A Practical Guide to Source Selection

Provides guidance on the procedures of FAR 15 and Subpart 8.4

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PREFACE

This document provides Department of Homeland Security (DHS) contracting professionals with a practical guide on source selection procedures when contracting by negotiations pursuant to Federal Acquisition Regulation (FAR) Part 15 and orders for supplies or services placed against Federal Supply Schedule contracts and Blanket Purchase Agreements (BPAs) established against Federal Supply Schedule contracts under FAR subpart 8.4. The guide was designed to help DHS contracting professionals navigate the source selection process and ordering procedures contained in these FAR parts, but its use is not mandatory.

This guide is intended to be straight-forward and user friendly. A detailed table of contents is provided to help you locate information quickly and Appendix A: Definitions is included to better ensure understanding of the content. There are two important points to remember when using this guide:

- The same principles apply in selecting and executing a source selection process or technique whether you are using a highly structured source selection organization for a complex acquisition or a more streamlined process for a less complex acquisition.

- Tailor the source selection process to fit the circumstances of the acquisition. A common pitfall in the source selection process is making the process more complicated than necessary. When planning procurements, make decisions based on the complexity of the acquisition and the availability of resources.

Note: This guide is not a substitute for the policies and procedures of the FAR, the Homeland Security Acquisition Regulation (HSAR), the Homeland Security Acquisition Manual (HSAM) or policies or procedures established within your Component. Also, see DHS Management Directive Number 11042.1 Safeguarding Sensitive but Unclassified (For Official Use Only) Information for policy regarding the handling of contractors’ proposals and other unclassified source selection sensitive documents and information. Comments, corrections or suggestions for improving this guide are welcome and may be submitted to the Office of the Chief Procurement Officer (OCPO)/Office of Acquisition Policy and Legislation (APL).
# Table of Contents

## CHAPTER 1: INTRODUCTION

1.1 Scope ................................................................................................................................. 1  
1.2 Procurement Integrity and Personal Conduct ................................................................. 1

## CHAPTER 2: FAR PART 15 CONTRACTING BY NEGOTIATION

2.1 Applicability .................................................................................................................. 2  
2.2 Overview ....................................................................................................................... 2  
2.3 Source Selection Organization ...................................................................................... 2  
    2.3.1 Components of a Structured SSO ............................................................................. 3  
    2.3.2 SSO Roles and Responsibilities ............................................................................ 4  
    2.3.3 Administrative Support Considerations .............................................................. 6  
2.4 Pre-Solicitation Activities ............................................................................................. 6  
    2.4.1 Acquisition Planning ............................................................................................... 6  
    2.4.2 Acquisition Strategy Session ............................................................................... 6  
    2.4.3 Market Research .................................................................................................... 7  
    2.4.4 Source Selection Plan ............................................................................................ 7  
    2.4.4.1 Source Selection Processes and Techniques ..................................................... 8  
    2.4.4.1.A Tradeoff Process ............................................................................................ 8  
    2.4.4.1.B Lowest Price Technically Acceptable Process ............................................. 9  
    2.4.4.2 Evaluation Factors ............................................................................................ 10  
    2.4.4.3 Standards and Rating Methodology ................................................................. 11  
    2.4.4.4 Proposal Evaluation Procedures ...................................................................... 12  
    2.4.5 Solicitation Development ...................................................................................... 12  
2.5 Interacting with Industry After Solicitation Release .................................................. 13  
    2.5.1 Receiving and Responding to Questions from Industry ....................................... 13  
    2.5.2 Pre-Proposal Conferences ................................................................................... 13  
    2.5.3 Site Visits ............................................................................................................ 14  
2.6 Source Selection Evaluation and Decision Process ...................................................... 14  
    2.6.1 Initial Evaluation of Proposals .............................................................................. 14  
    2.6.1.1 Conduct Evaluation Training ........................................................................... 15  
    2.6.1.2 Receive Proposals ............................................................................................. 15  
    2.6.1.3 Conduct Initial Screening ............................................................................... 15  
    2.6.1.4 Conduct Kick-off Briefing ............................................................................... 16  
    2.6.1.5 Conduct Initial Proposal Evaluation .................................................................. 16  
    2.6.1.6 Document Evaluation Results .......................................................................... 18  
    2.6.1.7 Conduct Exchanges with Offerors Before Establishing the Competitive Range ................................................................. 19  
    2.6.1.8 Prepare SSEB Report/Presentation ................................................................... 20  
    2.6.1.9 Award Contract/Establish Competitive Range .................................................. 20  
    2.6.2 Competitive Range Determination ....................................................................... 21  
    2.6.3 Pre-Award Debriefings .......................................................................................... 22  
    2.6.4 Exchanges with Offerors After Establishing the Competitive Range .................. 22  
    2.6.5 Final Proposal Revisions (FPRs) ......................................................................... 24  
2.7 Source Selection Decision ............................................................................................. 25  
2.8 Contract Award and Notification .................................................................................. 27  
2.9 Post-Award Debriefings ............................................................................................... 28  
2.10 Protests ......................................................................................................................... 28  
2.11 Documentation Requirements ..................................................................................... 29  

## CHAPTER 3: FAR SUBPART 8.4 FEDERAL SUPPLY SCHEDULES

3.1 Applicability .................................................................................................................... 30
3.2 OVERVIEW .......................................................................................................................... 30
3.3 ORDERING PROCEDURES ................................................................................................. 31
3.4 TECHNICAL EVALUATION METHODOLOGY ................................................................. 31
  3.4.1 TRADEOFF PROCESS ................................................................................................. 31
  3.4.2 LOWEST PRICE TECHNICALLY ACCEPTABLE PROCESS ........................................ 32
  3.4.3 EVALUATION CRITERIA ............................................................................................ 32
3.5 NOTIFICATION REQUIREMENTS ....................................................................................... 33
3.6 PROTESTS .......................................................................................................................... 33
3.7 DOCUMENTATION REQUIREMENTS ................................................................................. 34

APPENDIX A: DEFINITIONS ................................................................................................... A-1
APPENDIX B: GUIDELINES FOR DEVELOPING EVALUATION FACTORS .................... B-1
APPENDIX C: DEVELOPING EVALUATION STANDARDS .............................................. C-1
APPENDIX D: ADJECTIVAL RATING SYSTEM ...................................................................... D-1
APPENDIX E: ORAL PRESENTATIONS GUIDANCE ............................................................ E-1
APPENDIX F: COST REALISM ANALYSIS ............................................................................. F-1
CHAPTER 1: INTRODUCTION

1.1 SCOPE

This guidebook provides the background, principles, and techniques to conduct effective source selections, place orders against Federal Supply Schedule (FSS) contracts, and establish blanket purchase agreements against FSS contracts. It targets specific areas germane to the Department of Homeland Security (DHS), while also emphasizing the tactical and transactional steps you must take to achieve a successful outcome.

1.2 PROCUREMENT INTEGRITY AND PERSONAL CONDUCT

The source selection process requires demonstration of the highest degree of integrity of all participants in the process. The principles of integrity and fairness must remain uppermost in the minds of all technical evaluation team members, and the conduct of every evaluation team member must be above reproach. All offerors must not only be treated fairly but they must also feel like they are being treated fairly. Even seemingly small unintentional acts or misstatements can undermine the perception of fairness.

The contracting officer or Source Selection Authority (SSA) is responsible for ensuring each member of the acquisition team, whether a Government employee or a Government contractor, receives training on the importance of these considerations. At the conclusion of such training, each acquisition team member shall be required to execute a brief document/form acknowledging that: (i) training was received; and (ii) he/she understands the elements of procurement integrity that apply to his/her participation in the source selection process. The contracting officer or SSA may delegate the responsibility for providing this training to another team member such as the chairperson of the evaluation board, or contract specialist. Additionally, Government contractors who provide technical or other support services with respect to the technical evaluation process shall complete DHS Form 11000-6 entitled “NON-DISCLOSURE AGREEMENT.” Federal employees shall not be required to complete any form of non-disclosure agreement.

Procurement integrity issues are covered under FAR subpart 3.104 and include prohibitions on disclosing and obtaining procurement information (e.g., contractor bid, quotation, or proposal information as well as source selection information) and accepting compensation from a contractor. Additionally, DHS Federal employees are subject to the provisions of the Trade Secrets Act (18 U.S.C. § 1905), which imposes non-disclosure obligations on them and all Federal employees. This Act provides penalties for unauthorized disclosure of confidential information of non-Government entities outside the Government, including imprisonment, fines and loss of employment. If there is a suspected procurement integrity violation during the technical evaluation process, the contracting officer should consult legal counsel for procedural guidance before continuing with the procurement.
CHAPTER 2: FAR PART 15 CONTRACTING BY NEGOTIATION

2.1 APPLICABILITY

The procedures of this Chapter are applicable when conducting negotiated source selections under FAR Part 15 Contracting by Negotiation. In addition, the procedures found in the following FAR Parts are applicable to acquisitions conducted under FAR Part 15:

- Part 5 Publicizing Contract Actions
- Part 7 Acquisition Planning
- Part 9 Contractor Qualifications
- Part 10 Market Research
- Part 19 Small Business Programs
- Subpart 33.1 Protests
- Subpart 37.6 Performance Based Acquisition
- Part 39 Acquisition of Information Technology

2.2 OVERVIEW

Source selection is the process used in competitive, negotiated contracting to select the proposal expected to result in the best value to the Government. By definition, a contract awarded using other than sealed bidding procedures, is a negotiated contract. Contracting by negotiation is a flexible process that includes the receipt of proposals from offerors, permits discussion of deficiencies or weaknesses with offerors, and may afford offerors an opportunity to revise their offers before award of a contract. Award can be made on the basis of technical excellence, management capability, personnel qualifications, prior experience, past performance, and other factors bearing on quality, as well as price/cost.

2.3 SOURCE SELECTION ORGANIZATION

As there is no single source selection organization (SSO) structure that will meet the needs of all procurements, the size and composition of the SSO must be tailored to fit the needs of a specific procurement. For less complicated procurements, the team may consist of one or more technical evaluators, legal counsel (in an advisory capacity), and a contracting officer serving as the Source Selection Authority (SSA). For more complex procurements, a more structured organization, consisting of boards, evaluation teams, and advisors may be necessary to effectively evaluate offers. Regardless of its size, the SSO should reflect a multi-disciplined organization consisting of individuals from the appropriate functional areas such as contracting, technical, logistics, legal, program management, and stakeholder organizations.

Ideally, the appointment of board and team members should be balanced to include individuals with an interest in the success of the procurement and tempered by individuals from outside of the program office to allow for a measure of objectivity. SSO members must possess the appropriate subject matter expertise and be able to commit the time required to fulfill their SSO responsibilities. In addition, SSO members must be free from any biases or conflicts of interest that would impact the source selection process or outcome. It is strongly recommended that the Source Selection Evaluation Board (SSEB) Chairperson have experience successfully chairing an SSEB or an evaluation team.

The importance of the SSA cannot be overstated as the consequences of the selection decision may potentially be far-reaching on the Department. For many DHS procurements, the contracting officer may be the SSA (FAR 15.303); however, for complex procurements, such as those critical to mission success, it is strongly recommended that the Head of the Contracting Activity (HCA) delegate this authority to the program office (HSAM 3015.303). Delegating this authority helps ensure that the program or requiring
office remains accountable for the proper conduct of the evaluation and for the results of the selection decision. The delegation of authority must be in writing to a Government official who is both knowledgeable of the factors necessary to determine best value and placed at the appropriate level within the organization to ensure successful execution of the selection process. Click here to view a sample delegation memorandum.

The SSO is formally established when the SSA approves the Source Selection Plan (SSP). However, because many source selection functions occur well before approval of the SSP, the identification of SSO members, especially SSEB members, should occur as early as practicable in the acquisition planning phase. For highly structured SSOs, it is recommended that the program office and the contracting officer work through their respective management chains to finalize the nomination and appointment procedures of the Source Selection Advisory Council (SSAC) and the SSEB. For those procurements where the contracting officer serves as the SSA, the program office normally recommends prospective technical evaluators to the contracting officer, and the contracting officer appoints cost/price evaluators. When SSO members are needed from other offices, such as legal counsel, either the program office or the contracting officer should request the nomination of an individual who possesses the requisite skill or expertise needed. Nominations and appointments should be in writing. Typically, the contracting officer or contract specialist drafts the appointment memorandums on behalf of the SSA, the SSAC Chair, or the SSEB Chair, as appropriate. Click here to view a sample appointment memorandum.

2.3.1 **COMPONENTS OF A STRUCTURED SSO**

The size and structure of the SSO is a matter of SSA discretion. Primary factors impacting the breadth of a structured SSO are the dollar value, complexity, and visibility of the procurement. Although there is no one SSO structure that suits all procurements, complex or high profile procurements usually require a more structured organization consisting of an SSA, an SSAC, and an SSEB. In addition, the SSO includes the contracting officer and may include advisors and consultants. The exact structure of the SSO and the roles and responsibilities of each entity must be addressed in the SSP.

The number of advisors and evaluation team members should be commensurate with the needs and complexity of the procurement. Membership on evaluation teams should be limited to the number needed to conduct a thorough evaluation. For a structured SSO, evaluation teams consisting of more than five members should be carefully examined to ensure the team can operate effectively. The figure below illustrates a hypothetical structured SSO.
2.3.2 **SSO Roles and Responsibilities**

Each member of/within the source selection organization has distinct roles and responsibilities.

- **Source Selection Authority.** The SSA is solely responsible for selecting the source or sources for contract award and for the proper conduct of the source selection process. In addition, pursuant to FAR 15.303, the SSA is responsible for the following:
  
  o Establishing evaluation teams;
  
  o Approving the SSP before issuance of the solicitation;
  
  o Ensuring consistency among solicitation requirements, notices to offerors, proposal preparation instructions, evaluation factors and subfactors, solicitation provisions or contract clauses, and data requirements;
  
  o Ensuring proposals are evaluated based solely on the factors and subfactors contained in the solicitation;
  
  o Considering the recommendations of advisory boards or panels; and
  
  o Selecting the source or sources whose proposal is the best value to the Government.

- **Source Selection Advisory Council.** The SSAC is generally composed of senior-level management. The use of an SSAC is usually reserved for high profile procurements that have the interest of the Component head, Deputy Secretary, or Secretary. The SSAC is generally responsible for reviewing the work of the SSEB, advising the SSA, and providing a comparative analysis of proposals to the SSA.

- **Source Selection Evaluation Board.** The SSEB is usually comprised of a Chairperson and multiple evaluation teams responsible for evaluating and rating specific areas of a proposal against the Request for Proposal (RFP) requirements. Typically, there are at least three evaluation teams: 1) a team that evaluates technical/management proposals; 2) a team that evaluates past performance; and 3) a team that evaluates price or cost proposals. Each evaluation team is generally headed by an evaluation chairperson.
• **Contracting Officer.** In structured source selections, the contracting officer often serves as a business advisor to the SSA. In addition, the contracting officer performs the following duties:

  o Ensures SSO members are knowledgeable of their responsibilities and the evaluation process;
  o Ensures that all persons receiving source selection information have received training with respect to procurement integrity and personal conduct;
  o Serves as the focal point for inquiries from actual or prospective offerors after release of a solicitation;
  o Receives proposals;
  o Controls all exchanges with offerors after receipt of proposals;
  o Makes the competitive range determination;
  o Monitors proposal evaluation and coordinates issues with the evaluation team and SSA;
  o Resolves potential and actual organizational conflicts of interest and procurement integrity issues;
  o Determines whether the contractor is determined to be responsible in accordance with FAR Part 9 and documents the file with an affirmative Determination of Responsibility prior to award;
  o Determines a fair and reasonable price for supplies or services acquired;
  o Awards the contract(s); and
  o Debriefs successful and unsuccessful offerors.

• **Program Office.** The representative of the program or requiring office, such as the program manager, project officer, etc., identifies the need and prepares the Government’s technical requirements documentation in support of the acquisition to include either a statement of work (SOW), performance work statement (PWS) or statement of objectives (SOO). The program or requiring office often takes the lead in preparing the acquisition plan and assists in the development of the source selection plan and evaluation procedures. Lastly, program or requiring office members typically serve on the SSEB as evaluators.

• **Advisors.** The SSA and other members of the SSO may require specialized expertise during the evaluation process. At a minimum, legal counsel and the Component’s small business specialist should serve as advisors to the SSO. Subject matter experts may also serve as SSO advisors.

• **Support Personnel.** Support personnel may be needed to ensure the SSO operates efficiently. Examples of such personnel include: administrative assistants to the SSAC or SSEB chairperson; security custodians; reproduction and/or graphic support; information technology (IT) support personnel who may arrange for computers, internet access, and help desk support when an automated evaluation tool is used; and facilities or resource management support personnel who may arrange for facilities, building access, keys, etc. They may also provide computers and telephones when IT support is unavailable.

• **Non-Government Personnel.** The use of non-Government personnel is permitted by procurement regulation; however, before non-Government personnel are used to analyze any aspect of a proposal, the Chief of the Contracting Office must sign the written determination required by FAR 37.204 (HSAM 3037.204). While support contractors may serve in an advisory capacity, assist in price/cost analysis, or perform administrative duties such as IT support related to source selections, they may not be assigned as voting members of the SSO, participate in the rating or ranking of proposals or recommend a selection as these are inherently governmental functions. When non-Government personnel are used, and unless otherwise delegated to the SSEB chairperson or contracting officer, the SSA must ensure:
The solicitation states that non-Government participants will have access to the offerors’ proposals and that submission of an offer shall constitute consent to the disclosure of proprietary information to all non-Government participants during the source selection;

- All non-Government personnel must sign certificates of non-disclosure and financial interest specific to the source selection for which they are being provided access (i.e., DHS Form 11000-6 (08-04) NON-DISCLOSURE AGREEMENT);
- The contract under which the support contractors are employed includes an organizational conflict of interest clause prohibiting the contractor from competing on the subject acquisition; and
- Non-Government personnel shall only have access to the portions of proposals and source selection information required to perform their SSO duties.

### 2.3.3 Administrative Support Considerations

A successful source selection requires careful planning of the administrative requirements needed to support the SSO. Procurements will vary in terms of administrative support requirements; however, some of the more important requirements common to most procurements are to provide:

- Adequate facilities (to include spaces for evaluating proposals as well as space for conducting meetings and discussions with offerors). Consider whether the facilities are of an adequate size, comfortable, properly furnished, and secure; provide accommodations for the disabled; and close to copiers, printers, restrooms, etc.;
- Security controls such as controlled access with a requirement for badges or identification;
- Secure storage space for proposals and source selection materials—including evaluators’ notes;
- Disposal facilities such as burn bags or shredders for proper destruction of proposals and source selection materials;
- Appropriate computer hardware and software for conducting the evaluation, including appropriate security measures;
- Adequate telephones, facsimiles, copiers, and/or printing services located in the secure area;
- Adequate office supplies; and
- Lodging and transportation for personnel on temporary duty—including funding for travel/lodging.

### 2.4 Pre-Solicitation Activities

The following pre-solicitation activities should be conducted for all source selections.

#### 2.4.1 Acquisition Planning

Appropriate acquisition planning is paramount for a successful source selection and should begin as soon as a need is identified. In accordance with FAR subpart 7.102, agencies shall perform acquisition planning for all acquisitions. However, the activities that encompass acquisition planning vary based on the complexity, dollar value, and risk associated with the procurement. Departmental requirements for acquisition planning are located in HSAM Chapter 3007 Acquisition Planning and the DHS Acquisition Planning Guide.

#### 2.4.2 Acquisition Strategy Session

An acquisition strategy session should be scheduled soon after a need has been identified. The purpose of this meeting is to bring together members from the program or requiring office and the contracting office to foster a team approach and develop the acquisition strategy, including the contracting approach. While the participants may vary depending upon the complexity of the
procurement, this meeting should, at a minimum, include a representative from the program or requiring office and the contracting officer. Other participants may also include legal counsel, a Small Business Specialist, end users, and other specialists (e.g., price/cost analyst, logistician, etc.) depending upon the procurement objectives and history. Issues to discuss include:

- Acquisition objectives and history;
- Potential problem areas (e.g., previous protests, highly technical product/service, maturity of the product/service, unknown or limited sources, political interests, etc.);
- Commitment by key players in the acquisition process;
- Alternative acquisition strategies including use of various streamlining techniques;
- Funding availability and limitations;
- Establishment of major milestones and assignment of responsibilities;
- Need for specialized expertise to include technical experts, cost or pricing analysts, industrial engineers; and
- Contract administration requirements (e.g., Contracting Officer’s Representative (COR), surveillance, etc.).

The acquisition strategy session occurs very early in the acquisition planning phase prior to formation of the SSO. If time is limited, this meeting may be combined with the orientation meeting.

### 2.4.3 Market Research

Market research is the first step in any acquisition and essential to developing a sound acquisition strategy. The acquisition team uses market research to obtain information on products and services available in the commercial marketplace. Market research is the key to determining whether a need can be met commercially, or by a non-developmental item, and aids in the identification of commercial practices associated with such items or services. It also helps determine appropriate evaluation factors, contracting methodologies, and the amount and type of information to be included in the solicitation. The extent and breadth of market research required is dependent on the size and complexity of the acquisition and should be tailored accordingly. As the complexity of the acquisition increases, it is imperative that market research activities include interaction with industry. Examples include conducting due diligence sessions with industry partners to gain an understanding of marketplace capabilities, issuing formal requests for information and draft solicitations, holding pre-solicitation conferences and oral presentations, etc. In addition, market research activities and results must be documented and included in the contract file. Departmental requirements for market research are located in HSAM Chapter 3010 and detailed guidance is available in the DHS Market Research Guide.

### 2.4.4 Source Selection Plan

The SSP describes how the Government will solicit and evaluate proposals and select the successful offeror(s). The SSP is developed before or during solicitation preparation and must be approved by the SSA before release of the solicitation (FAR 15.303(b)(2)). The plan is prepared by the contracting officer with the assistance of the program office or when an SSEB is used, the nominated members of the SSEB. There is no specific format for the SSP as its size and detail should reflect the circumstances of the acquisition. However, to ensure the SSP provides sufficient guidance to SSO members, plans should include at a minimum the following information:

- **Nature and Scope of the Acquisition:** This section provides a description of the effort; a discussion of the acquisition strategy, including an explanation for contract type; discussion of
pre-solicitation activities (e.g., industry day, pre-solicitation conference, Requests for Information, etc.); and source selection milestones.

- **Source Selection Organization and Responsibilities:** This section provides a brief description, or graphical representation, that depicts the structure of the SSO and the duties and responsibilities of each member of the SSO.

- **Proposal Evaluation Process:** This section describes the evaluation process (i.e., lowest price technically acceptable (LPTA), tradeoffs, or a combination thereof); the use of any innovative techniques, such as multiple phases or oral presentations; and the training requirements for evaluators. It also provides information on discussions (when and how they will be conducted), limitations on exchanges with offerors, and source selection documentation requirements (i.e., required reports and briefing materials).

- **Evaluation Ratings:** This section identifies the rating system, evaluation factors and subfactors, relative importance of each factor and/or subfactor, evaluation standards, and definitions that will be used to conduct the evaluation.

- **Security:** This section identifies the security procedures to be used by the SSEB/evaluation team(s) to protect classified, proprietary, or source selection information.

**NOTE:** Click here to view a source selection plan template.

### 2.4.4.1 Source Selection Processes and Techniques

Key in making a best value selection is determining the basis for selecting the proposal/offer that is considered most advantageous to the Government. The two principal means for “selecting” the proposal/offer that provides the best value are the tradeoff process and the LPTA process. Other source selection processes can be designed to fit particular circumstances. The acquisition team may tailor the process to combine elements of these two approaches. The team may also use oral presentations as part of the proposal submission and evaluation processes. The point is that the source selection processes or techniques must be appropriate to the acquisition. The decision regarding the basis for selection should be made before evaluation factors are developed because the basis of selection will affect the nature of evaluation factors and standards.

#### 2.4.4.1.A Tradeoff Process

The tradeoff process allows for balance between non-cost factors and cost/price factors that allows the Government to accept other than the lowest priced proposal, or other than the highest technically rated proposal, to achieve a best value award. The selection decision involves a comparison of the combination of non-cost strengths, weaknesses, deficiencies, and risks and cost/price offered in each proposal and judgment as to which provides the best combination. The SSA must document the decision and explain why the selected source represents the best value to the Government. The tradeoff process should be used when it is essential to evaluate and compare factors in addition to cost/price in order to select the most advantageous offer and obtain the best value. The tradeoff process is particularly appropriate if:

- The Government's requirements are difficult to define, complex, or historically troublesome;
• There is an expectation of measurable differences in design, performance, quality, reliability, or supportability;
• Services are not clearly defined or highly skilled personnel are required; and/or
• There is a willingness to pay extra for capability, skills, reduced risk, or other non-cost factors, if the added benefits are worth the premium.

Before selecting the tradeoff process, the contracting officer and/or SSEB should always consider the strengths and potential pitfalls of using a tradeoff process to ensure that it is consistent with the overall acquisition strategy. Advantages of the tradeoff process include:

• Allows greater flexibility to subjectively compare technical and cost factors to determine the value of the relative strengths, weaknesses, and risks of the offers;
• Enables selection of the best approach among a range of solutions and increases the likelihood of selecting offerors that are most likely to provide quality products and services, on time, and at reasonable cost/price; and
• Takes advantage of the experience and independent judgment of the source selection official.

Potential pitfalls include:

• Using evaluation factors and subfactors which are not derived from the market place and do not accurately reflect the Government’s requirements resulting in award to an offeror that may not be most advantageous to the Government;
• Using too many evaluation factors and subfactors thus diluting consideration of those which are truly important; and
• Failure to make the appropriate investment in resources needed for a competent and defensible value analysis.

2.4.4.1.B   LOWEST PRICE TECHNICALLY ACCEPTABLE PROCESS

The LPTA process is appropriate when best value is expected to result from selection of a technically acceptable proposal with the lowest evaluated price. The LPTA process is appropriate when the technical and performance risks are minimal. Examples include acquisitions where a service, supply, or equipment requirement is well defined and cost/price is the overriding consideration. While there may be a need for discussions, there is no need to make tradeoffs.

Before selecting the LPTA process, the contracting officer and/or SSEB should always consider the advantages and potential pitfalls of using a LPTA process to ensure that it is consistent with the overall acquisition strategy. Advantages of the process include:

• Reduces time required for evaluating proposals because additional justification regarding the added benefit to the Government is unnecessary; and
• May enhance cost/price competition among offerors because price is a significant factor in the selection process.

Potential pitfalls include:

• Allows no flexibility in selecting a stronger technical solution for even a marginal increase in price; and
• Does not encourage offerors to provide innovative solutions beyond those needed to be considered “technically acceptable.”

2.4.4.2 Evaluation Factors

A multi-disciplined team from the program office develops the evaluation factors and subfactors based on user requirements, acquisition objectives, perceived risks, and thorough market research. While the selection of evaluation factors and their relative importance is a matter of agency discretion, this discretion must be exercised with care as award must be based on these evaluation factors and subfactors. Per FAR 15.304(c), there are no restrictions on the kinds of evaluation factors that may be used for any given procurement provided the following requirements are met:

• Price or cost to the Government is evaluated in every source selection (10 U.S.C. § 2305(a)(3)(A)(ii) and 41 U.S.C. § 3306(c)(1)(B)); see Part 36 for architect-engineer contracts;

• The quality of the product or service is addressed in every source selection through consideration of one or more non-cost evaluation factors such as past performance, compliance with solicitation requirements, technical approach, management capability, personnel qualifications, and prior experience (10 U.S.C. § 2305(a)(3)(A)(i) and 41 U.S.C. § 3306a(c)(1)(A));

• Past performance is evaluated in all source selections for negotiated competitive acquisitions expected to exceed the simplified acquisition threshold, except as set forth in FAR 15.304(c)(3)(iii) (see second sub-bullet below);
  
  o For solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer includes a factor to evaluate past performance indicating the extent to which the offeror attained applicable goals for small business participation under contracts that required subcontracting plans (15 U.S.C. § 637(d)(4)(G)(ii)).

  o Past performance need not be evaluated if the contracting officer documents the reason past performance is not an appropriate evaluation factor for the acquisition.

• The extent of participation of small disadvantaged business concerns in performance of the contract is evaluated in unrestricted acquisitions expected to exceed $650,000 ($1,500,000 for construction) or thresholds current at the time of the acquisition. These thresholds are subject to the limitations at FAR 19.1202-2; and

• For solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer includes proposed small business subcontracting participation in the subcontracting plan as an evaluation factor (15 U.S.C. 637(d)(4)(G)(i)).

Evaluation factors and subfactors must be closely related to the requirement and tailored to each acquisition. The key to selecting evaluation factors is determining which factors represent the major goals of the procurement as well as the major areas where there are likely to be meaningful differences between competing contractors. The use of a large number of evaluation factors drawn from all parts of the specification is discouraged. Experience has shown that such an approach results in unnecessarily elaborate proposals, lengthy evaluations, and obscures the
differences between competitors. Therefore, evaluation factors and subfactors must be limited to those areas that will reveal substantive differences or risk levels among competing offers.

Selecting appropriate evaluation factors is one of the most important activities in the source selection process. Factors and subfactors inform offerors of all the significant considerations in selecting the best value proposal/offer and, when the basis for award is a tradeoff analysis, the relative importance the Government attaches to each of these considerations. There are four broad types of evaluation categories within which evaluation factors are normally developed and subsequently arranged in their relative order of importance:

1. **Technical.** This category indicates, for each offeror, the potential merit or degree of excellence of the work to be performed or product to be delivered. It assesses how well the offeror can be expected to meet mission requirements and includes, as appropriate, both technical and management factors.

2. **Past Performance.** This category considers how well an offeror performed on similar work in the past and is assessed on the basis of customer satisfaction, or the lack thereof, and other information. Past performance is considered “similar” or “relevant” when it involved the same kind of challenges and difficulties that will confront the offeror on the prospective contract. Past performance is often confused with relevant experience or experience; however, these are two separate and distinct concepts. Experience considers the kind and amount of work an offeror has done; not how well the offeror performed in the past. While these factors can be combined into a single past performance factor, they may also be separate factors. However, evaluation of relevant experience or experience is not required.

3. **Price/Cost.** This category evaluates proposals for reasonableness and, as appropriate, realism.

4. **Other Considerations.** This category includes those considerations other than the three categories listed above that can affect contract performance. It includes, but is not limited to, such items as: financial condition, labor relations, small and small disadvantaged business considerations, and geographic distribution of subcontracts.

**NOTE:** Appendix B *Guidelines for Developing Evaluation Factors* provides detailed guidance on how evaluation factors should be developed.

### 2.4.4.3 Standards and Rating Methodology

Each SSP should contain standards against which each competing proposal will be measured. Evaluation standards provide a means to disseminate uniform guidance to the evaluators on how to rate proposals with respect to a given factor or subfactor. They focus the evaluation on each individual factor or subfactor and help achieve consistent and impartial evaluations. In addition, evaluation standards serve as indicators of the minimum acceptable performance, compliance or capability required for a contractor to meet the requirements of the solicitation. They are a guide to determine how well an offeror’s response meets the Government’s requirement. Standards also identify areas where a proposal fails to satisfy requirements. See Appendix C *Developing Evaluation Standards* for additional guidance.

The SSP also prescribes the system for rating evaluation factors. A rating scheme translates the narrative evaluation of a proposal into a simple, easy to understand rating. While many different
rating systems exist, use of numerical rating systems is discouraged in all competitively negotiated acquisitions. Appendix D Adjectival Rating System provides a rating system for both the tradeoff and LPTA evaluation processes.

2.4.4.4 PROPOSAL EVALUATION PROCEDURES

Complex procurements, involving multiple evaluation teams, may benefit from the development of proposal evaluation procedures (PEP). The PEP supplements the SSP by providing the SSEB detailed guidance and procedures on evaluating proposals. It also provides evaluation standards and evaluation worksheets. If used, the PEP must be consistent with the SSP, solicitation, FAR, HSAR, and HSAM. When completed, the PEP may be included as an appendix to the SSP and, unless otherwise stated in the SSP, is approved by the SSA. Click here to view a sample PEP.

2.4.5 SOLICITATION DEVELOPMENT

A well-written solicitation is the key to the success of any procurement. As such, all parts of the solicitation must work together to clearly communicate the Government’s requirements to potential offerors. It is imperative that the solicitation include all of the information an offeror needs to understand what the Government is buying and how it is being procured. In addition, the solicitation must be internally consistent. Further, to maximize the accuracy and clarity of the solicitation, there should be a clear correlation between the requirements and evaluation factors. Common problems in preparing solicitations and recommended solutions and improvements are as follows:

Common Problems:

- **Inconsistency between the RFP and Related Documents** – It is imperative that members of the acquisition team coordinate efforts when developing the RFP and related solicitation documents to ensure consistency between the SSP and sections L and M of the RFP. In the event of an inconsistency between the published RFP and other related documentation, the RFP takes precedence.

- **Inconsistencies within the RFP** – Particularly troublesome are conflicts between descriptions of the Government’s requirements, instructions on how to prepare a proposal, and evaluation factors and subfactors. These inconsistencies are frequently the result of different groups developing different RFP sections without sufficient coordination. Such inconsistencies can result in less advantageous offers, necessitate amendments to the RFP, cause delays in the award, lead to offerors losing confidence in the process, and even result in litigation.

- **Unnecessary Use of Overly Prescriptive Requirements** – The manner in which the Government presents its requirements in the RFP can have a significant impact on a source selection, particularly when the tradeoff process is used. Use of detailed design requirements, design to print, or overly prescriptive statements of work and proposal submission requirements severely limit an offeror’s flexibility to propose the best solution. Instead, functional or performance-based requirements should be used to the maximum extent practicable. Benefits of this approach include increased competition, access to the best and most current commercial technology, better overall technical solutions, and fewer instances of award protests.

Process Improvements:

- **Team Approach** – A multi-disciplined team should develop the RFP. The members should be stakeholders in the acquisition and should continuously coordinate with each other to ensure consistency of the document.
Communicate with Industry Before Solicitation Release – Pre-solicitation exchanges with industry (FAR 15.201) promote understanding of the Government’s requirements. Techniques to promote early exchanges with industry include: industry or small business conferences, public hearings, market research, pre-solicitation notices, Requests for Information (RFIs), and site visits. Exchanges are accomplished using various communication forums such as FEDBIZOPS notices, one-on-one meetings with potential offerors, and/or pre-solicitation conferences. All pre-solicitation exchanges and drafts should be posted to FEDBIZOPS.

- Use a draft RFP and encourage prospective offerors to evaluate and challenge all elements of the acquisition, propose methods to reduce proposal and contract costs, provide feedback on the proposed pricing arrangement, and identify requirements that account for a high percentage of the total cost.

- Develop a matrix that correlates the RFP sections and content to ensure consistency and explain how all parts of the proposal will be used in the evaluation process. Also, by providing the matrix to industry in the solicitation, it becomes a reference tool to aid in their proposal preparation.

- Depending on the requirement, consider oral presentations. See Appendix E Oral Presentations Guidance for detailed information on the conduct of oral presentations.

2.5 Interacting with Industry After Solicitation Release

2.5.1 Receiving and Responding to Questions from Industry

Industry must direct all questions (contractual, technical, or otherwise) regarding a solicitation to the contracting officer. Section L should establish a deadline for submission of written questions sometime before the receipt of proposals. It is imperative that the deadline provided gives potential offerors a reasonable amount of time to review the RFP prior to the submission of questions. If feasible, contracting officers should consider questions received after the established deadline. A response to these questions is not required, but it may be advisable to respond to the questions if it will bring clarity to the Government’s requirement and solicitation. The contracting officer should publish all questions and answers on FEDBIZOPS via an amendment to the solicitation.

2.5.2 Pre-Proposal Conferences

A pre-proposal conference may be conducted after a solicitation is issued but before receipt of proposals. The decision to conduct a pre-proposal conference is typically made in the acquisition planning phase and documented in the acquisition plan; however, if after release of a solicitation, industry submits a significant number of questions about the solicitation, the contracting officer may determine a pre-proposal conference is necessary to better clarify the Government’s requirements. If a pre-proposal conference is planned, Section L of the RFP informs potential offerors of its planned date, time, and location as well as instructions on submitting questions to be addressed during the conference. If a pre-proposal conference was not initially planned, the contracting officer must amend the solicitation to notify potential offerors of the planned event. When scheduling the conference, the contracting officer must allow potential offerors sufficient time after issuance of the RFP to become familiar with its requirements yet not schedule the conference too late to allow meaningful use of the information obtained at the conference. When a pre-proposal conference is scheduled, the contracting officer, in conjunction with the program office (or SSEB members, as appropriate), must:
• Appoint an individual(s) to make arrangements for physical resources such as conference rooms, projectors, security, including ingress and egress of contractors, etc.;
• Appoint an individual(s) to draft the agenda and prepare briefing materials;
• Appoint an individual(s) to conduct appropriate portions of the conference; and
• Document all issues discussed during the conference.

Section L of the RFP should contain instructions to offerors on submission of questions to the contracting officer. Normally, these instructions contain a deadline for receipt of written questions, generally a few days before the date of the pre-proposal conference. This allows time to prepare written answers to the questions and ensure distribution of the answers at the conference. It is extremely important that all prospective offerors receive exactly the same information in response to the questions so that all will be competing on an equal footing. In addition, a record of all information provided at the conference, including the written agenda, briefing materials, list of attendees, and questions and answers, shall be posted to FEDBIZOPS. If the pre-proposal conference results in changes to the RFP, the contracting officer must issue an amendment to the RFP.

2.5.3 **SITE VISITS**

When the requirement requires work to be performed at a specific site or if an examination of the work site is needed, potential offerors will expect to examine the work site before submitting a proposal. Similar to a pre-proposal conference, the need for site visits should be determined early in the acquisition planning stages. If a pre-proposal conference is conducted at the work site, this may be a good time to conduct a site visit. If a pre-proposal conference is not conducted, the contracting officer and program office (or SSEB members, as appropriate) must decide how to conduct the site visit. Two options to consider are:

• Schedule one site visit for all potential offerors; or
• Allow offerors to arrange for individual site visits.

The first option is preferred because it is the least disruptive and ensures potential offerors receive the same information. If one site visit is conducted, the contracting officer, in conjunction with the program office (or SSEB members as appropriate), should assign responsibilities for arranging and conducting the visit similar to a pre-proposal conference. If individual site visits are permitted, the contracting officer, in conjunction with the program office (or SSEB members as appropriate), should determine who will escort visitors to the site and how visits will be scheduled (e.g., daily, weekly, mornings, afternoons, etc.). If, as a result of the site visit, RFP requirements change, the contracting officer must amend the RFP.

2.6 **SOURCE SELECTION EVALUATION AND DECISION PROCESS**

The source selection evaluation process includes examining each proposal in detail against the evaluation factors and subfactors and the requirements set forth in the solicitation and assigning a rating with supporting narrative. The purpose of this process is to assess the merits of the proposal and the offeror’s ability to perform. It must be conducted in a fair, comprehensive, impartial manner, and in accordance with the requirements set forth in the solicitation.

2.6.1 **INITIAL EVALUATION OF PROPOSALS**

The general steps that the program office or SSEB members should follow to complete the initial evaluation of proposals include:
1. Conduct Evaluation Training
2. Receive Proposals
3. Conduct Initial Screening
4. Conduct Kick-off Briefing
5. Perform Initial Proposal Evaluation
6. Document Evaluation Results
7. Conduct Exchanges With Offerors Before Establishing the Competitive Range, if necessary
8. Prepare SSEB Report
9. Award Contract/Establish Competitive Range

While these steps are presented in a linear manner, the process is actually iterative and some of the steps may occur concurrently. These steps apply to the evaluation of both the price/cost and non-price/cost factors. The teams responsible for evaluating non-price/cost factors and price/cost normally perform their evaluations separately but in parallel. As necessary and as described in the procurement’s Source Selection Plan, the teams should consult with one another to ensure each proposal is evaluated in an integrated, comprehensive manner. This consultation usually takes place after the initial evaluation of proposals is completed. While the following narrative provides an overview of the general steps, the sample Proposal Evaluation Plan provides detailed procedures on conducting the evaluation.

**2.6.1.1 Conduct Evaluation Training**

Before receiving proposals, each evaluator must become familiar with the solicitation's requirements, Source Selection Plan, and rating system. To ensure this task is accomplished, the contracting officer, or designee, should conduct training that includes an overview of the solicitation and of the work expected throughout the evaluation process. This training is particularly important for evaluators with no prior source selection experience. Training should include how to properly document each proposal’s strengths, weaknesses, deficiencies and risks. If time is limited, this training may be combined with the SSO orientation training. If feasible, the contracting officer should also arrange for legal counsel to provide training to the SSO on procurement integrity issues. Click here to view sample training materials.

**2.6.1.2 Receive Proposals**

The solicitation must establish a deadline for receipt of proposals (e.g., date, time, hard copy, electronic copy). When requesting both electronic and hard copy proposals, the solicitation should specifically indicate the version of the proposal, electronic or hard copy, that will be used to determine timeliness. Upon receipt of proposals, the contracting officer must record the date and time each proposal was received. Any proposal received after the date and time specified in the solicitation is “late” and shall not be evaluated unless (1) it is received before award is made, (2) the contracting officer determines that the late offer would not unduly delay the acquisition, and (3) the “late” proposal meets the circumstances in FAR 52.215-1(c)(3). Inasmuch as proposal lateness issues have the potential to result in a protest, the contracting officer should consult legal counsel.

**2.6.1.3 Conduct Initial Screening**

Upon receipt of proposals, the contracting officer, or designee, should conduct an initial screening to confirm that each offeror has submitted information, including electronic media, in the quantities and format stated in the RFP. A specific compliance checklist should be created and...
used to ensure all submission instructions have been followed. Extra material not requested by the solicitation may be removed before releasing proposals to the evaluators if Section L of the solicitation advised offerors that pages in excess of the page limits would not be evaluated. Offerors must also be screened for active registration and exclusions using the System for Award Management (SAM). In addition, the contracting officer should screen the offerors/proposals received for potential conflicts of interest among evaluation team members.

2.6.1.4 CONDUCT KICK-OFF BRIEFING

Before proposals are distributed, an evaluation kick-off meeting should be conducted with all members of the SSEB. The purpose of this meeting is to:

- Advise evaluators proposals have been received;
- Review evaluation security procedures, stressing the statutory prohibitions against disclosing source selection and proprietary information as well as the requirements for safeguarding proposals;
- Ensure all evaluators have received procurement integrity and personal conduct training and ensure Government contractors who provide technical or other DHS source selection support services complete DHS Form 11000-6 (08-04) entitled “NON-DISCLOSURE AGREEMENT”. (Note: DHS Federal employees shall not be required to complete any form of non-disclosure agreement.);
- Review the evaluation process;
- Review the oral presentation process, if applicable;
- Establish target due dates for team reports on the initial proposal review and team evaluations;
- Confirm each evaluator has a copy of the solicitation, all amendments, and the evaluation procedures; and
- Distribute proposals.

2.6.1.5 CONDUCT INITIAL PROPOSAL EVALUATION

Technical proposal evaluations are conducted concurrently but independently from price (or cost) evaluations. For large procurements involving multiple teams, the SSO may use an automated evaluation tool. Regardless of the means used to evaluate proposals (e.g., software, paper, etc.), the two most important points to remember throughout the evaluation process are: 1) the need to strictly adhere to the evaluation criteria set forth in the RFP and 2) the need to follow the evaluation and rating methodology set forth in the SSP or PEP, if developed.

The SSEB Chair or contracting officer should schedule regular meetings with individual evaluators to assess their progress and ensure their evaluations comply with the requirements of the SSP or PEP. During these meetings, the SSEB Chair or contracting officer should review individual evaluation findings to ensure the narratives are clear and to identify gross discrepancies among evaluators. If gross discrepancies exist among evaluators, the SSEB Chair or contracting officer should investigate to ensure all evaluators clearly understand the Government’s requirements and offerors’ proposals. If evaluators clearly understand the Government’s requirements and offerors’ proposals, evaluators shall attempt to resolve differences in evaluation findings during the consensus meeting following the procedures in the SSP or PEP.

- **Technical Evaluation:** The technical evaluation team evaluates proposals to determine how well each offeror’s proposal meets RFP requirements and assigns a rating based on that...
assessment. It is imperative evaluators use appropriate words to convey what they are trying to say when writing strengths, weaknesses, or rating rationales. For strengths and weaknesses, the wording should contain quantitative or qualitative type adjectives (e.g., complete, thorough, lacking, deficient, incomplete, etc.) and not contain emotionally charged words or phrases, such as “stinks” or “wonderful.” Additionally, the wording should match the level of the rating being assigned. For example, it would not be appropriate to assign an “Excellent” rating but use wording that conveys levels less than the one assigned, such as “adequate” or “sufficient.”

Specific evaluation tasks include:

- **Independent Evaluation.** Technical evaluators shall independently evaluate each proposal, one at a time, using the evaluation factors and following the procedures outlined in the SSP or PEP. (Note: Proposals shall not be evaluated or compared against one another during the evaluation.) This involves:
  - Identifying and documenting the strengths, weaknesses and deficiencies of each proposal against the requirements of the RFP (Note: These terms are defined in the SSP or PEP, if developed);
  - Identifying and documenting areas requiring clarification; and
  - Rating the proposal’s merits based on the results of the above evaluation.

- **Consensus Meeting.** After proposals have been independently evaluated and rated, evaluation team members meet and assign a team rating for each factor and subfactor for each proposal. Evolving from the independent ratings, team ratings are based on a consensus of each proposal’s merits (strengths, weaknesses, deficiencies, and risks). If a consensus cannot be reached, evaluators in disagreement with the majority opinion may prepare a dissenting or minority report following the procedures outlined in the SSP or PEP.

- **Evaluation Reports.** Using the results of the consensus meeting, the evaluation team chairperson shall prepare a report of the team’s findings. The SSP or PEP shall stipulate the format and content requirements of the technical evaluation report. This report assists the contracting officer in making a competitive range determination. Individual evaluator worksheets, the team’s evaluation worksheets, and any dissenting or minority reports should accompany the report. Evaluator worksheets and other materials used for proposal evaluation shall not be discarded.

- **Price/Cost Evaluation:** The evaluation of price or cost proposals is normally conducted concurrently with the technical evaluation. However, unlike the technical evaluation, price/cost proposals are not rated. The extent of the price or cost evaluation varies with the procurement. For example, fixed price contracts usually involve a price comparison among competitors, historical prices paid, market prices, etc. to ensure they are fair and reasonable, i.e., price analysis. Additionally, price analysis techniques and procedures may be used to ensure a fair and reasonable price (see FAR 15.404-1(b)(2)). Fixed-price contracts also should be evaluated for their appropriateness (i.e., appropriate risk and the possibility of a “buy-in”) relative to what is being offered. According to the General Accountability Office (GAO), a solicitation may provide for the use of a price realism analysis for the award of a fixed-price contract **for the limited purpose of measuring an offeror’s understanding of the solicitation’s requirements or to assess the risk inherent in an offeror’s approach.** If a price realism analysis will be performed for a fixed-price contract, the Government’s intent to
conclude the analysis must be identified in the solicitation.

For cost reimbursement contracts, each offeror’s estimated cost must be analyzed for both realism and reasonableness. A cost realism analysis enables the evaluation team to determine each offeror’s most probable cost of performance, thus reducing the possibility of inadvertently making an award decision based on an overly optimistic cost estimate with a risk of cost overruns. Appendix F Cost Realism Analysis provides a general description of the cost realism analysis process. Also, whenever cost analysis is performed, both a profit or fee analysis and a price analysis must be performed to ensure that the overall price offered is fair and reasonable.

When a structured SSO is used, the price/cost evaluation team chairperson prepares an evaluation report summarizing the team’s findings. The report format is specified in the SSP or PEP. If appropriate, the report also includes any additional information resulting from the price/cost analysis, such as responsibility issues, to assist the contracting officer in making the competitive range determination. When the selection process does not involve a structured SSO, the contracting officer or contract specialist normally analyzes price/cost proposals. In this instance, the results of the price analysis, including the technique and/or procedure used to conduct the analysis, should be documented in the pre-negotiation memorandum.

2.6.1.6 DOCUMENT EVALUATION RESULTS

While it is sometimes overlooked, documentation is a very important aspect of the source selection process and is critical to supporting or defending your actions and decisions. Technical evaluators must provide adequate comments to support their evaluation results. For each evaluation factor, the evaluator must prepare a written narrative providing an objective assessment of the strengths, weaknesses and deficiencies of the offer/proposal. The evaluator must also list any issues or clarifications that should be addressed before award can be made. Also, because your evaluation documentation will be critical in substantiating the Government’s award decision, at some time in the evaluation process, it is always recommended that the SSA or contracting officer/contract specialist review your documentation to ensure it is clear and adequate to support the ratings assigned.

For your evaluation comments, statements such as “very good” or “weak” are not sufficient. For each comment/statement about an offer/proposal, you should document why you think it is “very good” or “weak” by providing the benefit or the risk to the Government. Also, be particularly mindful of any finding of unacceptability. If you do find an offer/proposal unacceptable, ensure that the finding has been adequately documented. Below you will find several key practices when documenting evaluations to assist in the overall evaluation effort. Adopting these practices during the evaluation process will go a long way in ensuring your evaluation findings are sufficiently documented.

- Document as you go to ensure documentation is captured.
- Support findings by specific reference to page, paragraph number, etc. in which strengths, weaknesses, deficiencies, and clarifications occur.
- Record specific references to statements in the offer/proposal or oral presentations. It will help refer you back to the information quickly and will reduce the likelihood for misinterpretation.
• Document why the strength is good, what value it adds to the acquisition, how it benefits the Government; why is the significant weakness and/or deficiency bad, what is the risk to performance associated with the weakness and/or deficiency.
• Use qualitative and quantitative words (e.g., complete, adequate, lacking, deficient, thorough, flawed, insufficient, etc.) and avoid emotional words and phrases (e.g., good, bad, wonderful, terrible, waste of time, stinks, etc.).
• Assign a rating for each evaluation factor for each offeror based upon the rating definitions contained in the SSP to determine an overall rating for the particular factor/sub-factor.
• Do not write on offers/proposals. Ensure all notes are relevant and professional. Do not write insulting or inappropriate comments as these notes may be considered source selection materials and can be requested by Government attorneys and protesting offerors.
• Be very careful about ambiguous statements from the offeror as well as in your technical evaluation comments. Ambiguous statements in an offer/proposal should be noted and questions should be asked if the language is subject to different meanings and interpretations. Ambiguous statements in your evaluation comments must be clarified to ensure the meaning is clear and there is little room for misinterpretation.

It is also important to note that source selection documentation includes retaining evaluation documentation. Evaluators shall refrain from writing any notes on the offers/proposals themselves and shall keep the record file legible, clear and avoid confusion by properly discarding earlier draft worksheet versions or notes that no longer reflect his/her final deliberative work product. This entire evaluation process and all of the documentation generated as a result will:

• Support that the SSEB/evaluation team followed established processes;
• Establish that the offeror received a fair evaluation;
• Provide a rationale for the Government’s award decision; and
• Serve as an explanation as to why the unsuccessful offeror(s) were not selected.

2.6.1.7 CONDUCT EXCHANGES WITH OFFERORS BEFORE ESTABLISHING THE COMPETITIVE RANGE

During proposal evaluation, FAR subpart 15.306 allows the contracting officer to communicate with offerors to obtain specific information. This communication is referred to as “exchanges.” These exchanges may be conducted to enhance understanding of proposals, allow reasonable interpretation of proposals, or facilitate the evaluation process. They may address ambiguities in the proposal, other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes), and information relating to relevant past performance. Exchanges after the receipt of proposals are divided into three categories, depending on their timing and content: clarifications, communications, and discussions. During the initial proposal evaluation, exchanges are limited in their scope to clarifications and communications as follows:

• Clarifications and award without discussions. These are limited exchanges that may occur when award without discussions is contemplated. Offerors may be given the opportunity to clarify certain aspects of proposals or to resolve minor or clerical errors. Clarifications do not allow for the submission of revised proposals. As such, the aspect(s) of the proposal that is subject to clarifications are those which would not be subject to a proposal revision, such as the relevance of an offeror’s past performance information and adverse past performance information to which the offeror has not previously had an opportunity to respond (FAR 15.306(a)(2)).
• **Communications with offerors before establishment of the competitive range.** These are limited exchanges for the purpose of addressing issues that must be explored in order to determine whether or not a proposal should be placed in the competitive range. These exchanges are not to be conducted with all offerors and per FAR 15.306(b)(1) are limited to:

  o Offerors whose past performance information is the determining factor preventing their inclusion in the competitive range.
  o Offerors whose inclusion in or exclusion from the competitive range is uncertain.

### 2.6.1.8 PREPARE SSEB REPORT/PRESENTATION

Using the results of the evaluation reports, the SSEB Chair, with the assistance of the chairs of each evaluation team, prepares the SSEB report. The purpose of the report is to help the contracting officer make an award and/or a competitive range determination, and is critical to the award decision. The SSP or PEP should outline the minimum contents of the report. Depending upon the selection procedures established the SSEB report may require the approval of the SSAC and/or the SSA before submission to the contracting officer. (Note: An SSEB report is only prepared when using a structured SSO.)

### 2.6.1.9 AWARD CONTRACT/ESTABLISH COMPETITIVE RANGE

If stipulated in the SSP or PEP, the SSEB of a structured SSO, or the technical evaluation team (when a structured SSO is not established), recommends the contracting officer either award a contract(s) without discussions or establish a competitive range. The SSEB’s/technical evaluation team’s recommendation to proceed to award or to enter into discussions with all offerors (or a subset) is based upon the results of the initial evaluation of proposals.

• **Award on Initial Offers.** The decision to award on initial offers should be carefully deliberated to ensure award is made to the offeror who submitted the best value proposal. Per FAR subpart 15.306(a)(3), award may be made on initial offers if the solicitation states that the Government intends to evaluate proposals and make award without discussions. The circumstances allowing for award on initial offers will vary by procurement. When the proposal with the highest overall evaluation also offers the lowest price/cost, has no deficiencies that require correction, and takes no exceptions to the RFP’s terms or conditions, the SSEB (for structured SSOs) or the technical evaluation team should recommend to the SSA that an award be made based on initial offers, provided the solicitation included the appropriate FAR provision. This situation is more likely to occur on smaller, more straightforward procurements. However, award on initial offers shall not be made under the following circumstances:

  o The solicitation did not state that the Government intended to make award without discussions. If the solicitation contains this notice, and the Government determines it is necessary to conduct discussions, the rationale for doing so shall be documented in the contract file.
  o When discussions have been conducted with one or more offerors.
  o Whenever there is uncertainty as to the pricing or technical aspects of any proposal (FAR 15.306(b)(1)(ii) and (b)(2)).
  o If correction of a suspected mistake prejudices the interest of other offerors. See FAR subpart 15.306 for guidance on resolving suspected mistakes.
  o When the solicitation is for large, complex acquisitions.
• **Competitive Range Recommendation.** If award is not made on initial offers, the SSEB (for structured SSOs) or the technical evaluation team may, at the contracting officer’s discretion, provide the contracting officer with a competitive range recommendation (the SSP or PEP should state if such a recommendation is desired). In making the recommendation, the SSEB (for structured SSOs) or the technical evaluation team should consider the guidance in FAR 15.306(c). If award on initial offers is appropriate, the next step in the process is source selection (see Section 2.7).

### 2.6.2 COMPETITIVE RANGE DETERMINATION

Based on the initial evaluation results and in consideration of the recommendation made by the SSEB (for a structured SSO) or the chairs of the individual evaluation teams, the contracting officer must make a written determination of the competitive range before discussions begin. The contracting officer shall follow the guidance in FAR 15.306(c) when making this determination. The objective of the competitive range determination is not to eliminate proposals but to facilitate competition by conducting discussions with only those offerors whose proposals are likely to be considered for award.

When the SSA is other than the contracting officer, the Source Selection Plan should address if the determination requires the approval or concurrence of the SSA. The competitive range consists of all the most highly rated proposals, unless it is further reduced for the sake of efficiency. Establishing the competitive range results in greater efficiency by limiting the number of offerors with whom the Government must hold discussions to the finalists or leading contenders for contract award; however, failure to properly establish a competitive range can result in higher costs due to protests or elimination of potentially competitive offers. When establishing the competitive range, consider the following:

- Determine the competitive range only after an initial evaluation of each proposal in accordance with all price/cost and non-price/cost factors in the solicitation.
- Limit the competitive range to all of the most highly rated proposals, considering the initial evaluation of both price/cost and non-price/cost factors. Predetermined "cut-off" ratings cannot be used to exclude a proposal from the competitive range.
- If there are very few highly rated proposals, consider including all of them in the competitive range.
- If there are too many highly rated proposals to efficiently evaluate, the competitive range may be further limited if offerors were notified in the solicitation of the Government’s intent to do so.
- When further reducing the competitive range for efficiency, select from among the most highly rated proposals, the largest number that will still permit an efficient competition.
- Maintain an efficient competitive range that does not waste resources for either the Government or offerors. The competitive range should be continually reassessed as discussions and evaluations continue. The contracting officer should remove from the competitive range any proposal that, during or after discussions, is no longer considered likely for award. This allows offerors who are not likely to be selected for award to shift their bid and proposal costs to competitions where they have a better likelihood of success. The objective is an efficient competitive range that does not provide false hope to offerors or allow them to waste time, money, or resources.
- It may not always be necessary or even advisable to further narrow the competitive range for the sake of efficiency. The contracting officer must determine what constitutes an efficient competitive range for each acquisition. When faced with the need to restrict the size of the competitive range, the contracting officer should consider factors such as the expected dollar
value of the award; the complexity of the acquisition and solutions proposed; or the extent of available resources and other relevant matters consistent with the need to obtain the best value.

- Document the competitive range determination and the supporting rationale in the contract file.

The SSA must approve any competitive range determination resulting in inclusion of only one proposal. Before making a competitive range determination of one, the contracting officer should consult with his or her legal advisor. In addition, the contracting officer shall promptly notify an unsuccessful offeror in writing that its proposal is no longer eligible for award. When notifying unsuccessful offerors, the contracting officer shall follow the requirements of FAR 15.503.

### 2.6.3 Pre-Award Debriefings

Per FAR subpart 15.505, unsuccessful offerors excluded from the competitive range or otherwise excluded from the competition before award are entitled to a debriefing if requested. Generally, unsuccessful offerors will choose a post-award debriefing (FAR 15.506) because it allows the Government to provide more information. Departmental guidance for conducting debriefings is located in HSAM Appendix AA DHS Debriefing Guide.

### 2.6.4 Exchanges with Offerors After Establishing the Competitive Range

The primary objective of exchanges with offerors after establishing the competitive range is to maximize the Government’s ability to obtain the best value based on the requirements and evaluation factors stated in the solicitation. As discussed in Section 2.6.1, exchanges after receipt of proposals may occur throughout the proposal evaluation process. The most detailed and extensive forms of exchanges are negotiations that are held after establishment of the competitive range. These exchanges are known as discussions. The objective of discussions should be to reach complete understanding and agreement between the Government and the offeror regarding the requirements in the solicitation and how the offeror proposes to satisfy those requirements. In essence, negotiating a contract that demonstrates the greatest promise of meeting the solicitation’s requirements with no surprises after award is the goal of both the Government and the offeror.

The contracting officer controls discussions with offerors. Other members of the SSO, such as evaluation team members and advisors, may also participate at the request of the contracting officer. At a minimum, a written record of discussions must be retained in the contract file. In addition, contracting officers should notify all offerors within the competitive range in writing and provide them the issues for discussion. Offerors should be provided a reasonable amount of time to respond to discussion items. Response time will vary by procurement, but to ensure all offerors are treated equally, contracting officers should provide an equal amount of time for all offerors to respond to discussion issues.

The contracting officer must discuss with each and every offeror still being considered for award, significant weaknesses, deficiencies, and adverse past performance information to which the offeror has not yet had an opportunity to respond. Further, the contracting officer is encouraged to discuss other aspects of the proposal (e.g., cost, price, technical approach, past performance, and terms and conditions) that could be altered or explained to enhance materially the proposal’s potential for award. In discussing other aspects of the proposal, the Government may, in situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, negotiate with offerors for increased performance beyond mandatory minimums and suggest to offerors that have exceeded any mandatory minimums (in ways that are not integral to the design) that their proposals would be more competitive if the excesses were removed.
and the offered price decreased. However, the contracting officer shall not engage in any behavior that:

- Favors one offeror over another;
- Reveals an offeror’s technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror’s intellectual property to another offeror;
- Reveals an offeror’s price without that offeror’s permission. However, the contracting officer may inform an offeror that its price is considered by the Government to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible, at the Government’s discretion, to indicate to all offerors the cost or price that the Government’s price analysis, market research, and other reviews have identified as reasonable;
- Reveals the names of individuals providing past performance reference information;
- Knowingly furnishes Source Selection Information.

Additionally, to be meaningful, at a minimum, discussions must include:

- **Deficiencies** - 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. A deficiency exists whenever the offeror specifically states that a requirement cannot or will not be met, offers an approach that clearly does not meet a requirement, or submits a proposal that contains a combination of significant weaknesses.

- **Significant Weaknesses** - Includes non-cost and cost weaknesses that appreciably increase the likelihood of unsuccessful contract performance. It is a significant weakness whenever the proposal has a flaw important enough to cause a factor to be rated marginal or poor. This includes even relatively minor weaknesses when their cumulative impact is significant. For example, if an approach affects several areas of the evaluation, but makes no individual factor rating marginal or poor, the contracting officer should include it in discussions if the cumulative impact is significant enough to impact the overall rating.

- **Past Performance Information** - Includes any concern about an offeror's past performance, including relevancy and any adverse past performance information for which the offeror has not previously had an opportunity to comment.

- **Uncertainties or Apparent Mistakes** - Includes suspected errors, significant omissions, and uncertainties necessary to understand what is being offered. However, perfect knowledge is not necessary and could be harmful if the Government tends to spend too much of its time and effort chasing information that has no real bearing on the evaluation. If the Government needs information to draw a conclusion, the contracting officer should request it.

Discussions may take place orally or in writing. For complex procurements or when deficiencies and uncertainties are numerous or complicated, the contracting officer should conduct oral discussions. Alternatively, when the deficiencies and uncertainties are straight-forward and less complex, written discussions may be more appropriate.

- **Oral Discussions:** Oral discussions allow the Government and an offeror to dialog to ensure a complete understanding of the proposal issues/concerns. When conducting discussions orally, the contracting officer should decide in advance how responses to discussion items will be received.
For instance, contracting officers may request that offerors respond in advance of the scheduled meeting so that evaluators have an opportunity to review responses, or contracting officers may require offerors to follow up with written confirmation of the issues addressed during oral discussions. Regardless of the method, contracting officers should request written responses from offerors before the request for Final Proposal Revisions (FPRs) to ensure discussions are meaningful, uncertainties are resolved, and to minimize surprises in FPRs.

Before conducting oral discussions with any offeror, the contracting officer, with the assistance of the SSEB or evaluation team, should develop a written agenda for the meeting that identifies the roles and responsibilities of Government participants and the topics each Government participant shall discuss. During discussions the following rules apply:

- The contracting officer controls all discussions.
- No discussions shall be held with any offeror unless the contracting officer is present.
- In discussing deficiencies, uncertainties, or suspected mistakes, the Government shall not suggest answers.
- Government personnel must not reveal the costs/prices or contents of competing proposals.
- Government personnel shall not discuss strengths, weaknesses, and deficiencies or technical information or ideas of other offers.

**Written Discussions:** When conducting written discussions, the contracting officer documents the deficiencies, significant weaknesses, past performance information, and uncertainties or apparent mistakes in an offeror’s proposal in the form of a letter and provides the offeror with a date and time within which a written response is due to the Government. The letter should allow the offeror sufficient time to review the discussion items and seek clarification from the Government, as needed, before the response is due. If a review of the offeror’s response to the discussion items yields additional questions/concerns or if the SSEB/evaluation team determines the responses are inadequate, the contracting officer may and should continue to correspond in writing with the offeror until he/she concludes that discussions are complete and a request for a final proposal revision has been made.

### 2.6.5 Final Proposal Revisions (FPRs)

Per FAR 15.307, each offeror remaining in the competitive range shall be given the opportunity to submit a final proposal revision. FAR 15.307 identifies specific elements that a request for FPRs must contain, including:

- Notice that discussions are concluded and further discussions prior to award are not contemplated;
- Notice that FPRs shall be submitted in writing and that the Government intends to make award without obtaining further revisions;
- A common cutoff date and time specified for receipt of FPRs;
- Notice that FPRs are subject to the Late Proposals and Revisions portion of the “Instructions to Offerors – Competitive Acquisition” provision of the solicitation;
• Notice that offerors must confirm the validity of their latest proposal or submit their FPR by the common cutoff date;

• Notice that changes not fully substantiated may have a negative impact on the evaluation of the offeror’s proposal;

• Notice that changes in the FPR must be identified and traced back to the latest previous offer especially in regard to the cost proposal;

• Notice that exceptions taken to the Government’s requirements may result in a negative evaluation;

• Notice that only information submitted in the proposal, or as a result of the request for FPRs, will be evaluated and considered in making the source selection; and

• To expedite the evaluation of FPRs, request that offerors submit revisions to their proposals on colored paper or annotate the pages in the proposal that contain changes. This request facilitates the identification of changes to proposals.

FPRs must be received by the exact date and time specified by the contracting officer in the request for FPRs unless the offer meets one of the conditions included in FAR provision 52.215-1(c)(3). Therefore, contracting officers must ensure the date and time for receipt of all proposals is recorded. After receipt of FPRs, the SSEB Chair (or contracting officer for less complex procurements) shall reconvene the appropriate evaluation teams. The evaluation shall follow the procedures of the SSP and PEP, if developed. Upon completing evaluations, the evaluation team chairpersons shall prepare and submit revised evaluation reports to the SSEB Chairperson (or contracting officer). Reports/briefing materials shall be prepared following the requirements of the SSP or PEP.

If, after receipt of final revised proposals, it becomes necessary to subsequently clarify minor irregularities, the contracting officer may do so with one offeror without requesting another round of final proposal revisions from all offerors; however, if negotiations are necessary, a second final revision opportunity must be extended to all offerors.

2.7 SOURCE SELECTION DECISION

After evaluators have completed the final evaluation of proposals, the SSA will compare proposals to determine the one(s) that represents the best value based on method of selection and taking into consideration the stated evaluation factors and their respective weightings as specified in the RFP. When a structured SSO has been established, the SSA should request the SSAC or the SSEB make a comparison. When the contracting officer is the SSA, the contracting officer may request a comparison from the evaluation team.

When conducting a tradeoff analysis, the comparison process can be complex and depending upon the evaluation factors, the SSA may exercise a significant degree of judgment in selecting the successful offeror(s). Evaluation ratings are merely labels; the SSA must not base his/her selection on these summary ratings but on a detailed comparison of the strengths and weaknesses of the competing proposals. If the lowest priced proposal is not the most superior proposal in terms of non-cost factors, tradeoff analysis is required.

Tradeoff analysis is a subjective process in that it requires the SSA to exercise reasonable business
judgment. When performing this analysis, the SSA must consider each proposal’s total evaluated price or cost, the merits of each proposal (i.e., strengths, weaknesses, deficiencies, risks, etc.), and the order of importance of each evaluation factor and subfactor. The following list identifies the recommended steps for performing a tradeoff analysis:

- **Step 1.** Identify the advantages (i.e., strengths) and disadvantages (i.e. weaknesses, risks, and deficiencies) of each proposal that surfaced during evaluations.

- **Step 2.** Analyze the impact of the advantages and disadvantages on the acquisition’s objectives based on the order of importance of each evaluation factor and subfactor.

- **Step 3.** Compare proposals.

- **Step 4.** Assess the mix of price (or cost) and non-price/cost benefits and determine if the strengths of a higher rated proposal warrants payment of the price premium.

The comparison of proposals must be documented. If the SSA has requested the SSAC, SSEB, or, when a structured SSO has not been established, the evaluation team, to make a comparison, this may be accomplished either by a report or by providing briefing materials. For less complex procurements, when the SSA is the contracting officer, the comparison can be included in the source selection decision document. Click here to view a comparative analysis report template and sample proposal comparison matrix.

The SSA must make the source selection decision using rational and independent judgment based on a comparative analysis of the proposals. The analysis must be consistent with the evaluation factors in the RFP and the Source Selection Plan. Beyond this, the SSA has broad discretion in making the source selection decision.

The SSA may not rely on evaluation ratings alone. To determine which proposal provides the best value, the SSA must analyze the differences between competing proposals. This analysis must be based on the facts and circumstances of the specific acquisition. The SSA is not bound by the ratings or rankings (if performed) of the SSEB provided the SSA has a rational basis for a differing opinion.

While the SSA may use the evaluation findings and analysis prepared by the SSAC or SSEB (or evaluation teams for less complex procurements), the SSA must make the source selection decision based on his/her independent judgment. If the SSA has doubts about the evaluations findings or analysis, he/she may require a complete or partial re-evaluation or analysis. However, the SSA does not always have to require a complete or partial reevaluation when doubt exists about the evaluation findings or analysis. The SSA **may** disagree with a finding in the underlying reports. If the SSA does disagree with the findings and/or analysis of the SSAC or SSEB, the SSA must provide supporting documentation to justify why he/she disagrees with the finding and/or analysis and the information he/she relied on to arrive at a new finding. Additionally, the SSA has the authority to convene a new SSEB and/or SSAC; re-rate proposals based on the evaluation; or conduct his/her own evaluation. There are three basic outcomes of the SSA’s comparative analysis:

1. The lowest price proposal is superior in terms of non-cost factors;

2. The proposals are essentially equal in terms of non-cost/price factors; or

3. The lowest priced proposal is not the most superior in terms of non-cost factors.
In the first two outcomes, the decision is fairly clear; award should be made to the lowest priced offeror; however, the decision in the third outcome is not as clear. The SSA must consider whether or not the benefits of the non-price/cost strengths warrant the additional price premium. The evaluation, comparative analysis, and tradeoff processes require significant judgment and often involve an element of subjectivity. For this reason, any two SSAs may arrive at different source selection decisions.

The SSA must document his/her rationale for selecting the successful offeror(s) in an independent, standalone document. The source selection decision document should explain how the successful proposal(s) measured up against other offerors proposals based on the evaluation factors and subfactors in the solicitation and should discuss the judgment used in making tradeoffs. Click here to view a source selection decision template.

The SSA may quantitatively or qualitatively justify the payment or non-payment of a price/cost premium, provided his/her assessment is well reasoned. When the SSA determines that the best value proposal is other than the lowest priced offeror, the award decision must document why the technical superiority of the offeror warrants payment of a price premium. The justification must clearly state what benefits or advantages the Government is being provided for the added price and why it is in the Government’s interest to expend the additional funds. Justification is required even when the solicitation indicates that non-cost factors are more important than price or cost.

An SSA may properly select a lower rated, lower priced proposal. In this instance, the SSA must document why the price premium of the higher rated proposal is not justified when there is an acceptable proposal at a lower price. The SSA must also acknowledge the evaluated advantages of the higher rated proposal and explain why the advantages are not worth the price premium.

The source selection decision document becomes part of the official contract file and may be releasable, unless it is subject to an exemption under the Freedom of Information Act (FOIA) that would allow the document to be withheld. The contracting officer should consult with legal counsel, and as necessary, the Privacy Officer, before releasing the source selection decision in a debriefing.

### 2.8 Contract Award and Notification

After the SSA signs the source selection decision document, the contracting officer issues the necessary notifications and then awards the contract(s). While the activities below occur after the SSA makes his or her selection, the contracting officer should begin drafting the required documentation before making the selection. The following steps should be taken after the source selection decision document is signed and before the award is announced:

- **Step 1: Responsibility Determination.** No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility. In the absence of information clearly indicating that the prospective contractor is responsible, the contracting officer shall make a determination of nonresponsibility. If the prospective contractor is a small business concern, the contracting officer shall comply with subpart 19.6, Certificates of Competency and Determinations of Responsibility. To be determined responsible, a prospective contractor must meet the standards at FAR 9.104-1. The determination shall be in writing and may be documented in a memo to the file or included in the award decision document.

- **Step 2: Pre-Award Notification for Set-Asides and Small Disadvantaged Businesses.** For small business, HUBZone, or service-disabled veteran-owned set asides, or when a small disadvantaged business concern receives a benefit based on its disadvantaged status, after the selection is made,
but before award, the contracting officer shall inform each unsuccessful offeror, in writing, of the name and location of the apparent successful offeror. Notices shall be made according to FAR 15.503(a)(2). This notification allows unsuccessful offerors to protest the size status of the successful offeror(s) in accordance with FAR 19.302.

- **Step 3: Congressional Notification.** Contracting officers shall prepare the announcement of contract award required by FAR 5.303(a) following the procedures in MD 2140.1, Congressional Notification of Contract Awards and HSAM 3005.303-70, Congressional notification of contract actions.

- **Step 4: Award the Contract.** Contracting officers shall follow the procedure at FAR 15.504 when making formal contract award. A contract signed by both the Government and the successful offeror may serve as written notice of award.

- **Step 5: Notify Unsuccessful Offerors.** Within three (3) days after the award of the contract, the contracting officer shall notify all unsuccessful offerors whose proposals were in the competitive range following the requirements of FAR 15.503(b). The contracting officer should use the notification to advise the unsuccessful offerors of their rights to a post award debrief (FAR 15.506).

- **Step 6: Synopsize Contract Award.** Contracting officers shall synopsize contract awards in the FEDBIZOPS as required by FAR 5.301. When applicable, the synopsis shall include a statement identifying the contract as one containing Public Law 95-507 subcontracting plan and goals.

2.9 POST-AWARD DEBRIEFINGS

Per FAR subpart 15.506, an offeror, upon its written request received by the agency within 3 days after the date on which that offeror has received notification of contract award in accordance with 15.503(b), shall be debriefed and furnished the basis for the selection decision and contract award. To the maximum extent practicable, the debriefing should occur within 5 days after receipt of the written request. Offerors that request a postaward debriefing in lieu of a preaward debriefing, or whose debriefing was delayed for compelling reasons beyond contract award, also should be debriefed within this time period. See the DHS Debriefing Guide, HSAM Appendix AA, for information on conducting post award debriefings and samples of relevant documentation.

2.10 PROTESTS

A protest is one of many ways offerors can raise concerns or objections with the Government’s compliance with procurement statutes or regulations, or the actual conduct of an acquisition. Protests increase the cost of conducting an acquisition and result in the extension of lead time, regardless of the eventual disposition. Protests cannot be 100 percent avoided; however, when offerors believe the Government acted in a fair and impartial manner, a protest is less likely to occur. Ensuring the source selection decision is well supported and well documented at the time of award increases the likelihood of success in the event of a protest.

Under FAR 33.103 *Protests to the agency*:

- The unsuccessful offeror and the agency should comply with all the requirements of FAR 33.103 for protests submitted to the agency.
- Under FAR 33.103(b), all parties should use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.
- Under FAR 33.103(e), protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, **protests shall be**
filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier. The agency, for good cause shown, or where it determines that a protest raises issues significant to the agency’s acquisition system, may consider the merits of any protest which is not timely filed. Any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 C.F.R. § 21.2 (a)(3)).

- Under FAR 33.103(f)(3), an unsuccessful offeror is entitled to an automatic suspension of contract performance if the protest is filed within 5 days of the debrief date offered to the protester (or 10 days after contract award, whichever is later). Thus, it is important to provide the debrief on the earliest possible date for the Government. See the DHS Debriefing Guide, HSAM Appendix AA, for information on conducting post award debriefings and samples of relevant documentation.

Under FAR 33.104 Protests to GAO:

- The unsuccessful offeror and the agency should comply with all the requirements of FAR 33.104 for protests submitted to GAO.
- The GAO’s bid protest procedures are found in 4 C.F.R. 21. If any conflict is found between FAR 33.104 and 4 C.F.R. 21, 4 C.F.R. 21 shall govern.
- Time for filing before GAO:
  - 4 C.F.R. § 21.2 (a)(1) for improprieties in the solicitation, the protest must be filed before the solicitation closes.
  - 4 C.F.R. § 21.2 (a)(2) for protests other than those covered in (a)(1), the protest must be filed no later than 10 days after the basis for the protest is known. If a debriefing is requested or required, the initial protest should not be filed before the debriefing takes place but must be filed no later than 10 days after the debriefing is held with respect to the basis for protest that was known or should have been known before the debriefing or as a result of the debriefing.

### 2.11 DOCUMENTATION REQUIREMENTS

At a minimum, the following source selection documentation must be maintained in the contract file:

- Market Research Report
- Acquisition Plan and any revisions thereto
- Source Selection Plan and any revisions thereto
- Non-disclosure Agreements
- Request for Proposal and any amendments thereto
- Request for Final Proposal Revisions
- Past Performance Information
- Proposals from all offerors, including all revisions
- Competitive Range Determination and supporting documentation
- Records of exchanges with offerors
- Pre- and Post-negotiation memoranda
- Evaluation results (technical, past performance, and price/cost)
- Comparative analysis and recommendations provided to the SSA
- Source Selection Decision Document (SSDD)
- Responsibility Determination, if not included in the SSDD
- Debriefing documentation
- Approval documentation
Chapter 3: FAR Subpart 8.4 Federal Supply Schedules

3.1 applicability

The procedures of this Chapter are applicable to individual orders for supplies or services placed against Federal Supply Schedule contracts and Blanket Purchase Agreements (BPAs) established against Federal Supply Schedule contracts under FAR Subpart 8.4 Federal Supply Schedules. In addition, the procedures found in the following FAR Parts are applicable to acquisitions conducted under FAR Subpart 8.4:

- Part 5 Publicizing Contract Actions (see FAR 5.301, 5.704, and 5.705)
- Part 7 Acquisition Planning
- Part 10 Market Research
- Subpart 13.303-2(c)(3) Establishment of BPAs
- Subpart 17.5 Interagency Acquisitions
- Subpart 19.202-1(e)(1)(iii) Encouraging Small Business Participation In Acquisitions
- Subpart 33.1 Protests
- Subpart 37.6 Performance Based Acquisition
- Part 39 Acquisition of Information Technology

3.2 overview

The Federal Supply Schedule program is also known as the GSA Schedules Program or the Multiple Award Schedule Program. The Federal Supply Schedule program is directed and managed by the General Services Administration (GSA) and provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. The Federal Supply Schedule consists of indefinite delivery contracts awarded using FAR Part 12 Acquisition of Commercial Items procedures to provide supplies and services at stated prices for given periods of time. These contracts are awarded for five-year base period with three five-year option periods.

Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair). GSA has already determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by 8.405-2(d). By placing an order against a Schedule contract using the procedures in 8.405, the ordering activity has concluded that the order represents the best and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the Government's needs. Although GSA has already negotiated fair and reasonable pricing, ordering activities are encouraged to seek additional discounts before placing an order and are required to seek a price reduction when the order or BPA exceeds the simplified acquisition threshold (SAT) (see FAR 8.405-4).

Schedule orders are generally considered faster, easier and more economical than contracts awarded using FAR Part 15 Contracting by Negotiation procedures. This can be attributed to the fact that Schedule orders do not require the following:

- Formal evaluation (SSEB is not required);
- Cost analysis (commercial pricing provided at Schedule level);
- Extensive documentation (less formal process);
- Debrief (may only provide a brief explanation of the basis for the award decision);
- Competitive range determination; or
• Discussions.

3.3 ORDERING PROCEDURES

The DHS Multiple Award Schedule Guide provides step-by-step guidance on how to place orders against a Schedule contract in accordance with FAR subpart 8.4. The guide also provides detailed guidance on how to establish BPAs against Federal Supply Schedule contracts and procedures for ordering from them.

3.4 TECHNICAL EVALUATION METHODOLOGY

Key in making a best value selection is determining the basis for selecting the quotation (or quote) that is considered most advantageous to the Government. The two principal means for “selecting” the quote that provides the best value are the tradeoff process and the lowest price technically acceptable (LPTA) process. The acquisition team may tailor the evaluation process to combine elements of the tradeoff and LPTA approaches. The team may also use oral presentations as part of the quotation submission and evaluation processes. The decision regarding the basis for selection should be made before evaluation criteria are developed because the basis of award will affect the nature of evaluation criteria and standards. The point is to tailor the evaluation processes or techniques to fit the needs of the acquisition.

3.4.1 TRADEOFF PROCESS

The tradeoff process allows for balance between non-price factors and price criteria that allows the Government to accept other than the lowest priced quote, or other than the highest technically rated quote, to achieve a best value award. The award decision involves a comparison of the combination of non-price strengths, weaknesses, deficiencies, and risks and price offered in each quote and judgment as to which provides the best combination. The contracting officer must document the decision and explain why the selected source represents the best value to the Government. The tradeoff process should be used when it is essential to evaluate and compare criteria in addition to price in order to select the most advantageous offer and obtain the best value. The tradeoff process is particularly appropriate if:

• The Government's requirements are difficult to define, complex, or historically troublesome;
• There is an expectation of measurable differences in design, performance, quality, reliability, or supportability;
• Services are not clearly defined or highly skilled personnel are required; and/or
• There is a willingness to pay extra for capability, skills, reduced risk, or other non-price criteria, if the added benefits are worth the premium.

Before selecting the tradeoff process, the contracting officer should always consider the strengths and potential pitfalls of using a tradeoff process to ensure that it is consistent with the overall acquisition strategy. Strengths of the tradeoff process include:

• Allows greater flexibility to subjectively compare technical and price criteria to determine the value of the relative strengths, weaknesses, and risks of the quotes; and
• Enables selection of the best approach among a range of solutions and increases the likelihood of selecting a quoter(s) that is most likely to provide quality products and services, on time, and at reasonable price.

Potential pitfalls include:
• Using evaluation criteria which are not derived from the market place and do not accurately reflect the Government's requirements resulting in award to a quoter that may not be most advantageous to the Government;
• Using too many evaluation criteria and sub-criteria thus diluting consideration of those which are truly important; and/or
• Failure to make the appropriate investment in resources needed for a competent and defensible value analysis.

3.4.2 **LOWEST PRICE TECHNICALLY ACCEPTABLE PROCESS**

The LPTA process is appropriate when best value is expected to result from selection of a technically acceptable quotation with the lowest evaluated price. The LPTA process is appropriate when the technical and performance risks are minimal. Examples include acquisitions where a service, supply, or equipment requirement is well defined, price is the overriding consideration, and there is no need to make tradeoffs.

Before selecting the LPTA process, the contracting officer should always consider the strengths and potential pitfalls of using a LPTA process to ensure that it is consistent with the overall acquisition strategy. Strengths of the process include:

• Reduces time required for evaluating quotations because additional justification regarding the added benefit to the Government is unnecessary; and
• May enhance price competition among offerors because price is a significant factor in the selection process.

Potential pitfalls include:

• Allows no flexibility in selecting a stronger technical solution for even a marginal increase in price; and
• Does not encourage offerors to provide innovative solutions beyond those needed to be considered “technically acceptable.”

3.4.3 **EVALUATION CRITERIA**

A multi-disciplined team from the program office develops the evaluation criteria based on user requirements, acquisition objectives, perceived risks, and thorough market research. While the selection of evaluation criteria and their relative importance is a matter of agency discretion, this discretion must be exercised with care as award must be based on these evaluation criteria. There are no restrictions on the kinds of evaluation criteria that may be used for any given procurement provided the ordering activity consider the level of effort and the mix of labor proposed to perform a specific task being ordered and determine that the total price is reasonable.

Evaluation criteria must be closely related to the requirement and tailored to each acquisition. The key to selecting evaluation criteria is determining which criterion represent the major goals of the procurement as well as the major areas where there are likely to be meaningful differences between competing contractors. The use of a large number of evaluation criteria drawn from all parts of the specification is discouraged. Experience has shown that such an approach results in unnecessarily elaborate quotations, lengthy evaluations, and obscures the differences between competitors. **Therefore, evaluation criteria must be limited to those areas that will reveal substantive differences or risk levels among competing quotes.**
Selecting appropriate evaluation criteria is extremely important as they inform quoters of all the significant considerations in selecting the best value quote and, when the basis for award is a tradeoff analysis, the relative importance the Government attaches to each of these considerations. There are four broad types of evaluation categories within which evaluation criteria are normally developed and subsequently arranged in their relative order of importance:

1. **Technical.** This category indicates, for each quoter, the merit or excellence of the work to be performed or product to be delivered. It assesses how well the quoter can be expected to meet mission requirements and includes, as appropriate, both technical and management factors.

2. **Past Performance.** This category considers how well a quoter performed on similar work in the past and is assessed on the basis of customer satisfaction, or the lack thereof, and other information. Past performance is considered “similar” or “relevant” when it involved the same kind of challenges and difficulties that will confront the offeror on the prospective contract. Past performance is often confused with relevant experience or experience; however, these are two separate and distinct concepts. Experience considers the kind and amount of work an offeror has done; not how well the quoter performed in the past. While these elements can be combined into one, they may also be separate criteria.

3. **Price.** This category evaluates quotations for reasonableness and, as appropriate, realism.

4. **Other Considerations.** This category includes those considerations other than the three categories listed above that can affect performance. It includes, but is not limited to, such items as: financial condition, labor relations, small and small disadvantaged business considerations, and geographic distribution of subcontracts.

**NOTE:** Appendix B *Guidelines for Developing Evaluation Factors* provides detailed guidance on how evaluation factors should be developed. This guidance is also helpful in the development of evaluation criteria.

### 3.5 Notification Requirements

The contracting officer should provide timely notification to unsuccessful quoters. If an unsuccessful quoter requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided. See the *DHS Debriefing Guide*, HSAM Appendix AA, for information on providing explanations of the basis for the award decision and samples of relevant documentation.

### 3.6 Protests

A protest is one of many ways offerors can raise concerns or objections with the Government’s compliance with procurement statutes or regulations, or the actual conduct of an acquisition. Protests increase the cost of conducting an acquisition and result in the extension of lead time, regardless of the eventual disposition. Protests cannot be 100 percent avoided; however, when offerors believe the Government acted in a fair and impartial manner, a protest is less likely to occur. Ensuring the award decision is well supported and well documented at the time of award increases the likelihood of success in the event of a protest.

Under FAR 33.103 *Protests to the agency:*


• The unsuccessful offeror and the agency should comply with all the requirements of FAR 33.103 for protests submitted to the agency.
• Under FAR 33.103(b), all parties should use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.
• Under FAR 33.103(e), protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier. The agency, for good cause shown, or where it determines that a protest raises issues significant to the agency’s acquisition system, may consider the merits of any protest which is not timely filed. Any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 C.F.R. § 21.2 (a)(3)).
• While the requirements of FAR 33.103(f)(3) extend the protest filing period when an unsuccessful offeror requests a debriefing (see Section 2.9), the debriefing requirement does not apply to procurements under FAR 8.4. As such, the protest period is not extended.

Under FAR 33.104 Protests to GAO:

• The unsuccessful offeror and the agency should comply with all the requirements of FAR 33.104 for protests submitted to GAO.
• The GAO’s bid protest procedures are found in 4 C.F.R. 21. If any conflict is found between FAR 33.104 and 4 C.F.R. 21, 4 C.F.R. 21 shall govern.
• Time for filing before GAO:
  o 4 C.F.R. § 21.2 (a)(1) for improprieties in the solicitation, the protest must be filed before the solicitation closes.
  o 4 C.F.R. § 21.2 (a)(2) for protests other than those covered in (a)(1), the protest must be filed no later than 10 days after the basis for the protest is known. If a debriefing is requested or required, the initial protest should not be filed before the debriefing takes place but must be filed no later than 10 days after the debriefing is held with respect to the basis for protest that was known or should have been known before the debriefing or as a result of the debriefing.

3.7 DOCUMENTATION REQUIREMENTS

At a minimum, the following documentation must be maintained in the delivery/task order file:

• Market Research Report, as applicable (see DHS Market Research Guide)
• Advance Acquisition Plan, as applicable
• Acquisition Plan, as applicable (see DHS Acquisition Planning Guide)
• Rationale for using other than a firm-fixed price order or performance based order (if an acquisition plan is not required)
• Evaluation methodology
• Request for Quotation and any amendments thereto
• Quotations from all offerors, including revisions
• Evaluation results (technical, past performance, and price)
• Rationale for award, including any tradeoffs used to make the selection
• Notification to unsuccessful quoters
• Approval documentation, as applicable
APPENDIX A: DEFINITIONS

The following are definitions of key terms used in this document or otherwise related to execution of technical evaluation responsibilities.

**Acquisition** – The acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

**Bargaining** – Negotiations with an offeror including persuasion, alteration of assumptions and positions, give-and-take, that apply to price, schedule, technical requirements, type of contract, or other terms and conditions. Bargaining may occur in sole source procurements or during competitive negotiations. When it occurs in the competitive negotiation process after establishment of the competitive range, it is called discussions.

**Best Value** – The expected outcome of an acquisition that, in the government’s estimation, provides the greatest overall benefit in response to the requirement.

**Clarification** – A limited exchange between the Government and an offeror, under a competitively negotiated procurement, that occurs when award on initial proposals is contemplated. Clarifications do not result in the submission of a revised offer or quotation.

**Competitive Range** – The range of proposals that are the most highly rated, unless the range is further reduced for purposes of efficiency.

**Cost Analysis** – The review and evaluation of the separate cost elements and proposed profit contained in an offeror’s or contractor’s proposal (including cost or pricing data or information other than cost or pricing data) 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.

**Cost Realism Analysis** – The process of independently reviewing and evaluating specific elements of each offeror’s proposed 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. This analysis is required on cost-reimbursement contracts to determine the probable cost of performance of the contract, which is used as the evaluation factor in selecting the winning contractor. This analysis may also be used in limited circumstances on fixed price contracts for purposes of determining whether a contractor understands the work or is a responsible contractor. In such cases, the solicitation must notify offerors that cost realism may be performed. Additionally, the proposed prices are not adjusted for the purposes of evaluation.

**Deficiency** – A material failure of an offer or quotation to meet a Government requirement or a combination of significant weaknesses in an offer or quotation that increases the risk of unsuccessful contract performance to an unacceptable level.
Discussions – Exchanges, in a procurement using competitive proposal procedures, between the Government and an offeror in the competitive range undertaken with the intent of allowing the offeror to revise its proposal. Discussions include bargaining.

Fair and Reasonable Price – A price that is fair to both parties, considering the agreed-upon conditions, including the promised quality and time of contract performance.

Federal Acquisition Regulation (FAR) – The primary document in the Federal Acquisition Regulations System, containing uniform policies and procedures that govern the acquisition activity of all Federal agencies that do not have a specific exemption from its use.

Negotiations – Exchanges, in either a competitive or sole source environment, between the Government and offerors that are undertaken with the intent of allowing the offeror to revise its offer or quotation.

Offer – A response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called “bids” or “sealed bids”; responses to requests for proposals (negotiation) are offers called “proposals”.

Omission – Something that has been left out or excluded.

Price Analysis – The process of examining and evaluating a proposed price without evaluating the separate cost elements and profit the offeror included in that price.

Price Realism – Term GAO uses when a cost realism analyses is performed for a fixed-price contract type. Price realism is used to determine if an offeror’s proposed price is too low.

Probable Cost – The Government’s best estimate of the costs that a contractor will incur in performing a cost-reimbursement contract. The probable cost must be ascertained by making a cost realism analysis during the evaluation of each proposal and must be used in making the source selection decision.

Proposal Evaluation – The process by which the Government assesses an offeror’s proposal to determine the relative merits of the offer as well as the offeror’s ability to successfully accomplish a prospective contract.

Proposal Modification – A change made to a proposal before the solicitation closing date and time, mad in response to an amendment, or made to correct a mistake at any time before award. Proposal modifications other than corrections of a mistake must be submitted by the time specified of they will be treated as late proposals.

Proposal Revision – A change to a proposal made after the solicitation closing date, at the request of or as allowed by the contracting officer, as a result of discussions.

Protest – A written objection by an interested party to any of the following:

(1) A solicitation or other request by an agency for offers for a contract for the procurement of property or services.
(2) The cancellation of the solicitation or other request.
(3) An award or proposed award of the contract.
(4) A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.
Quotation – A response to a request for quotations.

Significant Strength – An element of a proposal which significantly exceeds a requirement of the solicitation in a way that is very beneficial to the Government.

Significant Weakness – A flaw in a proposal that appreciably increases the risk of unsuccessful contract performance.

Solicitation – Any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are called “invitations for bids.” Solicitations under negotiated procedures are called “requests for proposals.” Solicitations under from contractors holding Federal Supply Schedule contracts are called “requests for quotations.” Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Source Selection – The process used in competitive, negotiated contracting to select the proposal that offers the best value to the Government.

Source Selection Information (SSI) – Any of the following information that is prepared for use by an agency for the purpose of evaluating a bid or proposal to enter into an agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

- Bid prices submitted in response to an agency invitation for bids, or lists of those bid prices before bid opening;
- Proposed costs or prices submitted in response to an agency solicitation, or lists of those proposed costs or prices;
- Source selection plans;
- Technical evaluation plans;
- Technical evaluations or offers/quotations;
- Cost or price evaluations of offers/quotations;
- Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract;
- Rankings of offers, quotations, or competitors;
- Reports and evaluations of source selection panels, boards, or advisory councils; and
- Other information marked as “Source Selection based on a case-by-case determination by the head of the agency or the contracting officer, that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

Source Selection Plan – A plan that specifies how the source selection activities will be organized, initiated, and conducted. It serves as the guide for conducting the evaluation and analysis of proposals, and the selection of source(s) for the acquisition. It can best be described as a blueprint for conducting the source selection.

Strength – An element of a proposal which exceeds a requirement of the solicitation in a beneficial way to the Government.

Technical Evaluation Board/Team – Team of subject matter experts responsible for evaluating the merits of a quotation/proposal against criteria identified in the solicitation and established in the Technical Evaluation Plan/Source Selection Plan.
Technical Evaluation Plan – A plan that provides administrative guidance, organizational responsibilities, technical evaluation criteria, and procedures for evaluating proposals/quotations.

Weakness – A flaw in a proposal that increases the chance of unsuccessful performance.
APPENDIX B: GUIDELINES FOR DEVELOPING EVALUATION FACTORS

A. INTRODUCTION: A critical task assigned to the program office (or SSEB members for structured source selections), with input from the acquisition team, is the development of evaluation factors. Evaluation factors are those aspects of an offeror’s proposal that are evaluated to assess the offer that best meets the Government’s requirements. Selection of evaluation factors and their relative importance is a matter of agency discretion. This discretion must be exercised with care as award must be based on these evaluation factors and subfactors. Per FAR 15.304(c), there are no restrictions on the kinds of evaluation factors that may be used for any given procurement provided the following requirements are met:

- Price or cost shall be evaluated;
- Quality is addressed through the consideration of one or more non-cost evaluation factors;
- Past performance is evaluated;
- For solicitations involving bundling that offer a significant opportunity for subcontracting:
  o A factor is included to evaluate past performance indicating the extent to which the offeror attained applicable goals for small business participation under contracts that required subcontracting plans.
  o A factor is included to evaluate proposed small business subcontracting participation in the subcontracting plan.
- For unrestricted acquisitions over $650,000 ($1.5 million for construction), the extent of participation of small disadvantaged business concerns in performance of the contract in the authorized NAICS industry sub-sector shall be evaluated. (See 19.201(b) and 19.1202-2(b) for limitations.)

B. OVERVIEW: The key to selecting evaluation factors is determining which factors represent the major goals of the procurement as well as the major areas where there are likely to be significant differences between good and poor performing contractors. The use of a large number of evaluation factors drawn from all parts of the specification is discouraged. Experience has shown that such an approach results in unnecessarily elaborate proposals, lengthy evaluations, and obscures the differences between competitors.

C. EVALUATION CATEGORIES: There are four broad types of evaluation categories evaluation factors are normally developed within, and subsequently arranged, in their relative order of importance.

1. Technical. This category evaluates the merit or excellence of the work to be performed or product to be delivered for each offeror. It assesses how well the offeror can be expected to meet mission requirements and includes, as appropriate, both technical and management factors.

2. Past Performance. This category considers how well an offeror performed on similar work in the past and is assessed on the basis of customer satisfaction, or the lack thereof, and other information. Past performance is considered “similar” or “relevant” when it involved the same kind of challenges and difficulties that will confront the offeror on the prospective contract. Past performance is often confused with relevant experience or experience; however, these are two separate and distinct concepts. Experience considers the kind and amount of work an offeror has done; not how well the offeror performed in the past. While these factors can be combined into a
single past performance factor, they may also be separate factors. However, the evaluation of relevant experience or experience is not required.

3. **Price/Cost.** This category evaluates proposals for reasonableness and, as appropriate, realism. On a case-by-case basis, other factors may be evaluated in this category.

4. **Other Considerations.** This category includes those considerations other than the three categories listed above that can affect contract performance. It includes, but is not limited to, such items as: financial condition, labor relations, small and small disadvantaged business considerations, and geographic distribution of subcontracts.

D. **GENERAL GUIDELINES FOR DEVELOPING EVALUATION FACTORS:** Selection of evaluation factors depends upon the specific nature of the procurement. The following guidelines should be considered when generating evaluation criteria:

1. **Consistency.** Evaluation factors must agree with the specification and other stated requirements. Once developed, they must be accurately described in the SSP and incorporated into Section M of the solicitation. Evaluation factors and the specifications must accurately identify the basis for the Government’s measurement of how well each proposal meets the Government’s requirements.

2. **Limited in Number.** Avoid the tendency to generate too many evaluation factors. Generally, four to five factors within an evaluation category are sufficient to conduct a thorough and meaningful evaluation. Too many factors dilute the relative importance of the most significant factors. Also, having a very large number of factors may create overlap and waste valuable time during the evaluation phase. Eliminate those factors that are not important enough to influence the selection decision.

3. **Independence.** Select evaluation factors that do not overlap one another. For example, “evidence of successful completion on similar projects” and “applicable project experience” is nearly the same factor. Either eliminate redundant factors or consolidate them.

4. **Relevance.** An evaluation factor may be valid (i.e., measure what it is supposed to measure) without being relevant to the source selection. For example, when procuring services, manufacturing experience is irrelevant. Hence, when developing evaluation factors, ask, “does this factor really belong in the evaluation?”

5. **Can Be Measured or Validated.** An evaluation factor should not measure who has the best proposal writer or can make the best promises. Pick factors that include solid evidence and firm, specific commitments.

E. **TECHNICAL FACTORS:**

1. **Developing Technical Factors.** The program office (or the assigned SSEB) is responsible for developing the technical evaluation factors. Listed below are suggested steps for completing this task.

   a. **Step One: Read the Specification.** Thoroughly read and understand the specification. When reading the specification, ask yourself:
1) “What is the procurement’s objective?”
2) “In what acquisition phase is this procurement?”
3) “What areas of the specification give significant latitude for offerors to develop unique approaches?”
4) “In what areas of the specification are significant variations in quality or efficiency expected?”
5) “What attributes must an offeror possess to successfully perform the contract?”

b. Step Two: Research Previous Contracts. Obtain copies of evaluation factors used in similar procurements. A review of “lessons learned” from previous SSEBs and discussions with former SEB or evaluation team members may also provide valuable information. When referring to previous evaluation factors or “lessons learned”, ask the following questions:

1) “How do the acquisition objectives of this procurement compare (i.e., similarities and differences) to these previous efforts?”
2) “How much competition did the agency receive on prior procurements?”
3) “Have contract administrators experienced trouble with these previous contracts?”
4) “Was a factor the subject of a previous protest?” If so, examine it to determine if wording can be improved or clarified.
5) “How significantly did the factor affect the source selection?”

The goal in researching factors is to identify those that may apply to the immediate procurement. This approach saves time and also benefits from the successes or failures of other procurements; however, it is extremely important that the program or requiring office DO NOT blindly use previous evaluation factors. Such an action could be fatal to the procurement and to the mission objective.

c. Step Three: Select Factors. Meet with individuals responsible for developing the evaluation factors to brainstorm and document ideas. During this brainstorming session, individuals should compare their answers to the questions in steps one and two above and select only those factors that will impact the selection decision. Evaluation factors will vary and should be unique to the procurement.

d. Step Four: Select Subfactors. Once the evaluation factors are established, it may be necessary to develop subfactors. Subfactors are developed when a factor, by itself, is too broad to measure key aspects of the proposal. In such cases, it may be necessary to develop two or more subfactors for each evaluation factor. For example, a factor such as “Technical Approach” for a computer system may be broken down into the subfactors for “hardware installation plan,” “software installation plan,” “network services and maintenance plan,” etc. When selecting subfactors, follow the steps used for selecting factors.

2. Determining the Relative Importance. After choosing the evaluation factors and subfactors, the next step is deciding the relative importance among the factors. What factors, if any, are more important than other factors? Similar to the selection of factors and subfactors, the relative importance of selected factors and subfactors will have a significant impact on the selection decision. If the relative importance of factors and subfactors inaccurately reflects the Government’s needs, the SSA may select a proposal that is not the most advantageous. When deciding what factors, if any, are more important than others consider the following steps:

a. Step One: Ask the Question. Review the evaluation factors and subfactors and ask, “If the Government could evaluate only one factor/subfactor, which one would that be?”
b. **Step Two: Consider the Answer.** If the answer to the above question is, “All of the factors/subfactors are equally important.” Go to step three. If the answer reveals there is/are predominately more important factor(s) and subfactor(s), list those factors in their order of importance.

c. **Step Three: Expressing Relative Importance.** Once the relative importance of factors and subfactors is established, it must be expressed by a priority or tradeoff statement. Priority or tradeoff statements relate the importance of one factor to another or to all others. Include language which states, at a minimum, whether all evaluation factors other than cost or price, when combined, are – (1) Significantly more important than cost or price; (2) Approximately equal to cost or price; or (3) Significantly less than cost or price. **Under no circumstances should numerical weights be used to rank the relative merits of evaluation factors and subfactors (e.g., points assigned to each factor/subfactor).**

3. **Developing Assessment Criteria.** Whereas the evaluation factors and subfactors represent the subject matter to be evaluated, the assessment criteria denote the qualities the Government is looking for in a proposal.

   a. **Selection of Criteria.** Generally, only two or three criteria should be selected. The selection of these criteria should follow the general guidelines found in paragraph E.1 Developing Technical Factors.

   b. **Relative Merit.** Similar to assigning the relative importance of evaluation factors and subfactors, if one of the assessment criteria impacts the selection decision more than another, this must be reflected in a priority/tradeoff statement.

4. **Evaluation Matrix.** Evaluation factors and criteria provide a two-dimensional matrix that identifies and interrelates what is to be evaluated. Such a matrix visually portrays the interrelationship and relative merit of the various factors, subfactors and criteria. The matrix also serves as the basis for developing the color coded rating charts used during the SSEB and SSA briefings. Factors, subfactors and criteria are depicted on the matrix chart in descending order of importance.

**F. Past Performance:**

1. **Background.** Past performance is a mandatory evaluation factor in all competitively negotiated solicitations expected to exceed the simplified acquisition threshold (SAT) unless the contracting officer documents the reason past performance is not an appropriate evaluation factor for the acquisition. The evaluation of past performance is mandated by law to improve the competitive procurement process by selecting contractors with superior performance records rather than contractors with superior proposal writers. Below are suggested and required practices:

   a. Address past performance as a separate factor in your evaluation, not as a subfactor under other factors.

   b. Make it clear in the solicitation that past performance is being used as an evaluation factor.

   c. References requested in the solicitation should be for ongoing work with more than a year of performance or work completed within the past three years.

   d. Past performance factors must state that Federal, as well as, state and local Government, and private contracts for similar work can be used as references.
e. Directly address the relevancy of the past performance in the solicitation. Does the work have to be the same in size, scope, and complexity of the work that is contemplated? Is it a combination of these factors? Or can the work be of a similar nature of the work that is being contemplated in the solicitation? Will work performed as a subcontractor be considered relevant? If so, under what circumstance(s) will the work be considered relevant (e.g., value of subcontract is similar in size, scope, and complexity of the work that is contemplated)? If work performed as a subcontractor will be excluded from consideration, does the Government have a reasonable basis for doing so?

f. The solicitation should include a statement that the Government may use other sources of past performance information other than the sources identified by the offeror.

g. Past performance should be equal to or more important than any other non-cost/price factor.

h. In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available FAR 15.305(a)(2)(iv) states that the offeror may not be evaluated favorably or unfavorably on past performance.

2. Developing Factors. The program office (or as appropriate members of the SSEB), with the assistance of the contracting officer, shall develop the past performance evaluation factors. The steps in selecting and weighting evaluation factors for past performance are similar to the steps in selecting and weighting technical evaluation factors (see paragraph E Technical Factors).

G. Developing Price/Cost Evaluation Factors: Price/cost is a mandatory evaluation factor. Typically the contracting officer develops the cost/price evaluation factors with the assistance of the program or requiring office (or members of the cost team if an SSEB is used).

The ultimate tradeoff in a best value source selection is the one between cost/price and the other evaluation categories. This is often referred to as the price/cost technical tradeoff. The tradeoff entails deciding whether any advantages that an offer may have in terms of technical/management, past performance, or other evaluated considerations are worth any difference in cost or price. The FAR requires cost or price be considered in every source selection (structured or otherwise). Cost/price shall be related to the other evaluation categories by a priority or tradeoff statement (see paragraph E 2. Determining the Relative Importance).

H. Other Considerations: This category includes all factors considered important by the SSA in making the selection decision that do not fit into one of the other three categories (i.e., technical, cost/price, or past performance). The RFP must specifically identify other factors to be considered in the source selection. Because the factors in this category may combine technical and contract considerations, typically, the program or requiring office and the contracting officer develop these factors together.
A. **INTRODUCTION.** Properly defined evaluation standards are critical to ensuring the Government selects the best value offer/proposal. Inadequately defined evaluation standards could result in the selection of an offer/proposal that does not represent the best value. Evaluation standards are developed from the evaluation factors and subfactors identified in the SP and the RFP. Given these factors and subfactors, the first step is for evaluation team members to describe the factor. Factor descriptions collectively serve as checks to determine the evaluation plan is complete and that duplication does not exist between factors. They also serve as a guide to the evaluator to determine what is to be evaluated.

B. **OVERVIEW.** Having described what is to be evaluated at the factor and subfactor level, the next step is preparing the standard itself. Standards indicate the required minimum acceptable capability. When developing standards, the minimum requirements of a standard must not exceed the minimally acceptable capability for the solicitation and must not address requirements not included in the solicitation. While it is preferred that quantitative standards be used because of their definitive nature, qualitative standards may also be used if more appropriate given the circumstances. The following examples of quantitative and qualitative standards are furnished for guidance:

1. **EXAMPLE OF QUANTITATIVE STANDARD:**

   **CATEGORY:** TECHNICAL

   **FACTOR:** OPERATIONAL UTILITY

   **SUBFACTOR:** MISSION PERFORMANCE

   **ELEMENT:** PAYLOAD/RANGE

   **DESCRIPTION:** This element is defined as the payload that can be carried, considering the basic design gross weight, in a given range, when operational utilization of the aircraft is considered.

   **STANDARD:** At a weight not exceeding the basic design gross weight, the aircraft is capable of transporting a payload of:

   a. 30,000 lbs. over a 2,800 nm distance; and
   b. 48,000 lbs. over a 1,400 nm distance;

2. **EXAMPLE OF QUALITATIVE STANDARD:**

   **AREA:** TECHNICAL

   **FACTOR:** SYSTEM INTEGRATION

   **SUBFACTOR:** SYSTEM SAFETY
DESCRIPTION: The proposed system safety program will be evaluated for adequacy in effecting the design of changes or modifications to the baseline system to achieve special safety objectives. The evaluation will consider the specific tasks, procedures, criteria, and techniques the contractor proposes to use in the system safety program.

STANDARD: The standard is met when the proposal:

a. Defines the scope of the system safety effort and supports the stated safety objective;
b. Defines the qualitative analysis techniques proposed for identifying hazards to the depth required; and
c. Describes procedures by which engineering drawings, specifications, test plans, procedures, test data, and results will be reviewed at appropriate intervals to ensure safety requirements are specified and followed.
APPENDIX D: ADJECTIVAL RATING SYSTEM

A. TRADEOFF PROCESS

Any tradeoff process requires evaluating and rating in some manner non-price/cost related factors. The rating method used is a scale of indicators to denote the degree to which a proposal meets the standards identified for the non-cost/price evaluation factors. Thus, a rating system helps evaluators assess a proposal’s merit with respect to the evaluation factors and significant subfactors used in the solicitation. Each rating must have a definition so evaluators have a common understanding of how to apply the rating. The key in using any rating system is not the method or combination of methods used, but rather the consistency with which the selected method is applied to all competing proposals and the adequacy of the narrative used to support the rating.

The GAO has held that while adjectival ratings and numerical (point) scores are useful guides for decision-making, they generally are not controlling, but rather, must be supplemented by documentation of the relative differences between proposals, their weaknesses and risks, and the basis and reasons for the selection decision. Such judgments by their nature are often subjective; nonetheless, the exercise of these judgments in the evaluation of proposals must be reasonable and must bear a rational relationship to the announced criteria upon which competing offers are to be selected. In addition, the GAO has ruled that to perform a meaningful review of an agency's selection determination, an agency is required to have adequate documentation to support its evaluation of proposals and its selection decision. The GAO has further recognized that point scores and adjectival ratings are only guides to help source selection officials evaluate proposals; they do not mandate automatic selection of any particular proposal.

The following is an example of adjectival ratings and descriptions that could be used to evaluate the technical merit of an offeror’s proposal and its past performance record when using the tradeoff process:

<table>
<thead>
<tr>
<th>Rating</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superior</td>
<td>Proposal demonstrates an excellent understanding of the requirements and an approach that significantly exceeds performance or capability standards. Proposal has exceptional strengths that will significantly benefit the Government and risk of unsuccessful performance is very low.</td>
</tr>
<tr>
<td>Good</td>
<td>Proposal demonstrates a good understanding of the requirements and an approach that exceeds performance or capability standards. Proposal has one or more strengths that will benefit the Government and risk of unsuccessful performance is low.</td>
</tr>
<tr>
<td>Satisfactory</td>
<td>Proposal demonstrates an understanding of the requirements and an approach that meets performance or capability standards. Proposal presents an acceptable solution with few or no strengths and risk of unsuccessful performance is moderate.</td>
</tr>
<tr>
<td>Marginal</td>
<td>Proposal demonstrates a shallow understanding of the requirements and an approach that only marginally meets performance or capability standards necessary for minimal but acceptable contract performance. The risk of unsuccessful performance is high.</td>
</tr>
<tr>
<td>Unsatisfactory</td>
<td>Proposal fails to meet requirements and one or more deficiencies exist for which correction would require a major revision or redirection of the proposal. A contract cannot be awarded with this proposal.</td>
</tr>
</tbody>
</table>
Rating System for Past Performance Evaluation Factors

<table>
<thead>
<tr>
<th>Rating</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neutral</td>
<td>No relevant performance record is identifiable upon which to base a meaningful performance rating. A search was unable to identify any relevant past performance information for the offeror, key personnel, or subcontractors. This is neither a negative or positive assessment.</td>
</tr>
<tr>
<td>Superior</td>
<td>Based on the offeror’s past performance record, essentially no doubt exists that the offeror will successfully perform the required effort.</td>
</tr>
<tr>
<td>Satisfactory</td>
<td>Based on the offeror’s past performance record, it is likely that the offeror will successfully perform the required effort.</td>
</tr>
<tr>
<td>Unsatisfactory</td>
<td>Based on the offeror’s past performance record, it is not likely that the offeror will successfully perform the required effort.</td>
</tr>
</tbody>
</table>

B. LOWEST PRICE TECHNICALLY ACCEPTABLE PROCESS

The acceptability of a product or service is the focus of the lowest price technically acceptable (LPTA) source selection process and must be addressed in every LPTA source selection through the consideration of one or more non-price evaluation factors and subfactors. For LPTA source selections, this is accomplished by establishing a requirement to be evaluated on an “acceptable” or “unacceptable” basis. Proposal are evaluated for acceptability, but not ranked. In order to be considered suitable for award, the proposal must receive an acceptable rating for every non-price factor and every subfactor, if applicable.

The following is an example of the ratings and descriptions that could be used to evaluate the technical merit of an offeror’s proposal and its past performance record when using a lowest price technically acceptable process:

Rating System for Technical and Management Evaluation Factors

<table>
<thead>
<tr>
<th>Rating</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>Proposal meets the requirements of the solicitation.</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>Proposal does not meet the requirements of the solicitation.</td>
</tr>
</tbody>
</table>

Rating System for Past Performance Evaluation Factors

<table>
<thead>
<tr>
<th>Rating</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>Based on the offeror’s past performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort or the offeror’s past performance record is unknown (see note below).</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>Based on the offeror’s past performance record, the Government has no reasonable expectation that the offeror will successfully perform the required effort.</td>
</tr>
</tbody>
</table>

Note: If an offeror does not have a record of relevant past performance or past performance information is either unavailable or so sparse that nor meaningful rating can be reasonably assigned, the offeror may not be rated favorably or unfavorably. The offeror shall be determined to have unknown past performance. For purposes of the LPTA source selection process, the offeror would receive an acceptable rating for past performance.
APPENDIX E: ORAL PRESENTATIONS GUIDANCE

(Excerpt from the U.S. Army’s Source Selection Guide, February 2009)

A. INTRODUCTION: Oral presentations (sometimes referred to as oral proposals) provide offerors an opportunity to present information verbally that they would normally provide in writing. You can conduct oral presentations in person or via video teleconference. However, a videotaped presentation does not constitute an oral presentation because it does not represent a real-time exchange of information.

Oral presentations may be beneficial in a variety of acquisitions. They are most useful when the requirements are clear and complete and are stated in performance or functional terms. Oral presentations are ideal for gathering information related to how qualified the offeror is to perform the work, how well the offeror understands the work, and how the offeror will approach the work.

B. SCOPE OF THE ORAL PRESENTATION: Before you can decide if oral presentations are appropriate for a given acquisition, you must select the evaluation factors and subfactors. Then decide whether the information you need to evaluate these criteria can be better presented orally or in writing or through a combination of both means.

You cannot incorporate oral statements in the contract by reference, so any information you want to be made part of the contract needs to be submitted in writing. At a minimum, the offeror must submit certifications, representations, and a signed offer sheet (including any exceptions to the Government’s terms and conditions) in writing. Additionally, as a rule of thumb, the offeror must submit other hard data ("facts"), such as pricing or costing data and contractual commitments, as part of the written proposal.

Oral presentations can convey information in such diverse areas as responses to sample tasks, understanding the requirements, experience, and relevancy of past performance.

In deciding what information to have the offerors provide through oral presentations, you should consider the following:

- The Government’s ability to adequately evaluate the information,
- The need to incorporate any information into the resultant contract,
- The impact on the efficiency of the acquisition, and
- The impact (including cost) on small businesses.

Require offerors to submit their briefing materials in advance of the presentations. This will allow Government attendees an opportunity to review the materials and prepare any associated questions.

C. REQUEST FOR PROPOSAL INFORMATION: If oral presentations are appropriate, you must notify offerors in the RFP that the Government will use oral presentations to evaluate and select the contractor. The proposal preparation instructions must contain explicit instructions and guidance regarding the extent and nature of the process that will be used. Discourage elaborate presentations
because they may detract from the information being presented. At a minimum, include the following information in the RFP:

- The types of information the offeror must address during the oral presentations and how they relate to the evaluation criteria;
- The required format and content of the presentation charts and any supporting documentation,
- Any restrictions on the number of charts or the number of bullets per chart and how you will handle material that does not comply with these restrictions;
- The required submission date for the presentation charts and/or materials;
- The approximate timeframe when the oral presentations will be conducted and how you will determine the order of the offerors’ presentations;
- Whether any rescheduling will be permitted if an offeror requests a change after the schedule has been established;
- The total amount of time each offeror will have to conduct their oral presentation,
- Who must make the presentation and a requirement that the offeror provide a list of names and position titles of the presenters;
- Whether the presentation will be video or audio taped;
- The location of the presentation site and a description of the site and resources available to the offeror;
- Any rules and/or prohibitions regarding equipment and media;
- How you will treat documents or information referenced in the presentation material but never presented orally;
- Any limitations on Government-offeror interactions during and after the presentation,
- Whether the presentation will constitute discussions;
- Whether you will use the information in the oral presentation solely for source selection purposes or whether such information will become part of the contract (which will require a subsequent written submission of that information); and
- Whether the offeror should include any cost (or price) data in the presentation.

D. **Timing and Sequencing:** You can conduct oral presentations either before or after establishing the competitive range. If you conduct the oral presentations prior to establishing the competitive range, you must be careful they do not result in discussions.

Because preparing and presenting an oral presentation involves time and expense, you do not want to require offerors who are not likely to be serious candidates for award to have to conduct oral presentations. This can be an important consideration with small businesses. When this is a concern, establish the competitive range prior to oral presentations and clearly articulate in the RFP the methodology for doing so.

The contracting officer will often draw lots to determine the sequence of the offerors’ presentations. The time between the first and the last presentation should be as short as possible to minimize any advantage to the offerors that present later.

E. **Time Limits:** Establish a total time limit for each offeror’s presentation. It is not advisable to limit the time for individual topics or sections within the presentation; this detail is the presenter’s responsibility. If you are planning a question and answer session, exclude it from the allotted time and set a separate time limit for it.
There is no ideal amount of time to be allotted. Make this decision using prudent business judgment based upon the complexity of the acquisition and your own (or others’) experience and lessons learned.

F. FACILITY: Usually you will want to conduct the presentations at a facility you can control. This helps guard against surprises and ensures a more level playing field. However, nothing precludes you from conducting an oral presentation at an offeror's facility. This may be more efficient if site visits or other demonstrations are part of the source selection.

If you are using a Government-controlled facility, make it available for inspection and, if warranted, a practice session. Allowing offerors to get acquainted with the facility will help ensure that it does not detract from the presentation content.

G. RECORDING THE PRESENTATIONS: Having an exact record of the presentation could prove useful both during the evaluation process and in the event of a protest or litigation. You can record the oral presentations using a variety of media; e.g., videotapes, audio tapes, written transcripts, or a copy of the offeror’s briefing slides or presentation notes. The SSA is responsible for determining the method and level of detail of the record.

If you use videotaping, allow for the natural behavior of the presenters. If slides or view graphs are used, the camera should view both the podium and screen at the same time. Place the microphones so that all communications can be recorded clearly and at adequate volume. Every effort should be made to avoid letting the recording become the focus of the presentation.

The recording, which is considered source selection information, will become part of the official record. Provide a copy to the offeror and seal and securely store the master copy of the recording to ensure there are no allegations of tampering in the event of a protest or court action.

H. GOVERNMENT ATTENDANCE: The contracting officer should chair every presentation. All of the Government personnel involved in evaluating the presentations should attend every presentation.

I. PRESENTERS: The offeror’s key personnel who will perform or personally direct the work being described should conduct their relevant portions of the presentations. Key personnel include project managers, task leaders, and other in-house staff of the offeror’s or their prospective key subcontractors’ organizations. This will avoid the oral presentation becoming the domain of a professional presenter, which would increase costs, detract from the advantages of oral presentations, and adversely affect small businesses.

J. REVIEWING THE GROUND RULES: Prior to each presentation, the contracting officer should review the ground rules with the attendees. This includes discussing any restrictions on Government-offeror information exchanges, information disclosure rules, documentation requirements, and housekeeping items. These ground rules should also be included in the solicitation.

If you are using a quiz as part of your evaluation, the contracting officer needs to discuss the related ground rules. For example, can the offeror caucus or contact outside sources by cell phone before answering?

Avoid too much control and regulation because it will inhibit the exchange of information. However, if you intend to avoid discussions, the contracting officer should control all exchanges during the
presentation. If conducting oral presentations after opening discussions, you must comply with FAR Part 15.306 and Part 15.307.

K. EVALUATION OF PRESENTATIONS: Evaluations should be performed immediately after each presentation. Using preprinted evaluation forms will help the evaluators collect their thoughts and impressions. Remember, even if you use preprinted forms, evaluators have to provide the rationale for their conclusions.
APPENDIX F: COST REALISM ANALYSIS

(Excerpt from the U.S. Army’s Source Selection Guide, February 2009)

A. OVERVIEW: You must perform cost realism analysis when a cost contract is anticipated. In accordance with FAR 15.404-1(d)(3), you may also perform cost realism on fixed-price incentive contracts, or in exceptional cases, on other competitive fixed-price-type contracts. Adjustments for the most probable cost estimate should not be based solely on differences from the IGCE. Where performance specifications are used, the IGCE is based on the Government’s implicit approach to the work, which may differ from the offerors’ approach. Also, the IGCE rates may not be comparable. The technical evaluation should reveal areas where each contractor’s approach is inadequate or its resourcing unrealistic, given the proposed approach. The technical evaluators and the cost evaluators should crosswalk technical deficiencies and weaknesses and their impact on cost to assure proper adjustments can be made to the proposed costs. However, this crosswalk should not be performed until after each group has completed their initial evaluation to avoid intentional or unintentional bias.

B. MOST PROBABLE COST ESTIMATE: When developing a most probable cost estimate, consider the following points:

- As you collect the information required to evaluate the realism of the offeror’s cost (or price) estimate, you are also collecting the information required to develop your own estimate of the most probable contract cost;

- In developing your estimate, adopt the portion of the offeror’s estimate that appears realistic and modify the portion of the estimate that you believe is unrealistic. For example, you may accept proposed labor hours and adjust the labor rate based on an audit recommendation. Adjustments may increase or decrease cost estimates;

- Use relevant estimating tools and techniques;

- Conduct meaningful discussions with offerors in the event there are any meaningful adjustments to the offeror’s estimated cost; and

- As you complete your estimate, clearly document your rationale for any adjustment.
C. STEPS INVOLVED IN COST REALISM ANALYSIS: The steps you should take when conducting a cost realism analysis are depicted in the figure below.

1. **Is this a Cost Contract?**
   - **Yes:** Required
   - **No:** Optional (see note below)

2. **Gather Information**
   - **STEP 3: Conduct Analysis**
     - **STEP 4: Perform Risk Assessment**
       - Analyze cost & technical proposals
       - Pinpoint discrepancies
       - Validate IGCE
       - Determine if costs are consistent with technical approach
       - Assess offeror’s understanding of contract requirements
       - Identify obvious mistakes/ask for validation

3. **STEP 5: Advise Offeror of Findings during Discussions**

4. **STEP 6: Allow Revised Proposal; Repeat Analysis when Revisions Received**

5. **STEP 7: Adjust Proposed Cost to Most Probable Cost**

6. **STEP 8: Use Results as Stated in the RFP**

Note: You may use cost realism on FP incentive contracts or, in exceptional cases, on other competitive FP contracts when:
- The offerors may not fully understand new requirements,
- There are quality concerns, or
- Past experience indicates contractors’ proposed costs have resulted in quality/service shortfalls.