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Overview of the Federal Procurement Process and Resources

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Summary

In the basic federal procurement process, acquisition personnel, after determining their agencies' requirements (that is, the goods and services the agencies need), post solicitations on the federal government's SAM.gov website. Interested companies prepare their offers in response to the solicitations, and, in accordance with applicable provisions of the *Federal Acquisition Regulation* (FAR), agency personnel evaluate the offers. Another type of procurement opportunity for a company is to serve as a subcontractor for a government contractor. To be eligible to compete for government contracts, a company must obtain a Unique Entity ID (UEI) number and register with the federal government's System for Award Management (SAM). Several agencies, such as the General Services Administration (GSA), provide assistance and services to existing and potential government contractors. Research and development (R&D) procurement opportunities may involve traditional contracting methods, such as solicitations and contracts, as well as nontraditional methods, which include agency-sponsored contests and venture capital funds.

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The federal government’s basic procurement or acquisition process involves an agency identifying the goods and services it needs (also known as the agency’s “requirements”), determining the most appropriate method for purchasing these items, and carrying out the acquisition. Although this process is simple in theory, any given procurement can be complex, involving a multitude of decisions and actions. A contracting officer may need to determine, for example, whether to use a federal supply schedule (see below), what type of contract to use, whether simplified acquisition procedures may be used, or whether the procurement should be set aside for small businesses.¹ This report does not attempt to describe every possible type of procurement. Instead, it describes the most common elements of the federal procurement process and resources that may be used in that process.

Overview of Federal Government Procurement

Federal Acquisition Regulation (FAR)

The primary source of federal procurement information and guidance is the *Federal Acquisition Regulation*, which consists of Parts 1-53 of Title 48 of the *Code of Federal Regulations* (C.F.R.).² The FAR covers, for example, contractor qualifications, types of contracts, small business programs, and federal supply schedule contracting. The FAR also includes, in Part 2, definitions of procurement words and terms and, in Part 52, solicitation provisions and contract clauses.

Eligibility Requirements for Businesses

With a few exceptions, a firm that wants to compete for federal government contracts must (1) obtain a Unique Entity ID (UEI), and (2) register with the government’s System for Award Management (SAM).³ Additional requirements specific to a particular procurement may be found in the applicable solicitation (see below).

Business Size

With regard to federal contracting, small businesses may be able to take advantage of certain programs or preferences, including various set-aside programs, depending upon eligibility criteria.⁴ Additionally, the federal government has established small business goals for agencies. For example, the government-wide goal for small businesses is 23% of the “total value of all prime contract awards for each fiscal year.”⁵

¹ Information about these topics may be found in Parts 38 (federal supply schedules), 16 (types of contracts), 13 (simplified acquisition procedures), and 19 (small business programs) of the *Federal Acquisition Regulation* (FAR), which is discussed in the next section.

² Generally, it is common practice to refer to the “FAR” (e.g., “FAR 6.302,” or “Subpart 15.3 of the FAR”) in conversation and text yet cite the *Code of Federal Regulations* (e.g., 48 C.F.R. §42.302) when identifying the FAR as the source of material. The FAR is available at <https://www.acquisition.gov/sites/default/files/current/far/pdf/FAR.pdf>.

³ On April 4, 2022, the federal government stopped using the Data Universal Numbering System Number to uniquely identify entities. Now, entities doing business with the federal government use the UEI created in SAM.gov. SAM is available at <https://sam.gov/content/home>.

⁴ See CRS Report R45576, *An Overview of Small Business Contracting*, by Robert Jay Dilger and R. Corinne Blackford.

⁵ 15 U.S.C. §644(g)(1)(A)(i). See 15 U.S.C. §644(g)(1)(A)(ii)-(v) for additional small business goals.

Determining whether a particular firm qualifies as a small business for federal government programs involves, generally, applying the federal government’s size standards.⁶ A size standard exists for each North American Industry Classification System (NAICS) code,⁷ which is either the firm’s average annual receipts or its average employment.⁸ The website of the Small Business Administration (SBA) includes information regarding size standards, including its “Size Standards Tool.”⁹

Summary of the Acquisition Process

Essentially, the federal acquisition process begins when an agency determines its requirements and how to purchase them. If the agency’s contracting officer determines that the appropriate method for procuring the goods or services is a contract, and the contract amount is greater than \$25,000, then the agency posts a solicitation on SAM.gov.¹⁰ At a minimum, a solicitation identifies what an agency wants to buy, provides instructions to would-be offerors, identifies the source selection method that will be used to evaluate offers, and includes a deadline for the submission of bids or proposals.¹¹ Agencies may also post solicitations on their own websites and, in exceptional circumstances, are not required to post solicitations on SAM.gov.¹²

Following the deadline for companies to submit their offers, agency personnel evaluate offerors’ submissions using the “Source Selection Methods” and criteria described in the solicitation.¹³ Unless multiple suppliers or firms are needed, such as for a supply schedule, the agency awards a contract to one firm after determining that the company is responsible.¹⁴

The awarding of a contract marks the beginning of the next stage in the acquisition process: contract performance and contract administration. Contract administration, which is the responsibility of agency personnel, helps to assure that the government gets what it paid for in

⁶ Except in certain circumstances, a firm’s affiliates may affect the determination of its size. Title 13, Section 121.103 of the *Code of Federal Regulations* (“How does SBA determine affiliation?”) reads, in part: “In determining the concern’s [firm’s] size, SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit.”

⁷ NAICS codes are available at U.S. Census Bureau, “Introduction to NAICS,” <http://www.census.gov/eos/www/naics/>.

⁸ Instructions for calculating average annual receipts and average employment may be found in Title 13, Sections 121.104 and 121.106, respectively, of the *Code of Federal Regulations*.

⁹ See SBA, “Size Standards,” <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>; and SBA, “Size Standards Tool,” <https://www.sba.gov/size-standards>.

¹⁰ Examples of procurement methods that do not involve establishing a new contract include using a government purchase card (i.e., a credit card); placing a task order (or a delivery order) against an existing contract; or ordering from a GSA schedule (schedules are described in the next section of the report). The government-wide commercial purchase card is, in effect, a credit card government employees may use to make certain types of purchases, including purchases that do not exceed the micro-purchase threshold. Generally, the threshold is \$10,000, but under certain circumstances it may be higher or lower than this amount. For additional information, see 48 C.F.R. §2.101 and FAR Subpart 13.2. A delivery order (or task order) contract, which may also be known as an indefinite-delivery contract, is “a contract for supplies [or services] that does not procure or specify a firm quantity of supplies [or services] (other than a minimum or maximum quantity) and provides for the issuance of orders for the delivery of supplies [or the issuance of orders for the performance of tasks] during the period of the contract” (48 C.F.R. §16.501-1).

¹¹ An “offer” is a response to a solicitation. A company or individual who submits an offer is known as an “offeror.”

¹² Regarding the latter item, see 48 C.F.R. §5.102(a)(5).

¹³ The two primary categories of source selection are sealed bidding (FAR Part 14) and negotiated contracting (FAR Part 15).

¹⁴ It is the policy of the federal government to procure goods and services only from contractors that are responsible. See 48 C.F.R. §9.103(a). For the general standards used to determine responsibility, see 48 C.F.R. §9.104-1.

terms of cost, quality, and timeliness and that the government fulfills its obligations vis-a-vis the contractor. The processes, activities, and events that occur during contract administration vary from procurement to procurement, though this stage would include invoice processing and payments to the contractor and may include, among other functions and activities, a post-award orientation, performance monitoring, and contract modifications.¹⁵

Resources for Businesses

Governmental Resources

General Services Administration (GSA) and the Federal Supply Schedule

The General Services Administration maintains the Federal Supply Schedule. A schedule is a list of goods and/or services provided by multiple GSA-selected vendors at varying prices. Hence, this schedule is also known as a multiple award schedule (MAS). Using competitive procedures, GSA awards indefinite delivery contracts to firms that, in turn, will provide goods or services through a schedule.¹⁶ Agencies may acquire commercial goods and services listed on the schedule in varying quantities at the price stated on the schedule.¹⁷ The Federal Supply Schedule, therefore, provides a simplified process for agencies to acquire goods and services while also obtaining a volume discount. When an agency pays a vendor for goods or services listed on a schedule, the vendor remits a percentage of the sale, currently 0.75%, to GSA.¹⁸ This fee, known as the Industrial Funding Fee, reimburses GSA for the costs of operating the Federal Supply Schedule Program.¹⁹

The process for getting on a schedule is similar to that for obtaining a government contract: GSA issues a solicitation for goods or services, companies submit offers in response, and then GSA evaluates the offers and awards contracts to multiple vendors. Schedule solicitations are posted on SAM.gov (for more information, see “SAM.gov Website” section below).²⁰ GSA provides information about the Federal Supply Schedule, including guidance for how to get on a schedule, on its website.²¹

¹⁵ For additional, detailed information, see Part 42 of the FAR, “Contract Administration and Audit Services.”

¹⁶ 40 U.S.C. §152(3). Although the GSA awards most Federal Supply Schedule contracts, it may authorize other agencies to award contracts and publish supply schedules. For example, the Department of Veterans Affairs (VA) awards schedule contracts for certain medical items. See VA, VA Federal Supply Schedule Service, <https://www.fss.va.gov/>.

¹⁷ 48 C.F.R. §38.101(a). In addition to executive branch agencies, other federal agencies, government corporations, tribal governments, and other organizations are authorized to use GSA sources of supply and services. See GSA, Directives Library, “4800.2I OGP Eligibility to Use GSA Sources of Supply and Services,” <https://www.gsa.gov/directive/eligibility-to-use-gsa-sources-of-supply-and-services>.

¹⁸ GSA, “General Services Administration Acquisition Regulation; Information Collection; Industrial Funding Fee and Sales Reporting,” 83 *Federal Register* 4337-4339, January 13, 2017.

¹⁹ 48 C.F.R. §552.238-80.

²⁰ GSA’s solicitation is available at GSA, “Multiple Award Schedule,” <https://sam.gov/opp/7beca3dcd7c5460b882303175c93e767/view>.

²¹ An overview of GSA’s schedules and links to other detailed information is available at GSA, “GSA Schedules,” <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules>. Guidance for getting on a GSA schedule is available at GSA, “Selling to the Government,” <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules/selling-to-the-government>.

Minority Business Development Agency (MBDA)

The Minority Business Development Agency is part of the Department of Commerce and “is the only federal agency solely dedicated to the growth and global competitiveness of minority business enterprises.”²² The agency’s network of business development centers provides a variety of management and technical assistance services. The network includes business centers, advanced manufacturing centers, export centers, and a federal procurement center.²³

APEX Accelerators

APEX Accelerators were established to “increase the number and the range of businesses capable of participating in government contracts”²⁴ by providing classes, workshops, and seminars on, for example, SAM registration, contracting opportunities, and proposal preparation.²⁵ Services are provided to businesses through over 90 APEX Accelerators located throughout the country.²⁶

Procurement Technical Assistance Centers (PTACs) were rebranded as APEX Accelerators in October 2022 when responsibility for the program was moved from the Defense Logistics Agency to the Department of Defense Office of Small Business Programs. However, the name *Procurement Technical Assistant Center* is still used by the Association of Procurement Technical Assistant Centers (APTAC).²⁷

Small Business Administration (SBA)

The Small Business Administration offers a variety of services and assistance to current and would-be government contractors. Its website includes information on, among other topics, small business size standards, contract opportunities, subcontracting, and regulations.²⁸ SBA also offers, through its federal contracting web page, links to a contracting guide, contracting assistance programs, and counseling and training resources.²⁹ SBA’s local partners and district offices are another resource available to small businesses.³⁰

Non-Governmental Resources

Other resources that firms may find useful in identifying procurement opportunities, navigating the government’s procurement process, and marketing their goods or services include professional, trade, and industry organizations, publications, and events; local chambers of commerce; and consultants. For example, the book *Elements of Government Contracting*, by Richard D. Lieberman and Karen R. O’Brien, provides information about the federal procurement

²² U.S. Department of Commerce, Minority Business Development Agency, “Who We Are,” <https://www.mbda.gov/who-we-are/overview>.

²³ To view a list of the centers and their respective services or areas of expertise, see MBDA, “MBDA Programs,” <https://www.mbda.gov/mbda-programs>.

²⁴ Department of Defense (DOD), Office of Small Business Programs, APEX Accelerators, <https://www.apexaccelerators.us/#/>.

²⁵ DOD News, “Agencies Partner to Aid Small Businesses,” December 7, 2022, <https://www.defense.gov/News/News-Stories/Article/Article/3238751/agencies-partner-to-aid-small-businesses/>.

²⁶ DOD, Office of Small Business Programs, “APEX Accelerators,” <https://www.apexaccelerators.us/#/>.

²⁷ For information about APTAC, see <https://www.aptac-us.org/>.

²⁸ See SBA, <https://www.sba.gov/>.

²⁹ See SBA, “Federal Contracting,” <https://www.sba.gov/federal-contracting>.

³⁰ See SBA, “Local Assistance,” <https://www.sba.gov/local-assistance>.

process. Magazines such as *Government Executive* and *Homeland Defense Journal* include articles with information about government procurements and industry workshops or conferences. Industry and trade organizations, such as the Professional Services Council, may be another source of useful information.³¹

Selected Topics

Research and Development Procurement

Part 35 of the FAR provides guidance on research and development (R&D) contracting. Interested companies, organizations, and other entities may use SAM.gov to identify R&D opportunities, which may be posted as solicitations or broad agency announcements (BAA).³²

The federal government also uses several nontraditional procurement methods to acquire the technologies and products it needs. Recognizing that not all new and innovative ideas may be captured by established procurement programs and procedures, the federal government provides for the submission of unsolicited proposals. That is, a firm may submit a proposal for which there is no solicitation. Guidance and requirements for the preparation and submission of unsolicited proposals, including the criteria for a valid unsolicited proposal, may be found at Subpart 15.6 of the FAR. Some agencies may also provide information on their websites about unsolicited proposals.³³

As the central R&D organization for the Department of Defense, the Defense Advanced Research Projects Agency (DARPA) was established “to make pivotal investments in breakthrough technologies for national security.”³⁴ The DARPA website includes information about selected opportunities (see SAM.gov to search for all DARPA opportunities) and a web page dedicated to opportunities for small businesses.³⁵ The Department of Homeland Security (DHS) and the Office of the Director of National Intelligence (ODNI) are two other agencies that offer opportunities similar to those offered by DARPA.³⁶

Other nontraditional opportunities for firms, research institutions, and organizations are government-sponsored challenges and venture capital funds established by agencies to help fund technologies they could use. GSA maintains a website, Challenge.gov, where federal agencies may post challenge and prize competitions. Nearly 1,000 challenges have been conducted by 100 federal agencies since 2010.³⁷ The Central Intelligence Agency and the Department of the Army

³¹ The mention of these particular publications and this group is not intended to be, and should not be construed as, an endorsement.

³² A BAA is used “for the acquisition of basic and applied research and that part of the development not related to the development of a specific system or hardware procurement. BAA’s may be used by agencies to fulfill their requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding rather than focusing on a specific system or hardware solution” (48 C.F.R. §35.016(a)).

³³ See, for example, U.S. Department of Homeland Security, “Unsolicited Proposals,” <https://www.dhs.gov/unsolicited-proposals>.

³⁴ DARPA, “About DARPA,” <https://www.darpa.mil/about-us/about-darpa>.

³⁵ See DARPA, “For Small Businesses,” <https://www.darpa.mil/work-with-us/for-small-businesses> for information regarding DARPA and its small business opportunities.

³⁶ See DHS, “Homeland Security Advanced Research Projects Agency,” <https://www.dhs.gov/science-and-technology/hsarpa>; and ODNI, “IARPA,” <https://www.iarpa.gov/>.

³⁷ GSA, “About Challenge.gov,” <http://www.challenge.gov/about/>.

are two agencies that have established venture capital funds: In-Q-Tel and the Army Venture Capital Initiative, respectively.³⁸

Subcontracting Opportunities

Another way to become involved in federal government contracting, albeit indirectly, is to serve as a subcontractor for a company that has been awarded a government contract (known as the “prime contractor”). Agencies may provide information on their websites about firms to which they have awarded contracts. For example, GSA maintains a subcontracting directory, and DHS provides a list of prime contractors on its website.³⁹ Other potentially useful sources of information include trade and business publications, the “SAM.gov Website,” company websites, and the Federal Procurement Data System (FPDS), a database of contract awards available through SAM.gov.⁴⁰ Information gleaned from these sources might indicate which companies have received, or expect to receive, government contracts. Additionally, SBA maintains a database of subcontracting opportunities.⁴¹

Source Selection Methods

Agencies use source selection methods to determine which entity (e.g., a business, nonprofit organization, or university) may be awarded a contract. The objective is to choose the proposal that provides either the best price or the best value (which may be defined by a variety of technical factors) to the government. Agency heads are responsible for source selection, but they may delegate this authority to other agency officials, typically contracting officers.⁴²

Sealed Bidding

Sealed bidding is a method of contracting that “employs competitive bids, public opening of bids, and awards.” Invitations to bid must be made publicly, and all offerors must submit sealed bids to be opened at a publicly disclosed time and location. The contracting officer shall evaluate the bids without discussion or negotiation with the offerors, and the contract award shall be made with consideration only to the price and the price-related factors included in the invitation.⁴³ A modified form of sealed bidding, referred to as two-tiered sealed bidding, is “designed to obtain the benefits of sealed bidding when adequate specifications are not available.”⁴⁴ Under this method, offerors first submit technical proposals without any pricing information. Only offerors deemed to have submitted acceptable technical proposals are permitted to submit sealed bids.

Contracting officers may solicit sealed bids if (1) there is adequate time for the solicitation, submission, and evaluation of sealed bids; (2) the award will be made based on price; (3) it is

³⁸ See <https://www.iqt.org/> and <http://armyvci.org/>.

³⁹ See GSA, “Subcontracting and Other Partnerships,” <https://www.gsa.gov/small-business/-become-a-gsa-vendor/explore-business-models/subcontracting-and-other-partnerships> to view GSA’s subcontracting directory and other resources for small businesses; and DHS, “Prime Contractors,” <https://www.dhs.gov/prime-contractors> to view DHS’s list of prime contractors that have expressed an interest in subcontracting with small businesses and certain types of small businesses, such as women-owned small businesses and veteran-owned small businesses.

⁴⁰ See Federal Procurement Data System (FPDS), <https://www.fpds.gov/fpdsng/cms/index.php/en/>.

⁴¹ See SBA, “How to Win Contracts,” <https://www.sba.gov/federal-contracting/contracting-guide/how-win-contracts>.

⁴² 48 C.F.R. §15.303.

⁴³ 48 C.F.R. §14.101.

⁴⁴ 48 C.F.R. §14.501.

unnecessary to meet with the offerors to discuss their bids; and (4) there is a reasonable expectation of receiving more than one bid.⁴⁵ Firm-fixed price contracts are required when sealed bidding is the source selection method, but economic price adjustment clauses may be used when flexibility is deemed “necessary and feasible.”⁴⁶ The contracting officer must ensure that the prices offered are reasonable and that the offeror is responsible before making an award.⁴⁷

Negotiated Contracting

In contrast to sealed bidding, negotiated contracting allows for the consideration of non-price criteria as well as for discussion and negotiation with prospective contractors prior to making an award.

To obtain the best value for the government, agencies may use source selection approaches that weigh costs and non-price criteria or evaluation factors, such as technical expertise or past performance considerations.⁴⁸ The first of these selection methods is a “tradeoff process.” Under this method, an agency must communicate the importance of price relative to non-price factors in the solicitation.⁴⁹ This process allows an agency to award a contract to an offeror who did not submit the lowest price offer. The second of these selection methods is “lowest price technically acceptable.”⁵⁰ Under this method, a solicitation must specify that an agency will award a contract based on the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.

After receiving proposals, the contracting officer will evaluate them based on the cost and technical criteria described in the solicitation. Based on the ratings of each proposal against the solicitation criteria, the contracting officer will establish a “competitive range” comprising the highest rated proposals.⁵¹ Generally, offerors submitting proposals within the competitive range are invited to discuss their proposals with agency officials. These discussions serve to enhance an agency’s understanding of the proposals. During these discussions, agency officials are prohibited from revealing certain information from the proposals of other offerors.⁵² After the discussions, offerors may submit final proposal revisions, and the agency makes an award.⁵³

SAM.gov Website

The System for Award Management (SAM.gov) is a website, administered by GSA, used for several procurement-related functions, including by

- entities seeking to compete for government contracts,
- agencies posting contract opportunities, and

⁴⁵ 48 C.F.R. §6.401.

⁴⁶ 48 C.F.R. §14.104.

⁴⁷ 48 C.F.R. §14.409-2. The characteristics of a responsible perspective contractor are described in 48 C.F.R. §9.1.

⁴⁸ The FAR does not provide a comprehensive list of non-price or non-cost factors agencies are required to use. Each agency determines, for each procurement, which non-price or non-cost evaluation factors to use.

⁴⁹ 48 C.F.R. §15.101-1(b)(2).

⁵⁰ 48 C.F.R. §15.101-2.

⁵¹ 48 C.F.R. §15.306(c).

⁵² 48 C.F.R. §15.306(e).

⁵³ 48 C.F.R. §15.307.

- agency personnel and others using contract award data in SAM for analysis.⁵⁴

Several legacy websites were previously used to perform these activities, but many of their functionalities have since been transitioned to SAM.gov. With certain exceptions, prospective vendors seeking to do business with the federal government as prime awardees must first register their entities with SAM.gov and apply for Unique Entity IDs.⁵⁵ Once registered, entities must renew their registrations annually. Additionally, SAM.gov lists exclusion records, which identify parties excluded from receiving federal contracts, certain subcontracts, and certain types of federal financial and non-financial assistance and benefits.⁵⁶ Each agency is required to (1) enter and update exclusion data on SAM.gov and (2) establish procedures to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors who have active exclusion records in SAM.gov.⁵⁷

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⁵⁴ GSA, "About SAM.gov," <https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/about-samgov>.

⁵⁵ 48 C.F.R. §4.1102.

⁵⁶ GSA, "Exclusions," <https://sam.gov/content/exclusions>. Exclusions are also referred to as suspensions and debarments.

⁵⁷ 48 C.F.R. §9.404.