority.
  - (h) Documenting and processing contracting modifications. Executing contract modifications for purposes such as, but not limited to, adding or changing clauses and provisions and making changes to SOWs, ceiling, or period of performance. Approving post-award Determination and Findings (D&Fs) for contracting actions, to include exercising options. (CO only.)
  - (i) Documenting and processing claims: In the event of a contractor claim against the agency, engaging the contractor on matters raised under the Disputes Clause (FAR 52.233-1). The CO shall work to settle or otherwise resolve the claim by

agreement; or if a claim cannot be otherwise mutually resolved, preparing a statement of the CO's final decision (CO only.)

- (j) Processing ratification actions. Submitting D&Fs and making approval recommendations for ratification requests of unauthorized commitments to the Head of Contracting Activity (HCA) (AMD Director) (CO only.)
- (k) Issuing stop-work orders.
- (l) Terminating contracts or orders: Making determinations as to whether a termination of a contract for cause/default or convenience is in the Government's best interest (CO only.)
- (m) Reporting suspected fraud to OIG and coordinating disposition. Fraud in the procurement process is prohibited by criminal statutes and administrative regulation. The Inspector General Act vests the OIG with responsibility for prevention and detection of fraud and abuse in agency programs and operations. Investigation of suspected fraud in procurement is within the exclusive authority of the OIG. Allegations of fraud in procurement must be reported to OIG in writing or by calling the "hotline" on 1-800-233-3497.
- (n) Responding to OIG audit recommendations.
- (o) Processing invoices: Approving invoices and ensuring resolution of payment problems with NRC offices and OCFO (this function is typically assigned to the CS).
- (p) Documenting, reviewing, and approving contractor requests, including, but not limited to—
  - (i) Contractor overtime requests,
  - (ii) Travel approval requests (in the event foreign travel is required, a copy of the approved NRC Form 445, "Request for Approval of Official Foreign Travel," must be furnished to the CS),
  - (iii) Key Personnel changes,
  - (iv) Organizational Conflict-of-Interest (COI) issues,
  - (v) Issues regarding compliance with security regulations,
  - (vi) Subcontract consents, and
  - (vii) Equipment purchases: The CS documents and makes fact-based recommendations for approval of the CO.
- (q) Performing other duties and responsibilities as prescribed by the FAR.
- (r) Reviewing and approving contractor performance reports in CPARS.

- (s) Monitoring the accuracy and completeness of contract files during contract administration. (The CS normally documents and maintains the contract file, which is reviewed by the CO.)
8. The Work Completion and Contract/Order Closeout Phase: After the COR initiates a requisition for contract closeout, the CO performs actions to administratively close out contracts under FAR 4.804 and 42.708. The CS is responsible for performing the following tasks in this phase—
- (a) Preparing contract files for firm-fixed-price contracts, cost-reimbursement contracts, and other than those using simplified acquisition procedures, for closeout from verification of physical completion.
  - (b) Reconciling costs, performing property utilization screening, and authorizing the de-obligation of unliquidated obligations. The CO de-obligates any unliquidated obligations (excess funds) remaining in the contract and not needed for outstanding contractor costs or audits, and subsequently requests the closeout and performance documentation required by AMD guidelines. Issuing and approving formal disposition instructions to contractors for GFP- or contractor-acquired property.

#### **E. The Purchasing Agent (PA)**

Overview: The purchasing agent (PA) is the administrative staff member who performs all required actions to obtain a wide variety of supplies, services, materials, and equipment using simplified acquisitions not exceeding the simplified acquisition threshold (SAT). PA duties and responsibilities include, but are not limited to—

1. Conducting market research to determine whether agency needs can be met by supplies or services available in the commercial marketplace.
2. Preparing award and modification documents for the signature of the CO.
3. When requested by the COR, helping with performance issues and preparing necessary procurement actions to ensure that acquisitions support the agency needs.
4. Coordinating the procedures for control of GFP with the NRC Property Management Officer, ADM, DFS, Facilities, Logistics, and Support Branch (FLSB); and recommending action to be taken in case of loss, damage, or destruction of GFP, as well as delay in delivery or completion of performance.
5. Advising the CO of situations that indicate potential fraud or organizational conflict of interest.
6. Preparing letters of termination for convenience or cause/default, for review by the CO.

7. Performing all required actions to administratively close out purchase orders and other awards and orders.
8. Entering completed evaluation form into CPARS for the CO/CS.

#### **F. The Designating Official (DO)**

1. The DO is an NRC official who reviews and approves requisitions within their area of responsibility. The DO executes the technical certification required to justify using other than full and open competitive procedures for proposed non-competitive contract actions and signs requisitions to indicate concurrence on a sole source purchase. The DO nominates (and the CO designates) representatives to serve on an SEP and monitors the overall acquisition process.
2. The DO should nominate persons for the SEP who are available to evaluate proposals, do not have a perceived bias, do not have an apparent conflict-of-interest, and are technically competent and experienced in the areas to be evaluated.
3. In STAQS, the DO is referred to as an Approving Official (AO).

#### **G. The Competition Advocate (CA)**

1. CICA requires that each agency designate a Competition Advocate (CA). The CA challenges barriers to and promotes full and open competition of the agency's procurements and promotes the acquisition of commercial items. CA approval is required for JOFOCs for actions exceeding the dollar threshold amount at FAR 6.304(a)(2), all exceptions to [SAM.gov](https://www.sam.gov) notices made by unusual and compelling urgency, and for contracts expected to exceed 5 years. In cases where the time period exceeds 1 year, the Executive Director for Operations (EDO) approves. The CA is appointed by the EDO. The Director, AMD is the CA but the role may be delegated to the Deputy Director, AMD.
2. The CA is responsible for—
  - (a) Promoting the acquisition of commercial items.
  - (b) Promoting full and open competition.
  - (c) Challenging requirements that are not stated in terms of functions to be performed, performance required, or essential physical characteristics.
  - (d) Challenging barriers to the acquisition of commercial items and full and open competition, including unnecessarily restrictive SOWs, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

## H. The Task Order/Delivery Order Ombuds

The Director, AMD is the agency task order/delivery order Ombuds (Ombuds). FAR 16.505(b)(8) implements 41 USC 4106(g), which requires agencies to establish an Ombuds to review complaints from contractors that pertain to issuance of task and delivery orders on multiple-award IDC contracts. The Ombuds ensures that all the contractors are afforded a fair opportunity to be considered for task or delivery orders when required. When contractors submit complaints about this process, the Ombuds investigates the matter and proposes or implements a solution if the complaint is warranted or explains the matter if the complaint has no merit.

## I. The Source Selection Authority (SSA)

The Source Selection Authority (SSA) is a term most often used when the selection authority is not the CO. The SSA is the Government official designated by the agency to direct the source selection process and make the selection decision. The SSA is often a representative of the program office (usually at a higher level in the agency—an AMD branch chief or Director, AMD). The SSA should be at a management level above the CO and technical officials, so that the SSA can evaluate the best interests of the agency, considering both acquisition and programmatic concerns. (See FAR 15.303.)

# IV. THE ACQUISITION PLANNING PHASE

## A. Elements of Acquisition Planning

The Acquisition Planning phase contains the following basic units, each of which will be discussed in greater detail below.

1. The Advance Procurement Plan (APP) (see the Acquisition Planning section in the [Acquisition Navigator](#) In NEAT),
2. Intra-office and inter-office concurrences,
3. The Strategic Sourcing Group paper (SSG paper) (SSG Paper is required only if the cost of the requirement is estimated to be above the dollar threshold established for SSG approval), and
4. The requisition package.

Note: All the documentation created for the APP, the SSG paper, and the requisition package become the foundation of the official contract file that is maintained by the CO/CS throughout the life cycle of the contract and is subject to periodic audit.

## B. The Advance Procurement Plan (APP)

1. APP Overview

- (a) The timely, efficient, and successful acquisition of supplies and services begins each fiscal year (FY) with the requirement office's completion of an advance procurement plan (APP) for anticipated procurement actions. Early planning of the requirement office's procurement needs helps ensure timely awards.
- (b) Each NRC office contributes to the development of the APP by identifying the need for new procurement actions, which are subsequently submitted to AMD in the form of requisition packages.
- (c) APPs are submitted annually through the ODs to AMD and are updated periodically, as needed. After the APP is developed, the requirement office, with the COR serving as the primary technical point-of-contact, collaborates with AMD and OGC to plan and execute the procurement.
- (d) The requirement office is required to submit timely APPs to maximize efficient procurement planning and procurement execution processes, as well as efficient allocation and obligation of funds throughout the FY. The APP is a consolidated plan of all anticipated procurement actions for the FY.
- (e) Notes—
  - (i) To avoid delays, the requirement office should submit requisition packages early in the FY, as soon as funding is identified, although certified funds may follow later, up to the date of award.
  - (ii) An 8(a) sole source procurement should be identified early in the planning phase (if possible, as early as when completing the APP form).

## 2. APP Purpose and Format

- (a) The format of the APP includes a description of the requirement, the type of procurement anticipated, accounting data, and target date for award. AMD analyzes the APP information to efficiently track agency procurement plans through an established period, identifies requirements appropriate for SSG review and approval, and distributes acquisitions to procurement personnel.
- (b) The COR should provide timely, clear, and accurate APP information. This information improves the workflow and decreases the processing time for contract requirements, enhances financial management planning, and, in addition to internal uses, APP information is used to populate the agency's Forecast of Contract Opportunities that businesses rely upon.

## 3. Collaboration with AMD on APPs and Procurement Planning

- (a) The COR is advised to contact AMD early in the process of planning the APP. AMD will then designate a CS or CO, or both, who will provide guidance on completing the acquisition planning and execution process and establishing reasonable milestone schedules. Urgent requirements should be discussed with

the responsible AMD branch chief as soon as they are identified. Engagement with AMD early in the process will help streamline the acquisition planning and execution phases of the process and minimize schedule delays.

- (b) AMD will send a copy of the APP to SBP to be analyzed for potential small business procurement opportunities. SBP is available to help identify potential small business set-asides or small business subcontracting opportunities during the APP process. For additional information on SBP, see MD 11.4, “NRC Small Business Program.”
- (c) The COR must consider procurement administrative lead time (PALT) when submitting requisition packages to AMD for execution and should contact the assigned CS or CO to obtain guidance regarding acquisition planning and PALT times required for their procurement actions. PALT time is the time required for AMD personnel to complete the acquisition execution phase of the process. PALT does not include the time required to complete the acquisition planning phase of the process.
- (d) PALT times vary significantly for different types of procurements. Factors that may influence the length of the PALT include—
  - (i) Dollar value of the requirement or contracting action,
  - (ii) Type of acquisition and complexity (i.e., construction, ICT, architecture-engineering (A-E)),
  - (iii) Extent of market research conducted,
  - (iv) Urgency of the requirement,
  - (v) Availability of existing enterprise-wide contracts (EWCs) or other existing contract vehicles,
  - (vi) Availability of Small Business Administration (SBA) programs,  

Note: Certain SBA programs allow for sole source or limited competition, which allows for faster procurement. CORs interested in these programs for procurements are advised to refer to specific agency guidance for SBA Programs in the NRC Enterprise Acquisition Toolset (NEAT), at <https://neat.nrc.gov>.
  - (vii) Extent of competition and related issues,
  - (viii) Completeness and adequacy of the requisition (e.g., all documents are attached and appropriate approvals, waivers, and justifications have been obtained),
  - (ix) Existing AMD workload,

- (x) OGC legal review,
- (xi) Need for audits or related information,
- (xii) Requirement for approvals (e.g., SBA for small business set-asides, DOL for equal employment opportunity clearance and wage determinations),
- (xiii) Availability of SEP to perform the technical evaluation, and
- (xiv) Risk of pre-award protest.

### **C. Acquisition Issues to Consider when Developing the APP**

1. **Ensure Valid Need for the APP:** Generally, during development of the APP, the COR should consider if there is a valid need for contracting by considering the issues discussed in this section. The COR should reach out to the designated CO and CS for guidance.
2. **Duplication of Requirements:** The COR is responsible for ensuring that a procurement action does not duplicate other NRC work by reviewing existing EWCs and other contracts. The COR should document their findings as part of market research provided to the CO.
3. **Service Contracting**
  - (a) **Management Oversight of Service Contracting**
    - (i) Historically, obstacles have been identified in service contracting or consulting services. Some of the major problem areas are lack of competition or over-reliance on sole source contracts, potential for conflicts-of-interest, and the failure of the agency to exercise adequate control over the contractor's performance.
    - (ii) The Office of Federal Procurement Policy (OFPP) historically has specified five areas that require close management scrutiny: inherently governmental functions (governed by FAR Subpart 7.5); cost effectiveness (see FAR Part 15/Best Value); Government control (FAR 37.104); conflicts of interest (48 CFR [NRCAR] Subpart 2009.5); and competition (FAR Part 6) (see also OFPP Policy Letter 93-1, reissued May 18, 1994). Both the COR and the CS should review requirements for service contracts on an individual or class basis and determine when one or all these areas are applicable to a particular service acquisition.
  - (b) **Personal Services Contracts**
    - (i) The NRC does not have the authority from Congress to enter into personal services contracts. A personnel services contract is characterized by the employer-employee relationship it creates between the agency and the

contractor's personnel (FAR 37.104). Service requirements that appear to establish a relationship of this kind between the agency and contractor personnel may not be implemented through contracting vehicles executed by AMD.

- (ii) The CO determines whether services to be procured are personal, using the information supplied in response to the questions on the requisition. The CO, generally through the CS, may also ask the requiring office or legal counsel for their recommendations. The criteria for distinguishing personal from non-personal services appear in FAR 37.104.

#### 4. Inherently Governmental Functions

- (a) The procurement of services is restricted to those services that are not inherently governmental functions, and CORs must give careful thought to these restrictions when planning requirements that involve services. Inherently Governmental Functions can be found in FAR subpart 7.5.
- (b) The OFPP defines an inherently governmental function as one that is so intimately related to the public interest as to mandate performance by Government employees (see OFPP Policy Letter 11-01, at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23165.pdf>). These functions include those activities that require either the exercise of discretion in applying Government authority or the application of value judgments in making decisions for the Government. The Federal Activities Inventory Reform Act of 1998 (Public Law 105-270) provides a process for identifying the functions of the Federal Government that are not inherently governmental functions.
- (c) There are also certain services and actions that, while generally not considered to be inherently governmental functions, are considered closely associated with inherently governmental functions and must be carefully considered. If these types of services are to be procured, the COR should ensure that appropriate controls are placed in the SOW so that the contractor does not perform, even inadvertently, inherently governmental functions.
- (d) Examples of the 24 inherently governmental functions are provided in OFPP Policy Letter 11-01.

5. OMB Circular A-76, "Performance of Commercial Activities"

OMB Circular A-76, "Performance of Commercial Activities," and its supplemental handbook establish Federal policy regarding the performance of activities by contractors versus Government employees. These documents establish the procedures for determining whether commercial activities should be performed using Government facilities and personnel, or whether they can be contracted to private industry. OMB Circular A-76 requires, except for national security activities, mission-critical core activities, and temporary emergency requirements, a cost analysis and review of commercial activities proposed to be contracted unless these activities are exempt from the purview of the circular. Inherently governmental functions cannot be contracted. The Director, AMD is the official responsible for implementation of OMB Circular A-76 (available at [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/circulars/A76/a076.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A76/a076.pdf)).

6. Equipment Lease or Purchase

- (a) For procurement of equipment normally available through both lease and purchase acquisitions, the CO will determine whether acquisition by lease, purchase, or lease-to-purchase is more advantageous to the agency. The determination must be supported by comparisons of costs of the various acquisition alternatives with the guidance contained in FAR 7.4.
- (b) Upon request by the CO, GSA can help with lease or purchase decisions by providing information that includes—
  - (i) Pending price adjustments to FSS contracts,
  - (ii) Recent or imminent technological developments,
  - (iii) New techniques, and
  - (iv) Industry or market trends.

7. Acquisition of Commercial Items or Services

- (a) Commercial services are services offered and sold competitively in substantial quantities in the commercial marketplace by established catalog or market prices for specific tasks performed under standard commercial terms and conditions.
- (b) To encourage the acquisition of commercial items and components, the FAR requires that agencies do market research before issuance of a solicitation. The purpose of this market research is to determine whether commercial items, non-developmental items, or commercial services are available that could meet the agency's requirements (see FAR 2.101 and FAR Part 10).
- (c) The COR is encouraged to acquire commercial items, services, or non-developmental items when possible.

- (d) Special simplified procedures can be used for the purchase of commercial property and services in amounts greater than the SAT, but not greater than the amount in FAR Part 13.003.
- (e) Initial Market Research. Techniques for conducting market research may include any or all the following:
  - (i) Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.
  - (ii) Reviewing the results of recent market research undertaken to meet similar requirements.
  - (iii) Publishing formal requests for information in appropriate technical or scientific journals or business publications.
  - (iv) Querying Government Web sites that provide information relevant to Government acquisitions, including, but not limited to, contract pricing or pricelists, and position descriptions.
  - (v) Participating in interactive, online communication among industry, acquisition personnel, and customers.
  - (vi) Obtaining source lists of similar items from other agencies, trade associations, or other sources.
  - (vii) Reviewing catalogs and other generally available literature published by manufacturers, distributors, and dealers, or available online.
  - (viii) Conducting interchange meetings or holding pre-solicitation conferences to involve potential offerors early in the acquisition process.
  - (ix) Issuing Sources Sought Notice or Requests for Information on [SAM.gov](https://www.sam.gov), NASA SEWP, or eBuy.
- (f) If market research establishes that the requirement may be met by a commercial item or service, the CO will solicit and award any resultant contract under the procedures in FAR Part 12, "Acquisition of Commercial Items," in conjunction with the policies and procedures for solicitation, evaluation, and award prescribed in FAR Part 13, "Simplified Acquisition Procedures"; FAR Part 14, "Sealed Bid"; or FAR Part 15, as appropriate.

#### **D. Intra-office and Inter-office Concurrences**

1. Intra-office and inter-office concurrences are required apart from, and in advance of, the initiation of the planning for the requisition package. The requirement office's COR is responsible for obtaining these concurrences and retaining them in the requirement office's files.

## 2. Information and Communication Technology (ICT) Acquisitions

(a) NRC policy guidance regarding ICT acquisitions can be found in MD 2.8, “Integrated Information Technology/Information Management (IT/IM) Governance Framework.” Certain pre-acquisition approvals need to be obtained under MD 2.8 before procuring ICT resources. These approvals are applicable to all ICT acquisitions, including those awarded for services or equipment whether procured through simplified acquisitions, commercial contracts, or blanket purchase agreements (BPAs). Certain ICT acquisitions also require Capital Planning and Investment Control (CPIC)-related approvals specifically discussed in MD 2.8. CORs planning ICT procurements are advised to familiarize themselves with MD 2.8 before proceeding with these types of contracting actions.

(b) Note: ICT resources may also be referred to as “IT resources.”

## 3. Coordinate Use of NRC Facility and Property

If NRC facilities will be used, the COR should contact the ADM/DFS/FLSB, before submitting the requisition in STAQS. If property will be procured or furnished under the proposed procurement, the COR should coordinate the effort with the NRC Property Management Officer, ADM/DFS/FLSB. Discussions are held to ensure that needed NRC facilities are available for onsite requirements and that duplicate materials are not purchased if already available within the agency.

## 4. The Strategic Sourcing Group (SSG) Approval Process

(a) The SSG form is required for new procurements only if the cost of the requirement is estimated to be above the dollar threshold established for SSG approval.

(b) The purpose of the SSG process is to maintain overall consistency and effectiveness when processing procurement actions (both contracts and modifications) estimated above the established agency SSG dollar threshold amount for commercial contracts. During the SSG planning and execution step, the COR is responsible for completing the SSG form. During the SSG approval step, the form is placed into eConcurrence for non-SSG member review including program office director, OCFO, and AMD Director. Finally, the SSG co-chairs approve after the SSG members.

## **E. Initiating the Requisition Package Planning Process with AMD**

1. As soon as a procurement need is identified, the requirement office (hereafter referred to as the “COR,” who serves as the liaison between the requirement office and AMD personnel) is encouraged to seek the advice of a CO. Given that proper preparation of a requisition package requires not only technical expertise contributed by the COR and technical office, but also the procurement expertise contributed by

the CS and CO, and possibly legal expertise contributed by OGC, CORs are strongly advised to begin working with AMD as early in the process as possible. This engagement with the CO can happen as early as the APP development stage, but certainly by the time the APP is submitted to AMD, the COR should be in communication with a CO as the COR begins preparing the requisition package. For more information see the Commercial Items/Orders section in the [Acquisition Navigator](#) on NEAT.

2. The desired end-state of this phase of the acquisition process is that, through early collaboration between the COR, CO, and CS in terms of drafting and reviewing all the documents that make up the requisition package, by the time it is submitted to AMD in STAQS, the requirement package is complete and actionable and the procurement can move on to the Acquisition Execution Phase with very little delay due to reworking elements of the requisition package.
3. Once contacted by the COR, the CO will assign a CS who will work with the COR to facilitate the formation of an acquisition team consisting of procurement, legal, and technical personnel to finalize the acquisition strategy and prepare the documents that make up the requisition package. During this stage, the COR and CO should discuss and assess all the elements that will go into the requisition package.
4. Requisition Checklist: This document serves as an organizer for all the other documents that make up any given requisition package. Sample requisition checklists are available in NEAT, at <https://neat.nrc.gov/Viewer/Report#/role/1/libraryDocuments/7/search/null>. For commercial contracts the checklist is available at <https://neat.nrc.gov/Viewer/Report#/documentLibrary/document/61b09a41-0bf1-4017-b210-afb92c330974/0>.
5. Once a requisition package is finalized, it is forwarded to the AMD branch chief responsible for processing the requisition for that type of work.

#### **F. Planning for Different Procurement Types**

Procurements range from full-and-open competitions to limited competitions and sole-source procurements. In addition, there are more specialized procurement methods, such as broad agency agreements (BAAs), unsolicited proposals, interagency agreements, and commercial item acquisitions, all of which will be discussed in this acquisition planning phase section.

#### **G. Market Research**

1. Market research is the continuous process of collecting and analyzing data on products, services, business practices, and vendor capabilities to satisfy agency needs. Although the method of conducting market research can vary from one context to another, market research serves as the foundation for developing an

effective solicitation and a successful contract. The magnitude and degree of formality of the market analysis should be proportionate to the size and complexity of contemplated procurement.

2. As part of the acquisition planning process, CORs are required to perform market research for requirements regardless of whether they take the form of contracts or orders with an estimated value above the Simplified Acquisition Threshold (SAT). Market research is also required for requirements below the SAT when adequate information is not available, and the cost of research is justified. Regulations governing market research are found primarily in FAR parts 2.101, 7.102, and 10. For requirements meeting this threshold, CORs are required to complete a Market Research Checklist, Market Research Narrative, and Summary Analysis of Market Research; to document them in the Requisition Checklist; and to include them in the requisition package submitted to AMD. Templates for all these documents can be found in [NEAT](#).
3. Preliminary market research should be performed before new requirements are fully developed, and conducted substantially once a requirement has been defined, but before the issuance of a solicitation. (See FAR 10.001(a)(2)(i).)
4. Reasons to perform market research—
  - (a) The primary objective of market research is to arrive at the most suitable approach to acquiring supplies and services.
  - (b) Market research is required to determine whether the acquisition—
    - (i) Duplicates current agency contracts;
    - (ii) Can be met by supplies or services available in the commercial marketplace;
    - (iii) Can be met by a non-commercial item on the open market (provide a list of potential vendors);
    - (iv) Can be acquired more appropriately through interagency agreements (IAAs) with other Federal agencies or Department of Energy (DOE) laboratories not covered by MD 11.1 (see MD 11.7, “NRC Procedures for Placement and Monitoring of Work with Federal Agencies and U.S. Department of Energy Laboratories”);
    - (v) Can be met through use of a mandatory source (UNICOR/Committee for Purchase from People Who Are Blind or Severely Disabled (also known as NISH));
    - (vi) Can be procured through the GSA schedule;
    - (vii) Can be performed by a small business through a set-aside or sole source award where permitted in FAR Part 19;

- (viii) Can be fulfilled through use of another agency's GWAC or a multiple award schedule contract; and
  - (ix) Requires more extensive market research because of its complexity.
5. Benefits of Market Research: The benefits of market research include the following—
    - (a) Identifies commercial supplies and services that meet Government requirements;
    - (b) Identifies industry capabilities, qualified vendors, and small business concerns that can meet Government requirements and contribute to cost savings or cost avoidance and achievement of NRC small business program goals;
    - (c) Promotes acquisition planning and category management for NRC procurements;
    - (d) Identifies commercial practices regarding customizing, modifying, or tailoring items to meet customer needs;
    - (e) Identifies customary industry terms and conditions including warranties, acceptance, inspection, and maintenance; and
    - (f) Helps inform better business decisions affecting the nature and extent of competition; use of small business set-asides or sole source procurements; and use of available contract mechanisms, including agency EWCs, GSA multiple award schedule (MAS) contracts, Governmentwide acquisition contracts (GWACs), multi-agency contracts (MACs), and FSS.
  6. Market research can be accomplished in many ways, such as the following:
    - (a) Contacting knowledgeable people,
    - (b) Reviewing the results of recent market research for the same or similar items,
    - (c) Obtaining information by the Internet,
    - (d) Using the Dynamic Small Business Search (DSBS),
    - (e) Obtaining sources from other contracting offices, or
    - (f) Reviewing catalogs (see DSBS registration information below).
  7. SBP maintains a list of sources with different capabilities that are available to do business with the NRC.
  8. The CS may issue a sources-sought notice or request for information (RFI) to solicit information or interest from potential vendors.

## **H. Competitive Procurements**

1. The Government benefits from competitive prices from contractors who exert their best effort to deliver high-quality products and services. With certain limited exceptions, the CICA requires that Federal agencies promote and provide for full and open competition in soliciting offers and awarding Government contracts. The NRC adheres to FAR Part 6, "Competition Requirements," which states that agencies shall not contract with other Federal agencies for supplies or services to avoid a competitive procurement. Except for procurements using simplified acquisition procedures, all negotiated acquisitions must be conducted using competitive full and open procedures, as required by FAR 6.101, unless there are compelling and convincing reasons or circumstances justifying the use of a procurement method other than full and open competition, as documented in a duly approved Justification for Other than Full and Open Competition (JOFOC).
2. In planning procurement actions, the COR and CO must consider the extent of competition. The default assumption is that every procurement is a candidate for a competitive procurement unless or until a rationale to either limit competition or sole source the acquisition is developed and approved. If there are two or more known sources available to satisfy a requirement, a full-and-open competition method normally must be used, unless an exception to competition as defined in the FAR applies.

## **I. Non-Competitive Procurements and Justifications for Other than Full and Open Competition (JOFOCs)**

1. Other than full and open negotiated procurements are actions that limit competition. Non-competitive procurements require an approved Justification for Other than Full and Open Competition (JOFOC) before the acquisition may proceed, except in the limited case when the requirement is of unusual and compelling urgency, which is discussed in greater detail below.
2. There are several types of non-competitive procurements. Once the appropriate approval has been obtained, the procurement process is like that of negotiated procurements, except that the role of the SEP may be more limited than it normally is in a competitive procurement. The different types of other than full and open procurements are discussed briefly in this section.
3. Limited Competition or Sole Source Acquisitions: Procurements using other than full and open competition include limited competitions, and sole source acquisitions. When non-competitive acquisitions are determined justifiable, all reasonable efforts must be taken to avoid the need for subsequent or continuing non-competitive acquisitions, including removing unnecessary barriers to competition and engaging in early acquisition planning. This section does not apply to acquisitions awarded under FAR Part 19, "Small Business Programs."

4. Circumstances Permitting Other Than Full and Open Competition: FAR 6.302 permits other than full and open competition (limited competition or sole source acquisitions) under the following circumstances:
- (a) Supplies or services are available from only one responsible source and no other type of supplies or services will satisfy the agency's needs (FAR 302-1).
  - (b) The requirement is of an unusual and compelling urgency such that the Government would be seriously injured unless the agency is permitted to limit the number of sources.
    - (i) The agency must still request offers from as many potential sources as practicable under the circumstances (FAR 302-2).
    - (ii) In this scenario, the justifications may be drafted and approved after contract award, when preparation and approval prior to award would unreasonably delay acquisition, (FAR 302-2); however, a documented verbal approval or an electronic approval must be obtained from the CA (may be redelegated to the Deputy Director, AMD) before proceeding with a procurement exceeding the dollar amount specified in the warrant of the cognizant branch chief in AMD.
  - (c) The agency must award to a particular source to maintain a facility or supplier in case of a national emergency or to establish or maintain an essential engineering, research, or development capability provided by an educational or other nonprofit institution or a federally funded research and development center (FFRDC) (FAR 302-3).
  - (d) The NRC must comply with statutory requirements and guidance regarding preferences given to local organizations, firms, and individuals when contracting for major disaster or emergency assistance for Presidential declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
  - (e) FFRDCs may be used when awarding sole source contracts or orders with CNWRA, a division of Southwest Research Institute, under the terms and conditions of its charter with the NRC (FAR 35.017; FAR 6.302-3).
  - (f) The procurement is required by the terms of an international agreement or treaty or by written direction of a foreign government that is reimbursing the agency for the cost of the procurement (FAR 6.302-4).
  - (g) A statute expressly authorizes or requires procurement through another agency from a specified source, or the agency needs a brand-name commercial item for authorized resale. FAR Subpart 17.5, "Interagency Acquisitions," may be used when entering into agreements with other Federal agencies to obtain supplies or services when meeting established criteria.

- (h) Disclosure of the agency's needs would compromise national security unless the number of sources is limited. The agency must request offers from as many potential sources as is practicable under the circumstances (FAR 6-302-6).
  - (i) The EDO, as agency head, determines if it is not in the public interest to use competitive procedures and gives Congress written notice 30 days before award. This authority cannot be delegated. (See FAR 6.302-7, "Public Interest.")
5. Approvals of Other Than Full and Open Competition (JOFOCs)—
- (a) Except under the urgent and compelling exception discussed in more detail below (FAR 6.302-2), a procurement for other than full and open competition may not proceed until the COR provides the required JOFOC to the CO. This JOFOC must provide narrative that adequately supports and explains the basis of the requested determination. The CS may work with the COR to finalize the language of the JOFOC. The CO reviews the JOFOC to determine whether the supporting rationale is adequate before submitting it to the appropriate approving official(s). FAR 6.303 provides guidance regarding JOFOC format and content (see also the contract templates available in the NEAT Libraries). FAR 6.304 sets the ceiling for the CO's approval of JOFOCs. For procurements above the CO's authority, the approval authority rests with the CA.
  - (b) Note: Depending on the nature of the JOFOC, requirements to post either a notice of a proposed contracting action under FAR 5.2003 or of a JOFOC on [SAM.gov](https://www.sam.gov) differ depending on the nature of the JOFOC justification, so the COR must seek the guidance of the CO, and the CO will provide guidance to the COR on a case-by-case basis, as the facts apply to the rules established in the FAR. However, in general, unless an exception to FAR 5.203 applies, the notice must be posted on [SAM.gov](https://www.sam.gov) at least 15 days before the Government initiates action to solicit and negotiate a proposed contract action with only one source under the authority of FAR 6.302. Once the JOFOC has been approved and the posting time has been determined, the procurement for other than full and open competition proceeds as a normal, negotiated acquisition.
6. If JOFOC is Not Justified, Proceed with Full and Open Competition—
- CORs intending to prepare a JOFOC for a given requirement are advised to provide a draft JOFOC to the CO as early in the Acquisition Planning Phase as possible, and before submitting the requisition package to AMD. This early collaboration minimizes the risk of requisition package re-work and the schedule delays that may occur if the CO determines that the JOFOC rationale is not adequate. If the CO determines that the JOFOC is not adequate, the CO will return the requisition package to the COR for development of a competitive procurement, and procurement milestones will be accordingly adjusted to reflect the change in procurement strategy.

7. If JOFOC is Approved, Proceed with Limited Competition or Sole Source
- (a) If the CO determines that the JOFOC presents a valid argument for the procurement to be awarded without full and open competition, the CO will post a notice of intent to contract on a sole source basis or a limited-source basis on [SAM.gov](https://www.sam.gov). FAR 5.203 requires that a notice of the contract action be published on [SAM.gov](https://www.sam.gov) at least 15 days before issuance of a solicitation and that the agency allow at least 30 days from the issuance date of the solicitation to receive proposals and bids. Therefore, award may not occur earlier than 45 days after publication of the requirement on [SAM.gov](https://www.sam.gov).
  - (b) The [SAM.gov](https://www.sam.gov) notice of intent should—
    - (i) Provide detailed information on the scope of work or specifications so that interested parties may respond.
    - (ii) Invite interested sources to identify their ability to fulfill the requirement.
    - (iii) Include a statement explaining why the NRC believes only one source is available, if appropriate.
  - (c) The CO will respond to questions from potential offerors concerning the requirement only during the response time. When possible, responses to the [SAM.gov](https://www.sam.gov) notice should be reviewed upon receipt, rather than at the end of the period. The CO may use personnel from the requirement office to aid in evaluating the responses.
8. When Response from Sole or Limited Source Posting on [SAM.gov](https://www.sam.gov) Results in Competitive Action
- (a) In the event responses to the [SAM.gov](https://www.sam.gov) notice of other than full and open competition indicate that there are two or more qualified parties, the proposed procurement will be processed as a competitive action and the CO will proceed under FAR 5.203 for publicizing and response times.
  - (b) The CS should issue the RFP/solicitation to all qualified sources and proceed with the project on a competitive basis, allowing at least 30 days from the solicitation issuance date for submission of proposals.
9. Sole Source Acquisitions under FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements”
- If responses to the [SAM.gov](https://www.sam.gov) notice of intent to contract on a sole source basis indicate that there are other potential vendors capable of meeting the agency's needs, the procurement will be competed on a full-and-open basis.

10. Sole Source Acquisition under FAR 6.302-2, “Unusual and Compelling Urgency”

- (a) All requirements citing urgency as the basis for the exception to competition must be thoroughly scrutinized to assure that the supporting rationale is valid and sufficient to meet the standard. The urgency exception contained in FAR 6.302-2 may not be used if poor planning was the primary cause of the urgency of the requirement and is not a valid legal basis for using the exception. GAO has held that lack of planning or the delaying of a requirement to use the urgency exception is viewed as an impermissible attempt to circumvent CICA requirements.
- (b) Section 862 of the Duncan Hunter National Defense Authorization Act for 2009 amended the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) to include a limit on the period of performance of contracts awarded under the “unusual and compelling urgency” exception. The total period of performance of such contracts may not exceed the time necessary to meet the unusual and compelling requirements of the work to be performed under the contract and award of another contract for the required goods or services using competitive procedures. The period of performance may not exceed 1 year for acquisitions above the SAT, unless the EDO, as agency head, determines that exceptional circumstances apply.
- (c) If the CO is satisfied that the rationale for a sole source acquisition under this exception is valid, the CO may forego the requirement to place a notice on [SAM.gov](https://www.sam.gov) describing the procurement and can waive approval of the JOFOC until after award. A JOFOC is required to document the rationale justifying the use of this exception, but the FAR regulation permits the JOFOC to be drafted and approved after the contract is awarded.

**J. Small Business Programs and Limited Competitions That Do Not Require a JOFOC**

- 1. The SBA has programs that allow for limited competitions, without having to prepare a JOFOC. They are known as “Small Business Set-Aside programs.” These programs are as follows—
  - (a) 8(a) Set-Asides,
  - (b) HUBZone Set-Asides,
  - (c) Service-Disabled Veteran-Owned Small Business (SDVOSB) Set-Asides,
  - (d) Woman-Owned Small Business Set-Asides (WOSB Set-Asides), and
  - (e) Economically Disadvantaged Women-Owned Small Business (EDWOSB) Set-Asides.

2. The CO decides whether an acquisition should be issued as a sole source under this program, with input from SBP.
3. CORs interested in using these programs for procurements are advised to refer to specific agency guidance for Small Business Programs in [NEAT](#) and to discuss this with their designated CO/CS.
4. Overview of How Small Business Set-Asides work
  - (a) A small business set-aside is an acquisition exclusively or partially reserved for the participation of small business concerns under the Small Business Act. It restricts the competition to small business concerns that qualify under the applicable standards. The CO decides whether an acquisition should be set aside, with input from SBP.
  - (b) Small Business Set-Asides can either be total or partial. A total set-aside restricts the entire procurement, whereas a partial set-aside restricts only a stated portion of it. Each acquisition that has an anticipated dollar value exceeding the micro-purchase threshold, but not exceeding the SAT, as described in FAR 19.502, is automatically reserved exclusively for small business concerns.
  - (c) “The Rule of Two”: Set-asides are established based on the application of “the Rule of Two.” This rule applies to any acquisition above the SAT when there is a reasonable expectation of both of the following outcomes:
    - (i) Offers can be obtained from at least two responsible small business concerns offering the supplies and services of different small business concerns.
    - (ii) Award will be made at fair market prices.
5. CORs interested in these programs are advised to refer to agency guidance for SBA programs in [NEAT](#) and to discuss this with their designated CO/CS.
6. Notes—
  - (a) The contracts are generally awarded using the competitive negotiated procedures in FAR Part 15.
  - (b) The small business programs above are not in any order of precedence.

#### **K. Other Procurement Methods That Do Not Require a JOFOC**

Generally, the following are unique methods of procurement that deviate from standard-competitive and limited-competitive acquisitions. None of these methods require a JOFOC.

## 1. Broad Agency Announcements (BAAs)

- (a) A Broad Agency Announcement (BAA) is one of the competitive procedures that meet the statutory requirement for full and open competition and is advertised on [SAM.gov](https://www.sam.gov). Using BAAs gives the agency the ability to make multiple awards from one announcement, reducing procurement lead time and the staff effort involved in initiating several competitive projects. BAAs also provide flexibility in source selection by the merits of the individual proposal(s).
- (b) BAAs are an efficient means of soliciting competitive basic or applied research ideas. They may be used for scientific study and experimentation or for increasing knowledge and understanding, rather than focusing on a specific system or hardware solution. However, BAAs may be used only when meaningful proposals with varying scientific or technical approaches can reasonably be expected.
- (c) The CS, in collaboration with the COR, writes the [SAM.gov](https://www.sam.gov) BAA notice. The BAA notice should—
- (i) Describe the agency's research interest, either for an individual program requirement, or for broadly defined areas of interest covering the full range of the agency's requirements.
  - (ii) Specify the period in which proposals may be submitted, during which awards or selections may be made at any time.
  - (iii) State whether all proposals are to be reviewed at a common time, and that no further review of proposals will be made after designated funding is no longer available.
  - (iv) Contain instructions for the preparation and submission of proposals.
  - (v) Describe the evaluation factors and their relative importance. Sample factors include the following—
    - Use of unique and innovative methods, approaches, or concepts that add value for the Government / potential contribution to the NRC mission.
    - Overall scientific, technical, or socioeconomic merits of the proposal.
    - Offeror's capabilities, relevant experience, facilities, techniques, or unique combinations thereof.
    - Qualifications, capabilities, and experience of the proposed Principal Investigator, or proposed personnel who are critical to achieving the proposal objectives.
    - Overall standing among similar proposals available and/or evaluation against the known state of the art.

- (d) Once a proposal is received, communication between the COR and the offeror must be coordinated through AMD and is permitted for clarification purposes only.
- (e) Proposals received in response to a BAA must be evaluated according to the evaluation factors specified in the BAA notice, by a peer or scientific review group (serving on the SEP) nominated by the DO. Written evaluation reports on individual proposals are necessary.
- (f) After evaluation of the proposals, the DO will submit an evaluation report to the CO containing technical evaluations of each proposal received, as relating to the evaluation factors specified in the BAA notice, and a recommendation as to which offerors should receive awards. Contracts are awarded until the agency has used its research funds in the area of interest.

## 2. Unsolicited Proposals

- (a) Unsolicited proposals are proposals that are submitted to the agency on the initiative of the submitter. Unsolicited proposals allow unique and innovative ideas or approaches that have been developed outside the Government to be made available to Government agencies for use in accomplishment of their missions. These proposals cannot be in response to a request (either formal or informal) by the agency. (See FAR Subpart 15.6 and NRCAR 2015.6.)
- (b) Processing Unsolicited Proposals: The Director, AMD is the receiving point-of-contact for unsolicited proposals. If received by an NRC office other than AMD, all unsolicited proposals should be sent immediately to the Director, AMD. The appropriate markings will be attached to the proposal for its protection, and an acknowledgment will be sent notifying the proposer of receipt.
  - (i) The Director, AMD will designate AMD staff to evaluate the proposal to determine whether it meets the minimum criteria to qualify as an unsolicited proposal.
  - (ii) AMD will assume responsibility for tracking the proposal, to include the date the proposal was received by AMD, tracking which offices receive the proposal; the number of copies forwarded; notifications to the proposer of actions being taken about the proposal; and correspondence from the technical evaluators to AMD concerning the merits of the proposal.
  - (iii) In addition, AMD will maintain a file for each unsolicited proposal processed, which becomes part of the contract file if the proposal is eventually accepted. In the event an unsolicited proposal is not accepted, offices must return all copies of the proposal to AMD for disposition.

- (c) A valid unsolicited proposal must—
  - (i) Be innovative and unique;
  - (ii) Be independently originated and developed by the offeror;
  - (iii) Be prepared without Government supervision, endorsement, direction, or direct involvement;
  - (iv) Include sufficient detail to permit a determination that Government support can be worthwhile and the proposal work can benefit the agency's research and development or other mission responsibilities;
  - (v) Not be an advance proposal for a known requirement that can be acquired by competitive methods; and
  - (vi) Not address a previously published agency requirement (FAR 15.603(c)).
- (d) Evaluation of Unsolicited Proposals: Evaluators should consider the following factors in their evaluations of unsolicited proposals (FAR 15.606-2)—
  - (i) Unique, innovative, and meritorious methods, approaches, or concepts demonstrated by the proposal;
  - (ii) Overall scientific, technical, or socioeconomic merits of the proposal;
  - (iii) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these that are integral factors for achieving the proposal objectives;
  - (iv) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or proposed personnel who are critical in achieving the proposal objectives; and
  - (v) The realism of the proposed costs.
- (e) The following do not constitute unsolicited proposals—
  - (i) Advertising material designed to acquaint the agency with an offeror's off-the-shelf products or capabilities, or designed to determine the agency's interest in buying these products. These are materials that the vendor wishes to see introduced into the agency's supply chain as an alternate or replacement for an existing supply item and are treated as advertising material. This material is sometimes accepted for reference.
  - (ii) Commercial product offerings of concepts, ideas, or suggestions, with no indication that the offeror will devote any effort to further develop these concepts.

- (iii) Technical correspondence related to written requests for information regarding agency interest in research areas, preproposal explorations, technical inquiries, and submission of research descriptions. (However, the NRC encourages inquiries before submission of unsolicited proposals.)
  - (iv) Capability statements explaining an individual's or an organization's technical, business, manufacturing experience, capability, and background.
  - (v) Proposals closely resembling a pending competitive acquisition.
  - (vi) Proposals that do not demonstrate an innovative and unique method, approach, or concept, or is otherwise not a meritorious proposal.
  - (vii) Conflict of Interest: Just as with proposals submitted in response to agency solicitations, technical evaluators must also evaluate unsolicited proposals for conflict-of-interest (COI) issues.
- (f) After Proposal Evaluation is Completed
- (i) If it is determined that the proposal can be recommended for award, copies of the proposal will be sent to the directors of offices that may have an interest in the proposal, identifying any deficiencies in format. AMD will retain one copy of the proposal for its records.
  - (ii) If the proposal is to be recommended for award, the COR must prepare and forward a requisition package to AMD that includes a justification for a noncompetitive procurement, including consideration of the evaluation factors discussed above. The justification should clearly state the argument as to why the work proposed under the unsolicited proposal cannot be procured on a competitive basis. AMD will review the justification to determine whether the rationale is sufficiently strong to support award and will determine the type of contract to be awarded. If more than one office is interested in supporting the effort, representatives of the directors of those offices will meet with an AMD representative to reach an agreement as to funding.
  - (iii) If an evaluator believes that other NRC offices or Government agencies would find the proposal of value, the evaluator should notify the AMD point-of-contact, who will forward the proposal to the other offices in question and recommend that the proposer contact them. The AMD point-of-contact also should be notified when evaluators from outside the agency or Government are required, so that the AMD may forward the proposal and ensure proper tracking and protection.
  - (iv) Additionally, it is important to caution NRC employees regarding the propriety of their contacts with firms and individuals seeking contracts with the NRC. While it is necessary and appropriate to have discussions with offerors, this communication must be done through the designated CO. Care must be

taken to ensure that premature disclosures, including revealing the contents of a proposal to the offeror's competitors, are avoided and that general discussions can in no way be interpreted as an NRC commitment to fund the unsolicited proposal. The CO is the only individual authorized to bind the agency contractually or to otherwise obligate funds.

- (v) If it is determined that the proposal cannot be supported for award, the evaluator shall prepare a written evaluation report explaining the reasons for its rejection, which should be directly related to the evaluation criteria used and how the proposal did not meet one or several of the evaluation criteria. AMD will prepare a rejection letter addressed to the proposer if the DO recommendation is not to support the proposal for award.
  - (vi) If an unsolicited proposal is missing information but otherwise conforms to the criteria in FAR 15.6, AMD will ask the proposer to provide that information. When the information is supplied, AMD will send the additional information to the offices reviewing the proposal.
  - (vii) If the proposal is for ongoing research, technical evaluators are advised to pay particular attention to the period of performance proposed, its reasonableness, and the extent of the NRC's commitment to that period of performance. The technical evaluation report will be returned through the OD, not below the level of division director (or equivalent if the requirement office has no division director) to the HCA with all copies of the unsolicited proposal.
- (g) Restrictions on Use of Information Contained in Unsolicited Proposals
- (i) To ensure that the integrity of the NRC is maintained with respect to unsolicited proposals, certain prohibitions and protections have been devised to cover the information contained in the unsolicited proposal. The proposal cannot be used, either in its entirety or in part, as the basis for future solicitations or negotiations, unless the offeror agrees in advance to permit the proposal's use in this manner. (See FAR 15.608.) However, this prohibition is applicable only to the information, techniques, process, or data revealed for the first time in the subject proposal, and does not apply to any information contained in the proposal that may have been available to the NRC from another source without restriction.
  - (ii) Further protection is provided using the "limited use of data" legend. The AMD point of contact will ensure that the legend in FAR 15.609 is applied to all proposals and that legends applied by the offeror comply with FAR 15.609.
3. Interagency Agreements: The NRC may obtain supplies or services from or through another Government agency using interagency agreements (IAAs). For information regarding award of IAAs to DOE and other agencies, refer to MD 11.7, which

contains policies, procedures, and examples for negotiating and managing agreements with DOE and other Federal agencies.

#### **L. Planning Requisitions for New Task or Delivery Orders**

1. The following information is general guidance for ordering supplies or services from Indefinite Delivery/Indefinite Quantity Contracts (“IDCs” or “IDIQs”). CORs should carefully review the terms and conditions of each IDC (including EWCs) and follow specific ordering requirements and procedures provided. While single-holder IDCs produce sole source or non-competed task or delivery orders (“orders”), multiple-holder IDCs typically require that the task order requirements be competed among the various holders of that IDC. In the case of multiple-award IDCs, IDC holders are afforded a fair opportunity to be considered for each order, unless a statutory FAR exception applies (see FAR 16.504 and 16.505). For more information see the Commercial Items/Orders section in the [Acquisition Navigator](#) on NEAT.
2. Regardless of whether the new task order is to be competitive or sole sourced, like stand-alone contracts, the COR develops a requirement package that consists of the following—
  - (a) The task order SOW, which should include a complete description of the items or work required and the estimated level of effort (if applicable);
  - (b) The period of performance or delivery schedule; and
  - (c) Special requirements that may pertain to that task order, which will be reviewed by the CO or CS.
3. If the estimated value of the requirement is above the SAT, the COR also develops an IGCE, which is then reviewed by the CO or CS.
4. Planning Requisitions for New Multiple-Holder Task or Delivery Order Awards
  - (a) For multiple-holder IDIQs, the task order requirements are generally considered to be competitive, unless they fall within one of the exceptions for Fair Opportunity listed under the FAR 16.505, in which case, the COR must prepare a Justification for Exception to Fair Opportunity for the contract file that adequately explains how the nature of this requirement meets one or more of these exceptions.
  - (b) Similarly, for delivery orders for brand-name specifications, equipment particular to one manufacturer must be justified under FAR 16.505, such that the name-brand requirement must be determined to be “essential to the Government’s requirements and market research indicates that other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency’s needs.”

#### 5. Planning Requisitions for New Single-Holder Task or Delivery Order Awards

For single-holder IDIQs, the sole source determination has been made at the IDIQ level and flows down to the task order requirement once a determination is made by the IDIQ CO that the task order in question is within the scope of the IDIQ. This determination is documented and included in the contract file.

### **M. Commercial Item Acquisitions**

Title VIII of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) implements the Federal Government's preference for acquiring commercial items by establishing acquisition policies more closely resembling those of the commercial marketplace and encouraging the acquisition of commercial items and components.

### **N. Waivers and Deviations**

If the COR becomes aware of the necessity of obtaining a deviation to the FAR or NRC Acquisition Regulation (NARCAR), the COR is required to note this in the Requisition Checklist and to seek guidance from the designated CO, CS, or both.

### **O. Advisory and Assistance Services**

1. The term "advisory and assistance services" (A&A services) means those services provided under contract by a contractor (non-governmental source) to support or improve the NRC's organizational policy development, decision-making, management and administration, program and/or project management and administration, or research and development activities. It can also mean the furnishing of professional advice or guidance to improve the effectiveness of Federal management processes or procedures (including those of an engineering and technical nature). In rendering A&A services, outputs may take the form of information, advice, opinions, alternatives, analyses, evaluations, recommendations, training, and the day-to-day aid of support personnel needed for the successful performance of ongoing Federal operations. (See FAR 37.2.)
2. A&A services generally do not include the routine use of engineering, scientific, legal, accounting, or other professional services to support the NRC's existing administrative and regulatory functions. A&A services involve reviewing or improving those functions.
3. The FAR provides guidance on procuring A&A services. Before issuing a contract for A&A services, the CO must ensure that the EDO, as agency head, determines that sufficient personnel with the requisite training and capabilities are available within the agency to evaluate or analyze proposals. CORs should seek AMD guidance whenever there is doubt about the application of the FAR criteria defining A&A Services. (See FAR Subpart 37.2.)

4. A&A Services shall not be—

- (a) Used in performing work of a policy, decision-making, or managerial nature that is the direct responsibility of agency officials;
- (b) Used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;
- (c) Contracted for on a preferential basis to former Government employees;
- (d) Used under any circumstances specifically to aid in influencing or enacting legislation; or
- (e) Used to obtain professional or technical advice that is readily available within the agency or another Federal agency. (See FAR 37.203.)

**P. Contracts Between the NRC and Former NRC Employees**

1. It is an NRC requirement that a former NRC employee may not receive a sole source contract award within 2 years from the program office requisition date to the CO and may only participate in an NRC acquisition if the individual in question is proposed under a competitively awarded contract. This requirement is designed to prohibit departing NRC employees from reaping the immediate benefit of NRC noncompetitive contract work awarded for their benefit upon retirement or separation (NRCAR §2009.100). The requirement is to award only NRC competitively awarded contracts to individuals who have been employed by the NRC within 2 years from the date of the requisition. This requirement also applies to non-competitive award of contracts, task orders, or other work—
  - (a) Where former NRC employees have dominant ownership interests in the organization, including partners or majority stockholders;
  - (b) Where former NRC employees have dominant management interests, including principal officers or where the organization is predominantly staffed by former NRC employees;
  - (c) Where the assignment is to be performed by designated former NRC employees, including principal investigators, key personnel, and others who will perform more than a nominal amount of the work in question.
2. The following types of procurement actions are considered non-competitive for the purposes of this policy:
  - (a) Contracts awarded non-competitively under the SBA's Small Business Set-Aside Program,
  - (b) Individual task orders if the former employee was not identified as “key personnel” in a proposal that was evaluated under competitive procedures,

- (c) Unsolicited proposals, and
  - (d) Subcontracts that require NRC review and consent under NRC prime contracts.
3. The definition of the term “NRC employee” includes special Government employees performing services for the NRC as experts, advisors, consultants, or members of advisory committees, if—
    - (a) The contract arises directly out of the individual's activity as a special employee,
    - (b) The individual can influence the award of the contract, or
    - (c) The CO determines that another conflict of interest exists.
  4. A justification explaining why it is in the best interest of the Government to contract with an individual or firm described above in this section on a non-competitive basis may be approved by the SPE after an EDO waiver of the NRCAR requirement. This justification is in addition to any justification and approvals that the FAR may require for use of other than full and open competition.
  5. This requirement does not relieve former employees from post-employment restrictions, including NRCAR 2009.100, “NRC Policy,” and 18 U.S.C. 207, “Restrictions on former officers, employees, and elected officials of the executive and legislative branches.” Contact the OGC-designated agency ethics officials for advice and counsel.

#### **Q. Contracts Expected to Exceed 5 Years**

1. FAR 17.204(e) states that unless otherwise approved in accordance with agency procedures, the total duration of the basic period and all options (either periods or years) shall not exceed 5 years in the case of contracts for both services and supplies. Statutes applicable to various classes of contracts may place additional restrictions on the length of contracts. Certain research and development contracts and information technology (IT) contracts may exceed 5 years. If it is known in advance that the term of a contract is required in excess of the provisions in FAR 17.204(e), a JOFOC must be approved by the CA.
2. Provided that the contract contains 52.217-8, the CO may approve non-competitive contract extensions to 5-year contracts within the limits of his or her warrant delegation for up to a total of an additional 6 months for the purpose of completing the process of awarding a competitive follow-on contract, provided that the requisition for the follow-on or replacement contract was received in AMD no later than 6 months before the end of the fifth year. Other extensions beyond 6 months must be approved by the CA (may be redelegated to the Deputy Director, AMD). Rules regarding the extension of task orders beyond the expiration-dates of IDC ordering periods vary with the terms of each IDC.

**R. Creating the Source Evaluation Panel (SEP)**

1. The DO initiating the procurement nominates SEP members by memorandum to the CO, who typically serves as the SSA; this memo is an attachment to the requisition package. Each SEP member must be able to devote the time and effort necessary to ensure successful performance of SEP activities and the timely submission of high-quality products. If this commitment is not possible, the DO should nominate a qualified replacement who is able to devote the requisite time to this responsibility.
2. The CO reviews the list of nominees to ensure they have the qualifications to evaluate proposals, and formally designates SEP members. If changes to the SEP panel are needed, the CO reviews and approves the change nominations submitted by the DO.
3. The SEP helps the CO develop the source selection plan to evaluate proposals using the solicitation's evaluation methodology and evaluation factors, and later in the process, may also support the CO in discussions and negotiations.
4. SEP Membership and Composition: SEP members should represent the various technical and functional disciplines needed to evaluate proposals received for any given requirement.
5. Each SEP includes at least one or more technical members and may also include the CS as a non-voting member.
6. Including the SEP chairperson, the SEP should not exceed five members. When determining the number of SEP members, the CO should consider variables specific to the type of procurement, including technical complexity and dollar value.
  - (a) Typically, an SEP of three-five members is sufficient for competitive contracts over the SAT.
  - (b) In the case of competitive orders valued over \$5 million when using the best value trade-off method, it is suggested that at least three SEP members be designated.
  - (c) A SEP of one or more members may be used when evaluating sole source contracts; or orders having an approved exception to fair opportunity justification; or orders issued under single-holder IDCs. The requirement office should consult with the assigned CO if guidance is needed in this area.
  - (d) The SEP may include non-voting advisors. The CO governs the extent of the advisor's participation in the SEP. Although these advisors are not SEP voting members, the potential for conflict of interest must be carefully evaluated before their nomination to the SEP panel.

- (e) Unless managers or supervisors are officially designated as members of or advisors to the SEP, they are prohibited from reading or concurring on the SEP evaluation report.
7. SEP member responsibilities include, but are not limited to, the following:
- (a) Reviewing proposals thoroughly and independently before rating them.
  - (b) Evaluating each proposal individually, using the evaluation methodology and factors stated in the solicitation, and ensuring that the technical evaluations for each evaluation factor or sub-factor is adequately supported by narrative. This narrative will document all strengths, weaknesses, or deficiencies the SEP member identifies during the evaluation and explains their significance or magnitude.
  - (c) Documenting any questions, concerns, or clarifications that are necessary to resolve to evaluate the proposal.
  - (d) Conducting reference checks and evaluating past performance information.
  - (e) Maintaining objectivity and impartiality and avoiding conflicts of interest.
  - (f) Maintaining consistency and continuity in technical evaluations using the methodology stated in the solicitation.
  - (g) Discussing and resolving proposal evaluation issues or concerns within the SEP.
  - (h) Preparing a final evaluation report (if discussions are required).
  - (i) Supporting the CS with cost realism or trade-off analyses, if necessary.
  - (j) Supporting the CO and the CS in any debriefing of the unsuccessful offerors.
  - (k) Supporting the CO with a response to an agency or GAO protest.
8. The SEP Chairperson: Each SEP shall also have a designated chairperson.
- (a) The SEP Chairperson should be a technical expert on the supplies or services being procured and should be a senior official, normally at the GG-15 level. With the approval of the CO, the SEP chairperson may obtain the services of advisors from other NRC offices, an expert from another Federal agency, or another source to help the SEP, as necessary.
  - (b) The SEP chairperson's duties include, but are not limited to—
    - (i) Leading the overall technical evaluation effort.
    - (ii) Ensuring the safe storage of proposals and SEP materials.
    - (iii) Scheduling SEP meetings and handling related logistics.

- (iv) Ensuring that all SEP members review and follow guidelines regarding SEP roles and responsibilities.
  - (v) Designating tasks among SEP members according to their background and experience.
  - (vi) Ensuring the timely preparation of all SEP reports and documents, and the conduct of the SEP's activities in support of the overall procurement.
  - (vii) Resolving all SEP procedural matters.
  - (viii) Coordinating with CS for review of reference checks, CPARS, and other past performance information.
  - (ix) Identifying issues for negotiation if discussions are necessary.
  - (x) Submitting all completed reports, worksheets, and other documents to the CS.
9. CS SEP responsibilities: The CS serves as a procurement expert, facilitator, and liaison to the SEP on behalf of the CO. CS duties and responsibilities within the SEP include, but are not limited to—
- (a) Helping the CO with the initial SEP briefing and distributing proposals and other documents, including applicable procedures, policies, and instructions to SEP members.
  - (b) Providing procurement advice to SEP panel members; responding to SEP questions or concerns about evaluation procedures and methodology.
  - (c) Attending SEP meetings, as needed.
  - (d) Providing CPARS and other past performance information to the SEP.
  - (e) Providing feedback on evaluator worksheets (or similar documentation) and SEP evaluation reports, with a focus on assessing whether the narrative is sufficient to support technical evaluations. Reviewing SEP documents to ensure accuracy, completeness, and consistency with solicitation and evaluation instructions.
  - (f) Serving as a non-voting member of the SEP, as needed.
  - (g) Reviewing the SEP certification statement with SEP members. If there is an actual or a potential conflict of interest, the views of OGC should be solicited.
  - (h) Assisting the CO with developing and revising procurement milestone schedules.
  - (i) Coordinating with SEP during cost/price evaluation for cost realism or trade-off analyses, as applicable.
  - (j) Facilitating the conduct of oral presentations, if applicable.

- (k) Arranging for and facilitating the conduct of any pre-award site visits with offerors.
- (l) Ensuring the integrity of the entire proposal evaluation process.
- (m) Sharing pertinent information with the CO about SEP proceedings.
- (n) Sharing and negotiating issues with offerors, including those shared by the SEP, on behalf of the CO when a competitive range is developed.
- (o) Scheduling and facilitating debriefings of unsuccessful offerors.

#### **S. Procurement Integrity: Access to and Limitations on Release of Information**

1. The process for awarding a contract depends on the procurement method chosen. Documents and information pertinent to the source selection process, including offeror bid or proposal information, must be treated as confidential information and restricted to those individuals having authorization by agency head or the contracting officer, in accordance with agency procedures to receive such information.
2. Current and former Federal employees, as well as other individuals currently advising (or who have advised) the Government regarding a procurement, who have participated substantially in a procurement and those who have access to procurement information are responsible for protecting it from unlawful disclosure.
3. As detailed in FAR 3.104, the Procurement Integrity Act prohibits disclosure of certain types of procurement sensitive information. In general terms, procurement sensitive information includes the following—
  - (a) Protected offeror bid or proposal information includes—
    - (i) Cost or pricing data;
    - (ii) Indirect costs and direct labor rates;
    - (iii) Proprietary information about manufacturing process, operations, or techniques identified as proprietary by any contractor; and
    - (iv) Information identified by any offeror as “contractor bid or proposal information.”
  - (b) Protected source selection information includes—
    - (i) Costs or prices submitted by offerors;
    - (ii) Source selection plans;
    - (iii) Technical evaluation plans;
    - (iv) Technical evaluations of proposals;
    - (v) Cost or price evaluations of proposals;

- (vi) Competitive range determinations;
- (vii) Rankings of bids, proposals, or competitors;
- (viii) Reports and evaluations of source selection panels, boards, or advisory councils; and
- (ix) Other information marked as “source selection information.”

Note: all source selection documents should be marked as such

4. Each person serving as a SEP member, or as a technical advisor to the SEP is required to sign a certification that advises members of their responsibility to protect offeror bid or proposal information and source selection information during the SEP process (FAR 3.104-1). SEP members and advisors must declare any financial or other relationships that may create a conflict of interest with their SEP duties. Any discussion of the procurement is strictly limited to the SEP and other procurement officials associated with the acquisition.
5. NRC managers responsible for projects to be executed through contracts awarded under a competitive procurement process and wanting access to source selection information must make a written request to access this information from the CO and must have a legitimate need-to-know. Supervisors and managers granted access to source selection information are bound by the same restrictions against unauthorized disclosure as SEP members.
6. Information concerning an acquisition in process must not be released outside the agency before solicitation, except for the following—
  - (a) Pre-solicitation notices (see FAR 14.205, 15.201, or 36.213-2),
  - (b) Estimates of long-range acquisition requirements (see FAR 5.404),
  - (c) Public notices (see FAR 5.201), and
  - (d) “The Forecast of Contract Opportunities” issued by SBP.

**T. Applicable Security Requirements to Be Considered for All Contracts and Subcontracts**

1. When preparing to submit requisition packages, CORs need to consider the following issues—
  - (a) Whether performance of the contract may require contractor employees to undergo personnel security screening for unescorted access to the NRC site or buildings;
  - (b) Does the contractor need to access to the NRC LAN or sensitive ICT systems or information;

- (c) Does the contractor need unescorted access to nuclear power plants;
  - (d) Does the contractor need access to Controlled Unclassified Information (CUI);  
and
  - (e) Whether the performance of the contract may require the contractor's facility to be cleared to use, process, store, reproduce, transmit, or otherwise handle NRC classified or controlled unclassified information.
2. The COR may request guidance and help from DFS regarding the review of the security considerations for contractor personnel or facility clearances and from OCIO for determining the sensitivity of ICT systems and information.
  3. If any type of clearance is needed for contract performance, the COR must attach the original NRC Form 187 to the requisition package. This form provides the necessary classification or security specifications and establishes the basis for providing security and classification requirements to contractors who will have access to Government or power reactor facilities, classified information, sensitive ICT information, power reactor access, or access to safeguards information. AMD forwards NRC Form 187 and a detailed SOW to the Director of DFS, ADM (see MD 12.1, "NRC Facility Security Program").
  4. The signed NRC Form 187 is included in the solicitation, as appropriate. However, solicitations will not be issued until AMD has received an approved NRC Form 187, unless the Director, AMD approves an exception to this policy. DFS approval of NRC Form 187 does not constitute any security approval to begin work. It does, however, indicate that—
    - (a) DFS anticipates no fundamental security or classification problems in the recommended procurement action by the information provided on NRC Form 187.
    - (b) DFS agrees with the basic classification levels and guidance provided by the authorized classifier of the requirement office.
  5. Types of clearances: The COR should indicate in the requisition package which type(s) of clearances will be necessary for any given requirement. The following types of clearances may be required—
    - (a) NRC Site Facility Clearance—
      - (i) The requisition package should indicate if contractor personnel will require continuous access to NRC buildings or the NRC LAN during the contract performance, so that the NRC local clause, entitled "Security Requirements for Building Access Approval," may be included in the solicitation as a term and condition of the contract.

- (ii) Background screening of contractor personnel may be necessary if access to NRC buildings or the NRC LAN is required on a continuous basis (in excess of 30 days) or access otherwise requires an NRC photo identification badge or keycard. Background screening may also be necessary if the contractor requires unescorted access to a nuclear power facility in performance of the contract.
- (iii) All contractor personnel whose contract duties require their presence onsite must be issued a distinctive badge by the NRC. Once a contract has been awarded, a COR is formally delegated responsibility by the CO to, among other things, help the contractor in obtaining the badges for the contractor personnel.
- (iv) A contractor employee shall not have access to NRC facilities or the NRC LAN until approval by the Personnel Security Branch (PSB), DFS, ADM, first for temporary access (based on a favorable adjudication of their security forms) and final access (based on favorably adjudicated background checks by the Office of Personnel Management). PSB is responsible for granting or denying temporary building or NRC LAN access approval to an individual upon its review of the information. Subsequently, PSB may grant or deny permanent building or NRC LAN access approval by the results of its investigation and adjudication guidelines.
- (v) The COR is responsible for ensuring that all its employees, including any subcontractor employees and any subsequent new employees who are assigned to perform the work on site, are approved by the NRC for building access. After contract award, using the procedures defined in MD 12.3, the contractor must submit to the COR a completed security forms packet for all contractor personnel whose contract duties will require their presence onsite or access to the NRC LAN or to sensitive IT systems and data, and any officers of the firm who, for any reason, may visit the work site(s) for an extended period of time. After the COR's review, a request for contractor assignment shall be provided to PSB for processing and PSB obtains any additional information they need from the contractor. Timely completion of properly completed security applications may be included as a contract requirement. Failure of the contractor to comply with this condition may be a basis for voiding the notice of selection. In that event, the NRC may select another firm for award. An individual will be subject to a reinvestigation every 5 years.
- (vi) The COR must review these contractor names to ensure that the list of people requested to receive this authorization is limited only to those with a real need to be onsite or to have access to the NRC LAN. After the COR's review, the fingerprint charts (FD 258) shall be provided to PSB.

(vii) Note: NRC employees shall discourage contractor personnel from engaging in any marketing and/or soliciting activities while performing under an NRC contract. All instances of this activity must be reported to the CO.

(b) ICT Access Clearance—

DFS operates a Government-sponsored personnel screening program for contractors providing computer-related supplies or services to ensure that the contractor's employees are eligible for access to the agency's sensitive ICT systems and data. The offeror or contractor must identify all individuals and propose the level of ICT approval for each (see MD 12.3). The COR makes the final determination of the level of ICT approval required for all individuals working under a contract.

(c) Classified Information Clearance—

(i) When contract performance involves access to, or development of, classified information, personnel and/or facility security requirements must be imposed on contractor personnel selected for the work.

(ii) The COR indicates on the Form 187 that contractor personnel will require access to classified information during the contract performance, the NRC local clause entitled "Security Requirements for Building Access Approval," shall be included in the solicitation and the resultant contract.

(d) Contractor Facility Clearance—

A facility clearance, which includes a foreign ownership control or influence determination, is required if the contractor needs to store classified information at a facility. Facility clearance requests are handled by FLSB. PSB will forward a copy of NRC Form 187 to FLSB to determine whether the facility in question meets the necessary requirements to receive facility clearance.

6. Upon contract award, the contractor submits clearance forms as designated in MD 12.3 to the COR, and the COR forwards the forms to DFS, and in collaboration with DFS, the COR must then establish the following levels and types of classified information the contractor requires—

(a) Whether reports, including interim and final documents, will be classified. The restrictions that must be placed on the proposed dissemination of information developed under the contract.

(b) Whether the contract should contain special classification or security clauses (i.e., drug testing, IT security clauses).

(c) Whether a contract awarded initially on a non-classified basis may produce classified results or become classified during the contract.

7. DFS notifies the COR by letter of security facility approval and personnel access authorizations. The COR then notifies the contractor whether the security facility approval has been allowed or denied. AMD provides DFS a copy of the final contract and all modifications involving classified information or security matters.

#### **U. Statement of Work (SOW) and Performance Work Statement (PWS)**

1. In general terms, the SOW serves as the foundation of every requisition package and its resulting contract. The SOW is the most important and most complex document that the COR must develop during the acquisition planning stage.
2. The SOW defines and describes the supplies or services that are being procured through a Government contract. The SOW should be written to accurately define functional or performance characteristics and to establish contractor and Government roles and responsibilities.
3. Depending on the nature of the requirement in question (e.g., commercial items versus technical assistance or research), and the type of contract anticipated (e.g., Firm Fixed Price versus Cost Reimbursement), SOWs can vary widely in structure and in content; however, SOWs typically include, but are not limited to, the following elements:
  - (a) Introductory and background material,
  - (b) Description of the tasks to be performed,
  - (c) Description of the items or equipment to be acquired, and
  - (d) Description of the supplies or services to be delivered under the contract, as well as the delivery schedule.
4. More specialized SOWs, such as SOWs for specialized types of technical assistance or research requirements, may define other types of requirements, such as the following information:
  - (a) The criteria or performance standards the NRC will use to determine that the requirements of the SOW have been met, and
  - (b) Descriptions of technical problems and technical guidelines. The SOW should also include research references, related information, and other data that, in the judgment of the COR, will help offerors in preparing technical proposals.
5. Requirements that are clearly-defined in a properly-drafted SOW will usually result in—
  - (a) Reduced proposal preparation time for offerors,
  - (b) Increased likelihood that the agency will receive proposals that adequately respond to the requirement, and

- (c) Faster agency evaluation of proposals received and shorter time to award the resulting contract.
6. Failure to properly specify the requirement may encourage offerors to either underestimate or overestimate costs (proposals with unreasonable or unrealistic costs) or may result in proposals that do not meet the agency's technical requirement (technically non-responsive proposals).
  7. The information presented in the SOW may affect the number of qualified prospective contractors willing and able to respond to the resulting solicitation. If the SOW is not sufficiently definitive, some prospective contractors may not submit a proposal either because of uncertainty about the risks involved, or because they do not understand if the requirements relate to their capabilities. If the SOW is too restrictive, contractors who are qualified to perform the Government's requirements may not respond.
  8. Selection of contract type also relates to the requirements as expressed in the SOW. Generally, if the SOW describes the technical requirements of the proposed work in detail and adequately describes time and cost factors, a fixed-price type of contract may be feasible. On the other hand, if the performance specifications, time, and cost factors are uncertain, a cost-reimbursement type of contract may be the only viable alternative.
  9. After contract award, the requirements defined in the SOW constitute the definitive standard for measuring the contractor's performance. All other elements of a contract revolve around it, are affected by it, or are dependent on it. Problems during contract performance are often traceable to how the SOW was structured and what information the SOW either contained or omitted. Regardless of other communication between the agency and the contractor as the work progresses, the parties must look to the language of the SOW as the final benchmark for defining issues of scope, responsibilities, and obligations.
  10. It is the COR's responsibility to create the SOW during the Acquisition Planning Phase. Given that preparation of these documents is a very broad and diverse topic, CORs are advised to refer to specific agency guidance for the development of SOWs, located in [NEAT](#), but, more importantly, CORs are advised to seek guidance and input from their assigned CS/CO during the SOW development process.
  11. Performance Work Statement (PWS) and Performance-Based Acquisition (PBA)
    - (a) Performance-Based Acquisition (PBA) is a method of contracting based on performance specifications and is the preferred method for acquiring services in the Federal Government (FAR 37.601(b)). In PBA contracting, all aspects of the work and acquisition are structured around and focus on the purpose of the work to be performed (i.e., performance results or outputs) rather than the way the

work is to be performed. The use of PBA has been encouraged by OMB to drive down the costs of contracts while improving contractor performance.

- (b) For service contracts, to the maximum extent possible, CORs shall design requirements using the principles of PBA in the form of developing a Performance Work Statement (PWS) that describes the work.
  - (c) A PWS emphasizes the purpose of the work to be performed, with the contract requirements defined in clear, specific, and objective terms, and defined measurable outcomes. This approach ensures that the required outcome is achieved, and that total payment is related to the degree that contractor services performed comply with those objective contract requirements (see FAR Subpart 37.6).
  - (d) A PWS may be developed by using a work breakdown structure (WBS). A WBS is used to break down the project into smaller, more manageable components (i.e., tasks). A WBS requires identifying major tasks (and subtasks) to achieve project objectives; estimating their costs, delivery dates, or performance schedules; and identifying those persons responsible for accomplishing the work.
  - (e) Components of Performance-Based Contracts (PBC) include—
    - (i) Results-oriented requirements, which are requirements described in terms of results required rather than the methods of performance of the work and
    - (ii) Measurable performance standards and acceptance criteria (i.e., terms of quality, timeliness, quantity) used to assess work performance.
12. Quality Assurance Plans (QASPs): QASPs help the Government ensure that the contractor's work is performed at quality levels specified in the contract. They should include—
- (a) All work requiring surveillance by the Government (what),
  - (b) The method of surveillance (how),
  - (c) The place or places where the Government reserves the right to perform quality assurance surveillance (where),
  - (d) Recognition of the responsibility of the contractor to carry out its quality assurance obligations (see FAR 46.105),
  - (e) Measurable inspection and acceptance criteria corresponding to the performance standards in the SOW, and
  - (f) The level of performance required by the SOW rather than the methodology used by the contractor to achieve that level of performance.

13. Performance Incentives: Performance incentives (positive or negative), as appropriate, encourage competitors to develop and institute innovative and cost-effective methods of performing the work. These incentives should correspond to specific performance standards in the QASP and should be measurable objectively (see FAR Subpart 16.4).
14. Prohibitions for the Acquisition of ICT: FAR 39.104 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of ICT services unless the CO first determines that the needs of the agency cannot be met without this requirement, or the needs of the agency require the use of a type of contract other than a performance-based contract. The contractor proposes to the NRC how the work will be performed and by whom.
15. Exceptions to using PBA: If a COR believes that a performance-based contract is not appropriate for performance of a specific service, the COR must provide sufficient rationale with the requisition explaining the unique circumstances. Exceptions to Using Performance-Based Acquisition include—
  - (a) Architect-Engineer services acquired under 40 U.S.C. 541-544 (FAR Part 36),
  - (b) Construction (FAR Part 36),
  - (c) Utility services (FAR Part 41), and
  - (d) Services that are incidental to supply purchases.
16. PBA Reference materials: PBA references include “NRC’s Acquisition Guidebook for Contracting Officer’s Representatives” and GSA’s “Seven Steps to Performance-Based Acquisition,” available at [www.acquisition.gov/comp/seven\\_steps/home.html](http://www.acquisition.gov/comp/seven_steps/home.html).

#### **V. The Independent Government Cost Estimate (IGCE)**

1. The COR must develop an Independent Government Cost Estimate (IGCE) and include it in the requisition package when the dollar value of the requirement exceeds the SAT, unless otherwise required by the CO. IGCEs are not required for the following types of contracting actions:
  - (a) Modifications exercising priced options; and
  - (b) Incremental funding.
2. The IGCE should show how the cost estimate was derived by delineating costs, including estimated costs for labor categories, consultants, travel, equipment, supplies, and indirect costs. Any previous cost history that the NRC has had in acquiring the same or similar goods or services should be provided with the IGCE. Also include any assumptions that form the basis for cost estimates, including labor escalations in subsequent periods. IGCE templates are available in the NEAT libraries.

3. The IGCE should be realistic and as accurate as possible so the CS can use it as a tool to evaluate proposed prices for proposals received from offerors.
  - (a) As part of the Acquisition Execution Phase, the CO may provide potential offerors with cost-type information that may serve to improve the overall quality of proposals, such as estimated labor hours, labor mix, and/or dollar range of the procurement, however the COR must not release any such information outside the agency without first having been approved to do so by the designated CO.
  - (b) Note: NRC IGCEs are documents restricted for Government use only. They may not be revealed to a potential offeror or contractor. For procurements below the SAT, an IGCE must be developed in a level of detail commensurate with the complexity of the procurement. This estimate is retained in the requirement office's files. The COR should discuss the details of any cost estimate with the CS.

#### **W. Requisition Package Office Approvals and Coordination**

Before the requisition package is sent to AMD and the Acquisition Execution Phase begins, the COR is responsible for coordinating all required approvals of documents in the requisition package, including JOFOCs, which must be approved by the DO. The DO's signature certifies that the proposed procurement is a valid, appropriate requirement.

#### **X. Certification of Funds**

1. The COR must have reasonable assurance that the requirement office will make available necessary funding before or at the time of contract award, to cover a project's estimated cost. Either full or partial funding is required, depending on the nature and type of contract and must include a certification of funds by a funds certifying official. In the case of a multi-year contract, assurance of funding for the first year is required, as well as a cancellation fee.
2. If the COR lacks sufficient funding during the requisition planning phase, the COR must notify the CO. The CO then may proceed with the process by including a clause in the solicitation indicating that the procurement is "Subject to the Availability of Funds," generally contracts will not be awarded from that solicitation until funds are available.
3. The COR will also have to indicate on the requisition checklist whether the work is fee-recoverable, and if so, whether the whole requirement is fee-recoverable, or whether certain parts are not fee-recoverable.

**Y. Pre-solicitation Communications with Industry**

1. In general, exchange of information is encouraged among all interested parties in the acquisition process, from the earliest identification of a requirement through issuance of the solicitation.
2. Interested parties include potential offerors, end-users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition. The NRC has posted a Vendor Communication Plan on its external Web site at [ML11230A042](#) to explain how it interacts with contractors at various stages of the acquisition process, including the early stages of concept development through the pre-solicitation and pre-award phases of acquisition. In addition, OFPP issued a [Myth Busting memo](#) addressing the misconceptions and further improving communications during the acquisition process.
3. The purpose of exchanging information with Industry is to improve the understanding of Government requirements and industry capabilities. This allows potential offerors to determine whether or how they can satisfy the Government's requirements and enhances the Government's ability to obtain quality supplies and services at reasonable prices and allows the Government the opportunity to increase efficiency in proposal preparation, evaluation, negotiation, and contract award.
4. It should be noted that the CO maintains the authority regarding all aspects of the nature of this exchange of information. Any exchange of information between the agency and industry must be consistent with Government procurement integrity requirements. Before engaging in any communication outside of the agency with interested parties about a new requirement, the COR should seek the guidance of, and approval from, the designated CO.
5. Early information exchanges can be accomplished through conferences, market research, one-on-one meetings, pre-solicitation notices, draft solicitation, a pre-solicitation or pre-proposal conference, and site visits.

**Z. Additional Requirements for Competitive Commercial Awards**

1. SEP Nominations: When the requirement is for a competitive commercial award, the COR must include in the requisition package a list of suggested SEP members nominated by the DO. A template SEP Nomination Memo is available in [NEAT](#).
2. Suggested Evaluation Factors: If the COR has any preferences or suggestions for Evaluation Factors (also called Evaluation Criteria), the COR should reference this in the Requisition Checklist, and attach this material as part of the requisition package.
3. Note: During the Acquisition Execution Phase, CORs and COs will jointly finalize the Evaluation Factors. This subject is discussed in greater detail in Section V.F, "Acquisition Execution Phase, Developing Proposal Evaluation Factors."

**AA. Selecting the Type of Contract**

1. Overview—
  - (a) Government contracts are structured primarily according to the degree of risk and certainty of need by which the risks and rewards of a specific job are allocated. The most significant difference between contract types is whether they are a fixed-price type of contract or a cost-reimbursement type of contract.
  - (b) As part of the Acquisition Planning Phase, the COR and the CO work together to select the type of contract that is to be awarded. The selection of contract type takes into consideration both the technical requirement itself and Government acquisition regulations and policies as stated in the FAR and other Federal acquisition policy guidance.
2. There are several types of Government contracts that are used in different situations. The following factors should be taken into consideration in selecting the type of contract:
  - (a) Nature and complexity of the required supplies or services to be procured;
  - (b) Stability of the technology;
  - (c) Urgency of the requirement;
  - (d) Degree to which the Government understands the external variables affecting contractor performance;
  - (e) Contract performance period;
  - (f) Quality requirements;
  - (g) Degree of competition anticipated;
  - (h) Small business cash flow considerations;
  - (i) Difficulty of accurately estimating the contractor's costs;
  - (j) Availability of data that can be used to evaluate the proposals received;
  - (k) Contractors' capabilities, corporate experience, and relevant past performance;
  - (l) The agency's prior experience with the contractor (if a sole source contract);
  - (m) Nature of the contractor's accounting system (if a sole source contract);
  - (n) Acquisition history;
  - (o) Degree of the agency's risk and the nature and extent of agency resources necessary to manage this risk;
  - (p) Extent and nature of the subcontracting contemplated by the contractor(s);

- (q) Degree of performance risk involved for the contractor;
  - (r) Administrative costs to both parties generated by various contract types;
  - (s) Agency need for information on the contractor's actual cost of performance, which is necessary to estimate the price of follow-on procurements;
  - (t) Industry trends;
  - (u) Availability of supplies or services in the marketplace; and
  - (v) Pass-through requirements.
3. Taking into consideration the factors listed above, the CO and COR work together to select the contract type that will most effectively comply with FAR regulations and meet the agency's requirements. CORs and other technical staff seeking more information on this subject should refer to agency guidance for Government Contract Types, located in [NEAT](#).

## V. THE ACQUISITION EXECUTION PHASE

### A. Overview

1. The Acquisition Execution Phase begins when the COR has completed all the documents that comprise the requirement package (either a new award requisition package or a modification requisition package) and the package has been accepted by AMD through the agency's contract writing software.
2. Actionability: The term "Actionability" refers to a requisition package that contains all the procurement documentation necessary for it to advance to the next stage in the acquisition process. Once the COR submits the requisition package to AMD, the cognizant branch chief in AMD will review the package for actionability. If the branch chief determines that the package is not actionable (i.e., the package lacks necessary required documentation), the branch chief will return the requisition to the COR for re-work. If the branch chief determines that the package is actionable (i.e., contains all the required documentation), the branch chief will assign the requisition to a CO, CS, or both to complete the contracting action requested in the requisition package.
3. This phase includes the time spent developing and assembling the various pieces that make up the solicitation, such as developing evaluation factors and proposal instructions, as well as the clause selection process. Once the solicitation has been released, this process also includes the proposal evaluation and source selection process, ending at contract award.

**B. Receipt, Review, and Acceptance of the Requisition Package by AMD**

Once AMD receives the requisition package, the CS reviews the requisition and meets with the COR and SEP, if applicable, to discuss and reach final agreement on the components of the requisition package. Before developing the solicitation, the CO and the CS will work with the COR to finalize any changes or adjustments to the requisition package, which includes—

1. The SOW. The CO and the CS review the SOW for overall sufficiency, the extent to which the SOW is consistent with the procurement objectives, whether the SOW can support the proposed contract type, and whether the SOW will produce the expected results. To the extent that the COR has already worked with the CO on this requirement in the acquisition planning stage, this part of the process may be faster than if the CO has not previously reviewed the SOW.
2. The IGCE.
3. The “Acquisition strategy,” which is the requirement office’s recommended plan for satisfying the agency need in the most effective, efficient, and least costly manner through awarding a contract using full-and-open competition, limited competition, other than full-and-open competition, or total or partial small business set-aside (i.e., large business sole source, Small Business set-aside, Small Business sole source).
4. Market research, sources, list.
5. Small business subcontracting goals (as a percentage of total subcontracting dollars or total contract dollars).
6. List of GFP, if applicable.
7. Proposal presentation and format information and evaluation criteria.
8. Acquisition streamlining initiatives to be employed.
9. Security access form (contractor access to NRC systems, information, or facilities, if applicable).
10. Required justifications and approvals (if applicable).
11. Procurement milestone schedule developed by the CS, the COR, and the SEP.

**C. Overview of the Elements of Preparing the Solicitation**

1. The solicitation provides the offeror the information needed to understand and respond to an NRC requirement in the form of a submitted proposal. The process of developing a solicitation can vary depending on the nature of the requirement and the method of procurement to be used. The standard type of solicitation for

- purchases surpassing the SAT is an RFP for negotiated procurement. Much of the form of the solicitation is standard and includes—
- (a) Part I, Schedule (price and cost forms, SOW, inspection and acceptance, deliveries and period of performance, contract administration data and special contract requirements) (Sections A through H);
  - (b) Part II, Contract Clauses (Section I);
  - (c) Part III, List of Documents and Attachments (Section J); and
  - (d) Part IV, Representations and Instructions (representations and certifications of the offeror, instructions, conditions and notices to offeror, and evaluation factors for award) (Sections K through M).
  - (e) Note: Contractor representations and certifications are included in the “System for Award Management” ([SAM.gov](https://sam.gov)) database.
2. The parts of the solicitation that require substantial attention are generally—
- (a) Developing the SOW (Section C) and other associated technical attachments (Section J) (both having been already prepared in the Acquisition Planning phase as part of the requirement package),
  - (b) Selecting clauses (Section I),
  - (c) Developing technical evaluation methodologies and evaluation factors (Section M), and
  - (d) Developing proposal preparation information and instructions (Section L).
3. In general, the solicitation should—
- (a) Advise offerors of the time and place of any pre-proposal conference or site visits and the limitations that will be imposed on the number or qualifications of the attendees,
  - (b) State whether and to what extent contractor security clearances are necessary,
  - (c) Inform offerors of any special requirements or terms and conditions,
  - (d) Inform offerors about procedures for submitting written questions prior to submitting proposal,
  - (e) Allow sufficient time for prospective proposers to review the solicitation and prepare offers,
  - (f) Explain the evaluation methodology and define the evaluation factors to be used for the source selection process,
  - (g) Include all required and special contract clauses,

- (h) Include forms or formats to be completed concerning cost proposals for the proposed work, and
  - (i) Specify a closing date for submission of proposals.
4. Note: The amount of time allowed for proposal preparation will vary depending on the nature of the project. Closing dates can have a significant effect on the procurement process. An early closing date may not provide sufficient time for offerors to prepare and submit proposals that are well thought out and may discourage capable sources from competing. Although no one period of time can be specified for all procurements, usually a minimum of 30 calendar days is allowed from the issuance date of the solicitation.

**D. Best Value: Choosing Source Selection Approaches (Trade-offs v. LPTA)**

1. Proposal evaluation is the process of evaluating the contents of an offeror's proposal against objective evaluation factors stated in the solicitation for the purpose of assessing the offeror's ability to perform the contract requirements successfully.
2. Source selection is the process of selecting a contractor through competitive negotiation. The objective of competitive source selection is to select the proposal that represents the best value to the Government. Source selection procedures are designed to—
  - (a) Maximize competition;
  - (b) Minimize the complexity of the solicitation, evaluation, and selection process;
  - (c) Ensure the impartial and comprehensive evaluation of proposals, including discussions, as necessary;
  - (d) Ensure selection of the vendor whose proposal is most advantageous and realistic, and whose performance is expected to best meet stated Government requirements;
  - (e) Ensure organizational or individual conflicts of interest do not exist, or that they are mitigated (see FAR Subpart 9.5 and NRCAR Parts 2009 and 2052); and
  - (f) Ensure the proper conduct of a competitive negotiation through the collective judgments and cooperative efforts of technical, contracting, legal, and other personnel.
3. "Best value" is the expected outcome, in the Government's estimation, which provides the greatest overall benefit in response to the requirement (see FAR 2.101).
  - (a) The concept of "best value" is best described as being a continuum, with lowest price technically acceptable (LPTA) being at one end of the continuum, and the tradeoff process across the whole remainder of that continuum. The best value

continuum is discussed below. Before deciding on which technical evaluation methodology to use, and before developing evaluation factors, the COR and the CO must decide jointly whether they will follow an LPTA, or tradeoff process, which are both discussed below.

(b) The Best Value Continuum: As defined in FAR 15.101—

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

4. The Lowest Price Technically Acceptable Source Selection Process (FAR 15.101-2): The LPTA process is appropriate where the agency would not realize any additional value from a proposal exceeding the agency's minimum technical or performance requirements, and therefore best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price. Award is made to the offeror with the lowest price and a technically acceptable proposal. No additional consideration is given for technical expertise above the minimum acceptable technical or performance thresholds defined in the solicitation. When using this process, consider the following—
- (a) The evaluation factors and significant sub-factors establishing the minimum acceptable technical or performance thresholds must be defined in the solicitation.
  - (b) The non-price factors are all evaluated on pass/fail basis, with no gradations above "pass" for higher levels of achievement.
  - (c) Solicitations must specify that award will be made by the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.
  - (d) If the CO uses past performance as an evaluation factor, it must be evaluated under FAR 15.305(a)(2). While the NRC encourages the use of past performance as an evaluation factor, if the CO determines that it is not appropriate, the CO shall document to the contract file the reasons why past performance is not an appropriate evaluation factor for the acquisition, pursuant to FAR 15.304(c)(3)(iii).
  - (e) The comparative assessment in FAR 15.305(a)(2)(i) does not apply.
  - (f) Trade-offs are not permitted.

- (g) Proposals are evaluated for technical acceptability but not ranked using the non-cost/price factors.
  - (h) Exchanges of information between the agency and the offeror(s) may occur, namely clarifications. (See FAR 15.306.)
5. The Trade-off Process (FAR 15.101-1): A trade-off process is a competitive negotiation process in which the Government evaluates both price and non-price factors and awards the contract to the offeror proposing the combination of factors that offers the best value to the Government in terms of the best combination of technical merit when considered against cost and price. This process is appropriate when it is in the best interest of the Government to consider award to other than the lowest price offeror or the highest technically rated offeror. It allows flexibility to balance technical and cost factors. In making the award decision under this process, the Government makes a trade-off analysis of the proposals among cost or price and non-cost factors, ascertaining which offers the best overall value. The SEP evaluates each offeror's particular combination of strengths, weaknesses, risks, and cost, and then determines which offeror's combination represents the greatest value to the Government. When using a trade-off process, the following apply:
- (a) All evaluation factors and significant sub-factors that will affect contract award and their relative importance must be clearly stated in the solicitation.
  - (b) The solicitation must state whether all evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price.

#### **E. Technical Evaluation Methodologies (Adjectival Ratings, Numerical Scoring, etc.)**

As determined by the CO, technical evaluations may be completed using any evaluation method, including adjectival ratings, colors, or ordinal rankings—

1. Adjectival Ratings: Adjectival rating evaluation methodologies afford the Government greater flexibility in making award decisions without resorting to the use of points or complex algebraic formulas. Please refer to specific agency guidance for Adjectival Ratings in [NEAT](#).
2. Numerical Scoring: This is a methodology wherein each proposal is evaluated and given a numerical score resulting from the evaluation. The particular methodology can vary from one procurement to another, but in general terms, best value is presumptively determined in terms of identifying either the offeror with the highest numerical score, or alternately, the score can be considered in trade-off of some form with cost or price.

3. **Pass/Fail Criteria:** Not all evaluation factors lend themselves to numerical ratings. For example, in hardware and facility procurements, certain features may be mandatory and, therefore, not assigned an adjectival rating or score but rather receive a pass/fail evaluation.
4. **Oral Presentations:** In the Acquisition Planning Phase, when making preliminary decisions relating to what type of procurement methodology and evaluation criteria to use, instead of the more formal process of submitting written proposals that are then evaluated, the CO and COR may consider receiving oral presentations as a means of evaluating an offeror.
  - (a) Oral presentations as discussed in FAR 15.102 are an expedient method for conducting a procurement when used in place of a written proposal. Information pertaining to an offeror's capability, past performance, work plans or approaches, staffing resources, transition plans, or sample tasks may be suitable for oral presentations. The agency may request that all offerors make oral presentations which may substitute for, or augment, written information. In most cases, some handouts (usually copies of presentation slides and résumés of limited proposed personnel) are desirable.
  - (b) To maximize the benefits of this methodology, the written documentation that the CS maintains in the contract file is kept to a minimum. However, offerors submit past performance references and cost information in writing. In deciding what information to obtain through oral presentation, consider the following—
    - (i) The Government's ability to adequately evaluate the information.
    - (ii) Whether and what part, if any, of submitted information should be incorporated into any resultant contract.
    - (iii) The effect of using oral presentations on the efficiency of the acquisition process.
    - (iv) The impact the process may have (including cost) on a small business's capability to respond to the solicitation.
  - (c) The solicitation must provide offerors with sufficient information to prepare for the oral presentation. The CO must maintain both the materials submitted by the offerors and the evaluations of the oral presentations in the contract file. Oral presentations require the same evaluation report format used to document written proposals. This record may include some form of audio or video recording of the presentation and/or detailed notes of the presentations, along with the records of the oral presentations.
  - (d) The most common uses of oral presentations are to demonstrate a system and present a summary of the methods or approach the offeror will use to perform the contract, followed by questions and answers, or a solution of a sample task.

The advantage of this method is that it permits the agency evaluators to speak directly with the personnel who will perform the contract if it is awarded to the offeror.

5. Environmental Consideration in Source Selection Evaluations: FAR 11.002 states that executive agencies shall consider maximum practicable use of energy and water-efficient low standby power; renewable energy technology; bio-based, recycled content; and environmentally preferable products and services when developing source selection factors. When evaluating acquisitions for products and services, COs must consider sustainable acquisition, including source selection factors in acquisitions that may include the following:
  - (a) Energy-efficient and water-efficient services and products (including products containing energy-efficient standby power devices) (FAR Subpart 23.2);
  - (b) Products and services that use renewable energy technologies (FAR Subpart 23.2);
  - (c) Products containing recovered materials (FAR Subpart 23.4);
  - (d) Bio-based products (FAR Subpart 23.4);
  - (e) Environmentally preferable products and services, including EPEAT registered electronic products and non-toxic or low-toxic alternatives (FAR Subpart 23.7); and
  - (f) Non-ozone depleting substances (FAR Subpart 23.8).
6. Unless an exception applies and is documented by the requiring activity, Executive agencies shall, to the maximum practicable, require the use of products and services when—
  - (a) Developing, reviewing, or revising Federal and military specifications, product descriptions (including commercial item descriptions), and standards;
  - (b) Describing Government requirements for products and services; and
  - (c) Developing source-selection factors.
7. Unless an exception at FAR 39.204 or an exemption at FAR 39.205 applies, acquisitions for ICT supplies and services must meet the applicable Section 508 standards at 36 CFR 1194.1.

#### **F. Developing Proposal Evaluation Factors**

1. In tandem with selecting an evaluation methodology, developing evaluation factors that will assist evaluators in properly implementing that evaluation methodology is a critical part of developing a solicitation. The development of effective evaluation factors requires a thorough understanding of the objectives of the requirement,

problems or obstacles that may emerge during the contract, the significance of the various facets of the contract, the type of contract selected, and where the requirement falls on the range between a full-and-open competition at one end and a sole source procurement at the other end.

2. Once the CO and the COR have agreed on the evaluation methodology to be used (i.e., whether to use the trade-off process or the LPTA) they must develop evaluation factors to include in the solicitation.
3. Evaluation factors must be realistic and consistent with the requirement described in the SOW. There should be a correlation between the SOW, the proposal preparation instructions, and the evaluation factors. This correlation is critical because it ensures that the offeror prepares a proposal that properly responds to the evaluation factors. In addition, the evaluation factors should facilitate the identification of significant strengths, weaknesses, significant weaknesses, or deficiencies of offerors' proposals.
4. The solicitation must clearly define the evaluation factors and sub-factors, and their relative importance. The number of factors should be limited to facilitate a focus on the significant aspects of the evaluation.
5. The solicitation should be structured to provide for the selection of the offeror whose proposal offers the greatest value to the agency in performance, risk management, and cost or price factors.
6. The evaluation factors defined in the solicitation must be used in the evaluation of proposals received in response to the solicitation. If the factors are changed during the evaluation, all offerors must be advised of the change and given the opportunity to modify their proposals accordingly.
7. Evaluation factors are used to—
  - (a) Serve as an objective, quantifiable analytical baseline against which to evaluate offerors' proposals and determine best value to the Government.
  - (b) Ensure the Government measures how well each offeror meets agency requirements.
  - (c) Represent the minimum number of factors used to distinguish among offerors' proposals (discriminators).
8. Selecting Technical Evaluation Factors
  - (a) The COR has wide discretion in recommending technical evaluation factors and their relative importance.
  - (b) The solicitation must indicate whether all the evaluation factors not related to cost or price, when combined, are—

- (i) Significantly more important than the cost or price,
- (ii) Approximately equal in importance to the cost or price, or
- (iii) Significantly less important than the cost or price.

#### 9. Evaluating Past Performance

- (a) With the limited exception for LPTA procurements discussed above, generally, solicitations for requirements exceeding the SAT must include a past performance factor and provide an opportunity for the offeror to identify past or current contracts for similar, relevant efforts. The SSA (typically the CO) must consider this information and determine the relevance of the information.
  - (b) Technical evaluation of past performance must be designed so that offerors lacking relevant past performance history are evaluated neither favorably nor unfavorably; offerors lacking relevant past performance history are to be rated “neutral.” However, to limit instances where a neutral past performance rating is needed, the solicitation may expand the definition of relevant past performance information to extend down to the level of proposed personnel, consultants, sub-contractors, or work the offeror performed as part of a team or joint venture. The solicitation must identify the approach that will be used by the NRC for purposes of assessing a neutral rating in the case of an offeror without a record of relevant past performance or for whom information on past performance is not available (see FAR 15.305(a)(2)).
10. Weighted Evaluation Factors: If a given procurement uses weighting (such as numerical or percentage weights), the solicitation must clearly state how each technical evaluation factor and sub-factor is weighted.
11. Non-Weighted Evaluation Factors: For evaluation factors that are not weighted, the solicitation must state the relative importance of those factors in relation to each other. Examples of factors that are not weighted are OCOI, estimated costs or prices, and “pass/fail” evaluation factors. Past performance should have at least as much weight as any other factor.
12. Specific Categories of Evaluation Factors
- Evaluation factors should be defined clearly and concisely and should not overlap one-another. Care in defining evaluation factors may reveal redundancies that, when not eliminated, can have an adverse effect on the selection if the same factor is evaluated more than once.
- (a) For NRC procurements, the categories normally will be past performance and some combination of technical, managerial, and financial approach.
  - (b) Below are examples of evaluation factors—

- (i) Past performance. Information regarding a contractor's performance under previous contracts and orders of similar size and complexity in the past.
- (ii) Technical Approach. Contractor's proposed methodology; demonstrated understanding of the scope of work and the requirements.
- (iii) Proposed Personnel. Relevant qualifications and availability of proposed personnel, including designation of "key" personnel.
- (iv) Corporate Capability. Contractor's ability to manage the work, provide quality deliverables, and monitor project status and costs.

13. Evaluation Factors or Sub-factors for Small Disadvantaged Businesses (SDBs)

As an incentive to encourage offerors to use small, disadvantaged businesses (SDBs) as subcontractors, an evaluation factor or sub-factor should be included in the solicitation (for procurements expected to exceed the dollar thresholds indicated at FAR 19.1202-2, except for acquisitions specified under FAR 19.1202-2(b). Under this factor or sub-factor, offerors are evaluated for providing targets for SDB participation. The rating for this factor is included in the technical evaluation.

14. Notes—

- (a) Using the adjectival ratings method, the adjectival ratings chart can have a "neutral" rating that is available for offerors who have no relevant past performance.
- (b) When evaluating past performance information, the CO makes the determination as to whether past performance information submitted by offerors is relevant to the requirement in question, and information that is not relevant may be excluded from the past performance evaluation by the CO.
- (c) CORs should not expect that "off-the-shelf" or generic evaluation factors will be sufficient for their needs. Developing useful evaluation factors requires the application of both technical knowledge as well as contracting expertise, therefore, the COR is highly encouraged to work closely with the CO to create the evaluation factors to the technical nature of the requirement.
- (d) For complex procurements, it may be necessary to include a further breakdown into sub-factors, which also should be set forth in the solicitation.
- (e) The COR and CO should consider using a limited number of evaluation factors whenever possible, to streamline the evaluation process. For example, past performance can often successfully be the only evaluation factor applied for technical evaluation. When assisting a requirement office or SEP in designing or using past performance information, the CS is encouraged to review OFPP's "Best Practices for Collecting and Using Current and Past Performance

Information”

([https://obamawhitehouse.archives.gov/omb/best\\_practice\\_re\\_past\\_perf](https://obamawhitehouse.archives.gov/omb/best_practice_re_past_perf)).

15. Evaluating Price or Cost

- (a) Price or cost must be included as an evaluation factor in every source selection, but price or cost is evaluated separately from the technical evaluation criteria, and price or cost is not rated or scored.
- (b) Typically, the CO or CS performs the bulk of the price or cost evaluation, with targeted input from the COR or SEP panel. Most source evaluations are structured so that technical evaluators do not see the cost or price proposals of the offerors they are evaluating until after the SEP completes its technical evaluation. This is done to minimize the risk that evaluators will improperly include cost or price considerations into their technical evaluations when they should remain separate.
- (c) When evaluating price, there is a unique cost evaluation factor implemented in the FAR to benefit HUBZone firms. CORs with procurements involving HUBZones should consult with their CO for further instruction.
- (d) The qualitative aspects of cost may be assessed in a realistic relationship to the project rather than an exact analysis of the dollar amount. For example, an unusually low-cost estimate by an offeror may reflect a lack of understanding of the personnel and resources required to perform the job, or a lack of appreciation for the effort required to resolve technical problems.
- (e) Cost or price evaluation is not performed in terms of adjectival ratings or scoring, but rather is evaluated to determine reasonableness and realism in terms of the proposed work. Labor rates, overhead rates, and equipment pricing are individually analyzed to make this determination. Questionable rates or prices and other significant cost concerns are discussed or negotiated with offerors.
- (f) At the CO's discretion, cost/price evaluations may be completed simultaneously with, or separately from, technical evaluations.
- (g) Price Analysis
  - (i) Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. This task may be accomplished by comparing proposed prices received in response to the solicitation, comparing previously proposed prices and contract prices with current proposed prices for the same or similar items if the previous prices were reasonable, comparing the proposed prices with competitive published prices and market research, or comparing the proposed prices with the IGCE.

(ii) Price analysis is the preferred method for evaluating competitive proposals. Certified cost or pricing data must not be required from offerors unless the CO determines price competition is not adequate to support a determination of price reasonableness. When the CO determines that adequate price competition exists, certified cost or pricing data must not be requested from the offeror(s). In situations with established catalog or market prices, prices set by law or regulation, or commercial items, price analysis is sufficient, and the CO must not request certified cost or pricing data. The CO must require offerors to submit non-certified cost or pricing data when necessary to determine price reasonableness.

(h) Cost Analysis

Cost analysis is the review and evaluation of the separate cost elements and profit or fee in an offeror's proposal and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency. Techniques include verifying cost or pricing data and evaluation of cost elements, including the necessity and reasonableness of proposed costs.

(i) Cost Realism Analysis

Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's cost proposal to determine whether the proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror's technical proposal.

## **G. Developing Proposal Preparation and Evaluation Instructions**

1. As part of the process of building the solicitation in the contract writing system, working with the COR, the CO, CS, or both develops instructions to potential offerors regarding how to properly format and submit their proposals. Depending on the nature and complexity of the requirement, these instructions can take many different forms, but generally cover topics such as, but not limited to—
  - (a) Submitting the format and components of the technical and cost proposal (including labor hours and categories, materials, subcontracts, and travel, as well as the required electronic format of the document to be submitted, such as cost proposals to be submitted in the form of an excel spreadsheet) that are needed to evaluate the offeror's understanding of the scope of work.
  - (b) Setting deadlines for submission of offeror's questions and offerors' proposals.
  - (c) Limiting the number of pages in proposals to the maximum extent possible.

- (d) Submitting a contractor spending plan for cost-reimbursement contracts that have a performance period exceeding 6 months and are expected to be greater than the SAT.
  - (e) Providing résumés for all professional or key personnel.
  - (f) Stating the intention to evaluate proposals and award a contract without discussions with offerors. Including that statement within the instructions does not preclude the CO from seeking clarifications or engaging in discussions with offerors if the CO later determines it to be necessary.
  - (g) Limiting the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The solicitation must have notified offerors of this potential (FAR 52.215-1(f)(4)). (The CO may determine that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be achieved.)
  - (h) Reserving the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
2. Once the CO or CS finishes drafting the proposal preparation and evaluation instructions that go into the solicitation, they are reviewed by OGC as part of the overall solicitation prior to solicitation release.
  3. Note: For more specific agency guidance on proposal preparation and evaluation instructions, please refer to Proposal Instructions, located in NEAT at <https://neat.nrc.gov>.

#### **H. Performing Solicitation Clause Selection**

1. As part of the process of building the solicitation in the contract writing system's software, the CO, CS, or both performs clause selection. Based on aspects of the procurement, such as the type of contract selected, the CO and CS select the appropriate FAR, NRCAR, and local clauses for inclusion in the solicitation document.
2. Once clause selection has been completed, the clauses are reviewed by OGC, if required by [Acquisition Instruction #2012-01, "Review Thresholds for Contract/Order Documents,"](#) as part of the overall solicitation prior to solicitation release.

## I. Publicizing the Requirement

### 1. Publicizing Through [SAM.gov](https://www.sam.gov), Contract Opportunities

- (a) The FAR requires Federal agencies to publicize contract opportunities and proposed contract actions to increase competition, broaden industry participation, and help the small business community, unless an exception at FAR 5.202 applies (see FAR Subparts 5.1 through 5.3).
- (b) Advertising contracting opportunities provides industry with information concerning current Government contracting and subcontracting needs and an anticipated issue date for the solicitation.
- (c) [SAM.gov](https://www.sam.gov) is the single point of electronic public access to governmentwide contract opportunities.
- (d) Unless the procurement is exempted from the requirement for a public notice, any proposed competitive procurement is required to be advertised on [SAM.gov](https://www.sam.gov) and, when appropriate, may be advertised in trade journals if the open market procurement is greater than \$25,000.
- (e) The CS prepares the [SAM.gov](https://www.sam.gov) pre-solicitation notice with help from the COR. The [SAM.gov](https://www.sam.gov) notice must clearly describe the requirement and important details, including locations, options, timeframes, and desired areas of expertise. It should state the planned issue date for the solicitation or invitation for bid as a specific calendar date. The notice must be published no later than 15 days before issuance of a solicitation, except for acquisition of commercial items.
- (f) Information regarding preparation and transmittal of a [SAM.gov](https://www.sam.gov) notice may be found in FAR 5.207.

### 2. The Bidders List

- (a) The FAR requires that the agency acquisition office maintain a list of potential sources for procuring activities, unless electronic commerce methods are used that transmit solicitations or notices of procurement opportunities automatically to all interested sources. The NRC does not maintain an agency bidders list since all competitive solicitations are posted on [SAM.gov](https://www.sam.gov). On [SAM.gov](https://www.sam.gov), COs may activate the "Interested Vendors List" under solicitations to permit vendors to enter their contact information. Vendors can register on [SAM.gov](https://www.sam.gov) to automatically receive notices and solicitations issued by Federal agencies for North American Industry Classification System (NAICS) code procurements of their choice.
- (b) The COR is encouraged to attach a recommended list of sources (company name(s), address, and telephone number) to the requisition package. Recommendations should be made based on assessed capability of contractors' physical resources and personnel, past performance or experience in each

service area or with a particular item or product line, and available capacity. The Market Research Checklist contains a place to record this information. CORs may find the Market Research Checklist posted in [NEAT](#). The CO may add to this list if necessary.

### 3. The Sources-Sought Notice

- (a) Sources-sought notices enable potential sources to learn of programs and provides an opportunity for sources to submit information that will permit agency evaluation of their capabilities.
- (b) If the CO or the COR wants to determine whether other sources are available for a requirement, the COR and the CS jointly prepare a sources-sought notice, which is posted on [SAM.gov](#). This notice includes a description of the requirement and invites interested sources to identify their ability to carry out the requirement.
- (c) When posted, sources-sought notices should include the title of the requirement, and the name and telephone number of the CO or the CS from whom technical details of the project can be obtained. The notice may include a statement explaining why the NRC believes only one source is available.
- (d) Potential sources responding to a sources-sought notice will be added to the solicitation mailing list for subsequent solicitation. The CO must advertise all subsequent solicitations for this requirement unless one of the exceptions in FAR 5.202 applies. The CO or the CS may solicit input from SBP when developing these notices.

## J. Review, Approval, and Release of the Solicitation

1. After the solicitation package is complete, the COR should review it for completeness and accuracy. The solicitation is also reviewed by the CS, the CO, and by OGC, if appropriate. Legal review ensures that the terms of the SOW clearly describe what the contractor and the agency are legally obligated to do.
2. After the CO has approved the release of the solicitation, it can be accessed through [SAM.gov](#). AMD will issue the solicitation under information contained in the [SAM.gov](#) notice. In some procurements, a brief announcement of proposed purchases may be made in newspapers and trade journals in compliance with FAR 5.101(b).

## K. Pre-solicitation Conferences and Solicitation Amendments

1. A pre-proposal conference provides prospective offerors the opportunity to gain a better understanding of the requirement. It also offers the SEP an opportunity to discuss the evaluation factors selected for the procurement, so that prospective offerors may decide whether to incur the cost of proposal preparation.

2. The CS must plan and conduct the pre-proposal conference in coordination with the COR and the CO. Prospective offerors will expect a general presentation, followed by the opportunity to ask questions. Questions should be submitted in writing to the CS in advance of the conference. SEP members should attend the conference, to read the questions aloud and answer them.
3. The provisions of the solicitation cannot be changed during the conference. Solicitations may be changed only by formal written amendments approved by the CO and posted on [SAM.gov](https://www.sam.gov).
4. The CS, in conjunction with the COR, must prepare a summary of the issues discussed at the conference that ensures that all questions were answered clearly, to avoid any misunderstanding. Once this summary is approved by the CO, the CS will post it on [SAM.gov](https://www.sam.gov) as a Questions and Answers (Q&A) document or formal amendment to the solicitation, if necessary.
5. An amendment is a change to a solicitation, and must be issued on the SF 30, "Amendment of Solicitation/Modification of Contract." Amendments may be used for purposes that include the following:
  - (a) Posting minutes of the preproposal conference,
  - (b) Changing the specifications of the solicitation,
  - (c) Changing the quantity of supplies or services,
  - (d) Modifying the delivery schedule, or
  - (e) Correcting, clarifying, or incorporating additional information.
6. If the amendment significantly changes the solicitation such that prospective offerors may not have enough time to revise their proposals before the closing date, the amendment should be posted as early as possible so that offerors may have the opportunity to request proposal submission extensions.
7. AMD should provide a response to written questions from potential offerors within approximately 10 calendar days after the question submission cut-off date specified in the solicitation. The response shall be in writing and may be in the form of a solicitation amendment. If an interim response is necessary, the response shall include a date by which the final response will be provided. Questions received by telephone may be answered verbally at the time of the call if the issue raised is already included in publicized documents (i.e., [SAM.gov](https://www.sam.gov) notices or solicitation). Otherwise, a timely notice or amendment should be posted on [SAM.gov](https://www.sam.gov) when the response must be shared with all potential offerors.

**L. Cancellation of the Solicitation**

All procurements initiated by the NRC are expected to result in the eventual award of a contract. However, circumstances will sometimes necessitate a cancellation of the procurement. If it becomes necessary to cancel a procurement during the procurement process, the DO cited on the requisition must prepare a written request citing the reasons for cancellation. This request will be routed to the cognizant AMD branch chief for review. If AMD concurs with the request, the CS will prepare a cancellation notice to be published on [SAM.gov](https://www.sam.gov), to be approved by the CO.

**M. Receipt of Proposals**

1. Proposals in response to an NRC solicitation must reach AMD by the closing time and date stipulated in the solicitation (see FAR 15.208). Once AMD receives the proposals, the CS opens and inspects them for completeness but does not discuss the proposals with anyone other than procurement officials (e.g., COR, SEP members, and the CO) who are directly involved with the evaluation and award of the contract.
2. A proposal received electronically after the exact time and date specified for receipt of proposals is “late” and will not be considered unless it meets conditions set forth in FAR 15.208.

**N. Beginning Proposal Evaluations: Convening the Source Evaluation Panel (SEP)**

1. Proposal evaluation is the agency’s process for assessing the proposal and the offeror’s ability to successfully perform the requirement defined in the solicitation. The NRC requires the creation of a SEP for all competitive procurements above the SAT.
2. Holding the SEP Kick-Off
  - (a) Once proposals are received, the CO convenes the SEP for a SEP kick-off meeting where the CO distributes the proposals to be evaluated, the evaluation worksheets and instructions, and the SEP certification and nondisclosure statement to be signed by each SEP member and returned to the CO.
  - (b) Proposal evaluation instructions and worksheets can vary greatly from one source selection to another. In general terms, these proposal evaluation instructions lay out the “rules” that govern that source selection and proposal evaluation process. The instructions incorporate the relevant evaluation information from the solicitation in question, such as the technical evaluation methodology to be used (e.g., adjectival ratings or points), evaluation factors and proposal submission instructions, and an explanation of how to complete the evaluation worksheets and properly handle the proposals, especially any proprietary or procurement-sensitive information contained in them.

- (c) At the SEP kick-off, the CO reviews SEP roles and responsibilities, and the rules regarding procurement integrity and conflict of interest. Since these can take many forms, depending on the specific requirement and procurement context, this handbook only addresses issues at the high-level. SEP members and CORs are advised to seek the advice of a CO for more specific directions on this subject.
  - (d) Also at the kick-off meeting, the SEP will agree on a timeframe for completing the evaluation within the overall procurement milestone schedule. The timeframe for technical evaluations will depend on the number of proposals to be evaluated, and their complexity.
  - (e) In general terms, SEP members are tasked with evaluating proposals on an individual basis, and then incorporating their individual work as part of the full SEP panel to produce the final SEP report. SEP members are encouraged to discuss among themselves their technical concerns.
  - (f) Generally, in the initial evaluation stage, unless otherwise decided by the CO, the SEP will only be provided technical proposals. However, in sole source procurements, at the CO's discretion, cost proposals are sometimes provided to the SEP at the same time as technical proposals for evaluation. The SEP must use both the technical and cost information to perform the most accurate integrated assessment of each offeror's proposal. Other circumstances that may warrant the SEP reviewing both technical and cost information. This may become necessary when the CO requires technical input for cost realism or trade-off analysis later in the evaluation stage, after having received an initial SEP evaluation report. The SEP will review the cost proposals, both the overall cost estimate and cost/price elements, for reasonableness and document its findings on the evaluation forms provided.
3. Subsequent SEP Meetings
- (a) During the proposal evaluation process, SEP members may meet periodically to discuss their individual evaluations, focusing on identified strengths and weaknesses, to ensure consistency in evaluating proposals. SEP members may adjust their ratings up or down because of these SEP panel discussions, but they must ensure that they document these changes in terms of including sufficient supporting narrative in their individual worksheets.
  - (b) The SEP's collective objective is to reach consensus on evaluations; however, it is not mandatory that all members agree on all factors. If the SEP panel is unable to form consensus regarding one or more parts of the evaluation report, the dissenting evaluation may be documented as an attachment included in the report. If differences of opinion cannot be resolved to form a consensus, SEP reports must state the issue, reflect the majority opinion, and document the reasons for any dissenting view(s) that emerged during the evaluation process.

**O. Performing Technical Evaluations: Documenting Strengths and Weaknesses**

1. Documenting the strengths and weaknesses of a proposal is central to the technical evaluation process. SEP members must provide narrative in their technical evaluation worksheets and reports that effectively document the strengths, weaknesses, significant weaknesses, deficiencies, and risks of each proposal that support the ratings or scores that are given as a result of the evaluation process. Below is a list of some of the terms, and their definitions, that are used in the proposal evaluation process.
2. Definition of Terms
  - (a) Strength - an element of the proposal representing something of value to the NRC that quantifiably exceeds the stated minimum requirements specified in the SOW.
  - (b) Weakness (i.e., flaw) - an element in the proposal that does not meet the stated minimum requirements specified in the SOW and/or increases the risk of unsuccessful contract performance.
  - (c) Significant weakness - a flaw in the proposal that does not meet the stated minimum requirements specified in the SOW and/or appreciably increases the risk of unsuccessful contract performance or adverse information relating to relevant past performance.
  - (d) Deficiency - a material failure of a proposal to meet a Government requirement, or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.
3. Evaluation reports containing just ratings or scores without supporting narrative are not sufficient. The NRC prefers to use adjectival rating procedure, although numerical scores are sometimes used too.

**P. Performing Cost or Price Proposal Evaluations**

1. Unless otherwise specified by the CO, the CO/CS is the lead person for evaluating cost or price proposals. Cost and price analysis is a very broad and diverse topic, which is covered in FAR 15.4. When analyzing cost proposals, the ultimate objective is to ensure that the final cost/price is fair and reasonable (see FAR 15.402). When the CS analyzes cost, there are several approaches to consider depending on the size of the requirement, whether it is competitive or sole source, and whether it is a commercial-type or a cost-reimbursement-type requirement—
  - (a) In conjunction with any pre-audit findings that may have been requested, the CS will also evaluate all cost elements separately.

- (b) For cost-reimbursement contracts, the CS performs a Cost Realism analysis to be used as a basis for negotiating the estimated cost of the contract. Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror's technical proposal (see FAR 15.404-1(d)(1)).
  - (c) For competitive commercial contracts, the CS may perform price analysis based on price competition or catalogs or market prices (see FAR 15.404-1(b)).
  - (d) The combined evaluation of technical and cost proposals forms the basis for the agency's negotiation position. When the cost proposal does not appear to be reasonable compared to the proposed technical time and expertise, it will be noted on the evaluation sheets and addressed in the SEP's evaluation report.
2. Pre-award Audit Reports

- (a) The CS may request audit information from the Defense Contract Audit Agency (DCAA) or other cognizant audit agencies (CAA) as soon as there is a good indication of which offerors will be included in the competitive range. The CS may take this step so that all cost information may be received by the time the competitive range report is approved and discussions are to begin.
- (b) At the CO's discretion, formal audits from DCAA or a CAA may be requested for proposals like the dollar threshold for requesting certified cost or pricing data included in FAR 15.403-4(a)(1). Formal audits are received approximately 30 to 45 days from the date of request.
- (c) For proposals below the FAR dollar threshold in FAR 15.403-4(a)(1), a rate verification request may be made to DCAA. This request may be a simple direct labor and/or indirect rate check if the offeror has a formal rate agreement already in existence with another Federal agency. A rate check is received approximately 3 weeks from the date of request. Rate information also may be obtained from other Government agencies.
- (d) The CS will analyze audit report or rate-check information for the purpose of including it in the cost/price analysis and potentially to develop cost questions for discussions and negotiations, if necessary.

#### **Q. Communications with Offerors During Proposal Evaluations**

1. During the source selection process, the CO manages all exchange of information between the NRC and offerors.

2. **Award without Discussions:** Award may be made without discussions if the solicitation states that the Government intends to evaluate proposals and make award without discussions. If the CO determines that award is to be made without discussions (negotiations), the CO will request that the SEP submit an evaluation report. The CO may ask that the evaluation report include a recommendation for award(s) based on the technical factors only. The SSA is the agency official responsible for making contract award decisions. At the NRC, this official is typically the CO (see FAR 15.3).
3. **Award with Discussions:** If the CO determines that discussions are necessary, the CO may ask the SEP to confirm the technical adequacy of the COs recommended competitive range.
4. **Clarifications:** “Clarifications” are limited exchanges between the Government and offerors that may occur when award without discussions is contemplated. If award will be made without discussions (negotiations), offerors may be given the opportunity to make clarifications to certain aspects of their proposals (e.g., explaining the relevance of an offeror's past performance information or to respond to adverse past performance information to which the offeror has not previously had an opportunity to respond or to resolve minor or clerical matters).
5. **Communications with Offerors After Receipt of Proposals:** “Communications” are exchanges between the Government (CO) and offerors, after receipt of proposals, leading to establishment of the competitive range. Communications may be held before establishment of the competitive range. All communications are documented in writing by the CS and placed in the contract file. Communications shall be held with offerors whose adverse past performance information is the determining factor preventing them from being included in the competitive range. In that case, the CS shall disclose the adverse past performance information to the offeror and the offeror shall be given the opportunity to respond, whereupon the CO will evaluate the offeror's response. All communications are documented in writing by the CS and placed in the contract file.
6. Communications also may be used to enhance Government's understanding of proposals, address ambiguities in proposals, or facilitate the evaluation process. Communications shall not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, or otherwise revise proposals.

#### **R. Preparation of SEP Evaluation Reports and Competitive Range Reports**

1. The SEP prepares its evaluation report for each proposal received in response to the solicitation, based on supporting narrative in the form of identified “Strengths” and/or “Weaknesses” and the ratings (or points) each proposal receives as against the solicitation's stated evaluation criteria. In its evaluation report, the SEP indicates

which proposals are the most highly rated based on the outcome of the evaluation process.

2. If the CO determines that discussions will be held, the SEP recommends offerors for inclusion in, or exclusion from, the Competitive Range.
3. The Competitive Range report is drafted by the CS, reviewed by OGC, and approved by the CO. This report documents the rationale supporting the decision to include or exclude offerors from further consideration for award and includes both cost and technical factors. The CS coordinates with the SEP chairperson to ensure that the panel's report and input are taken into consideration. Offerors will be included in the Competitive Range if their proposals are determined to be among the highly rated proposals, based on the outcome of the technical and cost evaluations. Adjectival ratings or scoring by itself should not be the sole basis for this determination. The CS must also thoroughly examine the SEP evaluation report narrative, in consultation with the SEP chairperson, and determine each proposal's weaknesses to be shared during discussions with each offeror included in the competitive range.
4. After evaluating all proposals, the CO may determine that the number of proposals that may otherwise be included in the competitive range exceeds the number at which an efficient competition can be accomplished. Provided the solicitation notified offerors that the competitive range can be limited for purposes of efficiency, the CO may limit the number of proposals in the Competitive Range to the greatest number that will permit an efficient competition among the most highly rated proposals. Since the Government strives to maximize competition, any decision to further eliminate offerors from competition should be taken very seriously and must have a strong supporting rationale.

#### **S. Notification to All Offerors of Competitive Range Results/Pre-award Debriefings**

1. After CO approval of the Competitive Range report, the CS drafts written notifications to all offerors who were excluded from the Competitive Range or were otherwise eliminated from competition. These notices shall state the basis for the determination and that a proposal revision will not be considered. The notice shall be transmitted by certified mail, return receipt requested, or other means, including an e-mail message with receipt requested, that will allow the NRC to independently verify the date on which the excluded offeror received the notice of exclusion. These notices are reviewed and approved by the SEP chairperson, OGC, and the CO before being sent to the unsuccessful offerors.
2. Excluded offerors may request a debriefing before contract award (FAR 15.505). The request must be made in writing within 3 days of the date on which the offeror receives the Competitive Range exclusion notice. The CS will maintain a record of when AMD received the written request for a debriefing from the offeror.

3. Pre-award debriefings include the following information:
  - (a) The agency's evaluation of significant elements in the offeror's proposal,
  - (b) A summary of the rationale for eliminating the offeror from competition, and
  - (c) Reasonable responses to relevant questions as to whether source selection procedures included in the solicitation, applicable regulations, and other authorities were followed in the process of eliminating the offeror from the Competitive Range.
4. Pre-award debriefings shall not disclose the following information:
  - (a) Number, ranking, or both of other offerors;
  - (b) The identity of other offerors, the contents of their proposals, their evaluations, or any information prohibited in FAR 15.506(e), including:
    - (i) Trade secrets;
    - (ii) Privileged or confidential manufacturing process and techniques;
    - (iii) Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
    - (iv) The names of individuals providing reference information about an offeror's past performance.
5. The CO, with the collaboration of the SEP panel (typically the chairperson) will make every effort to debrief the unsuccessful offeror either in writing, in person, by telephone, or by audio/video conference as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to do a debriefing at that time. At the offeror's request, this debriefing may be delayed until after award. If the debriefing is delayed, it shall include all information normally provided in a post-award briefing (see FAR 15.506(d)).
6. The CS must provide written notification to offerors included in the Competitive Range. The letter should indicate, through questions or comments, any weaknesses, significant weaknesses, deficiencies identified, as well as other aspects of their proposals that could be clarified or revised to enhance the proposal's potential for award. At a minimum, discussions must include significant weaknesses and deficiencies. The letter will include a proposed date and time for a subsequent meeting or teleconference with the offeror. The CS must transmit this notification by certified mail, return receipt requested, or other means, including an e-mail message with receipt requested, that will allow the NRC to independently verify the date when the offeror received the notice.

**T. Written or Oral Discussions, Negotiations, and Exchanges After Establishment of the Competitive Range**

1. "Negotiations" are communications, in either a competitive or a sole source environment, between the Government and offerors, that are undertaken with the intent of allowing the offerors to revise their proposals. When negotiations are held in a competitive acquisition, they take place after establishment of the Competitive Range and are called discussions. Negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, and give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.
2. The primary objective of discussions is to maximize the Government's ability to obtain best value. For discussions to be meaningful, they are tailored specifically to each offeror's proposal.
3. Written or oral discussions with firms in the Competitive Range can be used.
4. Subject to the review and approval of the CO, the CS, and SEP panel must prepare for negotiations with the goal of attaining a meeting of the minds between the agency and the offeror. The CS and SEP panel must review each offeror's portion of the Competitive Range report, focusing on the offeror's strengths, weaknesses, significant weaknesses, and deficiencies for the purpose of developing meaningful questions relating to technical and cost issues, to be used during discussions.
5. At the CO's discretion, the CS and SEP panel may request a pre-award audit before conducting the discussions; however, discussions regarding technical matters may be conducted before receipt of an audit report. If the audit report has not been received, cost discussions may be delayed for a later time. As with all discussions, these cost discussions must be conducted in a uniform manner with all offerors.
6. During discussions, the CS should share with each offeror within the Competitive Range all weaknesses, significant weaknesses, deficiencies, and ambiguities or uncertainties relating to the offeror's own proposal. At a minimum, discussions shall include significant weaknesses and deficiencies in the offeror's proposal, including adverse past performance information to which the offeror has not yet had an opportunity to respond. When past performance is at issue, the CS will inform the offeror and allow the offeror an opportunity to respond during discussions.
7. The CO may also discuss other aspects of the offeror's proposal that could be altered to explain or materially enhance the proposal's potential for award.
8. In discussions, neither the CO, the CS, nor the SEP panel shall divulge the content of any competitor's proposal, or information obtained from, or about another competitor, to avoid giving one competitor an unfair advantage. The CS will not favor one offeror over another or reveal names of individuals providing references about an offeror's past performance. Discussions are intended to help both the agency and

the offeror to fully understand the strengths and weaknesses of the offeror's own proposal.

9. The size and significance of the procurement should be considered when deciding on the type, duration, and depth of discussions.

#### **U. CO Requests Revised Proposals at Close of Discussions**

1. At the conclusion of discussions, the CO shall allow each offeror in the Competitive Range the opportunity to submit a final revised proposal before a common submission date. The CO may request or allow offerors in the Competitive Range to clarify and document understandings reached during negotiations, which take the form of final revised proposals. Requests for final proposal revisions shall advise offerors that the final revised proposals shall be in writing and that the NRC intends to make award without obtaining further revisions.
2. If an offeror's proposal is eliminated or otherwise removed from the Competitive Range, no further revisions to that offeror's proposal shall be accepted or considered.

#### **V. CS Updates Cost Analysis Based on Revised Proposals**

The CS evaluates any changes to Revised Cost Proposals and updates the cost analysis accordingly.

#### **W. SEP Members Evaluate the Revised Proposals**

Upon receipt of final revised proposals, the CS will forward them to SEP members for review.

#### **X. Individual SEP Members Review the Revised Proposals**

1. The SEP members independently perform a thorough review of the final revised proposals against the evaluation criteria. Each SEP member will review their worksheets independently, to assess the extent to which the final revised proposals differ from their respective previous versions, in terms of whether the revisions addressed or corrected any of the weaknesses or problems that were addressed during discussions. These changes may result in changed ratings for some, or all, evaluation factors. In some instances, evaluation of proposal revisions may result in the emergence of new weaknesses or problems, and therefore may have the effect of lowering ratings.
2. Alternatively, if the SEP panel member's review determines that the narrative or the ratings do not change from the previous round of evaluations, they should state that on the SEP evaluation worksheet.

**Y. The SEP Panel Meets to Discuss Revised Proposals**

1. Once SEP members have completed their individual evaluations of the final revised proposals in their individual worksheets, the SEP panel meets to review revised worksheets and discuss the recommendation for award. The SEP members should go over their evaluations jointly to ensure that they fully understand each other's reasoning, and during this process they may elect to make changes to their own individual evaluation worksheets in the form of changes to their ratings (or scoring) and supporting narrative, for the purpose of reflecting what they learn through this exchange of viewpoints. The SEP members discuss the results of their evaluation of revised proposals, including revised ratings or scores, and then reach consensus on an award recommendation.
2. During this stage of the evaluation process, the CS provides timely guidance to the SEP, to ensure that its questions are answered and that the panel does not deviate from established evaluation factors or instructions.

**Z. The SEP Panel Prepares the Final Evaluation Report**

The SEP will document its findings and recommendations on all offerors, including the apparent successful offeror, in the final evaluation report. The SEP chairperson prepares the final evaluation report and communicates any concerns with the CS. The SEP final evaluation report becomes part of the official contract file maintained by the CS. The final evaluation report is shared with the CS and OGC for review and the SEP chairperson approves the report. The report is then forwarded through the CS to the CO who typically serves as the SSA at the NRC.

**AA. Drafting Trade-Off Source Selection Evaluations**

1. The trade-off source selection process is used for procurements in which the agency's requirements and evaluation factors are broadly stated. The technical considerations and past performance are often, collectively, given substantially higher relative weight than cost. For trade-off source selections, the CO will often seek advice from the SEP (typically the chairperson) when selecting the technically superior, higher cost proposal. The CS works with the SEP to analyze the merits of each of the proposals in terms of their own mix of cost and technical trade-offs. The trade-off analysis will list and discuss the strengths and weaknesses of the proposals. As appropriate, the CO may request a formal memorandum from the SEP to document SEP input into the trade-off analysis.
2. The balancing or trade-off of cost considerations against technical and other considerations (or even among different technical considerations) is accomplished by the application of business judgment rather than by a pre-defined weighing formula. When trade-off analysis in a procurement for which award is made to a technically superior, higher priced proposal, the CO should document reasoned analysis showing that the agency expects to receive benefits commensurate with the price

premium it will have to pay. This benefit should be clearly defined and, if possible, stated in mission needs.

#### **BB. The SSA Makes the Source Selection Award Decision**

1. The SEP finalizes their report once they receive the CO's determination that the report properly addressed the evaluation factors and OGC has given no legal objection (when applicable). The CO will then develop the source selection decision documenting their trade-off decision, considering the SEPs report, cost/price analysis, and relative order of importance of the factors.
2. The source selection decision represents the SSA's independent judgment. The source selection decision must be documented and include the SSA's rationale for any business judgments and trade-offs made or relied upon, including benefits associated with additional costs.

#### **CC. Required Pre-award Approvals**

1. Before award, the CO ensures that all required documents are included in the contract file.
2. An equal employment opportunity clearance is required if the procurement value is above the dollar threshold stated in FAR 22.805. If the award is to a large business and the procurement value is above the dollar threshold stated in FAR 22.805, the CS sends the subcontracting plan of the apparent successful offeror to SBP so that SBP can review the plan for compliance with FAR 19.7.

#### **DD. Contract Award and Notification to Successful and Unsuccessful Offerors**

1. The CS sends the contract to the successful offeror for signature and sends the notice of award to [SAM.gov](https://www.sam.gov) one day after contract award.
2. CS sends written notifications to unsuccessful offerors within 3 days after contract award (FAR 15.503). This notification may be sent by certified mail, return receipt requested, or other means, including an email message with receipt requested, that will enable the NRC to independently verify the date the unsuccessful offeror received the written notification.
3. Post-award Debriefings
  - (a) Unsuccessful offerors are entitled to a post-award debriefing when a request is made to the CO within 3 days of receiving notification of contract award. The CO must then make every effort to provide the debriefing within 5 days of receipt of the request. In all other cases, the SEP will provide a debriefing after award within 10 calendar days of receipt of the request. Debriefings may be given orally, in writing, or by electronic means under FAR 15.506. A written summary of each debriefing given should be included in the contract file.

- (b) Debriefings should not disclose confidential information or trade secrets associated with other offers and should not include discussions of either the content of other proposals or the relative positions of the other unsuccessful offerors.
- (c) Debriefings are normally chaired by the CO and are attended by the CS and SEP members (typically the chairperson), and may include a representative from OGC, if appropriate. Debriefings must be held with only one offeror at a time and should not be “grouped” together in the same session.
- (d) Debriefings are sensitive because the offeror must be able to conclude that its offer was judged unsuccessful on an objective basis and that the agency's decision was fair and impartial. A well-executed debriefing affords the opportunity for an offeror to learn from its weaknesses so that the firm can be more competitive in future NRC procurements. While the debriefing shall not be a point-by-point comparison of the offers, it must include at least the following:
  - (i) Strengths of the offeror's proposal;
  - (ii) Significant weaknesses or deficiencies of the offeror's proposal;
  - (iii) If numerical scoring was used, the numerical score of both the winning proposal and the offeror being debriefed;
  - (iv) Cost or price of both the winning proposal and the offeror being debriefed;
  - (v) Overall ranking of all offerors, if any ranking was used during the source selection (the adjectival rating system does not involve ranking offerors);
  - (vi) Summary of the rationale for the award decision, redacted to exclude information relevant to other proposals, except as listed above;
  - (vii) Reasonable responses to relevant questions as to whether the source selection procedures and regulations applicable to the process were followed;
  - (viii) For commercial contracting, identity of the specific make and model offered by the successful offeror, if a commercial item is proposed as an end item deliverable; and
  - (ix) Past performance ratings (of the debriefed offer only).

## **EE. Protests**

1. A “protest” is an objection submitted in writing by an interested party disagreeing with an agency solicitation for offers, the cancellation of a solicitation, or the award or proposed award of a contract. Offerors may find cause to protest some aspect of the procurement. For example, a contractor may allege that overly restrictive

specifications were used in the solicitation or may disagree with being excluded from the competitive range.

2. A protest must be in writing and may be filed with the agency, under FAR 33.103, or it may be filed under FAR 33.102 and 33.104. Protests to the agency will first be handled by the CO. The protestor may appeal the CO's decision by providing a written request to the AMD Director to do an independent review of the CO's decision. The procedures the NRC uses to handle protests are set forth in FAR 33.103 and supplemented by NRCAR 2033.103.
3. Before submission of an agency protest, all parties with concerns should use their best efforts to resolve these concerns at the CO level through open and meaningful discussions.
4. When possible, parties should strive for inexpensive, informal, procedurally simple, and speedy resolution of protests. When appropriate, the use of alternative dispute resolution techniques, neutral third parties, and other agency personnel are acceptable resolution methods.

#### **FF. Awarding New Task and Delivery Orders**

1. For task and delivery order requirements, the Government awards orders against Indefinite Delivery Contracts (IDCs) (FAR Subpart 16.5).
2. For task or delivery orders issued pursuant to FAR 16.5, see [“Standard Ordering Procedures for Issuing Task and Delivery Orders Under Open Market Indefinite Delivery Contracts \(IDC\) Awarded by the Nuclear Regulatory Commission \(NRC\),”](#) available in the NEAT Libraries.
3. The following information serves as general guidance for ordering supplies or services under IDCs. CORs should carefully review the terms and conditions of each IDC (including EWCs) and follow specific ordering requirements and procedures provided. While single-holder IDCs produce sole source or non-competed task orders, in contrast, multiple-holder IDCs typically require that the task order requirements be competed among the holders of that IDC (FAR 16.505(b)(1)).
4. Having developed the technical requirement for the order according to the process laid out in the Acquisition Planning Phase previously discussed in this MD Handbook, the COR and CO/CS work collaboratively in a process that mirrors the procurement process for a stand-alone contract but is less complex. The CO/CS and COR perform the following tasks:
  - (a) Develop the underlying technical requirement, consisting of, at minimum, a SOW and an IGCE.
  - (b) Agree on a method to evaluate task order proposals received, including developing evaluation factors and proposal instructions.

- (c) Set up a SEP to evaluate the proposals received. The CO exercises discretion as to whether to have the SEP evaluate cost proposals in addition to evaluating technical proposals.
- (d) Develop the Request for Task Order Proposal (RFTOP), which is the equivalent to the solicitation for a stand-alone contract. The RFTOP will contain the evaluation factors and proposal instructions for the task order offerors. The specific elements of individual RFTOPs will differ depending on both the ordering procedures of the specific IDIQ in question and based on whether the IDIQ is a multiple-holder or a single-holder contract vehicle.
- (e) Evaluate all task order proposals received according to the evaluation criteria and proposal instructions stated in the RFTOP.

#### 5. Awarding Competitive Orders Under Multiple Award IDCs

- (a) While not intended to be as complex as the evaluation factors in a solicitation for a competitive stand-alone contract, in the multiple award setting, the evaluation factors included in the RFTOP, should be clear, objective, and meaningful so offerors understand exactly how their proposals will be evaluated, and SEP members are able to use the evaluation factors to evaluate all proposals received in a fair and objective manner.
- (b) Offerors, both successful and unsuccessful, may request and receive debriefings. The applicable rules for preparing for and holding debriefings, regarding what must be disclosed, and what must not be disclosed, are the same for task order awards as they are for any other debriefings.
- (c) Unsuccessful offerors are entitled to protest order awards above the dollar threshold stated in FAR 16.505(a)(10)(i)(B).

#### 6. Awarding Sole Source Orders Under Multiple Award IDCs

Under limited circumstances, sole source orders may be awarded against multiple award IDCs.

- (a) **Brand Name Justifications:** Under the brand name justification rules detailed in (FAR 16.505(a)(4)(i)), the CO may issue orders on a sole source basis if the requirement is for items peculiar to one manufacturer, an order may be awarded to that manufacturer provided that the COR documents the basis in a brand-name justification memorandum.
- (b) **Exception to Fair Opportunity:** Under the exception to fair opportunity rules detailed in (FAR 16.505(b)(2)), the CO shall give every awardee a fair opportunity to be considered for a delivery order or task order exceeding the micro-purchase threshold unless one of the following statutory exceptions applies—

- (i) Only one awardee can provide the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized.
- (ii) The order must be issued on a sole source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees of the IDC were given a fair opportunity to be considered for the original order.
- (iii) It is necessary to place an order to satisfy a minimum guarantee.
- (iv) For orders above the SAT, a statute expressly authorizes or requires that the purchase be made from a specified source.
- (v) COs may set aside orders for small business concerns.

#### 7. Awarding Sole Source Orders Under Single Award IDCs

For orders determined to be within the scope of single award IDCs, the orders are not competed but awarded directly to the IDC holder. Under these circumstances, the CO and the COR shall develop evaluation factors that will permit them to evaluate the proposal received to ensure that the offeror adequately understands the requirement, that the proposal is technically sufficient to satisfy the requirement, and that the price is fair and reasonable.

### **GG. Simplified Acquisitions**

#### 1. Overview

- (a) The term “simplified acquisitions” is defined as purchases not exceeding the SAT, using procedures prescribed in FAR Part 13. (See FAR 2.101 for SAT dollar amount.) These procedures are intended to reduce administrative costs, improve opportunities for small businesses, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors.
- (b) Simplified acquisition procedures are used to make purchases of supplies or services using purchase orders, BPAs, governmentwide commercial purchase cards, or any other appropriate authorized method, each having specific thresholds and procedures. Simplified acquisition procedures must not be used in the acquisition of supplies and services initially estimated to exceed the applicable SAT, even though resulting awards do not exceed that threshold.
- (c) Requirements aggregating more than the applicable SAT must not be broken down into several purchases that are lower than the threshold merely to permit negotiation under simplified acquisition procedures or avoid any requirement that applies to purchases exceeding the micro-purchase threshold. COs are encouraged to use innovative approaches to the maximum extent practicable in awarding contracts using the simplified acquisition methods discussed below.

2. Simplified Acquisition Market Research: The PA or CS performs market research for simplified acquisitions in collaboration with the COR.

(a) Micro-Purchases

- (i) A micro-purchase is an acquisition of supplies or services for which the aggregate amount does not exceed the dollar threshold in FAR 2.101 and Subpart 13.2. These purchases may be made from any eligible large or small business. The FAR exempts these purchases from the Buy American Act (FAR Subpart 25.1) and certain small business requirements.
- (ii) Micro-purchases should be distributed equitably among qualified suppliers. If the Government Purchase Card holder determines that prices reasonable, micro-purchases may be awarded without soliciting competitive quotations. Action including limited competition to verify price reasonableness needs to be taken if information indicates that the price may not be reasonable or if purchasing a supply or service for which no comparable pricing information is readily available.

(b) Purchase Cards

- (i) The NRC participates in the governmentwide purchase card program, which implements GSA's Smart Pay Program. The purchase card program is the preferred method for making micro-purchases. This program streamlines payment procedures and, where appropriate, replaces existing BPAs and reduces administrative costs for micro-purchases of supplies and services at or below the dollar threshold stated in FAR 2.101 and Part 13. A certification of funds (commitment) must be obtained before making purchases. Purchase card purchases are considered micro-purchases and may be made from any eligible large or small business.
- (ii) When making micro-purchases, purchase cardholders should consider awarding to small business concerns, to the maximum extent practicable (see OFPP Memorandum, "Increasing Opportunities for Small Businesses in Purchase Card Micro-Purchases," dated December 19, 2011).
- (iii) This program is designed to—
  - Increase the range of vendors available for any one purchase.
  - Provide NRC personnel working at remote locations (e.g., inspectors) with a method of purchase acceptable to local vendors.
  - Facilitate purchases during emergency situations (e.g., nuclear plant incidents).
  - Improve NRC cash management practices.

- (iv) The purchase card can be used for a wide variety of supplies and services. NRC offices will comply with the ADM "[Purchase Card Handbook](#)." Employees must comply with restrictions relating to prohibited purchases and required purchasing procedures. Offices are encouraged to nominate those employees who can use the purchase card to increase office efficiency. AMD requires employees using purchase cards to complete mandatory online training. In instances in which the purchase card is not accepted, purchase card convenience checks may be used.
- (v) The NRC can purchase thousands of products and services offered by GSA schedule contractors at <http://gsa.gov/portal/content/104677>.

### 3. Open Market Simplified Acquisitions

Simplified Acquisitions Generally: Open market purchases are awards made to commercial sources that are not delivery orders under existing contracts. For an open market procurement action estimated to be above the micro-purchase threshold but lower than the SAT, the supplies or services may be acquired through simplified acquisition procedures using purchase orders or through the more complex solicitation process.

### 4. Simplified Acquisitions are Reserved as Small Business Set-Asides

- (a) Each acquisition of supplies or services having an anticipated dollar value exceeding the micro-purchase threshold but not exceeding the SAT is reserved exclusively for small business concerns and shall be set aside.
- (b) This requirement applies only to purchases in the United States, its territories and possessions, Puerto Rico, and the Trust Territory of the Pacific Islands, including U.S. manufactured end products, unless a FAR exception applies. Foreign concerns may not be solicited or awarded acquisitions reserved for small business concerns.
- (c) The requirement for a small business set-aside does not affect the responsibility of the agency to make purchases from required sources of supply and services (those not procured on the open market), including Federal Prison Industries, Committee for Purchase from People Who Are Blind or Severely Disabled (the AbilityOne Program), FSS contracts, and others listed in FAR 8.001.
- (d) If the CO determines there is no reasonable expectation of obtaining quotations from two or more responsible small business concerns that will be competitive in market price, quality, and delivery, the CO need not proceed with the small business set-aside and may purchase on an unrestricted basis. The CO must document in the file the reason for the unrestricted purchase. If an appeal is made to the SBA procurement center representative, and the representative disagrees with a CO's decision not to proceed with the small business set-aside, the SBA procurement center representative may appeal the decision.

- (e) The small business set-aside also requires that for purchases exceeding \$25,000, small business dealers provide a product that also was manufactured by a small business unless the SBA has already issued a class waiver for that type of requirement, or the SBA grants a waiver for the specific purchase. A waiver allows small business to submit any firm's product.
5. Developing Simplified Acquisition Requirements: The COR is responsible for developing a requisition package that contains an accurate and complete SOW (with quantity, quality, and schedule) and includes all required justifications and approvals, IGCE, GFP, security access request forms, suggested evaluation criteria, and nomination of SEP members. At a minimum, the COR must provide the following information to AMD:
- (a) Description of Need (minimum requirement): Describe technical specifications in functions to be performed, supplemented as necessary by chemical properties and physical characteristics, including dimensions and tolerances, rather than dictating how the contractor is to perform the work.
  - (b) Brand Names or Equivalents: In addition, for all brand name products known to be technically acceptable and of current manufacture, identify by manufacturer's name and catalogue description the main or required characteristics of the product. Unless no other reasonable alternative exists to justify Brand-name product-specific requirements, these brand-specific requirements should be avoided to promote competition to the greatest extent possible. When particular a brand or trade name item is not essential for fulfilling the agency requirement, include a statement in the announcement that describes the salient characteristics that make other brands or types of products offering comparable or equivalent utility technically acceptable to fulfill the agency requirement.
  - (c) Simplified Acquisition Justifications and Approvals: If the COR believes that a purchase exceeding the micro-purchase threshold be made from a single source, the COR must provide a justification for that sole source determination that demonstrates that other sources or items were considered and documents the reason why only one source or item is able to meet the requirement. By signing the requisition, the DO concurs with the requirement and the justification. The CO signs the justification if the CO agrees with the rationale provided in the justification.
6. Soliciting Competition for Simplified Acquisitions: Generally, solicitation of at least three sources may be considered to promote competition to the maximum extent practicable if the contract action does not exceed \$25,000 (FAR 5.203(b)). Two sources not included in the previous solicitation should be requested to furnish quotations. The following factors influence the number of quotations required concerning a purchase:

- (a) The nature of the supply or service to be purchased and whether it is highly competitive and readily available in several makes or brands or is relatively non-competitive,
  - (b) Electronic commerce system that employs widespread electronic public notice is not available,
  - (c) Urgency of the proposed purchase,
  - (d) Dollar value of the proposed purchase, and
  - (e) Past experience concerning specific dealers' prices.
7. The CO may solicit from one source if the CO determines that the circumstances of the contract action indicate only one source as being reasonably available. The CS must develop a note to the file to explain the determination. The determination must state that other sources or items were considered and the detail reason why only one source or item is available to meet the requirement. A formal JOFOC, as required by FAR Part 6, is not mandated for a sole source simplified acquisition.
8. When developing a solicitation, the CO should determine if the purchase is advantageous to the agency by either price alone or price and other factors (e.g., past performance and quality considered, including the administrative cost of the purchase). Requests for quotations or solicitations must notify suppliers that award is to be made by price alone or the basis of price and other factors.
9. Solicitations for open market acquisitions may take several forms.
- (a) For acquisitions valued up to \$25,000, oral solicitations should be used unless doing so is not practical.
  - (b) A written request for quotation may be used as appropriate, using SF 18, "Request for Quotation."
  - (c) A commercial item or service solicitation may be created using SF 1449, "Solicitation/Contract/Order for Commercial Items." This form is optional for procurements valued at or below the SAT and is mandatory for procurement of commercial items or services above the SAT.
  - (d) If a means other than the SF 1449 is used for acquisition of a commercial item, the provisions required by FAR Part 12 must be cited. The CO must not limit solicitations to suppliers of well-known and widely distributed makes or brands or on a personal preference basis. The CO should make every effort to obtain trade and prompt payment discounts. However, prompt payment discounts shall not be considered in the evaluation of quotations.

#### 10. Evaluation of Simplified Acquisition Quotes

- (a) Processing timelines may be reduced by using simplified solicitations, streamlined evaluation methods, and award with simplified documentation.
- (b) The solicitation should state the relative importance of the evaluation factors, and the relationship of technical factors to cost. Assignment of numerical weights to the factors is not a recommended practice. Formal evaluation factors and weights should be avoided. Numerical scoring should be used only if there is a compelling reason to do so. Formal evaluation plans, conduct of discussions, and scoring of quotes or offers are not required.
- (c) The CO may evaluate quotations or offers by price alone or by price and other factors combined (e.g., past performance or quality). Contractor quotations or offers shall be evaluated solely according to criteria established in the solicitation. Evaluations, where necessary, should be restricted to an appropriate combination of past performance, commercial literature, oral presentations, and proposed personnel.
- (d) The COR must use the factors stated in the solicitation, analytical basis of the COR's technical evaluation of the proposals or quotations, noting both the strengths and weaknesses of each offeror.
- (e) The CO must evaluate quotations inclusive of transportation charges from the shipping point of the supplier to the delivery destination.

#### 11. Simplified Acquisition Awards

- (a) A written award document is required when a purchase is made by means other than the purchase card. A purchase order is an offer by the agency to buy supplies, or services from commercial sources, in an amount exceeding the micro-purchase threshold, but not exceeding the SAT threshold.
- (b) The CO and a COR or technical evaluator designated by the requirement office constitute an informal team to accomplish the requested procurement. Other NRC personnel, including legal and financial staff, will provide support, as required.
- (c) Notification to unsuccessful suppliers shall be given only if requested. When a supplier requests information on an award that was determined on other than price alone, the notification shall include a brief explanation of the basis for the contract award decision.
- (d) All items of supply, furniture, and equipment for headquarters will be ordered for delivery, receipt, tagging, and inspection at the NRC warehouse, except when prior arrangements have been coordinated between the COR and the CO and approved by the NRC Property Management Officer, FLB, DFS, ADM.

- (e) The purchase order may be issued using Optional Form (OF) 347, "Order for Supplies or Services." The OF 347 is optional for commercial items or services applied at or below the SAT (see FAR 12.204, "Solicitation/Contract Form").
12. COR Acceptance of Goods and Services Purchased Using a Purchase Order
- (a) The COR shall receive and inspect all goods and/or services delivered under Government contracts. The COR must verify and record that the manufacturer, model, and serial numbers of directly delivered equipment are accurate and accounted-for on the receiving reports before the receiving reports are distributed. The COR shall sign the three receiving reports to indicate acceptance or rejection of the goods and/or services, and forward one copy to the Comptroller, Division of the Comptroller (DOC), OCFO, and two copies to the appropriate regional Division of Resource Management and Administration. However, if items are damaged, if an overage or shortage exists, or if services are not within the scope of the purchase order, the COR must immediately notify the vendor and the CO.
  - (b) NRC regional offices shall receive and inspect goods upon delivery. If the property is damaged, the regional office must reject the goods upon delivery or have the vendor retrieve the damaged merchandise. The vendor is then required to deliver non-defective or replacement merchandise to the regional office at no additional cost to the NRC.
13. Termination or Cancellation of Simplified Acquisitions
- (a) If a simplified acquisition that has been accepted in writing by the contractor is to be terminated, the CO will process the termination action as prescribed by FAR Part 49.
  - (b) If a simplified acquisition that has not been accepted in writing by the contractor is to be cancelled, the CO must notify the contractor in writing that the purchase order has been cancelled, request the contractor's written acceptance of the cancellation, and proceed as follows:
    - (i) If the contractor accepts the cancellation and does not claim that costs were incurred because of beginning performance under the purchase order, no further action is required, and the purchase order is considered cancelled.
    - (ii) If the contractor does not accept the cancellation, or claims that costs were incurred because of beginning performance under the purchase order, the CO will process the termination action as prescribed by FAR Part 49.
14. Use of Indefinite Delivery Contracts (IDCs) for SAT Purchases
- (a) Agency costs and processing time for acquisitions at or below the SAT may be reduced by using IDCs that permit task/delivery orders to be awarded by several

contracting offices in one or more Federal agencies (see FAR 16.504). Therefore, COs are encouraged to seek opportunities to achieve efficiency and economy using IDCs.

- (b) GWACs enable Federal agencies to buy cost-effective, innovative solutions for ICT requirements. GWACs provide access to ICT solutions including systems design, software engineering, information assurance, and enterprise architecture solutions. However, ICT products and services are not assumed to be Section 508 compliant.
  - (c) Multi-agency contracts (MACs) are delivery-order or task-order contracts established by one agency for use by other Federal agencies for supplies and services, including ICT.
  - (d) Multiple award IDCs are for supplies or services where task or delivery-order contracts have been awarded by another agency against which orders may be placed for supplies or services, including FSS contracts.
  - (e) GSA's Federal Strategic Sourcing Initiative (FSSI) encourages cross-Government collaboration and adoption of industry best practices. FSSI allows the Government to aggregate requirements, streamline processes, and leverage its buying power. FSSI solutions provide easy access to common procurement vehicles, including BPAs or IDCs that offer greater discounts as collective volume increases, as well as business intelligence and best practice solutions. The FSSI has the following primary goals:
    - (i) Strategically source procurements across Federal agencies;
    - (ii) Establish mechanisms to increase total cost savings, value, and socioeconomic participation;
    - (iii) Collaborate with industry to develop optimal solutions;
    - (iv) Share best practices; and
    - (v) Create a strategic sourcing community of practice.
15. The Federal Supply Schedule Program (FSS Program) (FAR Subpart 8.4), also known as the GSA Schedules Program or the Multiple Award Schedule Program, is a discretionary program that offers supplies at fixed prices, or services at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair).
- (a) The ordering activity must specify the order type for the services offered on the schedule, priced at pre-negotiated hourly rates.
  - (b) Fixed-price orders should be used for acquiring commercial services to the maximum extent practicable.

- (c) Time-and-materials or labor-hour orders may be used for the acquisition of commercial services only in situations when it is not possible at the time of placing the order to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.
  - (d) For orders over the prescribed dollar threshold, the requiring agency shall document for the contract file a determination that use of the FSS is the best procurement approach under FAR 17.502-1(a).
  - (e) Note: A small business size status evaluation factor may be used in GSA FSS acquisitions under FAR 8.405-5(c).
16. Use of Blanket Purchase Agreements (BPAs) for SAT Purchases
- (a) A BPA is a simplified method of filling anticipated recurring needs for supplies or services when exact items, quantities, and delivery requirements are not known in advance or may vary considerably. The BPA allows users to acquire items at or below the SAT threshold by telephone rather than by written purchase order. Although BPAs themselves are not legally binding contracts, the BPA contains terms, conditions and ordering procedures for the placing of calls that create legally binding contracts. At the NRC, this method is used for micro-purchases only when use of the Purchase Card is impracticable.
  - (b) The BPA program was established before the Purchase Card program. Because the Purchase Card may now offer a better alternative, the COR should consult early with the CS to determine if the use of the Purchase Card would be more appropriate for the anticipated purchase.
  - (c) The CO will record orders (calls) using NRC Form 104, "Blanket Purchase Agreement (BPA) Ordering/Receiving Report." Further procedures may be obtained from AMD when a BPA is contemplated.
  - (d) The COR must obtain OCIO approval before placing ICT work on BPAs.
  - (e) General Guidelines on the Proper Use of BPAs: Headquarters and regional offices may fulfill small-dollar purchases for anticipated recurring needs for supplies or services through placement of orders under BPA (BPA calls).
    - (i) Upon finalizing the requirement for the BPA call in question, the COR must submit a requisition package and obtain the certification of funds from the appropriate certifying official. For open market acquisitions, the amount certified may not exceed the SAT per vendor. One requisition may be used to request BPA calls with several vendors for the same type of commodity (e.g., office supplies). The dollar amount applicable to each vendor should be clearly indicated on the requisition. The certifying official forwards the requisition to AMD or the appropriate regional procurement personnel. Since

BPA funding may not be carried over FYs, BPA calls are normally written to expire at the end of the FY.

- (ii) The orders issued under a BPA shall not exceed the delegated authority of the CO unless approved by the AMD Director.
- (iii) Orders on a BPA must not exceed the maximum ordering threshold at the offered price and must be consistent with the terms of the applicable schedule contract. If an order exceeds the contract ordering threshold, the CO may negotiate a price discount.
- (iv) Calls may not be placed before the effective award date or after the expiration of a BPA.
- (f) Modifying BPA Calls: To modify BPA calls for any reason, the BPA call COR must submit a requisition to AMD, in the same fashion as other contract vehicles. More information regarding BPA calls may be found in FAR 13.303.

#### 17. GSA Federal Supply Schedule (FSS) Contracts

- (a) The GSA Federal Supply Schedule contracts (FSSs) are large contracts through which Federal customers can acquire more than 4 million types of supplies or services from a large pool of commercial vendors. Using competitive procedures, GSA awards IDCs ("GSA schedules") to vendors requiring those firms to provide specified supplies and services at stated prices for given periods of time. This process permits COs to acquire items covered by these schedules without engaging in the time-consuming process of issuing invitations for bids or requests for proposals.
- (b) FSS contractors must sell to any authorized user of the multiple-award schedule at the prices, and in compliance with the terms and conditions provided in the GSA schedule. Further price reductions may be negotiated for large-volume purchases.
- (c) GSA maintains both single-award schedules and multiple-award schedules. (See FAR Subpart 8.4, Part 38, and "Federal Property Management Regulations," 41 CFR Part 101-26, "Procurement Sources and Program." The procedures to be followed in ordering from these schedules are set forth in FAR Subpart 8.4 and in GSA guidance.)
- (d) GSA Advantage is a Federal online shopping service that provides an Internet acquisition solution. Orders may be placed on the GSA Advantage Web site at <http://www.gsa.gov/portal/content/104677>. Orders below the micro-purchase threshold may be purchased by using the Purchase Card.

18. Required Sources of Supply: The priority list for use of Government sources of supplies and services is located at FAR 8.002(a), at [https://acquisition.gov/far/current/html/Subpart%208\\_1.html#wp1082288](https://acquisition.gov/far/current/html/Subpart%208_1.html#wp1082288). Mandatory sources of supplies and services include the Federal Prison Industries, Inc., (see <http://www.unicor.gov/>) and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (see <http://www.abilityone.gov/>).

## **VI. THE CONTRACT OR ORDER PERFORMANCE AND ADMINISTRATION PHASE**

### **A. Overview of the Contract/Order Performance/Administration Phase**

1. Contract administration consists of the CO's and COR's management of the contract or order from the time of award through initiation of the closeout process, to ensure that the contractor's performance is compliant with the terms of the contract and that the agency's contract objectives are fulfilled.
2. Both the COR and the CS must monitor the contractor's performance closely to ensure that the work is performed satisfactorily.
3. The CO has the responsibility and authority for administering NRC contracts, however, the CO generally appoints a technically qualified individual to serve as the COR, who, in turn, provides day-to-day technical oversight of the contractor. The COR's authority is limited to the COR Delegation Letter provided by the CO. Sample COR delegation letters are available in NEAT. The CO relies heavily on the expertise and information provided by the COR to monitor and administer the contract. This information generally includes, but is not limited to, copies of all COR/contractor correspondence (especially including all technical directions issued by the COR to the contractor), COR/contractor conference summaries, trip reports, and progress reports.
4. The COR must monitor and evaluate the technical status of the contractor's work both for the purpose of providing performance evaluations under FAR 42.15, as discussed in greater detail below under Section VI, Q, "Documenting Contract Performance Evaluations–Contractor Performance Assessment Reporting System," and for the purpose of recommending appropriate action necessary to keep the contract on course, even to the point of recommending that the contract be terminated either in part, or in whole.
5. The COR should maintain a file of all materials related to the COR's contract administration duties including, but not limited to, a copy of the contract (and task orders, if applicable) and all modifications thereof, each report submitted by the contractor, records of telephone calls and meetings, and copies of correspondence, including copies of all technical directions issued by the COR. Generally, the COR should contact the CS regarding any matters impacting either the period of performance, the scope, or the ceiling of the contract, or any other issues that impact

other terms and conditions of the contract. The CS will coordinate any significant contractual matters with the CO.

6. The COR should notify the CS in advance of any important meetings with the contractor and inform the CS of any issues that may affect the contract that need to be discussed with the contractor. This communication is essential for the CS to be able to adequately research issues and problems and develop potential.
7. Some NRC contract clauses are designed to facilitate the need to adjust the contract to reflect changing circumstances. These clauses define, for example, the modification process, the management of Government furnished property (GFE) under the control of the contractor, delivery schedule delays, inspection and acceptance, payments, terminations, and numerous other activities. Many of these clauses establish the right of the agency to take unilateral action regarding the contract, which is a significant right in terms of the contract administration process. For example, under the Changes clause (FAR 52.243-1 through -7), the CO has the right to unilaterally change the design or specifications of the contract if the changes are within the general scope of the contract.

#### **B. Post-award Orientation Kick-off Meetings**

1. Following the award of a contract exceeding the SAT threshold, and before the contractor begins contract performance, the NRC should hold a kick-off meeting with the contractor.
2. Kick-Off Participants: Kick-off meetings should include the COR, CO, OGC, DFS, and OCFO, as appropriate. It is important that various functional representatives of the agency be present at this meeting (see "Post-award Kickoff Meetings" in the NEAT Libraries).
3. Depending on the complexity of the contract, the kick-off meeting should address the following objectives:
  - (a) Define each party's role and responsibilities (especially concerning the completion of required security application forms) and how each party fits into the larger effort,
  - (b) Ensure that all parties have a common understanding of the contract requirements and goals,
  - (c) Ensure that any issues and misunderstandings regarding contract objectives or tasks be raised and addressed immediately, and
  - (d) Ensure that the contractor commences work as soon as possible towards meeting contract requirements and deliverable dates.

### **C. Reviewing and Approving Subcontract Requests**

1. A subcontract is a contract between a contractor and another supplier to furnish a part of the goods or services required under the prime contract (between the NRC and the contractor). (See FAR 44.201.) The COR does not have the authority to approve subcontracts; the CO is the approval authority for subcontracts. Under cost-reimbursement contracts, the contractor must obtain the CO's consent for placing the following types of subcontracts:
  - (a) All cost-reimbursement, time-and-materials, and labor-hour subcontracts.
  - (b) Fixed-price subcontracts that exceed either the SAT or 5 percent of the contract price.
  - (c) Subcontracts that provide for the fabrication, purchase, rental, installation, or other acquisition of special test equipment.
  - (d) Subcontracts that have experimental, developmental, or research work purposes.
  - (e) Subcontracts that involve access to Classified information, unescorted access to an NRC site or building, access to sensitive IT systems and data, unescorted access to nuclear power plants, or access to CUI.
2. As requested by the CO, the COR must provide a technical opinion on the technical need for subcontracting, the technical capabilities of the proposed subcontractor, the adequacy of the subcontract SOW, and any aspect of the proposed subcontract the COR believes is not in the best interest of the NRC. If the proposed subcontract is unacceptable, the CO informs the prime contractor, and other arrangements must be made for the proposed work. These arrangements may involve modifying the subcontract before the prime contractor awards it, or selecting another subcontract source altogether, depending on the reasons the subcontract was not approved. If the proposed subcontract is considered satisfactory, the CO gives written consent to its award.

### **D. Termination of Contractor Employee Access Authorization**

On active contracts or orders (those that have not expired or have not been terminated), occasions will arise where individual contractor employees, consultants or subcontractor personnel who have been given access to NRC facilities, the NRC LAN, and/or information systems will no longer need such access. In these situations, the COR will need to work with FLSB and the Personnel Security Branch, DFS to complete the agency process for terminating contractor employee access (see MD 12.3 Handbook, Section II.M, "Termination of Access Authorization"). In these cases, the COR is required to follow the procedure that is detailed in Section VII.F, "Termination of Contractor Employee Access Authorization During Contract Closeout," below.

**E. Issuing Task and Delivery Orders from Indefinite Delivery Contracts (IDCs)**

1. Overview: The following information serves as general guidance for ordering supplies or services from IDCs. CORs should carefully review the terms and conditions of each IDC (including EWCs) and follow specific ordering requirements and procedures provided. While single-holder IDCs produce sole source or non-competed task orders, multiple-holder IDCs typically require that the task order requirements be competed among the holders of that IDC.
2. Developing Requisitions for New Task or Delivery Orders
  - (a) The process for developing requisition packages for task orders generally follows the same process used for developing requisition packages for stand-alone contracts, discussed in this handbook, Section IV, “The Acquisition Planning Phase,” with the general exception that no SSG paper is necessary for task orders, as this has already been done at the level of the IDC.
  - (b) Generally, the task (or delivery) order requisition package should contain a memorandum stating how the work in the task order is within the scope of the IDC in question, as well as an SOW, and an IGCE.
3. Awarding New Task or Delivery Orders and Emergency Task Order Procedures
  - (a) Once the proposal evaluation process is complete, the CO awards the task order. The process for awarding task orders, both under multiple-holder and single-holder IDCs, is discussed in this handbook, Section V, “The Acquisition Execution Phase.”
  - (b) In urgent cases, the NRC may require the contractor to immediately begin work before a formal task order can be negotiated, in the form of a “letter contract,” (FAR 52.216-25). Accordingly, the CO may verbally authorize the contractor to begin work on the task, subject to the limitation or ceiling that the CO has established for the task order. When the NRC uses this accelerated procedure, the contractor agrees to promptly begin negotiating the terms of the task order by submitting a proposal that is then evaluated by the CO and COR. Once agreement is reached at the end of negotiations, a definitized task order is issued to the contractor.

**F. Administration of Government-Furnished Property (GFP)**

1. Government-Furnished Equipment or Property (“GFP” or “GFE”) must be furnished to contractors only through the CO to ensure that personal liability for the property is not inadvertently created.
2. When GFP is required on a contract or order, the CO shall include an NRC clause to govern contractor duties regarding the GFP delivered into its possession and shall ensure that the contractor complies with the requirements of this clause.

3. The CO determines whether title to GFP should be retained by the NRC, or whether the title shall be vested with the contractor at the time approval is given for an equipment or property purchase.
4. Title to equipment and other property valued at less than \$5,000 is automatically vested in contractors that are categorized as nonprofit institutions of higher education, or nonprofit organizations whose primary purpose is scientific research when the purpose of the contract is basic or applied research. For these contractors, the CO has the discretion to vest title at higher dollar values without requiring consideration from the contractor. In reaching a determination, the CO should consider other aspects, to include the useful life of the property, and the likelihood of reuse of the property by the NRC, or possible use of the GFP by a contractor in the future.
5. For all other contracts, if the CO determines that it is in the Government's best interest to vest title of the GFP in the contractor, the contractor must estimate the fair market value of the property. The CO's determination to vest title of the GFP in the contractor should be documented in a memorandum to the contract file.
6. Except in the case of a firm-fixed-price contract, the contractor shall obtain approval from the CO before purchasing any equipment or property valued at \$500.00 or more with NRC funds.
7. When the NRC agrees to provide GFP to the contractor, the contractor's performance schedule assumes that the contractor will receive this GFP at the time stated in the schedule, or if the time is not stated, soon enough for the contractor to meet required delivery dates. A time extension is normally allowed if the NRC causes a delay or if the GFP deviates from specifications stipulated in the contract. The contractor also is entitled to a fair adjustment in the price of the procurement for additional costs that are caused by late delivery. After delivery of the GFP, the contractor has control of and responsibility for the GFP and must set up and maintain a program to maintain, repair, protect, and preserve the GFP in question.
8. The CO determines the type and frequency of physical inventories of GFP that a contractor must perform during the life of the contract. Inventories of movable equipment are made at least once each FY.
9. On an annual basis, contractors shall be required to submit to the CO a detailed report of all NRC property held on September 30 of each year. The threshold for detailed reporting of capitalized equipment by contractors is \$50,000. More frequent inventories should be made of equipment easily appropriated for personal use.
10. The contractor provides a monthly letter status report (MLSR) to the COR and the CO. The MLSR includes the acquisition of, or changes in the status of, GFP valued at the time of purchase of \$50,000.00 or more. A copy of the report is sent to the NRC Property Management Officer, ADM/DFS/FLB.

11. See MD 13.1, "Property Management," for procedures covering the loss, theft, damage, or destruction of NRC GFP. Items removed from the contractor's custody during the year and their subsequent disposition are reported in the annual property report. The NRC may audit property records maintained by the contractor as often as conditions warrant.
12. When a contract is terminated or completed records always must be reviewed before final payment and contract closeout. At the time the contract period of performance ends or is otherwise terminated, the contractor must provide a final reconciled report to AMD listing all GFP in its possession. AMD will contact the COR for disposition instructions for any contractor-held property during the close-out process.

### **G. Processing Contractor Invoices**

1. Prompt Payment: FAR subpart 32.9 establishes policies and procedures to be followed by Federal agencies in paying for property and services acquired in Federal contracts in the Prompt Payment Act of 1982, as amended. The Government promotes accelerated payments to small business concerns and to large businesses that have small business subcontractors. This serves to enhance cash flow and business operations.
2. Anti-Deficiency: In accordance with the discussion of the Anti-Deficiency Act in this handbook Section I, "Principles of Government Contracting," the Anti-Deficiency Act prohibits Government officials or employees from authorizing or making obligations exceeding the amount available in an appropriation, an apportionment, a reappropriation, or an allotment. CORs are responsible for monitoring contract funding under NRC contracts. No officer or employee of the Government may create or authorize an obligation that exceeds funds available.
3. The COR is responsible for reviewing invoices submitted by the contractor to determine whether payment should be made or disallowed. The CS also reviews the invoices to ascertain whether the contractor has expended a greater percentage of the contract's funds than can be justified by the contractor's technical progress, or if the contractor's billing exceeds funding obligated on the contract to date. For performance-based contracts, reviewers should be aware of procedures for reducing the fee under CPFF contracts or reductions to the price of a fixed-price contract when services are not performed or do not meet contract requirements.
4. Specific policies and procedures governing review and approval of contract invoices are provided through separate agency procedures.
5. Invoices for Fixed-Price Contracts: Fixed-price contracts containing the standard payments clause FAR 52.232-1 provide that the contractor shall be paid upon submission of properly certified invoices.

6. Invoices for Cost-Reimbursement Contracts: Payment for cost-reimbursement contracts is made under the allowable cost and payment clause (FAR 52.216-7) and fixed-fee clause (FAR 52.216-8), if applicable. These clauses provide that upon performance of the contract, the agency will pay the contractor the cost as determined by the CO under the cost principles (FAR Part 31), the terms of the contract, and the fixed fee, if any, as may be provided in the contract schedule. These clauses also provide for monthly or more frequent payments, if approved by the CO, of costs plus a proportionate part of the fixed fee, with part of the fee withheld until completion of the contract.
7. Invoices for Fixed-Fee Contracts: The NRC fee policy is that the fixed-fee billed by the contractor will be paid up to 85% of the negotiated fee as represented in a definitive dollar value, and that any fee beyond that 85% level will be held-back by the NRC pending completion of the closeout process. Upon satisfactory completion of the contract closeout process, the remaining 15% will be released to the contractor. The CO may determine if a portion of these funds may be released earlier for expired task orders, when annual audits have been completed and there is no indication that the funds may be needed for adjustment in later years of the contract.
8. Final Invoices: The invoice payment method on termination of contracts is discussed in this handbook, Section VII, "Contract Closeout, Payment of Final Invoices."
9. General Invoice Review Process
  - (a) The FAR states that there is no presumption of reasonableness associated with the incurrence of contractor costs. In ensuring due diligence, the agency must carefully review all contractor invoices and document that process.
  - (b) CO responsibilities: The CO is ultimately responsible for the review and approval of each invoice submitted by the contractor. The extent of review depends on the type of contract and its terms and conditions. The CO relies upon the COR to make an initial assessment of invoices and make a recommendation. General tasks associated with reviewing and approving invoices include ensuring that the invoice—
    - (i) Is not defective, is accurate and complete, and complies with the contract's terms and conditions.
    - (ii) Includes invoiced costs that are allowable, allocable, and reasonable.
    - (iii) Includes supporting information to substantiate billed costs, including source documents, as necessary.
    - (iv) Deducts proper amounts from the invoice submitted (i.e., fixed-fee in excess of 85% for cost-reimbursement contracts).

- (v) Includes personnel that meet qualifications for labor categories in service-type contracts (which may be either cost-reimbursement, time-and-materials, or labor-hour contracts).
  - (vi) Includes hourly rates invoiced that accurately reflect negotiated hourly rates, and the hours worked during the billing cycle covered.
  - (vii) Includes other direct costs that are sufficiently supported (i.e., supplies, equipment, travel).
- (c) COR responsibilities: As part of a COR's delegation of authority, the COR is responsible for reviewing invoices submitted by the contractor. The COR must ensure the accuracy and completeness of contractor invoices based on the documentation accompanying the invoice. Invoices should not be approved if they are incomplete or unsubstantiated. Invoice reviews should be based on multiple types of information; however, the documentation must include sufficient detail to determine allowability and reasonableness of invoiced costs. General tasks associated with reviewing and approving invoices include—
- (i) Reviewing the contract or order: Familiarity with the requirements of the contract or order is crucial to ensure that the invoice adequately relates to contractual requirements.
  - (ii) Reviewing the MLSR: The MLSR is an important tool in reviewing invoices and verifying amounts billed. The MLSR identifies the project's progress, difficulties encountered, and future activity, including planned hours or effort to be expended. Without reviewing the MLSR corresponding to the invoice, the COR cannot verify that the costs billed are reasonable and coincide with the work performed. The invoiced cost of work performed should be consistent with the MLSR.
  - (iii) Reviewing supporting invoice documents: Without detailed supporting information including, but not limited to, information describing the nature of the work and period of performance, the COR cannot accurately determine whether invoiced costs incurred are allowable and reasonable for work performed or travel completed.
  - (iv) Reviewing contractor invoices to determine completeness, accuracy, and reasonableness of billed costs, including verification of indirect cost rates.
  - (v) Maintaining the documentation necessary to demonstrate thorough review of invoices. Without documentation, the NRC does not have assurance that the costs billed were reviewed and accepted as allowable and reasonable. Proper documentation of an invoice review may be satisfied by completing approved invoice checklists required by AMD.

(vi) Notes:

- In situations where contractors are permitted to bill more frequently than monthly, the COR must continually refer to MLSRs to verify work performed. When discrepancies in either amounts or time are noted, the COR should contact the CO and contractor to immediately resolve any discrepancies.
- For more information on invoicing tools, see the “Invoice Review Guidance for CORs” in the NEAT Libraries.

## H. Modifying Contracts or Orders

1. Overview: FAR 43.101 defines a contract modification as any written change in the terms of a contract. These changes include any alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other provisions of an existing contract, whether accomplished by unilateral or bilateral action. Just as with new contract requirements, the COR must work with ADM to plan and negotiate modifications, and only the CO has the legal authority to issue contract modifications. Contract modifications are, by definition, beyond the delegated authority of the COR to negotiate with the contractor or finalize. CORs can find more detailed instructions and templates about the process of planning and executing contract modifications at in [Neat](#) in the Acquisition Navigator for Modifying Commercial Contracts/Orders.
2. Notes:
  - (a) Depending on the nature of the contract modification anticipated, regardless of whether the COR believes a given modification will ultimately be unilateral or bilateral in nature, the COR must prepare requisition packages for contract modifications in much the same way as those for sole source stand-alone contracts as detailed in this handbook, Section IV, “The Acquisition Planning Phase” (planning the modification requirement), and Section V, “The Acquisition Execution Phase” (planning and executing the modification request for revised proposal and proposal evaluations). In general terms, the process is the same, even if the level of detail required to document the contract modification action is not as substantial as that required for a new contract action.
  - (b) Generally, modifications that do not change the scope, cost, or term of the contract, usually unilateral modifications, are relatively straightforward. However, modifications that either change the scope, cost, or term of the contract, bilateral modifications, tend to be more complex to plan and negotiate, and because of this, for many types of bilateral contract modification actions, CORs are strongly advised to notify their designated CO/CS when they first become aware of the need of a contract modification, so that the CO/CS may provide them with timely guidance and feedback as the CORs prepare the requisition package and associated documents required for the contract anticipated modification.

3. Unilateral Contract Actions: unilateral modifications that result in modifications that do not change the scope, cost, or period of performance of the contract, and they may take many forms. The CO has the legal authority to perform the following actions as unilateral modifications:
  - (a) Add incremental funding to cost reimbursement contracts.
  - (b) Exercise Options (timely): Option exercise modifications are considered “timely” if (1) there are existing options on the contract that are eligible to be exercised; and (2) the agency notifies the contractor of the agency’s intent to exercise the option in question before or within the notification period stated in the relevant contract Option clause included in the contract. The FAR has several option clauses for different types of contracts and options, such as 52.217-6, “Option for Increased Quantity,” and 52.217-7, “Option for Increased Quantity – Separately priced Line Item.” Furthermore, a completed Contractor Performance Assessment Report (CPAR) evaluation may also be required as part of the option exercise requisition package if contract base and all options exceed the SAT value. More detailed instructions and templates about the process of exercising contract options can be found in the Acquisition Navigator for Exercising Options for Commercial Contracts/Orders at <https://neat.nrc.gov>. Similarly, the Acquisition Navigator also contains guidance for preparing a CPAR evaluations for Active Contracts.
  - (c) Make administrative changes (e.g., COR or CO name changes, address changes).
  - (d) Issue change orders (authorized under the various Changes clauses: FAR 52.243-1 through -5).
  - (e) Make changes authorized by clauses other than the changes clause.
  - (f) Issue termination notices.
4. Bilateral Contract Actions: Bilateral modifications result in modifications that do change (either increase or decrease) the scope, cost, or period of performance of the contract. Such changes cannot be made to contracts without the consent of both agency and the contractor. The extent to which contracts may be modified by mutual consent is restricted. For example, many contract provisions that are required by law may not be waived. Furthermore, no action may be taken that would be prejudicial to the interests of those who submitted bids on the original solicitation and who were not selected for award. Bilateral modifications include, but are not limited to, the following:
  - (a) Equitable adjustments resulting from the issuance of change orders;
  - (b) Definitizing letter contracts or undefinitized contracting actions (UCAs) (FAR 52.216-25); and

- (c) Exercising Options (untimely): Option exercise modifications are considered “untimely” if (1) there are existing options on the contract that are eligible to be exercised but (2) the agency fails to notify the contractor of the agency’s intent to exercise the option in question before or within the notification period stated in the relevant contract Option clause included in the contract. The FAR has several option clauses for different types of contracts and options, such as 52.217-6, “Option for Increased Quantity,” and 52.217-7, “Option for Increased Quantity – Separately priced Line Item.” The distinction between “timely” versus “untimely” option exercises is that if the option exercise is untimely, the contractor is not obligated by law to perform the option, and they are not obligated to perform the option at the original price. Instead, the CO must obtain the contractor’s affirmative agreement to honor the terms of the option, including price, or alternatively, the CO and contractor can renegotiate the terms of the option or price, which will be finalized with the signing of the bilateral modification. However, just as in the case of timely option exercises, if the contract base and all options exceed the SAT value, the COR must submit a completed CPAR evaluation with the procurement package. More detailed instructions and templates about the process of exercising contract options are available in the Acquisition Navigator for Exercising Options for Commercial Contracts/Orders at <https://neat.nrc.gov>. The Acquisition Navigator also contains guidance for preparing a CPAR evaluations for Active Contracts.
- (d) In-scope contract ceiling increases (or decreases): This is one of the most frequently used bilateral modifications. CORs are advised that the process for awarding ceiling increase modifications involves several sequential steps and therefore can be time-consuming to complete. Because of the complexity and long-lead-time associated with this type of contracting action, CORs are strongly advised to consult with their designated CS before initiating the process. The process of an in-scope ceiling increase involves the following steps:
- (i) Prepare and Submit Requisition Package in STAQS: COR prepares the in-ceiling increase (or decrease) requisition package. Requisition packages for ceiling increases are prepared in much the same way as those for sole source stand-alone contracts as detailed in this handbook, Section IV, “The Acquisition Planning Phase,” only they do not contain as much detail. This package must include a document that explains the reason for the ceiling increase, the reason why the COR considers it to be within the scope of the underlying contract, and whether a period of performance extension will be necessary as part of the modification. If the ceiling increase entails the addition of more in-scope tasks or subtasks, the COR must prepare a revised SOW. The COR must also prepare an IGCE for the anticipated ceiling increase. If the IGCE takes the contract above the SSG threshold, an SSG paper is required as part of the package. If the ceiling increase requires

additional tasks or subtasks, the package also must contain a revised SOW with track changes.

- (ii) **Prepare and Send Request for Revised Proposal to Contractor:** Upon receipt of a complete requisition package, the CS will prepare a letter to the contractor, requesting the contractor to submit a revised proposal. Depending on the nature of the ceiling increase, this letter may include other documents such as a revised SOW. The type of proposal received may vary, depending on the nature and complexity of the ceiling increase modification anticipated. Sometimes, the action may only require the submission of a revised cost proposal. At other times, the action also may require a revised technical proposal. Note: the COR may not request proposals from the contractor, the COR must work with the CS/CO, who will communicate with the contractor.
- (iii) **Evaluate Revised Proposal(s):** Once the CO/CS receives the revised cost (and possibly technical) proposals, the CO/CS works with the COR to evaluate the proposals received. Depending on the nature and complexity of the ceiling increase modification anticipated, this may include the CO/CS preparing a technical evaluation worksheet and instructions that the COR will then follow to complete the technical evaluation. The purpose of the evaluation is to ensure that the contractor understood the full scope of the ceiling increase request and submitted a revised proposal that successfully addressed every aspect of that changed requirement, and that nothing has been left out of the revised proposal, either intentionally or unintentionally. It is possible that the CO/CS and COR may need to request clarifications or changes to the revised proposal.
- (iv) **Award In-Scope Ceiling Increase Modification:** Once the revised proposal evaluation has been completed, and the COR and the CO/CS are satisfied that the proposal is both complete as well as fair and reasonable, the CO/CS prepares the resulting contract modification, which both parties sign.
- (v) **Ceiling decrease actions:** Ceiling decrease actions involve the same process discussed above, only with the objective of reducing the total estimated cost or (“ceiling”) of the contract or order, which entails reducing some cost element of the contract, such as reducing Level of Effort (LOE), or eliminating certain tasks or subtasks from the contract, which have the effect of reducing the ceiling of the contract. In cases involving ceiling decrease actions, CORs are reminded that it may become necessary to deobligate funds as part of the modification. A more detailed discussion of the process of deobligating excess funds is included in this handbook, Section VII, “Contract Closeout.”
- (vi) **In-scope SOW changes (no-cost):** No-cost, in-scope, SOW changes often involve modifying, adding, or subtracting in-scope tasks or subtasks. Like contract ceiling increases, CORs must prepare procurement packages that

include an SOW with track-changes. The package must also include a document explaining the need for the SOW change and the reason the COR believes this change is both in-scope and no-cost.

- (vii) Key Personnel Changes.
  - (viii) No-Cost Period of Performance Extensions: For these contract modifications, the COR must include a document that explains the reason the period of performance extension is necessary and whether this need originated due to the contractor's actions or whether it was due to the agency's actions.
- (e) Notes—
- (i) CORs should be aware that certain post-award actions to increase the scope of the contract or order may re-open the right of unsuccessful offerors to protest the modification in question and should promptly begin communications with their designated CO/CS as soon as they believe that a scope increase may become necessary and before submitting a requisition package.
  - (ii) It is important that the COR understand the distinction between a new procurement and an in-scope contract modification. Generally, purchase of an additional quantity of supplies, products, or services beyond the quantity stated in the original contract award constitutes a new procurement and must be resolicited for competition. On the other hand, increasing the work to be performed that is still within the scope of the contract and the existing period of performance does not need to be resolicited. The distinction is often fact-specific and depends on whether the proposed modification changes the nature of the overall work scope, increases the contract's estimated cost or ceiling price, increases the overall level-of-effort ceiling, or extends the contract term. Whether a given anticipated modification action is "in-scope" or "out-of-scope" is a determination made by the CO, not the COR, and therefore the COR should communicate with the CO as early as possible in circumstances where a scope determination is required.

## **I. Contractor Spending Controls**

### **1. Indirect Cost Rate Adjustments**

- (a) Most Government contractors establish indirect rates to cover business expenses that are not directly attributable to discrete contract projects. These expenses, including rent, utilities, and administration salaries are pooled and charged proportionately to all parties with whom they contract (customers). These costs are estimated as provisional rates, and provisional rates are finalized at some point after the contractor's FY ends. The final rates will be

influenced by other factors, such as the contractor's total volume of work for that period that will share proportionately in the contractor's overhead expenses.

- (b) The NRC will normally fund negotiated final rates if a cost overrun does not occur, and the contractor has complied with all contract terms concerning proper notice.
- (c) FAR 42.704(c) states that billing rates (provisional rates) may be retroactively revised by mutual agreement of the CO and the contractor. NRCAR 2052.216-71(b) states that the CO may adjust the rates (provisional) as appropriate during the term of the contract if the CO accepts the revisions proposed by the contractor. To avoid complicated retro-active adjustments that delay the close-out process, the NRC provides authority for cognizant audit agencies to perform annual audits of provisional rates after submission of proposals by the contractors. Recommendations contained in audit reports must be acted on within 6 months.
- (d) Given that the periodic adjustment of indirect rates may impact the contractor's billable costs, and may result in a burn-rate that was higher than was expected when the contract was originally awarded, CORs should periodically reevaluate the use of remaining funding on contracts that are nearing the end of their lifespan, and should work closely with their designated CS to plan for remaining expenditures, in order to avoid the risk of a cost overrun.

## 2. Annual Audits

For cost-reimbursement contracts with ceilings that exceed \$1 million, or \$500,000 annually, the CO may require an annual audit, to include all charges to the contract. This audit helps to project funding, avoid overpayment, and expedite closeout.

## 3. Contractor Cost Overruns

- (a) Definition of Cost overrun: A cost overrun is the amount by which the actual cost of a contract exceeds the actual contract cost or ceiling that was agreed-to by the parties when the contract was awarded. With effective contract monitoring, a cost overrun is a rare occurrence.
- (b) Limitation of Cost and Limitation of Funds: Under cost-reimbursement contracts that are fully funded, the estimated total cost or "contract ceiling" is established as the maximum amount that the agency is obligated to pay for the effort, by virtue of the limitation-of-cost clause (FAR 52.232-20). In contrast, under cost-reimbursement contracts that are incrementally funded, the limitation-of-funds clause (FAR 52.232-22) sets the amount of obligated funds, and not the contract ceiling as the limitation of costs that the contractor can invoice for. Once the contractor has been reimbursed for costs that equal the "Limitation of Cost" (in fully funded contracts); or "Limitation of Funds" (in incrementally funded contracts) the contractor is not legally obligated to continue

performance of the contract. In fact, if the contractor chooses to continue to incur costs that exceed that limit, the contractor does so at its own risk; the agency is not obligated to reimburse the contractor (see FAR 52.232-20).

- (c) Limitation of Cost and Limitation of Funds Notifications: The limitation-of-cost (FAR 52.232-20) and the limitation-of-funds (FAR 52.232-22) clauses require the contractor to give the CO notice at the point when the contractor projects that 75 percent of the total estimated costs will be reached within 60 days. If the contractor believes that the total cost of performance will be substantially above or below the estimated cost, a revised cost estimate must accompany the notice.
- (d) The COR should monitor closely the contractor's financial reports and the contractor's spending plan to ensure that any funding problem is identified and brought to the attention of the CO as early as possible.
- (e) Notes in the event of a cost overrun situation—
  - (i) Cost growth can occur in different forms. Sometimes, it is due to the contractor failing to understand the complexity of the requirement, and sometimes it is due to factors that are either outside of the control of the contractor, or changes to the requirement that are requested by the NRC.
  - (ii) NRC personnel should avoid any action or communication, either explicit or implicit, that would lead a contractor to believe that the contractor will be reimbursed for any incurred costs that exceed the existing limitation. This may lead to creating a situation involving an unauthorized commitment and a ratification action. Any communication that may affect the contractor's incurrence of cost beyond this limitation must be handled through the CO.
  - (iii) CORs should request guidance from the CO as soon as possible, as to how to proceed. The CO in turn may collaborate with OGC and other NRC staff as necessary, given the facts relevant to the situation.

#### **J. License Fee-Recoverable Costs**

If applicable to the contract terms, the contractor is required to report in its monthly cost report (e.g., invoice or monthly report) whether the contractor incurred license fee recoverable costs. The COR and the CS should review monthly cost reporting for fee-recoverable costs incurred.

#### **K. Contractor Performance Problems and Remedies**

##### **1. Contractor Failure to Make Satisfactory Progress**

- (a) The COR is responsible for notifying the contractor and the CO as soon as a problem regarding contractor performance is identified.

- (b) If the contractor is having difficulty in performing the work, or if the work is not progressing in a satisfactory fashion, several tools are available to the COR, but before proceeding the COR should first seek guidance from the CO. Some tools include the following:
    - (i) In-Person Meetings: In some instances, a meeting or teleconference with the contractor, the COR, and the CO is the appropriate way of communicating and resolving issues regarding contractor performance.
    - (ii) Modify the SOW to include more specific specifications;
    - (iii) Issue Technical Directions;
    - (iv) Cure Notice: A cure notice is used if the contractor fails to make progress or fails to perform any other provision of the contract. (See FAR 49.607)
    - (v) Show Cause Notice: A letter from the CO to the Contractor requiring that the contractor “show cause” why the contract should not be terminated. (See FAR 49.607)
    - (vi) Termination: Terminations are discussed in greater detail later in this section. This tool is only to be pursued if all other options have been explored and have not produced the required results).
  - (c) When the NRC is responsible for any aspect of contract performance, including providing material or information, approving plans, or prosecuting a subsequent phase of the work, every effort should be made to fulfill these responsibilities promptly so that the project can proceed and no contract delays can be attributed to the NRC.
2. Unsatisfactory Subcontractor Performance: When a subcontractor’s performance is not satisfactory, it is the contractor’s legal responsibility to correct the situation, and not the responsibility of the NRC. Working through the CO or CS, the COR should deal with the prime contractor and should not interact directly with the subcontractor, as the NRC does not have privity of contract with subcontractors.
3. Disputes
- (a) A “dispute” is a disagreement between the contractor and the CO regarding the respective rights of the parties under a contract. A dispute arises between a contractor and the Government during or after the performance of a contract, when a claim is denied by the party against which it is made. Under the Contract Disputes Act of 1978, contractors are permitted to submit claims (demands for a “sum certain”) against the Government, and conversely, the Government may make claims against contractors.

- (b) The NRC follows the Government's policy to try to resolve all contractual issues in controversy by mutual agreement at the CO level. Reasonable efforts should be made by all parties to resolve controversies before the submission of a claim. The use of alternative dispute resolution (ADR) procedures is encouraged to the maximum extent practicable. "ADR" means any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These methods include, but are not limited to assisted settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini-trials, and arbitration.
  - (c) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement, and a decision on the claim is necessary, the CO will review the facts pertinent to the claim. The CO will secure help from OGC; SBP, if appropriate; and other advisors, and will coordinate with the CS to prepare a memorandum for the contract file that includes: a description of the claim or dispute; a reference to the pertinent contract terms; a statement of the factual areas of agreement and disagreement; and a statement of the CO's decision with supporting rationale. If resolution cannot be reached, final decisions of the CO on contract disputes may be appealed to the Civilian Board of Contract Appeals. More information regarding disputes may be found in FAR Part 33.
4. Remedies for Poor Contractor Performance: There are some remedies at the agency's disposal that may be used when contractor performance does not meet the requirements of the contract.
- (a) Stop-Work Orders
    - (i) A stop-work order is a unilateral order in which the CO requires the contractor to stop all or any part of the work under the contract or order. Stop-work orders may be issued if the contract contains a suspension of work clause (FAR 52.242-14) or a stop-work-order clause (FAR 52.242-15). They are optional in contracts for supplies, services, or research and development. These clauses give the contractor an adjustment in the price to compensate for costs incurred because of the order.
    - (ii) Under normal circumstances, stop-work orders are only effective for three months at a time, after which point, the CO notifies the contractor either to resume work, or notifies the contractor that the agency will be proceeding with an action to terminate the contract for convenience. A stop-work order may not be used in place of a termination notice after a decision to proceed with a termination for default has been made (see FAR 42.13).
    - (iii) Note: CORs do not have the legal authority to issue stop-work orders. CORs are advised to contact their designated COs and seek guidance as soon as it becomes evident that a stop-work may become necessary.

(b) Terminations

- (i) "Termination for convenience" is the right of the agency to terminate or cancel performance of work under a contract, in whole or in part, if the CO determines that termination is in the agency's best interest. This action is normally taken only if the agency no longer needs the supplies or services provided under the contract in question. Under a termination for convenience, the agency and contractor will normally negotiate a settlement in which the Government pays for reasonable expenses the contractor incurs in connection to carrying out the termination. Once a contract is terminated for convenience, the Government normally may not immediately initiate a new requirement or contracting action for what amounts to the same work that had been terminated under the previous contract.
- (ii) "Termination for default" is the right of the agency to terminate a contract completely or partially because of the contractor's actual or anticipated failure to perform its contractual obligations. To terminate a contract for default, it is imperative that the COR accurately and promptly assess the contractor's progress and document any problems. The COR must notify and provide information to the CO, who must determine, normally with the contractor's input, whether the contractor can make satisfactory corrections. This is best accomplished by addressing every incidence of unsatisfactory performance with the contractor as soon as it occurs, and documenting these occurrences to the file to build a strong case to justify terminating for default. In a termination for default scenario, the contractor has fewer settlement rights than it does under a termination for convenience, and once the contract has been terminated, another contractor may be selected to continue the work.
- (iii) The COR will immediately advise DFS and OCIO by email of pending contract terminations when contractor access to the NRC IT systems, or NRC building access is involved. The contractor employee's badge should be returned to DFS immediately (no later than 3 days) after termination. Terminating contractor access authorizations will be handled in accordance with MD 12.3, Section II.
- (iv) Note: CORs do not have the legal authority to issue terminations. CORs must notify their designated COs and seek guidance as soon as it becomes evident that a termination of either type may become necessary. More information may be found on termination of contracts in FAR Part 49.

**L. Unauthorized Commitments**

1. The Government is not bound by agreements or contractual commitments made to prospective contractors by persons to whom contracting authority has not been delegated, or by those individuals who have acted outside of the limits of their authority (e.g., making changes to the SOW, delivery schedule, or increasing or

decreasing the costs under the contract). An unauthorized commitment may be in violation of the Federal Property and Administrative Services Act, the FAR, NRCAR, and other Federal laws. Certain statutory and regulatory requirements necessary for the proper establishment of a contractual obligation may not be met via an unauthorized commitment. Examples of these requirements are the certification of the availability of funds, sole source contract decisions as detailed in JOFOCs, competitive source selection, determination of contractor responsibility, certification of current pricing data, price and cost analysis, administrative approvals, and negotiations of appropriate contract clauses.

## 2. Requests for Ratification of an Unauthorized Commitment

- (a) The execution of otherwise proper contracts made by individuals without contracting authority, or by COs that exceed the limits of their warrant authority, may later be ratified. Ratification actions must be initiated by the DO, who then supplies all relevant documentation to the CO.
- (b) Documentation for ratification actions includes, but is not limited to—
  - (i) A written statement consistent with the size and complexity of the action as to why the contracting office was not used, including the name of the employee who made the commitment and a statement that funds were available at the time of the unauthorized commitment.
  - (ii) A statement as to why the contractor in question was selected, and a list of all other alternative sources considered.
  - (iii) A description of work performed, to be performed, or products to be furnished.
  - (iv) The estimated or agreed-upon contract price.
  - (v) A certification of the appropriated funds available, signed by an authorized funds certifying official.
  - (vi) A description of how unauthorized commitments in similar circumstances will be avoided in the future.
- (c) All ratification actions of any value must be reviewed by OGC and approved by the appropriate Regional Administrator (RA) or the Head of Contracting Activity (HCA). At both NRC headquarters and in the regions, Ratification actions exceeding the micro-purchase threshold must also be reviewed by the CA before approval by the RA or the Director, AMD. (See FAR 1.602-3 for information on reviews and approval of ratifications.)
- (d) Insufficient Funds. The Director, Division of Budget, OCFO, should be immediately notified if there are insufficient funds available to cover an unauthorized commitment that should otherwise be ratified.

**M. Contractor Differing Professional Opinions (DPOs)**

1. It is NRC's policy to maintain a working environment that encourages its staff to express their best professional judgment, even though they may differ from a prevailing staff view, disagree with a management decision or policy position, or take issue with proposed or established agency practices. MD 10.159, "The NRC Differing Professional Opinions Program," establishes procedures for NRC employees and contractors to express differing professional opinions (DPO). This process supports the contractor's expression of professional concerns related to health and safety associated with the contractor's work for the NRC. These concerns may take the form of a contractor—
  - (a) Differing from a prevailing NRC employee's view,
  - (b) Disagreeing with an NRC management decision or policy position, or
  - (c) Taking issue with proposed or established agency practice involving technical, legal, or policy issues.
2. A clause detailing the contractor DPO procedure shall be included in the solicitation as prescribed in Part 2052.242-71 of the NRCAR. The contractor shall provide a copy of the NRC DPO procedure to all its employees, as well as all consultants and subcontractors performing under the contract in question.
3. Contract funds shall not be authorized to document an allegation in the following instances for which the use of the NRC contractor DPO process is inappropriate:
  - (a) Allegations of wrongdoing, which should be addressed directly to OIG;
  - (b) Issues submitted anonymously;
  - (c) Issues that the NRC deems to be frivolous; and
  - (d) Issues raised that have already been considered, addressed, or rejected, absent significant new information.
4. See Section XI of MD 10.159 for more information.

**N. Issuing Technical Directions**

Frequent communication with the contractor may help avert performance problems. The COR may give the contractor technical direction and clarification consistent with the COR's delegated authority outlined in the contract and in the COR's delegation memo received from the CO. The COR has no legal authority to provide any direction to the contractor that changes the scope of the work, cost, or contract period of performance. Contractors in receipt of technical direction that they believe is outside the scope of the COR's delegated authority are directed to contact the CO before proceeding with the

task or activity that has been directed by the COR. Changes of this nature constitute modifications to the contract and as such, the COR needs to coordinate with the CO/CS.

#### **O. Monitoring Contractor Performance**

1. Generally: Both the COR and the CS must monitor the contractor's performance closely to ensure that the work is performed promptly and satisfactorily. Frequent and meaningful communication with the contractor is essential to achieve this objective.
2. Monitoring for Cost Control: To control the contractor's cost expenditures and to ensure that NRC's objectives are met, contract provisions may require the contractor to obtain the CO's authorization and approval before taking specific actions or incurring certain costs. For example, prior approval is required for—
  - (a) Certain subcontracting actions under cost-reimbursement-types of contracts and certain other contracts (see FAR 44.20).
  - (b) Reimbursement of costs incurred that, while within the total estimated cost ceiling of the contract, still exceed cost and funding limitations, under cost-reimbursement type contracts (see 52.232-20, "Limitation of Cost"; and 52.323-22, "Limitation of Funds").
  - (c) Reimbursement for contractor overtime charges and premium wage payments.
  - (d) Unplanned contractor travel and transportation.
  - (e) Equipment purchases that were not part of the contractor's proposal or the negotiated contract.
3. Because the circumstances requiring approval may directly relate to the technical performance of the work, the CO will consult with the COR before formally granting or withholding approval.

#### **P. Performance Evaluations**

1. Generally: FAR 42.15 requires that an evaluation of contractor performance be prepared for active contracts (except those awarded to the Federal Prison Industries and nonprofit agencies employing people who are blind or severely handicapped) in excess of the SAT (see FAR 42.1502). Interim contractor performance evaluations are required annually, and a final evaluation is required once the contract has ended. The COR will fill out the CPAR evaluation form and provide it to the CO/CS for review. After reviewing the evaluation and making any changes, the CS sends the evaluation form to the contractor for review and comment. Finalized CPAR evaluations are stored in the Contractor Performance Assessment Report System (CPARS) for future retrieval by Federal agencies.

2. The COR's evaluation of the contractor's work should be performed at a level of detail and frequency commensurate with the nature of the work. The evaluation should center on determining actual progress toward the contract's objective, the general quality of the work to-date, and the financial status of the contract. The COR takes into consideration whether the funds expended thus far by the contractor are commensurate with the percentage of work completed. The basis from which some conclusions can be drawn about the performance of the contract is established by information gathered from—
  - (a) Day-to-day surveillance of the work,
  - (b) Reviewing technical reviews performed and submitted by the contractor,
  - (c) Reviewing contractor spending plans,
  - (d) Assessing the quality and timeliness of deliverables, and
  - (e) MLSR progress reports.

**Q. Documenting Contract Performance Evaluations - Contractor Performance Assessment Reporting System (CPARS)**

1. FAR 42.1502 requires that past performance evaluations be prepared at least annually for each contract or order that exceeds the SAT (the Annual Contractor Performance Assessment Report (CPAR)), and at the time the work under a contract or order is completed (the Final CPAR). Furthermore, this information shall be entered into CPARS, the Governmentwide evaluation reporting tool for all past performance reports on contracts and orders. Final CPAR evaluations must be prepared for all expiring contracts in that exceed the SAT (except those awarded to the Federal Prison Industries and non-profit agencies employing people who are blind or severely handicapped or for construction and A-E services included in FAR 42.1502). This information will be used to provide current information to NRC SEPs and to other Federal agencies that request it for source selection purposes.
2. Careful evaluation of the contractor's performance on both an annual basis and after contract completion is very important, as this evaluation process serves as a valuable tool in determining the contractor's suitability for future work. The COR should prepare a written evaluation in consultation with the CS. The evaluation report should be kept on file in AMD for future reference to provide useful data for future source selection activities. The report should cover the following elements on the CPARS form:
  - (a) Quality,
  - (b) Schedule,
  - (c) Cost Control (Not required under Firm Fixed Price contracts),

- (d) Management,
  - (e) Regulatory Compliance,
  - (f) Use of Small Business (required only if the contract contains a Small Business Subcontracting Plan), and
  - (g) At the bottom of the form, the evaluator must fill out a statement as to whether the evaluator would recommend the contractor for other contracts for similar requirements.
3. For each of the above elements on the CPAR form, the evaluator must assign one of the five available adjectival ratings and provide narrative that appropriately supports the adjectival rating that has been selected.
  4. CPAR evaluations for IDIQs: For IDIQs, the CO makes the determination at IDIQ award if CPAR evaluations are to be completed at the IDIQ level, or at the order level. If the CO decides that CPAR evaluations are to be completed at the order level, then each order exceeding the SAT is subject to the requirement of annual and final CPAR reporting. The decision as to whether to complete CPAR evaluations at the IDIQ or order level is determined largely by the nature of the orders expected to be issued off the IDIQ in question. If the orders are all going to be of similar scope (for providing the same type or supply or service), then a CPAR at the IDIQ-level makes sense. If, however, the orders will supply different or varied scope (for different types of supplies and services), then the CPAR at the order-level makes sense.
  5. Note: There are resources relating to CPARS available at the Acquisition Navigator in [NEAT](#).

## **VII. THE CONTRACT/ORDER CLOSEOUT PHASE**

### **A. Overview of the Closeout Process**

1. Contract closeout is the final phase in the lifecycle of a Government contract or order. The contract closeout process does not begin until the contract is physically complete. Per FAR 4.804-4, a contract is physically complete when—
  - (a) The contractor has completed the required deliveries, and the Government has inspected and accepted the supplies;
  - (b) The contractor has performed all services, and the Government has accepted these services; and
  - (c) All option provisions, if any, have expired or the Government has given the contractor a notice of complete contract termination.

2. The Contract Closeout Phase begins after the contract's period of performance has expired, or after the CO has terminated the contract, either for Convenience or for Default. The COR initiates the contract closeout process by submitting a requisition to AMD requesting that the contract be closed out. Upon receipt of the closeout requisition, the CO completes the closeout process by resolving all remaining issues as to contract performance, evaluation, and payment with the contractor and, if necessary, issuing a closeout modification. Because closeout requirements can differ substantially from one type of contract to the next, to minimize the risk and delay of reworking and resubmitting closeout requisition packages multiple times, if CORs have questions or concerns about the process, they are advised to consult with their designated COs before submitting requisition packages for contract close out.
3. Contract Close Out Timelines: Under FAR 4.804, orderly and timely closeout of all contract files for expired contracts shall take place within the following time standards—
  - (a) Simplified acquisition contracts should be closed once the CO receives evidence of receipt of supplies or services and final payment.
  - (b) Firm-fixed-price contracts, other than those using simplified acquisition procedures, should be closed within 6 months after the date on which the CO receives evidence of physical completion. Please refer to specific agency guidance for Closeouts for Firm-fixed-price contracts, located in [NEAT](#).
  - (c) Cost-reimbursement contracts or contracts requiring settlement of indirect cost rates should be closed within 36 months of the month in which the CO receives evidence of physical completion. Please refer to specific agency guidance for Closeouts for Cost Reimbursement contracts, located in [NEAT](#).
4. COR Closeout Responsibilities: The COR is responsible for creating and submitting the requisition package for contract closeout, generally within 90 days after the period of performance has ended. If any funds remain on the contract to be deobligated, the requisition must at least contain a statement directing the CO to deobligate all remaining unliquidated obligations (ULO) from the contract. The requisition package for contract closeout differs, depending on the type of contract to be closed out. The specific differences in the closeout process as applicable to different contract types are discussed in more detail below; however, for each contract to be closed out, as part of the closeout requisition package, the COR prepares and signs the COR Certification of Contract Completion memorandum. In addition, if the contract is over the SAT threshold, the COR must also submit a completed Final CPAR evaluation.
  - (a) The COR Certification of Contract Completion: This memo documents the COR's certification that all deliverables under the contract have been received and accepted; all work has been performed and accepted; all property issues (both real and intellectual property) have been resolved; all disputes have been

resolved; and all contractor security clearances and badges and access have been resolved. In the event of contract disputes or claims, CORs are responsible for assisting the CO in the settlement of any outstanding claims, change orders, or value engineering change proposals. CORs may find samples of this memo posted on [NEAT](#).

- (b) Final CPARS Evaluation Form: The COR must submit a Final CPARS Evaluation form with all closeout requisition packages for contracts exceeding the SAT value. Samples of this form are posted on [NEAT](#). This is discussed in greater detail later in this section under B, "Documenting Final Contractor Performance Evaluations".
5. CO Closeout Responsibilities: Once the CO receives the requisition for contract close out, the CO must verify that the contractor has fulfilled all the obligations defined in the contract before formally closing out the contract. At the end of the closeout process, the CO prepares and awards a bilateral modification, SF 30, "Amendment of Solicitation/Modification of Contract," which deobligates any remaining ULO and closes out the contract. In accordance with the memorandum from the director, AMD to the CFO, "Request to Establish a Threshold for Completing a Unilateral Close-Out and Deobligation of Unliquidated Obligations," March 16, 2023 ([ML23075A085](#)), the CO may unilaterally close out and deobligate a contract that is at or below the micro-purchase threshold. FAR 4.804-5 lists the items that the contracting officer must verify during the closeout process.
- (a) Disposition of classified material is completed,
  - (b) Final patent report is cleared,
  - (c) Final royalty report is cleared,
  - (d) There is no outstanding value engineering change proposal,
  - (e) Plant clearance report is received,
  - (f) Property clearance is received,
  - (g) All interim or disallowed costs are settled,
  - (h) Price revision is completed,
  - (i) Subcontracts are settled by the prime contractor,
  - (j) Prior year indirect cost rates are settled,
  - (k) Termination docket is completed,
  - (l) Contract audit is completed,
  - (m) Contractor's closing statement is completed,
  - (n) Contractor's final invoice has been submitted, and

(o) Contract funds review is completed and excess funds de-obligated.

## **B. Documenting Final Contractor Performance Evaluations**

1. FAR 42.1502 requires that past performance evaluations be prepared at least annually for each contract or order that exceeds the SAT (the Annual CPAR), and at the time the work under a contract or order is completed (the Final CPAR). The process for entering both the Annual and Final CPAR is essentially the same, as discussed previously in this handbook, Section VI.Q, “Documenting Contract Performance Evaluations – Contractor Performance Assessment Reporting System (CPARS).”
2. Final CPAR evaluations must be prepared for all expiring contracts that exceed the SAT (except those awarded to the Federal Prison Industries and non-profit agencies employing people who are blind or severely handicapped or for construction and A-E services included in FAR 42.1502). This information will be used to provide current information to NRC SEPs and to other Federal agencies that request it for source selection purposes.
3. Note: There are resources relating to CPARS available in [NEAT](#).

## **C. Payment of Final Invoices**

1. Final Invoices for Terminated Contracts: The invoice payment method on termination of contracts generally is set out in the contract schedule, and the fee that is due is determined by the CO by the percentage of work completed under the contract (see FAR Part 49).
2. Payment of Final Invoices Under CPFF Contracts: Under CPFF contracts, no agreement will be made about the accuracy of amounts charged to or paid by the agency until a final cost audit is completed, including a review of indirect cost rate adjustments. Only then can the agency notify the contractor with respect to any overpayment. A CPFF contractor must reimburse the agency for any reductions in cost for which it has already been compensated. The agency retains the right to sue for recovery of overpayments on contracts regardless of how long it takes to recover overpayment. COs must seek recovery of any payments that have been made by mistake, even after final payment has been made, since no officer has the authority to give away rights vested in the Government.

## **D. Deobligation of Excess Funds**

1. Whenever it becomes apparent that funding obligated to a contract document will not be needed to perform under the SOW, excess funds should be deobligated. Most frequently, excess funds are deobligated when contracts expire, as part of the contract closeout process. In most situations, the CS will modify the contract with the agreement of the contractor (bilateral). At the micro-purchase threshold, a unilateral

action may be taken to close out and deobligate unliquidated obligations ([ML23075A085](#)). A unilateral deobligation can also be processed if a dispute cannot be resolved; however, when funds are deobligated unilaterally during a dispute, the contractor normally will have appeal rights.

2. The COR should notify the CS when it becomes apparent that funds should be considered for deobligation on an active contract.
3. Unliquidated obligations (excess funds) must be deobligated from contracts before the closeout process can be completed. The agency must decide if outstanding funds in the agency's accounting system (Financial Accounting and Integrated Management Information System (FAIMIS)) are available for deobligation before completion of the closeout process, or alternatively whether the funds should remain on the contract until the closeout process is completed. There are several circumstances where it is appropriate to keeping unliquidated funds on the contract, such as—
  - (a) Funds are due to the contractor for remaining portions of the contractor's unpaid 15 percent fixed-fee.
  - (b) Funds may be needed for potential indirect cost rate adjustments.
  - (c) Funds may be owed for unresolved/suspended vouchers.

#### **E. Disposition of Contractor Hold-Back Funds**

1. If a portion of the fee due to the contractor has been placed in hold-back during the period of performance of the contract, the CO will determine during the close-out process when and how much of that hold-back amount to release to the contractor for payment. Typically, these hold-back funds are not released until all issues and disputes regarding the contract have been resolved.
2. If the CO determines during close-out that there is some reason that the contractor is not entitled to receive the entire amount of fee that has been put into hold-back, the CO shall document these reasons in the contract file. In certain situations, the CO may consult with OGC before finalizing close-out. In situations where it has been determined that the contractor is not entitled to receive 100% of the amount of fee in hold back, the contractor shall be paid the amount of fee in hold-back that the CO determines is reasonable, and the balance of the fee in hold-back shall be deobligated from the contract.

#### **F. Termination of Contractor Employee Access Authorization During Contract Closeout**

1. When all work and services under a contract have been completed (or a contractor has been terminated, a contractor employee leaves, or a contract employee no longer requires access during contract performance), the COR shall immediately

advise DFS (PSB) and OCIO by submitting NRC Form 851, "Contractor Closeout," located in the NRC Forms Library, indicating that access by the contractor personnel under this contract to the NRC IT systems is no longer required, so that access authorizations may be terminated, as appropriate (see MD 12.3 Handbook Section II, "Termination of Access Authorization").

2. In these circumstances, the COR is required to—
  - (a) Ensure that all classified and controlled unclassified documents charged to the person are accounted for and properly disposed of.
  - (b) Arrange for immediate return of badges or passes.
  - (c) Notify PSB to remove the individual's name from all access lists.
  - (d) Ensure that combinations for any safes that the contractor's employee had access to are immediately changed.
  - (e) Arrange for the person's name to be removed from access permissions to critical or sensitive areas, such as telephone closets and computer rooms.
  - (f) Notes:
    - (i) CORs should bear in mind that many contractor personnel work on several agency contracts or orders at the same time, so termination of contractor personnel access in respect to their specific contract or order does not necessarily equate to or result in a revocation of the contractor personnel's badge or access as it legitimately relates to duties to other NRC contracts or orders).
    - (ii) All security matters regarding contracts are addressed in MD 12.1 and MD 12.3. MD 12.3, Handbook Section II, discusses access terminations specifically. All contractually related security questions must be coordinated with both DFS and AMD.

### **G. Contract Closeout Processes for Different Types of Contracts**

1. The specific closeout process to be used is controlled by the type of contract to be closed out. Therefore, before beginning the closeout process for any contract, CORs are advised to consult the materials posted on NEAT that pertain to the specific type of contract that the COR intends to close out. Acquisition Navigators for (a) Cost Reimbursement-type contracts and (b) Fixed-Price, Time and Materials, and Labor Hour-type contracts are available in [NEAT](#). These documents provide an overview of the closeout processes that apply to the different types of contracts.

2. Quick Closeout Procedures: FAR 42.708 allows the CO to negotiate the settlement of direct and indirect costs for contracts and orders. The CO is responsible for making the determination as to when the use of the quick-closeout procedure is appropriate.

## U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

### EXHIBIT

#### Exhibit 1      Acronyms

8(a)	Section 8(a) of the Small Business Act – 8(a) Small Business Program
A-E	Architecture-Engineering
ADAMS	Agencywide Documents Access and Management System
ADM	Office of Administration
AMD	Acquisition Management Division, Office of Administration (acquisition office)
ADR	Alternative Dispute Resolution
APP	Advance Procurement Plan
BAA	Broad Agency Announcement
BPA	Blanket Purchase Agreement
CA	Competition Advocate
CAA	Cognizant Audit Agency
CAO	Chief Acquisition Officer
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
CICA	Competition in Contracting Act
CIO	Chief Information Officer
CLIN	Contract Line Item Number

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For updates or revisions to policies contained in this MD that were published after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

CNWRA	Center for Nuclear Waste Regulatory Analyses
CO	Contracting Officer
COC	Certificate of Competency
COI	Conflict of Interest
COR	Contracting Officer's Representative
CPAR	Contractor Performance Assessment Reports
CPARS	Contractor Performance Assessment Reporting System
CPFF	Cost-Plus-Fixed-Fee
CPIC	Capital Planning and Investment Control
CR	Continuing Resolution
CS	Contract Specialist
CSP	Contractor Spending Plan
D&F	Determination and Findings
DCAA	Defense Contract Audit Agency
DFS	Division of Facilities and Security, Office of Administration
DOC	The Controller, Division of the Controller, Office of the Chief Financial Officer
DO	Designating Official
DOE	Department of Energy
DOL	Department of Labor

DPO	Differing Professional Opinion
DSBS	Dynamic Small Business Search
EDO	Executive Director for Operations
EDWOSB	Economically Disadvantaged Women-Owned Small Business
EPA	Environmental Protection Agency
EPEAT	Electronic Product Environmental Assessment Tool
EWC	Enterprise Wide Contract
FAC-C	Federal Acquisition Certification in Contracting
FAC-COR	Federal Acquisition Certification for Contracting Officer Representatives
FAC-P/PM	Federal Acquisition Certification for Program and Project Manager
FAIMIS	Financial Accounting and Integrated Management Information System
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
FCO	Funds Certifying Official
FEDSIM	Federal Systems Integration and Management Center
FEMP	Federal Emergency Management Program
FFP	Firm-Fixed-Price

FFRDC	Federally funded research and development centers
FLB	Facilities and Logistics Branch, Division of Facilities and Security, Office of Administration
FLSB	Facilities, Logistics, and Support Branch, Division of Facilities and Security, Office of Administration
FSR	Financial Status Report
FSS	Federal Supply Schedule
FSSI	Federal Strategic Sourcing Initiative
FY	Fiscal Year
G&A	General and Administrative expense
GAO	Government Accountability Office
GFP	Government-furnished property
GSA	General Services Administration
HCA	Head of Contracting Activity
HUBZone	Historically Underutilized Business Zone
ICT	Information and Communication Technology
IGCE	Independent Government Cost Estimate
IT	Information Technology
IDC	Indefinite Delivery Contract
ISSO	Information System Security Officer
JOFOC	Justification for Other Than Full and Open Competition

LAN	Local Area Network
LPTA	Lowest Price Technically Acceptable
MAC	Multi-Agency Contract
MAS	Multiple Award Schedule
MD	Management Directive
MLSR	Monthly Letter Status Report
NEAT	U.S. Nuclear Regulatory Commission's Enterprise Acquisition Toolset
NRC	Nuclear Regulatory Commission
NRCAR	Nuclear Regulatory Commission Acquisition Regulation
OCFO	Office of the Chief Financial Officer
OCHCO	Office of the Chief Human Capital Officer
OCIO	Office of the Chief Information Officer
OCOI	Organizational Conflict of Interest
OD	Office Director
ODC	Other Direct Costs
OF	Optional Form
OFPP	Office of Federal Procurement Policy
OGC	Office of the General Counsel
OIG	Office of the Inspector General

OMB	Office of Management and Budget
PA	Purchasing Agent
PALT	Procurement Administrative Lead Time
PBA	Performance-Based Acquisition
PBC	Performance-Based Contracts
PBSA	Performance-Based Services Acquisition
PC	Portfolio Council
PPT	Procurement Policy Team, Acquisition Management Division, Office of Administration (Acquisition Office)
PPIRS	Past Performance Information Retrieval System
PSB	Personnel Security Branch, Division of Facilities and Security, Office of Administration
PWS	Performance Work Statement
Q&A	Questions and Answers
RA	Regional Administrator
RFI	Request for Information
RFP	Request for Proposal (Solicitation)
RFQ	Request for Quotations
SAM	System for Award Management
SAT	Simplified Acquisition Threshold
SBA	Small Business Administration

SBCR	Office of Small Business and Civil Rights
SBP	Small Business Program
SDB	Small Disadvantaged Business
SDVOSB	Service-Disabled Veteran-Owned Small Business
SEP	Source Evaluation Panel
SF	Standard Form
SOO	Statement of Objectives
SOW	Statement of Work
SPE	Senior Procurement Executive
SS	Sources Sought Notice
SSA	Source Selection Authority
SSG	Strategic Sourcing Group
STAQS	Strategic Acquisition System
SubCLIN	Contract Subline Item Number
T&M	Time-and-Materials
TO	Task Order
U.S.C.	United States Code
VOSB	Veteran-Owned Small Business
WBS	Work Breakdown Structure
WOSB	Women-Owned Small Business

