



CONTRACTING FOR THE REST OF US

Some Basic Guidelines

NAVSO P-3689
October 2000

Office of the Assistant Secretary
of the Navy (RD&A)
Acquisition and Business Management

Preface



The ASN(RD&A) Strategic Plan reflects a total commitment to support our Sailors, Marines and Allies operating our equipment by providing better equipment and services at an affordable cost. This plan has a focus of four goals: Improve warfighter satisfaction; Shape and train an efficient and effective acquisition workforce; Lower the total ownership cost of equipment and services; and Reduce cost and cycle time for delivering equipment and services.

We can achieve these goals through the synergistic efforts of our entire Navy and Marine Corps Team, by sharing our knowledge through best practices and lessons learned and applying them to our acquisition process. This Guide represents an initiative to reach these goals by improving the acquisition process through a simplified understanding of the contracting process. It provides non-contracting personnel with a better understanding of the fundamentals of the contracting process. Developed by engineers and contracting personnel with a significant amount of experience in DoD acquisitions, it provides the contracting fundamentals, lessons learned, and tools that are used daily by this office to support Navy acquisitions.

In order to communicate more effectively with our Navy and Marine Corps Team, this Guide will be posted on the ABM homepage (www.abm.rda.hq.navy.mil) in a form and format that will allow you to share your experiences, lessons learned, and best practices relating to the contracting process. ABM will use this shared knowledge to provide periodic updates to this Guide. I encourage everyone to become familiar with this Guide and share your experiences with us, so that we can best meet the Navy's acquisition objectives.

A handwritten signature in black ink, appearing to read "Gwilym H. Jenkins, Jr.".

Gwilym H. Jenkins, Jr.
Rear Admiral, SC, US Navy
Deputy for Acquisition & Business
Management

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Acknowledgements

The Deputy Assistant Secretary of the Navy (Research, Development and Acquisition) Acquisition and Business Management acknowledges the team of technical and contracting experts responsible for developing this guide.

Project Sponsor

RADM G. H. Jenkins Jr.
Ed Callaway

Deputy, ASN(RD&A)ABM
Director, ASN(RD&A)ABM-PR

Technical

Eric Grothues
Doug Patterson
Toshio Oishi
Ed Smith
Mick Finn

ASN(RD&A)ABM-PR
PATCON
IIT Research Institute
EG&G Technical Services
EG&G Technical Services

Contracting

Bob Johnson
Dennise March
CDR Forrest Tucker
Nancy Dowling

ASN(RD&A)ABM-PR
ASN(RD&A)ABM-PR
ASN(RD&A)ABM-PS
Strategic Systems Programs

Special recognition is given to Nancy Dowling of the Navy's Strategic Systems Programs for her previous efforts on this subject, which inspired the development of this guide.

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Objective

Each of us contributes in some way to ensure that the Department of Defense is able to fulfill its assigned mission. Often our contribution is part of a multifunctional team effort where the policies and procedures of one functional group take precedence. This is inevitably true of the acquisition and procurement processes. The Federal Acquisition Regulation (FAR) and implementing regulations establish uniform policies and procedures for acquiring systems, supplies and services.

This guide is intended to provide non-contracting personnel with a better understanding of the policies, procedures and functions of the contracting process. This understanding will allow them to participate more effectively during the contract process. Greater understanding among acquisition team members will contribute to the successful acquisition of Navy weapon systems.

Within DoD, acquisition refers to the process that begins with identification of a need. The process includes the procurement of systems, supplies and/or services to meet that need; support for those systems, supplies and/or services; and, ultimately, disposition of the supplies or systems when no longer required.

On major acquisitions, the acquisition team may consist of the program manager, technical experts, contract specialists, logistics experts, transportation experts, configuration managers, legal counsel and others. On smaller acquisitions, the team may consist of the item manager and the contract specialist with consultation support as appropriate. As the acquisition transitions from one phase to another, the composition of the acquisition team may vary. Whether a large or small program, no matter what phase of the acquisition, every acquisition must be a team effort with each member of the team participating in an effective manner.

This document is divided into five parts: Part I, “Fundamental Principles,” provides some contracting fundamentals, Part II, “Organization,” provides a brief discussion of the roles of each organization in the contracting process; Part III, “The Contracting Process,” describes the contracting process itself; Part IV, “Common Traps,” provides selected lessons learned expressed as Watch Out Fors that can become traps if not avoided; and Part V, “Resources,” provides a useful listing of resources available to assist in the contracting process.

The contracting process described in Part III will be addressed in three phases: Acquisition Planning, Contract Formation, and Execution and Sustainment. Throughout this guide, we will attempt to highlight the roles and responsibilities of each member of the acquisition team during each phase of the acquisition. While this guide is focused towards major acquisitions, the concepts and fundamentals are applicable to all.

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Part I

Fundamental Principles

1. The Program Manager is responsible for the program. The Program Manager and the Contracting Officer, together, are responsible for ensuring that the contract forms an integral part of the program.
2. Funds must be available before the contract is let.
3. Only warranted Contracting Officers have the authority to:
 - Enter into, administer, or terminate contracts.
 - Make Determinations and Findings.
 - Bind the Government to the extent delegated in the contract.
4. Only the Contracting Officer, or personnel identified in the contract, can give direction under the terms and conditions of the contract.
5. Always read and understand the contract.
6. Do what the contract says.
7. What the contract says is what you will get.
8. Verify that what you get is what the contract requires.

Basic "Laws" of Contracting

- The real contract is the agreement between the parties;
it is important that the written contract reflect this agreement!
- Those who don't read and understand the contract
may bear the brunt of a bad bargain!

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Part II

Organization

This guide discusses the roles and responsibilities of two groups; one group is called the “Program Group” and the second the “Contracting Group.” These two groups, together, form the acquisition team under the direction of the program manager.

“Program Group”

Program Manager

Program Managers for major defense programs have been chartered by their respective Service Acquisition Executive with the authority, accountability, and responsibility for all aspects of their program. This includes cost, schedule, contracts, design, test, production/manufacturing, logistics, deployment, disposition, etc. This authority is reaffirmed in the Program Managers Bill of Rights, presented by the Under Secretary of Defense (AT&L) as provided below. Since the PM has been assigned authority over a program, the PM has the ultimate decision responsibility over that program. All other program and support personnel implement the requirements of the PM.

Program Managers Bill of Rights and Responsibilities

Program Managers have the RIGHT to:

- A single, clear line of authority from the Defense Acquisition Executive.
- Authority commensurate with their responsibilities.
- Timely decisions by senior leadership.
- Be candid and forthcoming without fear of personal consequences.
- Speak for their program and have their judgments respected.
- The best available training and experience for the job.
- Adequate financial and personnel resources.

Program Managers have the RESPONSIBILITY to:

- Accept program direction from acquisition executives and implement it expeditiously and conscientiously.
- Manage their programs to the best of their abilities within approved resources.
- Be customer focused and provide the user with the best, most cost-effective system or capability.
- Innovate, strive for optimal solutions, seek better ways to manage, and provide lessons learned to those who follow.
- Be candid about program status, including risks and problems as well as potential solutions and likely outcomes.
- Prepare thorough estimates of financial and personnel resources that will be required to manage the program.

Technical Personnel

Technical personnel are responsible to program managers for the design, development, test, production, logistics support, and disposition of a weapon system. In addition, they are responsible for defining and establishing technical and performance requirements, as well as ensuring that technical problems in the operating forces are addressed and corrected.

Program Manager's Technical Representative

The Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 242.74 defines a technical representative as representative of a DoD program, project, or system office performing non-CAS technical duties at or near a contractor facility. A technical representative is not (1) a representative of a contract administration or contract audit component; or (2) a contracting officer's representative. PM's may establish a technical representative on-site at a contractor facility to perform programmatic and technical functions on behalf of the PM. However, the PM should use the guidelines of SECNAVINST 4000.36 and the ASN(RD&A) "Program Manager Handbook for Technical Representation at Contractor Facilities" when establishing technical representatives.

"Contracts Group"

Contracting Officer

Contracting Officers are warranted by their respective agencies to issue legal contracts between the US Government and the contracting entity. The authority and requirements for the Contracting Officer are issued to the requirements specified in Subpart 1.6 of the Federal Acquisition Regulations. Subsection 414(4) of Title 41, United States Code, requires agency heads to establish and maintain a procurement career management program and a system for the selection, appointment, and termination of appointment of contracting officers. All programmatic, technical, and other contractual requirements established by the PM for the contractor (or proposed contractor) must be issued by the Contracting Officer. Any changes that the contractor implements as a result of improper Government direction (e.g., constructive changes) could make the Government liable. The relationship between the PM and Contracting Officer varies. In most instances the Contracting Officer is assigned by the Systems Command to support a program. The Contracting Officer does not report administratively to the PM; however, the Contracting Officer must still respond to the PM's programmatic and technical requirements.

Contracting Officers Have the Responsibility to:

- Ensure all requirements of law, executive orders, regulations, and all other applicable procedures including clearances and approvals, have been satisfied.
- Ensure sufficient funds are available for obligation.
- Ensure contractors receive fair and equitable treatment.
- Request and consider the advice of specialists in audit, law, engineering, transportation, and other fields as appropriate.
- Document that the proposed contract is in the best interest of the Government.
- Issue timely contracts and contract changes.

Contract Administration Office

Contract Administration can be completed within the agency, by the Defense Contract Management Agency (DCMA), or other office assigned contract administration responsibility under the contract. The contract administration services performed by a Contract Administration Office (CAO) are listed in FAR 42.302(a) and are identified when a contract is assigned for contract administration. DCMA provides worldwide contract administration support to Department of Defense agencies. DCMA personnel do not report to the PM or Contracting Officer, but they are responsible to the Contracting Officer to provide

contractor and contract performance information for successful program completion, and to ensure that contractual direction issued by the Contracting Officer is implemented. Other activities providing contract administration support include the Supervisors of Shipbuilding, Conversion and Repair (SUPSHIPS) for designated contractors and the Office of Naval Research (ONR) for designated colleges, universities, and other not for profit organizations. In rare instances, contract administration support services can be assigned to other Departments and Agencies of the Federal Government.

DCMA makes available Program Integrators (PIs) to lead the program support teams for all Acquisition Category (ACAT) I and II programs and other programs as requested by the PM and DCMAO Commander. PIs function as the interface between the CAO, the PM and the Contracting Officer. The PI is responsible for coordinating the PMs requirements with the CAO's resources. Typical functions of the PI are:

- Negotiate a Memorandum of Agreement (MOA) between the PM and CAO.
- Program surveillance.
- Supporting contract administration delegations.
- Problem identification and resolution.
- Customer interface.

Memorandum of Agreement

A MOA normally defines the interfaces, responsibilities and requirements between the PM and the cognizant CAO. The MOA identifies the overall DCMA/PM relationship during contract performance and addresses PM issues and concerns that the program support team members must consider in the development of functional program surveillance plans.

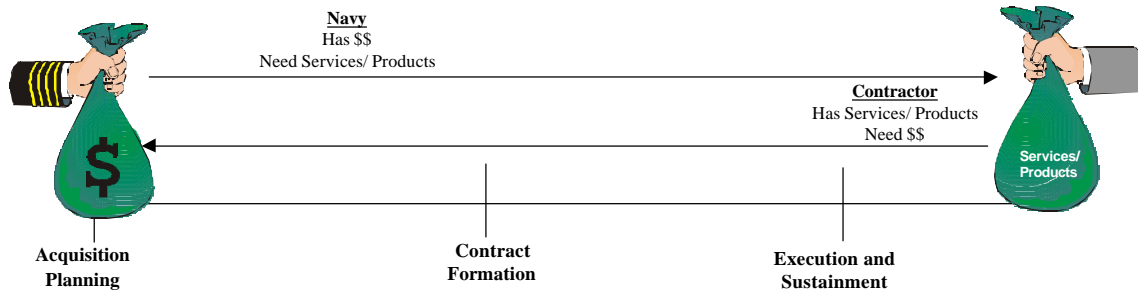
The MOA:

- Identifies the unique requirements for surveillance of contractor cost, schedule, and technical performance.
- Defines the level of performance required of the CAO.
- Addresses the program-identified risks and key technical performance areas.
- Describes the activities necessary to achieve and maintain effective program support.
- Clarifies specific details or concerns of the PM, including areas of emphasis, communication procedures, and technical representative duties.
- Should include the functions and interfaces between the technical representative and the CAO, in accordance with DFARS 242.74.
- The MOA should also include, as a minimum:
 - PM's desired outcomes and emphasis areas,
 - Contractor/subcontractor risk areas and associated contractor processes requiring surveillance,
 - duties of key individuals, including technical representatives,
 - anticipated DCMA resource requirements,
 - communications procedures, frequency and content of reporting requirements, and
 - procedures, including funding, for CAO personnel to travel in support of the program.

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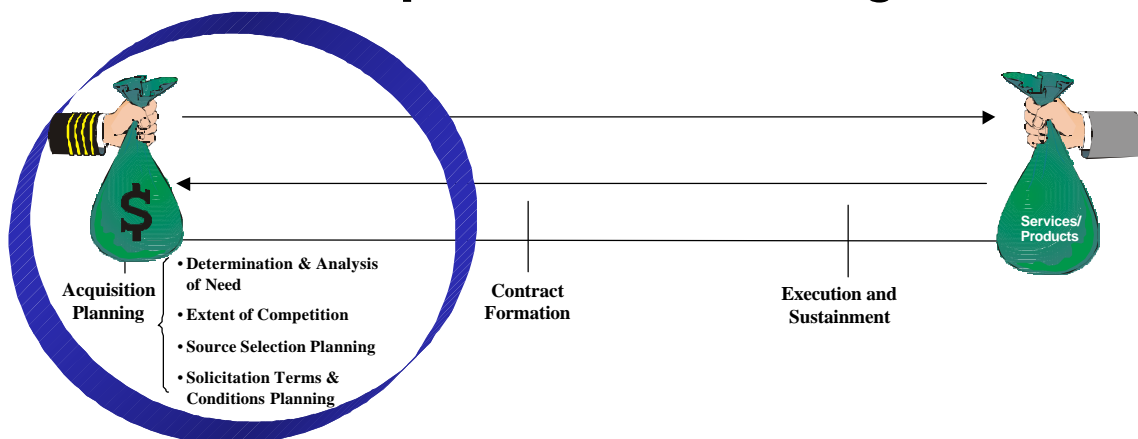
Part III

The Contracting Process



The above figure represents a simplified flowchart of the Federal procurement process, detailing the phases, functions and duties associated with that process. It should be noted that not every function or duty applies to every acquisition. For example, not all contracts require formal written acquisition plans. Many contracts are not modified and few contracts are terminated. Also, the sequence of functions or duties may vary. Some solicitations may be amended prior to receipt of bids/offers while others may be amended after the Government has begun to evaluate proposals. Many duties may be performed repetitively through several phases of the process. For example, market research may begin as early as a requirement is forecast and continue through contract award or, where the Government has options to exercise, after contract award. Another example includes proposal evaluation and negotiations in the Contract Formation phase. However, many of these steps apply equally to post-award negotiation for contract modifications.

Phase 1 Acquisition Planning



Introduction

Acquisition Planning is the process of identifying and describing requirements and determining the best method for meeting those requirements. An important step in acquisition planning is identification of the acquisition team. For a major acquisition, participants normally include the Program Manager (PM), Contracting Officer, technical experts, logisticians, financial and legal personnel. However, this team can be tailored to meet specific program needs.

Acquisition planning focuses on the business and technical management approaches designed to achieve program objectives within specified resource constraints and the procurement and contracting strategies necessary for implementation. The contracting processes and associated focus areas addressed are:

- Determination and Analysis of Need
- Extent of Competition
- Source Selection Planning
- Solicitation Terms and Conditions (Planning)

A. Determination and Analysis of Need

Determination and Analysis of Need is the first step in the acquisition planning process. It focuses on the forecasting and planning of the acquisition requirements, as well as developing and updating Acquisition Plans and Justifications and Authorizations, as required.

Contracting Functions	Programmatic Functions
Forecasting of Requirements	
<ul style="list-style-type: none"> • Discuss future acquisition requirements with PMs. Advise the PMs on policies and long range strategies for enhancing competition, minimizing costs, reducing lead times, etc. Plan and organize to meet the anticipated, aggregate requirements. • Consolidate and forecast requirements that are likely to be incorporated in purchase requests during the next several fiscal years. • Discuss economic order quantities and a tentative schedule of purchases. 	<ul style="list-style-type: none"> • Prepare program plans, cost estimates, and schedules and determine priorities. This includes: <ul style="list-style-type: none"> – Describe program needs (i.e., technical objectives). – Identify and sequence tasks to accomplish overall objectives for each sub-objective. – Identify sub-objectives and related responsibilities for each task. – Identify resources needed. – Estimate length of time for each objective. • Identify systems, subsystems, equipment, and components required by program phase. Included are items for Joint Programs, Foreign Military Sales, developmental testing, Commercial Off the Shelf/Non Developmental Items (COTS/NDI) assessment, training, integration testing, qualification testing, options, etc, as applicable. The following should be considered:

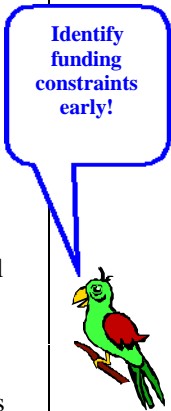
Contracting Functions	Programmatic Functions
<p style="text-align: center;">Contract Planning</p> <ul style="list-style-type: none"> • Identify procurement related data from program and project planning and Pre-Procurement Planning Conferences, including: <ul style="list-style-type: none"> – Supplies and services to be procured. – Acquisition histories on needed supplies and services. – Findings of market research. – Decisions on whether to use presolicitation notices, conferences, et al. – Alternative techniques to enhance competition and breakeven points. – Program baselines (milestones, cost, and performance). • Review and organize all elements required for plans, such as: <ul style="list-style-type: none"> – Sources, competition, source selection procedures, contracting considerations, budgeting and funding, small business opportunities and patent rights, product descriptions, priorities, allocations and allotments, contractor vs. Government performance, management information requirements, make or buy, test and evaluation, logistics considerations, GFP, Government-furnished information, environmental considerations, security considerations, and milestones. • Obtain concurrence and approvals from: <ul style="list-style-type: none"> – Contracting Officer. – Competition Advocate. – Legal, finance, and other supporting offices. 	<ul style="list-style-type: none"> – Evolutionary Acquisition Strategy. – Prototype units. – Pre-production units. – Low/Full-Rate production units. – Spares. • Identify test equipment/tooling, software, Government Furnished Property (GFP), etc., required by program phase. • Identify services required by program phase: <ul style="list-style-type: none"> – Hardware/software design/development/support. – Systems integration. – Production. – Depot/maintenance. • Identify documentation/data requirements: <ul style="list-style-type: none"> – Specifications. – Design analyses & test reports. – Technical Data Rights. <ul style="list-style-type: none"> • Identify technical actions required to successfully complete program and procurement milestones. • Identify the overall procurement requirements and associated program budget. Describe the program and the constraints placed on the procurement. • Describe market research results, including previous procurements, related programs, and historical problems as they affect technical issues. • Work with contracts to identify sources, budgeting and funding, product descriptions, priorities, allocations, and allotments, contractor vs. Government performance, management information requirements, make or buy, test and evaluation, logistics considerations, GFP, Government-furnished information, environmental considerations, security considerations, and milestones. • Deliverable Quantities/Options: Identify procurement requirements, including options, breakout considerations, and Foreign Military Sales; prepare the contract line item structure and data requirements with Contracts. • Plan the requirements for the contract Statement of Objectives/Statement of Work (SOO/SOW)/Specification/Contract Data Requirements List (CDRL), including Risk Management, Systems Engineering, Configuration Management, Technical Data

Contracting Functions	Programmatic Functions
<ul style="list-style-type: none"> • With Technical, determine the contract type appropriate for the program requirements such as fixed price, cost reimbursement, incentive, indefinite delivery, time & material/labor hour, basic agreements/basic ordering, and letter. • Prepare and process the Justification & Approval or Determination & Findings. • Prepare a plan of action and milestones for significant actions through contract award, including assembly of the solicitation package and status meetings. • Select technique(s) for testing and improving the Government's description of required supplies and services. These include: <ul style="list-style-type: none"> – Design competition (contract for specification and prototype development). – Industry panels to assist in specification development. – Solicitations for information or planning purpose. – Presolicitation notices. – Presolicitation conferences. 	<p>Package, Logistics Support, Program/Design Reviews, IPTs Implementation, Acceptance Requirements, and Schedule.</p> <ul style="list-style-type: none"> • With Contracts, determine: <ul style="list-style-type: none"> – Acquisition Streamlining approach/ requirements. – Warranty requirements. – Requirements for Contract Administration Office (CAO) MOA and/or Letter of Delegation. – Requirements for Sections L and M of the solicitation. – Contract cost, schedule and performance reporting requirements. – Significant actions, including status meetings, through contract award, and a plan for completion. • Provide technical evaluation/response to Contracting Officer regarding offeror comments and pre-award inquiries.
Purchase Requests	
<ul style="list-style-type: none"> • Review the Purchase Request (PR) for completeness and adequacy. • Establish and maintain the contract file. • Control data on the acquisition. • Contract Clauses: Identify Federal Acquisition (FAR)/Defense FAR Supplement (DFARS) clauses that are applicable to the program, including consideration of: Acquisition Streamlining, Competition requirements, Correction of Deficiencies, Materials and Workmanship, Warranty, Inspection/Delivery Requirements, and Data Rights. • Prepare the synopsis for the Commerce Business Daily. 	<p>Prepare PR inputs as applicable:</p> <ul style="list-style-type: none"> • Section B: Supplies and Services Line Items. • Section C: SOO/SOW, Specification, Technical Data Package. • Section D: Packaging and Marking. • Section E: Inspection and Acceptance. • Section F: Period of Performance or Delivery. • Section G: Contract Administration Data. • Section H: Special Contract Requirements. • Section I: Contract Clauses. • Section L: Instruction to Offerors. • Section M: Evaluation Factors for Award. • Funding Citation. • Any applicable justifications and/or waivers.
Government Furnished Property	
<ul style="list-style-type: none"> • Prepare any necessary justifications/ certifications and/or Determinations & Findings. • Determine if GFP contracts are available to purchase the items. 	<ul style="list-style-type: none"> • Perform trade studies to establish the requirement for furnishing Government property or use of DoD supply sources by the contractor. • Identify GFP requirements and their availability. Determine if coordination is required with another PM, Service, or Agency to procure the GFP and provide notification for their advance planning. Identify the configuration, quantity and timing of the GFP

Avoid writing PR's that recommend only one source or restrict competition!



Contracting Functions	Programmatic Functions
<p style="text-align: center;">Services Contracts</p> <ul style="list-style-type: none"> For Services, screen purchase requests for requests to acquire personal services or advisory and assistance services. Determine if there is sufficient justification, approvals, and legal authority to make such acquisitions. Where applicable, request Wage Determinations for incorporation into the solicitation. <p style="text-align: center;">Funding</p> <ul style="list-style-type: none"> Determine if sufficient, applicable funds will be committed prior to solicitation release. <p style="text-align: center;">Market Research/Market Investigation</p> <ul style="list-style-type: none"> Obtain data from acquisition histories and other DoD sources. Collect and compile additional market information. Determine whether and how to initiate exchange of information with prospective offerors prior to soliciting. Coordinate and participate in early exchanges. Estimate the proper price level or value of the supplies or services to be purchased. 	<p>that must be supplied to the prime contractor.</p> <ul style="list-style-type: none"> Provide supporting rationale as appropriate or establish alternate requirements. <p>Prepare PR inputs, such as:</p> <ul style="list-style-type: none"> SOW. Period of performance. Deliverables. Sections L and M of the RFP. <p>Assure adequate funding to support technical requirements.</p> <p>Conduct trade studies to evaluate alternatives and associated risks. As part of the trade study, consider producibility, supportability, reliability, cost and schedule as well as performance.</p> <ul style="list-style-type: none"> Determine if COTS/NDI are applicable.



B. Extent of Competition

Check available sources to determine if their qualifications to meet program needs.

Contracting Functions	Programmatic Functions
<p style="text-align: center;">Sources</p> <ul style="list-style-type: none"> Determine availability of qualified sources. Determine if the source can meet the need. For commercial sources, review acquisition histories, conduct market research, and prepare source lists of identified sources. Verify that a Qualified Bidders List, Qualified Manufacturers List, or Qualified Parts List (QBL/QML/QPL) applies to the procurement. Ascertain from market research whether unlisted firms or products may be able to meet the minimum functional need. 	

Consideration of competition in contracting is required by law (Competition in Contracting Act (CICA) of 1984), regulation, and policy.



Contracting Functions	Programmatic Functions
<p>Competition Requirements</p> <ul style="list-style-type: none"> • Determine if a set-aside is appropriate or if a competition should be limited to establish or maintain an industrial base. • Determine whether full and open competition can be obtained. If not, determine whether to solicit from a limited number of sources or from a sole source. • Identify any international agreement that restricts competition. • Prepare justification for other than full and open competition. • Obtain clearances/approvals from Competition Advocate and/or other responsible officials. • Prepare a synopsis. <ul style="list-style-type: none"> • Prepare supporting justification (e.g., lead time requirement, standardization program, limited rights in data, industrial base mobilization, and an essential engineering, development, or research capability) if recommending other than full and open competition. • Consider production competition, with associated risks, below the end-item, such as: <ul style="list-style-type: none"> – Subcontract competition. – Component/subsystem breakout. • Assess past performance histories of potential suppliers. 	

C. Source Selection Planning

The objective of the Source Selection Planning process is to establish criteria to determine that the selected source(s) results in the lowest expected Total Ownership Cost consistent with the PMs budget and delivery of an end item that meets the user's needs.

Contracting Functions	Programmatic Functions
<p>Lease vs. Purchase</p> <ul style="list-style-type: none"> • Determine whether to solicit for lease, purchase, or both. 	
<p>Price Related Factors</p>	
<ul style="list-style-type: none"> • Identify applicable factors, such as multiple award, Buy American, energy efficiency, transportation, Total Ownership Costs for solicitation, multiyear options, reverse auction, and Cost as an Independent Variable (CAIV). 	<ul style="list-style-type: none"> • Determine the product's expected life and life cycle cost, considering factors such as: <ul style="list-style-type: none"> – Potential obsolescence. – Maintenance and repair. – Operation. – Spares. – Training. • Establish technical criteria for price-related factors and their relative importance. Determine the product's expected quality and life-cycle cost. Establish technical requirements for evaluating performance, interchangeability, interoperability, quality, maintenance concept, technical/logistics documentation, and skills.
<p>Non-Price Factors</p>	
<ul style="list-style-type: none"> • Select non-price evaluation factors (if any) for award and determine how the Government will apply the factors (e.g., as go/no-go or rating factors) to screen out high risk bids or proposals. Determine whether to award to the Lowest Priced, technically acceptable proposal 	<ul style="list-style-type: none"> • Establish technical criteria for non-price related factors and their relative importance. Evaluate past performance, personnel qualifications, products proposed by a vendor with different characteristics other than price, and technical realism of proposed resources. Perform

Contracting Functions	Programmatic Functions
<p>or through a trade-off analysis. Organize and brief the source selection team. The higher the business and technical risk, the greater the emphasis on factors other than price.</p>	<p>Technical/non-price factor trade-off analyses and determine the best value or minimum technical requirements for award.</p>
<p>Method of Procurement or Purchasing</p>	
<ul style="list-style-type: none"> Determine the method for procurement (sealed bid, two-step sealed bid, competitive proposals) and soliciting quotes/proposals. 	<ul style="list-style-type: none"> Review acquisition history and market research and recommend procurement methods. For selections based on oral presentations, develop sample technical tasks and evaluation criteria for oral presentations.

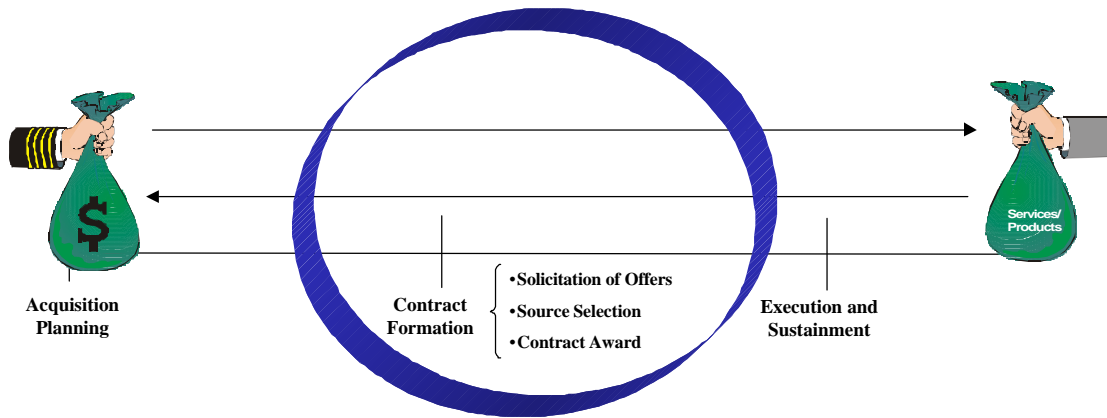
D. Solicitation Terms and Conditions (Planning)

The objective of developing Solicitation Terms and Conditions is to minimize the risk of a solicitation not meeting performance, cost and schedule requirements.

Contracting Functions	Programmatic Functions
<p>Contract Type (Pricing Arrangement)</p>	
<ul style="list-style-type: none"> Identify and solicit the type of contractual pricing arrangements (e.g., fixed price award fee, cost plus award fee) that will best mitigate and apportion expected risks. Consider the use of Incentive Contracts that include definitive, measurable incentives. 	<ul style="list-style-type: none"> Provide input on program technical risk.
<p>Recurring Requirements</p>	
<ul style="list-style-type: none"> Determine the appropriate method to solicit for currently unfunded requirements. Alternatives include blanket purchase agreements, options, and indefinite delivery types of contracts. 	<ul style="list-style-type: none"> Identify program requirements.
<p>Contract Financing</p>	
<ul style="list-style-type: none"> Determine if buyer financing should be used as an evaluation factor, and what type of Government financing is available (e.g., progress payments, advance payments, performance based payments, etc.). 	<ul style="list-style-type: none"> Provide technical support as required.
<p>Need for Bonds</p>	
<ul style="list-style-type: none"> Determine whether bonds are required or necessary to protect the Government from market risks. 	<ul style="list-style-type: none"> Provide technical support as required
<p>Method of Payment</p>	
<ul style="list-style-type: none"> Determine the method of payment (i.e., impact card, electronic funds transfer, etc.). 	<ul style="list-style-type: none"> Provide technical support as required

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Phase 2 Contract Formation



Introduction

As our military acquisition culture has shifted from a reliance on military specifications and standards to non-Government standards and practices, a joint government-industry team developed an integrated approach to compliance with new acquisition reform initiatives. This approach, called a Performance-Based Business Environment (PBBE), was initially approved by the Office of the Secretary of Defense for implementation in the aviation business sector. However, PBBE is expected to serve as a model for other DoD business sectors since an emphasis on performance is an important feature of acquisition reform. Performance requirements are a major part of the Contract Formation process, which consists of:

- Solicitation of Offers
- Source Selection
- Contract Award



A. Solicitation of Offers

The objective of preparing and issuing a solicitation is to ensure that all qualified offerors are afforded the opportunity to compete for the contract award necessary to meet the Government requirements. The focus is to prepare the solicitation, publicize the proposed procurement, receive the offers, communicate with offerors, and clarify any misunderstandings.

Contracting Functions	Programmatic Functions
Solicitation Preparation	
<ul style="list-style-type: none"> • Identify, complete and incorporate FAR clauses and provisions into the Invitation for Bids (IFB), Request for Quote (RFQ), or Request for Proposal (RFP). • Identify customary commercial terms and conditions and determine which to incorporate. • Assemble the IFB/RFQ/RFP. • Make the solicitation available to all parties. 	<ul style="list-style-type: none"> • Review the requirement documents that authorize the program and define its basic objectives. • Use market research to determine whether COTS/NDIs are available to meet program requirements. • Identify all organizations and persons who will participate in preparing the SOW, and

Use Turbo-Streamliner to help with Solicitation Development (See Part V)!



Contracting Functions	Programmatic Functions
<div data-bbox="105 220 292 493" style="border: 1px solid blue; border-radius: 15px; padding: 5px; width: fit-content;"> <p>It is helpful to develop a matrix correlating the solicitation sections and content to ensure consistency!</p> </div>  <div data-bbox="73 787 259 1060" style="border: 1px solid blue; border-radius: 15px; padding: 5px; width: fit-content;"> <p>Use "ASSIST" and Turbo-SpecRight to help with this process (see Part V.)</p> </div>  <ul style="list-style-type: none"> • Assure that the specification: <ul style="list-style-type: none"> – States the actual minimum functional need. – Encompasses all available products or services that can meet the actual minimum functional need (eliminates any nonessential preferences that may thwart full and open competition). – Is stated in terms that the market can satisfy. • Assure that standard FAR required provisions advising the offerors of statutory and DoD requirements are included. • Assure that formatting information is provided (organizational requirements, volumes, page limitations, cost instructions, etc.). • Assure consistency with the rest of the RFP, such as tasking established in the SOW, evaluation criteria in Section M, and Special Provisions in Section H. <p style="text-align: center;">Section M</p> <ul style="list-style-type: none"> • Assure evaluation factors/subfactors are related to the program objectives and reflect the minimum material requirements of the solicitation. • Assure consistency with the rest of the RFP, such as tasking established in the SOW, criteria in Section L, and Special Provisions in Section H. 	<p>determine the participants' areas of responsibility.</p> <ul style="list-style-type: none"> • Prepare the SOW covering all of the Work Breakdown Structure (WBS) work elements included in the RFP/contract. • For each WBS work element, identify tasks that define the scope of the work effort to satisfy the minimal needs of the program and identify required data deliverables. • Ensure that only those tasks which add value to the product, whether a management system or technical requirement, are included in the SOW. <p style="text-align: center;">Specification</p> <ul style="list-style-type: none"> • Select the appropriate non-Government specification, military specification, or other applicable specifications. • Ensure technical performance requirements are properly contained in the system specification and not in the SOW. • Review the requirement documents that authorize the program and define its basic objectives. • Ensure that the specifications are consistent with the SOW. <p style="text-align: center;">Section L</p> <ul style="list-style-type: none"> • Identify contractor critical design, test, and manufacturing technical requirements, such as: <ul style="list-style-type: none"> – Critical design processes. – Design analyses. – Variability reduction program. – Cpk requirements. – Critical production processes. – Special test equipment. – Special test requirements. – Reliability prediction and growth requirements. – Risk management programs (design, test and manufacturing). <p style="text-align: center;">Section M</p> <ul style="list-style-type: none"> • Describe the relative weights of the technical performance factors developed in Section L. • Assure that the factors/subfactors match exactly the factors/subfactors approved in the Source Selection Plan (SSP).

Contracting Functions	Programmatic Functions
CDRL/DIDs	
<ul style="list-style-type: none"> Assure that approved Data Item Descriptions (DIDs) are referenced with the CDRLs. Review CDRLs to determine if reports are necessary and if the number of reports is appropriate. 	<ul style="list-style-type: none"> Identify, justify, and support the need for the deliverable data on the contract at a data call. Base data requirements on the acquisition strategy. Data requirements should only be acquired for two purposes: <ul style="list-style-type: none"> Information feedback from the contractor for program management, control, and decision making (e.g., cost performance). Information needed to manage, operate, and support the system, depending on the weapon system support concept (e.g., specifications, technical manuals, engineering drawings, etc.).
Incentive/Award Fee	
<ul style="list-style-type: none"> Tailor the contract performance elements (e.g., areas of critical program risk) selected for incentive/award fees to key events, then assign them to appropriate evaluation periods. The results become the basis of the request for information from potential offerors, as contained in the Instructions to Offerors, without having to ask for extraneous detail. A well thought out list of critical risk areas provides an excellent roadmap for the solicitation. Incentive/award fee contracts based on contractor process improvements require some objective measurements to use as a basis for evaluation and incentive/award fee percentage calculation. Provide the contractor regular, structured feedback to preclude great disparity between what the contractor expects as an incentive/award fee payment and what the Government actually pays. 	<ul style="list-style-type: none"> Analyze the SOW and attendant requirements to determine which contract performance requirements should be subject to award or incentive fees. As a general rule, historically high-risk processes and processes involved with new technologies are usually good candidates for consideration as incentive/award fee elements. Specify the measurable criteria against which contractor performance will be measured. Explain the general procedures that will be used to determine the earned incentive/award fee for each evaluation period. Consider independent labs or facilities to technically support incentive/award fee evaluations. From the total incentive/award fee amount to be made available, specify evaluation periods and the corresponding amount of award fee available each period.
Warranty	
<ul style="list-style-type: none"> Develop contractual language to implement the warranty. Conduct warranty cost/benefit analysis. 	<ul style="list-style-type: none"> Assess warranty conditions for COTS/NDI products. Develop warranty terms based on the objectives and circumstances of the acquisition considering planned operational, maintenance and supply concepts. Conduct warranty cost/benefit analysis.
Publicizing Proposed Procurements	
<ul style="list-style-type: none"> Prepare and publicize in the Commerce Business Daily (CBD), and use any other method of advertising as required. 	<ul style="list-style-type: none"> Provide technical inputs for preparing the CBD or other advertising methods as required.

Ensure that the warranty does not become a fixed price maintenance agreement



Contracting Functions	Programmatic Functions
Preaward Inquiries	
<ul style="list-style-type: none"> • Answer questions about the solicitation. Process Freedom of Information Act Requests (FOIA). 	<ul style="list-style-type: none"> • Forward preaward and FOIA inquiries to Contracts. Provide technical responses, when requested, to Contracts.
Prequote/Prebid/Preproposal Conferences	
<ul style="list-style-type: none"> • Provide offerors with a public forum to review and question the solicitation, and brief the solicitation. 	<ul style="list-style-type: none"> • Provide technical support.
Amending and Canceling Solicitations	
<ul style="list-style-type: none"> • Determine whether there is a need to amend or cancel a solicitation. If an amendment is necessary, prepare and issue the amendment; if the decision is to cancel, cancel the solicitation. 	<ul style="list-style-type: none"> • Provide technical justification for amendment or cancellation of a solicitation.

B. Source Selection

The objective of source selection is to select a source competitively that meets program objectives and requirements.

Contracting Functions	Programmatic Functions
Processing and Accepting Offers	
<ul style="list-style-type: none"> • Receive and control offers submitted in response to the solicitation. Identify the acceptance period for the offer. Make determination and provision for delayed offers and late offers. 	<ul style="list-style-type: none"> • Provide technical support as required.
Proposal Price and Responsiveness	
<ul style="list-style-type: none"> • Conduct a price reasonableness analysis. 	<ul style="list-style-type: none"> • Provide technical evaluation and determine if a low proposal is technically qualified.
Processing Quotes and Proposals	
<ul style="list-style-type: none"> • Brief the Source Selection Activity (SSA) and Source Selection Evaluation Board prior to receipt of offers on rules and regulations applicable to the conduct of the evaluation process. • Determine which proposals are in the competitive range for the purpose of conducting written or oral discussions. • Ensure that the source selection "evaluation factors for award" set forth in the Source Selection Plan (SSP) and approved by the SSA, are the same as those in Section M of the solicitation. • Resolve late offers/quotes. 	<ul style="list-style-type: none"> • Perform the technical evaluation of proposals and produce facts and findings required in the Technical Evaluation Plan and source selection process. • Support the Cost/Price Team with an assessment of the scope (e.g., labor categories/mix/hours, materials, etc) of the proposals relative to their respective technical approach. • The findings and recommendations of the Technical Evaluation Board, should provide sufficient data to: <ul style="list-style-type: none"> – Determine the need for fact finding. – Determine the need for amending or

Contracting Functions	Programmatic Functions
<ul style="list-style-type: none"> • Receive and control proposals/quotes. • Identify and solicit services of technical personnel for proposal evaluation. • Provide technical evaluators with complete and correct instructions on evaluating technical proposals. • When awarding on "best value," ensure that evaluator ratings or scoring of technical proposals are reliable and, in terms of the RFP's evaluation factors, valid. • Serve as the official point of contact with all offerors. • The Cost/Price Team, chaired by the Contracting Officer, is responsible for evaluating cost/price in order to determine whether: <ul style="list-style-type: none"> – the cost/price is reasonable, – the offeror has an understanding of the work, and – the offeror has the ability to perform the contract. • Conduct debriefings of unsuccessful offerors. 	<ul style="list-style-type: none"> – canceling the solicitation. – Present and support negotiation objectives (i.e., areas of discussion). – Support the Contracting Officer's determination of the competitive range. • Provide constructive information to offerors regarding their technical proposals after award.
Applying Past Performance, Technical, and Non-Price Factors	
<ul style="list-style-type: none"> • Check latest Performance Information in the Department of Navy Contractor Performance Assessment Reporting System (CPARS). • Review findings and recommendations of technical personnel to assure evaluation documentation is adequate to sustain the Government's position on ratings/scoring in a protest forum. • Invite contractor comments. • Reconcile discrepancies between the contractor version of events and reported past performance information. 	<ul style="list-style-type: none"> • Provide technical evaluations and recommendations on: <ul style="list-style-type: none"> – technical rating and acceptability of each offer/quote, – technical deficiencies and need for fact finding or clarifications, – the relative standing of the offers/quotes, including strengths and weaknesses, with the application of non-price factors, and – quality/reliability histories. • Review an offeror's recent actual performance in relevant areas to assess risk. The offeror's recent and relevant past performance (measured by such indicators as quality, timeliness, cost, schedule, operational effectiveness and suitability) may be considered in assessing the probability of successful accomplishment of the proposed effort in a timely and cost-effective manner.
Price Analysis, Negotiation, Information, and Audits	
<p>Prior to soliciting:</p> <ul style="list-style-type: none"> • Critique the PR estimate. • Collect price related information during market research. • Forecast likely prices. • Investigate trade-offs. 	<ul style="list-style-type: none"> • Provide supporting technical inputs and analyses. • Identify fact finding/clarification issues/recommendations. • Participate in best value trade-offs.

Past Performance information is required to be used in the source selection process! (see Part V)



Contracting Functions	Programmatic Functions
<p>After receipt of quotes/offers:</p> <ul style="list-style-type: none"> • Apply price related factors to the solicitation, offers, and/or quotes. • Evaluate and compare prices. • Determine the reasonableness of the proposed prices and develop price related negotiation objectives for discussion with vendors. • Obtain pricing information, audit cost, and pricing data required. Obtain information other than cost or pricing data. 	
Cost Analysis	
<ul style="list-style-type: none"> • Develop prenegotiation positions on proposed elements of cost and profit/fee. 	<ul style="list-style-type: none"> • Provide supporting technical analyses. • Identify significant technical factors, including contingencies and assumptions that affected the contractor's proposed cost estimate. • Participate in should-cost analysis considering, for example, inefficient or uneconomical contractor methods and processes proposed.
Evaluating Other Terms and Conditions	
<ul style="list-style-type: none"> • Develop prenegotiation positions on terms and conditions other than price. 	<ul style="list-style-type: none"> • Provide technical assistance as requested.
Communications/Fact-Finding	
<ul style="list-style-type: none"> • Prior to competitive range determination, identify and collect information from the offeror necessary to complete the Government's analysis of proposal. 	<ul style="list-style-type: none"> • Identify technical fact-finding requirements and participate in their collection.
Extent of Discussions (Competitive Range)	
<ul style="list-style-type: none"> • Define the competitive range and notify offerors outside the range. • Determine necessity and extent of clarifications with the quoters. 	<ul style="list-style-type: none"> • Participate in discussions and adjust the technical ratings, if appropriate. • Provide technical inputs into the competitive range determination.
Discussions and Negotiations	
<ul style="list-style-type: none"> • Prepare a prenegotiation plan that establishes objectives, priorities, and potential trade-offs for discussions with the offeror/quoter. • Conduct the negotiation sessions and document the elements of the negotiated agreement. • Debrief vendors as requested. 	<ul style="list-style-type: none"> • Provide technical inputs to the prenegotiation plan for each offeror, including: <ul style="list-style-type: none"> – Significant weaknesses/deficiencies/risks. – Technical approach that could be altered to significantly enhance the proposal award. – Should-cost analysis for cost comparison • Participate in negotiations and debriefs as appropriate.

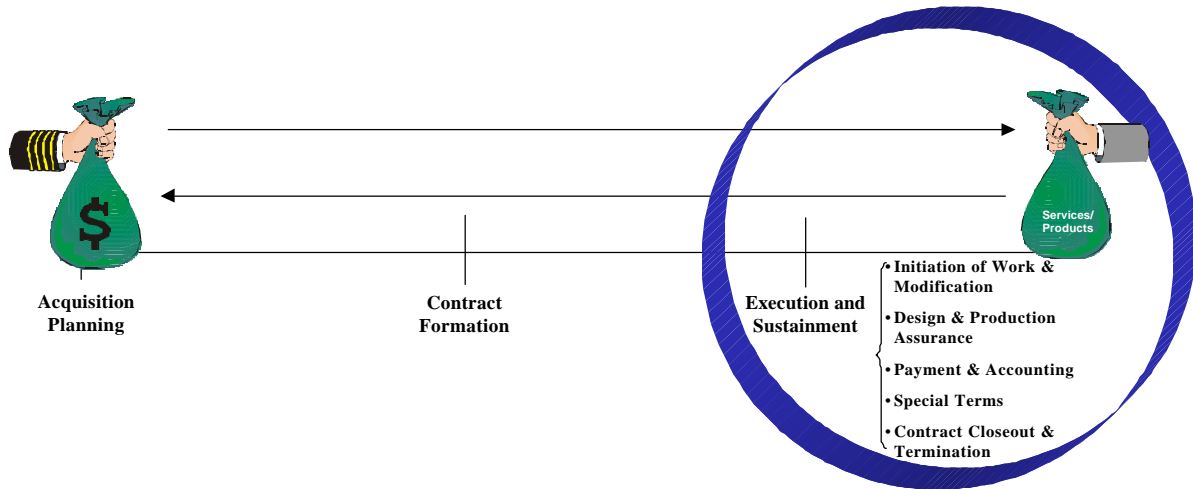
C. Contract Award

The objective of contract award is to prepare and issue the contract.

Contracting Functions	Programmatic Functions
Responsibility	
<ul style="list-style-type: none"> Determine if the offeror meets the general and any special standards of responsibility. 	<ul style="list-style-type: none"> Participate in applicable pre-award surveys.
Subcontracting Requirements	
<ul style="list-style-type: none"> Obtain a subcontracting plan from the contractor. Negotiate make or buy programs. Determine whether consent is required under the terms of the contract. Determine whether to review the contractor's purchasing system. Negotiate improvements and monitor implementation. Take measures to protect the Government if the purchasing system is deficient. Monitor compliance with make-or-buy plans. 	<ul style="list-style-type: none"> Assess the subcontracting plan for acceptability and risk to the contract requirements. Assess adequacy of the contractor's purchasing system and the contractor rating system, including the use of failure/discrepancy reporting data. Assess the contractor make/buy program for acceptability and risk to the contract requirements.
Preparing and Issuing the Award	
<ul style="list-style-type: none"> Verify funding. Make/obtain the final source selection decision. Prepare the contract and document the recommendation for award. Obtain approvals for awarding the contract. Execute the contract. Notify the awardee and other parties, as required. Defend Government selected outcome. 	<ul style="list-style-type: none"> Review the contract technical package for compliance with requirements.
Protests	
<ul style="list-style-type: none"> Research and prepare positions on protests of the award. Respond to any protest as provided in the procedures or forums in which the protest has been filed. 	<ul style="list-style-type: none"> Provide technical evaluation of protests in support of Contracts.

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Phase 3 Execution and Sustainment



Introduction

Following contract award, the successful execution and sustainment of contractual requirements are synonymous with successful program execution and sustainment. To maximize the degree of success, cooperation must continue between all acquisition team members with the same commitment displayed while performing the tasks described in Phases 1 and 2. Whereas there are many engineering and logistic actions which must be considered in the early planning and contract formation phases, the execution and sustainment phase also must be thorough and disciplined to accomplish the objectives desired. This phase, consisting of five parts each with specific focus areas, is discussed in this Section as follows:

- Initiation of Work and Modification
- Design and Production Assurance
- Payment and Accounting
- Special Terms
- Contract Closeout and Termination

A. Initiation of Work and Modification

The objective here is to plan for proper contract administration, conduct necessary post award briefings, determine the need to consent to subcontracts, implement the appropriate subcontracting requirements, and properly administer proposed modifications, options, and tasks/delivery order contracting.

Contracting Functions	Programmatic Functions
Contract Administration Planning	
<ul style="list-style-type: none"> Review the contract and related acquisition histories. Determine the criticality of the contract. Identify key milestones. Delegate authority to Contracting Officers Representative and/or Administrative Contracting Officer. 	<ul style="list-style-type: none"> Define the program roles of supporting organizations for: <ul style="list-style-type: none"> – Surveillance of contractor activities. – Quality assurance activities. – GFP. – Program Support Team reporting requirements.
Post Award Orientations	
<ul style="list-style-type: none"> Conduct Post Award Orientations. Confirm that the contractor’s understanding of key contract provisions matches the Government’s understanding. 	<ul style="list-style-type: none"> Identify issues, such as apparent contractor interpretations of technical requirements, which may affect program risks and expectations for mitigation.
Subcontractor Control	
<ul style="list-style-type: none"> Provide subcontract consent if required. Identify/impose applicable subcontracting requirements and goals prescribed by FAR and other directives in the prime contract, such as small, disadvantaged, and minority business set-asides. Identify shortcomings in these requirements, such as failure to meet subcontracting goals, and invoke remedies for noncompliance. 	<ul style="list-style-type: none"> Provide technical recommendations to contracts that support requests for subcontract consent. Participate in formal and informal design reviews and vendor conferences to evaluate the subcontractors’ technical processes. Establish metrics and measures for rating subcontractors’ processes.
Contract Modifications	
<ul style="list-style-type: none"> Review proposed modifications against the scope of work and availability of funds. Determine whether to modify the contract and implement the modification. 	<ul style="list-style-type: none"> Assess proposed modifications for technical content. Consult the Contracting Officer on all changes or additions as needed.
Options	
<ul style="list-style-type: none"> Verify the validity of an option. Determine whether to exercise the option. Notify the contractor. 	<ul style="list-style-type: none"> Provide technical concurrence/non-concurrence for exercise of the option.
Task Order and Delivery Order Contracting	
<ul style="list-style-type: none"> Check on availability of existing contract vehicles for use. Establish task and delivery order contracts. Issue orders for supplies and services. 	<ul style="list-style-type: none"> Prepare SOW and task order technical requirements. Evaluate proposal including past performance, sample tasks, management controls, etc., as applicable.

Only the Contracting Officer can modify the Contract!



B. Design and Production Assurance

The objective of design and production assurance is to monitor the performance of the contractor against contract requirements to enable timely corrective action.

Contracting Functions	Programmatic Functions
Monitoring, Inspection, and Acceptance	
<ul style="list-style-type: none"> • Obtain feedback on contractor performance or deliverables. • Verify and document evidence of actual or potential performance problems, constructive changes, or other breaches. • Determine potential impact of technical issues on cost, schedule, and delivery, and investigate /resolve rationale for potential or actual delays. • Determine whether to ratify constructive changes, modify the contract as required, and invoke appropriate remedies. • Investigate and resolve contractual problems reported by the contractor or Government. 	<ul style="list-style-type: none"> • Specify technical criteria for the quality of the product, in-process test procedures and test points, and acceptance criteria through engineering analysis. • Work with the cognizant CAO and the technical representative so that inspection points are inserted in at the most effective areas in production to avoid unnecessary test and inspection points. • Assess performance, quality, and other technical issues and provide technical evaluation to contracts for adjustment to, modification of, or compliance with the contract.
Risk Management	
<ul style="list-style-type: none"> • Monitor and assess contract risk. 	<ul style="list-style-type: none"> • Monitor the risk management process to identify technical risk as well as cost, schedule, and performance risk.
Waivers, Deviations, and Engineering Change Proposals	
<ul style="list-style-type: none"> • Review Engineering Change Proposals (ECPs) and alterations impact on cost and schedule to ensure that adequate funding is available and that schedules imposed in the contract are not affected. • Ensure that changes are within the scope of the contract. • Request pricing information to support the ECP. • After Change Control Board approval, issue change request for implementing the change, as well as contract deliverable data requirements, sole source authorization if required, and funding documents to be used. 	<ul style="list-style-type: none"> • Review requests for waivers and deviations from contractor and field activities to determine their impact on system reliability and performance, as well as on cost and schedule. • Provide acceptance information for waivers or deviations to the Contracting Officer. • Approve classification of waivers, deviations, and ECPs. • Review change proposals for need, technical adequacy of design, consistency with program objectives, impact on fleet readiness or operations, producibility, quality and similar programmatic concerns. • Meet with all parties involved in the ECP to define the change and establish an acquisition strategy. • Make the determination whether or not to technically approve the change proposal.

TechReps may not perform production monitoring, inspection, or hardware acceptance!



Only the Contracting Officer can incorporate changes in the contract!



Contracting Functions	Programmatic Functions
Value Engineering Changes	
<ul style="list-style-type: none"> • Conduct a cost-benefit analysis of the Value Engineering Change Proposal (VECP). Along with engineering, negotiate VECPs with the contractor after technical disposition from engineering. • Contracting Officer incorporates the approved VECPs into the contract. 	<ul style="list-style-type: none"> • Review the VECPs for impact on design disclosure documentation and potential impact on the weapon system. • Weigh technical merits against the cost and benefits of the VECP. • Make the determination whether or not to technically approve the VECP. • Recommendations are sent to the Contracting Officer.
Design Reviews	
<ul style="list-style-type: none"> • Participate in design review planning meetings, in the event of potential impact to the contract (e.g., constructive change clauses, etc.). 	<ul style="list-style-type: none"> • Lead the design review team • Specify the material to be reviewed. • Determine exit criteria which help the review team determine whether the material being reviewed is acceptable. • Review final report and concur/nonconcur with recommended corrective actions.
Integrated Baseline Reviews	
<ul style="list-style-type: none"> • Support the Integrated Baseline Review (IBR) process by ensuring that the contractor addresses the Government's intent to conduct IBRs after award. 	<ul style="list-style-type: none"> • Develop/maintain guidelines, criteria, and processes for the IBR. • Systems Engineering personnel lead the technical assessment during IBRs. • Upon completion, ensure that the results of the IBR are documented and provided to appropriate team members. • Ensure that an action plan is prepared to correct any problem areas discovered during the review. • Track corrective actions and interfaces with the contractor during program reviews until the corrective actions are completed.
Configuration Management	
<ul style="list-style-type: none"> • Ensure compliance with the Configuration Management (CM) requirements of the contract and consistency with the acquisition strategy, such as the decision to buy data rights or other strategies to ensure that a second source can build the hardware. 	<ul style="list-style-type: none"> • Establish the hardware/software configuration baselines. • Approve and authenticate design disclosure documentation, and grant approval for standardization and substitutions.

Contracting Functions	Programmatic Functions
Single Process Initiative	
<ul style="list-style-type: none"> Review proposed Single Process Initiative (SPI) to determine if there will be any impact resulting from the SPI on contract performance, such as meeting schedule and cost. The contract should be modified to reflect the cost and schedule impact. 	<ul style="list-style-type: none"> Review proposed SPI for technical impact on performance, reliability, quality, schedule and cost. As appropriate, coordinate with technical personnel from other programs and Services to investigate the impact of the SPI.
Delays	
<ul style="list-style-type: none"> Determine whether a delay is excusable and negotiate consideration when acquiring commercial and noncommercial items. Seek consideration for delays that are not excusable. 	<ul style="list-style-type: none"> Determine if contractor delays are caused by technical factors beyond their control and without fault or negligence by the contractor. For excusable delays, recommend corrective actions, such as additional time to perform or modification of the requirement that caused the delay.
Stop Work	
<ul style="list-style-type: none"> Determine whether to stop work; prepare and issue the stop work order. Unless the contract is terminated, initiate resumption of work and modify the contract as necessary. 	<ul style="list-style-type: none"> Recommend stop work when contractor deficiencies are expected to result in delivery of non-conforming technical products. Evaluate contractor proposals to stop work for technical reasons. Assess the impact of stop work orders on contractor performance of the technical and programmatic requirements.
Remedies	
<ul style="list-style-type: none"> Identify contractual remedies, and determine the appropriate remedy. Apply the remedy. 	<ul style="list-style-type: none"> Identify and collect facts regarding specific instances of the contractor's failure to perform or breach of technical requirements. Determine whether the non-conformance has major or minor program impact. Participate in determining and preparing technical remedies (e.g., redesign, rejection of supplies, acceptance with considerations, warranty, cure notice, etc.) considering risk to the program.
Past Performance	
<ul style="list-style-type: none"> Obtain performance information from CPARS. Reconcile discrepancies between the contractor version of events and reported past performance. Document the file. 	<ul style="list-style-type: none"> Report significant contractor technical performance, both positive and negative (e.g., marginal or unacceptable quality of products, tests, or documentation).

Only the Contracting Officer can issue a Stop Work Order!



C. Payment and Accounting

Payment and accounting is a joint effort between the Contracting Officer and the Comptroller. The Contracting Officer is responsible to delineate the payment and accounting terms in the contract, while the Comptroller adds/subtracts accounts as required.

Contracting Functions	Programmatic Functions
Invoices	
<ul style="list-style-type: none"> Determine the payment to which the contractor is entitled under the terms and conditions of the contract. 	<ul style="list-style-type: none"> Provide technical support as required.
Administering Financial Terms	
<ul style="list-style-type: none"> Provide for payment terms to the contractor, such as progress payments. 	<ul style="list-style-type: none"> Provide technical support as required.
Unallowable Costs	
<ul style="list-style-type: none"> Review vouchers and determine which costs are unallowable. 	<ul style="list-style-type: none"> Provide technical support as required.
Payment of Indirect Costs	
<ul style="list-style-type: none"> Adjust billing rates as applicable. 	<ul style="list-style-type: none"> Provide technical support as required.
Limitation of Costs	
<ul style="list-style-type: none"> Exercise/implement actions when notified of a potential or actual cost overrun. 	<ul style="list-style-type: none"> Provide technical support as required.
Price and Fee Adjustments	
<ul style="list-style-type: none"> Implement price adjustments to the contract for economic terms and conditions, incentives, award fees, and price redeterminations. 	<ul style="list-style-type: none"> Provide technical support as required.
Collecting Contractor Debts	
<ul style="list-style-type: none"> Recover money due to the Government from the contractor, to include collection through legal actions. 	<ul style="list-style-type: none"> Provide technical support as required.
Accounting and Estimating Systems	
<ul style="list-style-type: none"> Monitor the contractor's accounting and cost estimating systems and assess the adequacy of those systems. Assess the contractor's financial health, and use that information to protect the Government's best interests. 	<ul style="list-style-type: none"> Understand the fiscal rules on the availability of funding, Misappropriation Law, and Anti-Deficiency Law
Cost Accounting Standards	
<ul style="list-style-type: none"> Determine the applicability of Cost Accounting Standard work related provisions and clauses, and if Disclosure Statements and accounting practices are in compliance with applicable cost accounting standards. 	<ul style="list-style-type: none"> Provide technical support as required.

Contracting Functions	Programmatic Functions
Defective Pricing	
<ul style="list-style-type: none"> Determine if cost or pricing data submitted by the contractor was accurate, and complete, and calculate any adjustment in price. 	<ul style="list-style-type: none"> Provide technical support as required.

D. Special Terms

The following includes the special terms of the contract, dealing primarily with property administration of the contract.

Contracting Functions	Programmatic Functions
Property Administration	
<ul style="list-style-type: none"> Provide for the administration, control, and disposition of GFP. 	<ul style="list-style-type: none"> Determine requirements for GFP necessary to complete the job.
Intellectual Property	
<ul style="list-style-type: none"> Ensure compliance with contract provisions on patents, patent infringement, licensing, and Government data rights that may be critical to provide life cycle support. 	<ul style="list-style-type: none"> Provide technical support as required.
Administering Socioeconomic & Other Miscellaneous Terms	
<ul style="list-style-type: none"> Ensure correct contract provisions are included to require contractor compliance with contractor workplace requirements regarding labor laws, environment, security, insurance, and small, small disadvantaged, and women owned small businesses. 	<ul style="list-style-type: none"> Provide technical support as required.

E. Contract Closeout and Termination

The objective is to administer contract closeout and termination with equitable results for both the Government and the contractor.

Contracting Functions	Programmatic Functions
Claims	
<ul style="list-style-type: none"> Respond to contractor claims for additional money or contract adjustment, and determine if it constitutes a payable claim. Prepare the Government position on the claim. Attempt to resolve claims, prepare the Contracting Officer's decision and obtain legal review. Issue decision and payment to the contractor, as applicable. 	<ul style="list-style-type: none"> For claims referencing performance or technical objectives, provide the Contracting Officer with factory, fleet and field feedback on system performance, reliability, quality etc. to determine if the contractor has a legitimate claim. Support contracts with any technical or engineering investigations needed for disposition of a claim.

Contracting Functions	Programmatic Functions
<ul style="list-style-type: none"> • Participate in any appeal processes, such as preparation of claims files, legal proceedings, etc. <p style="text-align: center;">Termination</p> <ul style="list-style-type: none"> • Determine whether to terminate a contract. Contracts are terminated for convenience or for cause or default. <p style="text-align: center;">Closeout</p> <ul style="list-style-type: none"> • Verify that the contract is physically complete. • Obtain from both the Government activities and contractor all forms, reports, and clearances required at closeout, and ensure that both the Government and contractor have met all applicable terms and conditions for closeout. • Settle all outstanding claims, issues or disputes. • Make final payment and deobligate funds, if any. • Prepare contract completion documentation. 	<ul style="list-style-type: none"> • Provide technical reason for termination (e.g., deficient response to cure notice, continued failure to pass qualification tests, pursuit of alternative methods to satisfy the program needs, failure to perform). <p style="text-align: center;">Closeout</p> <ul style="list-style-type: none"> • Assist Contracts in determining the status of technical terms and conditions of the contract. • Assist Contracts in identifying or settling unresolved issues, such as performance issues, unresolved VECs, etc.

Only the Contracting Officer can Terminate or Closeout a Contract!



Part IV

Common Traps



This part provides selected lessons learned expressed as “Watch Out Fors” that can become traps if not avoided while following the guidelines contained in Part III, “The Contracting Process.”

Watch Out For...

Acquisition Planning

- Schedules that do not allow sufficient time to obligate funds.
- Not completing initial Pre Procurement Conferences (PPC) and Acquisition Planning (AP) efforts (and Justification and Authorization (J&A) if needed) prior to development of the solicitation documents.
- The improper use of sole source justification to expedite contract award.
- Use of a standard source selection plan. During acquisition planning, the source selection plan should be developed based on program requirements. Consider the use of options (tying the exercise of them to development milestones where possible).
- Giving insufficient consideration to the use of multi-year contracts. Actively seek out, and discuss with Contracting Officers, contracts that would be suitable candidates for multiyear procurement. Use of multiyear contracts provides for level pricing of requirements and can save money since it usually results in purchase of economic order quantities and reduces the contractor's risk in purchasing long lead items and committing to expensive up-front set up costs. Early identification is desirable so that contracts can provide accurate information in the preparation of their semiannual report of all multiyear candidates.

Purchase Requests

- Not including independent Government Cost Estimates with the Purchase Request (PR).
- Justifications and/or waivers which are not adequately documented.
- Quantities or units not consistent with the requirement.
- Unreasonable cost estimates, given the requiring activity's supporting data.
- Descriptions that are vague, ambiguous, overly restrictive or insufficiently restrictive.
- Vague inspection and acceptance criteria or testing procedures.
- Special contract administration requirements that are vague, ambiguous, overly restrictive, or not consistent with the specification, statement of work, or that require special contract administration procedures.

Watch Out For...

Market Research

- Trade studies not traceable to the Design Reference Mission Profile (DRMP), Operational Requirements Document (ORD), and associated design requirements.
- The use of new technologies without conducting trade studies to identify risks.
- Trade studies that do not include participation by appropriate engineering disciplines.
- Commercial suppliers with no documentation to support their claims for product performance, reliability, and logistics support.
- Product reliability, quality and supportability requirements being traded for cost, schedule and functional performance gains.

Competition

- Noncompetitive acquisitions that cannot be justified. Check for suppliers and data that could enable a competitive acquisition. If the item is clearly sole source, justification should be presented from the beginning.
- Insufficient research into portions of larger competitive or noncompetitive procurements. Review for potential Small Business Innovative Research, set-asides, or small business competition. Encourage prime contractors to subcontract in areas they do not have expertise.
- Program Definition and Risk Reduction not structured so prototypes of competing systems are produced and tested to enable design selection before starting Engineering and Manufacturing Development (E&MD). Design competition is expensive and the longer design competition is continued the more expensive it becomes.
- Techniques for controlling and reducing costs which do not consider the following:
 - Subcontract competition.
 - Component/subsystem breakout.
 - Use of the Industrial Modernization Incentive Program.
 - Aggressive Value Engineering Program.
 - Use of incentive or award fee contracts.
 - Should-Cost analysis of the sole source prime.
 - Product improvement of existing item.
 - Use of Commercial Off The Shelf/Non Development Items (COTS/NDI).
- The source selection plan not finalized prior to issuance of the Request for Proposal.

Solicitation

- Statement of Work /Statement of Objectives (SOW/SOO) that does not include sufficient emphasis on risk management.
- Evaluation factors and subfactors different from the source selection plan.
- A source selection plan that does not address the following:
 - An adequate description of all the factors/subfactors to be considered in making the selection.
 - Minimum requirements that apply to particular evaluation factors/subfactors that have to be met.
 - The cost factors between thresholds and goals.
 - A clear explanation of how goals or features will be evaluated and whether or not credit will be given in the evaluation for exceeding such desirables.
 - A linkage between solicitation requirements, each evaluation factor and subfactor and the proposal preparation instructions.

Watch Out For...

Award Fee

- No regular structured feedback to prime contractors on their performance with respect to award fee criteria at significant program reviews.
- No award fee flow down to subcontractors where appropriate.
- Award fee contracts based on contractor process improvements without objective measurements as a basis for evaluation and award fee determination.
- Relatively short contract performance periods, making it difficult to establish a metric baseline, implement a process change and validate an improvement in the resulting metric during the contract period.
- Award Fee element not linked to the SOW/SOO.

Warranties

- Warranties that are, in effect, fixed-price maintenance agreements.

Subcontractor Control

- Acquiring critical material from an unapproved source.
- Supplier performance ratings that do not consider the increased cost for latent defects.
- Subcontractor performance ratings based primarily on cost, schedule and receiving inspection vice performance requirements.
- Subcontractor process capability that has not been verified.
- Delinquent subcontractor decertification processes.

Design Reviews

- Design review boards staffed with managers rather than technical experts. This may result in a lack of technical focus.
- Design reviews that are schedule oriented, rather than technical maturity oriented.
- Informal reviews that fail to define roles, document and track results, and define exit criteria.
- Developing test and inspection points without a knowledge of contractor critical processes.
- Insufficient planning and preparation prior to the review.

Integrated Baseline Reviews

- Contractor proposals not prepared and evaluated in full awareness of planned Integrated Baseline Requirements (IBR), and IBR schedules not promulgated so that the contractor can properly prepare for such reviews.
- IBRs limited to Work Breakdown Structure Level III.

Configuration Management

- RFP proposal preparation instructions which do not have Configuration Management (CM) as a key management and past performance discriminator. The weighting of the RFP evaluation criteria (section M) should reflect the importance of an effective, documented contractor CM process as a risk mitigator.
- Interface and interoperability requirements which are not defined for the lowest repairable units consistent with the maintenance philosophy.
- The maintenance plan not used as a primary driver for the level of configuration control and support requirements. Coordinating CM requirements with the maintenance plan (support and maintenance planning) and logistics personnel is imperative.

Watch Out For...

- Items provided under a performance specification at different times or from different suppliers that are not interchangeable. Where appropriate, offerors should be provided with the specific dimensional, material, manufacturing and assembly information needed to supply identical items to the level necessary with each reprocurement.
- Contracts that give the contractor control of critical or major waivers, deviations, or Class I engineering changes.
- Program plans and budgets which do not include early planning for purchase of the data rights as appropriate, such as:
 - If upgrades and follow-ons to the system will be competitive, with the possibility of another contractor being a prime for follow-on contracts.
 - Dual depots are used for maintenance.
 - The system is a largely COTS/NDI system, which will normally require technology refresh.

Single Process Initiative

- Contractor internal common processes that differ from industry best practices.
- Approving Single Process Initiative (SPI) for cost savings/avoidance only and not considering product integrity requirements.
- Use of Memoranda of Agreements for temporary SPI approval.
- SPIs submitted for approval before process controls are established.
- SPI that does not consider any unique process requirements that are applicable to a specific programs acquisition strategy.

Part V

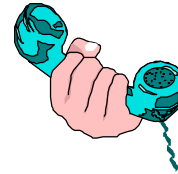
Resources

This part provides a listing of resources available for assistance in the contracting process.

The Office of the Assistant Secretary of the Navy (Research, Development and Acquisition) Acquisition and Business Management ASN(RD&A)ABM is the Navy's office responsible for contracting policy and guidance. It also serves as the Navy's Competition Advocate General's Office. The following tools are available on the ABM web site, or other Navy/DoD sites. Live link information is provided with each tool. For any questions, guidance, policy or the latest information, contact your Contracting Officer, or visit the ABM office on-line or call:



<http://www.abm.rda.hq.navy.mil>



703-602-2852



SPS (Standard Procurement System): SPS is the standardized automated procurement system for use by the DoD procurement community. It is the next generation of procurement application software that will link acquisition reform and common DoD procurement business processes with commercial best practices and advances in electronic commerce. Access this tool @: <http://www.abm.rda.hq.navy.mil>



Turbo Streamliner: Turbo Streamliner is a repository of acquisition definitions, principles, best practices, lessons learned, references, sample contractual language and related web sites. This tool is organized by acquisition functional areas and associated Request for Proposal (RFP) elements. The purpose of Turbo Streamliner is to assist the acquisition community in applying Acquisition Reform principles, concepts and techniques to acquiring and sustaining DoN warfighting capabilities for new requirements and reprocurments. Access this tool @: <http://www.abm.rda.hq.navy.mil>



Turbo SpecRight! Turbo SpecRight! describes how to develop new specifications, how to convert military specifications (MIL-SPECs) into performance-based specifications (MIL-PRFs), and provides general and specific information on preparing specifications. It leads you through the process of selecting the appropriate type of specification for the intended acquisition and suggests methods for salvaging important information contained in MIL-SPECs being proposed for cancellation. Access this tool @: <http://www.acq-ref.navy.mil>



ASSIST (Acquisition Streamlining and Standardization Information System): ASSIST allows users to download full text PDF versions of Military and Federal Specifications Standards, Commercial Item Descriptions, Qualified Manufacturers, and Qualified Products Lists. The DoD developed the ASSIST capability as part of the Government's move to a paperless acquisition environment. Users must register for ASSIST but there is no charge for registration or a charge to access documents. Access this tool @: <http://www.acq.osd.mil>



Market Research Module: This tutorial has been designed to assist members of the Navy acquisition community in understanding market research and its importance in achieving acquisition reform goals of acquiring weapon and combat system capabilities better, cheaper, and faster. This tool has been prepared in two formats: a tutorial that steps through the principal elements of market research and a reference tool that permits users to access specific market research topics for review. Access this tool @: <http://www.acq-ref.navy.mil>



CPARS (Contractor Performance Assessment Reporting System): CPARS allows seamless access to data from other services for source selection. Past performance information is required to be used in the source selection process. The information in CPARS can be used to provide contractor strengths and weaknesses to Contracting Officers. Access this tool @: <http://www.abm.rda.hq.navy.mil>



NAVSO P-3686 "Top Eleven Ways to Manage Technical Risk": This guide offers a single source of concise explanations and clear descriptions of steps one can take to establish and implement core technical risk management functions. It contains baseline information, explanations, and best practices that contribute to a well-founded technical risk management program. Access this tool @: <http://www.abm.rda.hq.navy.mil>