

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 23-19A

Date Received: October 15, 2022

Title: Cost or Price Exception for Multiple Award Contracts

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Policy and Guidance: (Please check only one box)

- | | |
|---|--|
| ☐ Policy | ☐ Procurement Tools and Resources |
| ☒ Guidance | ☐ Real Property Templates and Samples |
| ☐ Procurement Samples | ☐ Procurement Clauses |
| ☐ Procurement Templates | ☐ Real Property Clauses |
| ☐ Procurement Forms | ☐ Other Tools and Resources |
| ☐ Procurement Checklists | |

Summary of Change:

(1) T3.2.2.3B.10 (Added sub-section B10 "Cost or Price Exception for Multiple Award Contracts.") This change provides an exception for multiple award contracts where cost/price does not have to be analyzed when making initial awards of the multiple award contracts. Cost or price analysis must take place at the order level. This change corresponds to contemporaneous AMS Policy changes to 3.2.2.2 and 3.2.2.3.1.2.3.

(2) T3.2.2.3A.11. Added and rearranged language for "Purposes of Debriefing" and "Debriefing Methods" (related change in Policy 3.2.2.3.1.4).

Reason for Change:

(1) The change is made to allow more flexibility when conducting source selections for multiple award contracts while maintaining a comparable level of flexibility as the rest of the federal government.

(2) The change was initiated by AGC in order to make "Debriefing of Offerors" more concise and concrete.

Development, Review, and Concurrence: AAP/AGC/AAQ

Target Audience: Acquisition Personnel

Briefing Planned: No.

ASAG Responsibilities: ASAG electronically approved on 12/29/22.

Section / Text Location: AMS Procurement Policy & Guidance - Procurement Guidance

The redline version must be a comparison with the current published FAST version.

☒ I confirm I used the latest published version to create this change / redline
or

☐ This is new content

Links: <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.2.3.pdf>

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s): See below.

Section Revised: T3.2.2.3 – Complex Source Selection

Procurement Guidance - (~~10/2022~~1/2023)

T3.2.2.3 - Complex Source Selection Added 9/2020

A Complex Source Selection Method Added 9/2020

1 General Revised 9/2020

2 Source Selection Team Roles and Responsibilities Revised 9/2021

3 Security of Source Selection Information Added 9/2020

4 Source Evaluation Plan Revised 9/2021

5 Best Value Selection Methodology Revised 9/2021

6 Screening Information Request (SIR) Added 9/2020

7 Communications with Offerors Added 9/2020

8 Evaluation Factors Added 9/2020

9 Evaluation Revised 4/2021

10 Selection and Award Revised 4/2022

11 Debriefing of Offerors ~~Added 9/2020~~Revised1/2023

12 Oral Presentations Added 9/2020

B Other Source Selection Considerations Added 9/2020

1 Public Announcement and Announcement of Competing Offerors Revised 7/2021

2 Past Performance Revised 9/2021

3 Cancelling a Screening Information Request Added 9/2020

4 Section 508 of Rehabilitation Act Revised 9/2021

5 Spare Parts Added 9/2020

6 Supplier Process Capability Evaluation and Appraisal Added 9/2020

7 Tiered Evaluation Revised 1/2021

8 Qualified Vendors List (QVL) Revised 9/2021

9 Two Phase Source Selection Revised 9/2021

10 Cost or Price Exception for Multiple Award Contracts Added 1/2023

C Clauses Revised 9/2020

D Procurement Forms Revised 9/2021

E Procurement Samples Added 9/2021

F Procurement Templates Added 9/2021

G Procurement Tools and Resources Added 9/2021

H Appendix Revised 9/2021

1 Section 508 Checklist Added 9/2020

2 Guide for Establishing a Qualified Vendors List (QVL) Revised 9/2021

T3.2.2.3 - Complex Source Selection Revised 9/2020

A. Complex Source Selection Method Added 9/2020

1. General Revised 9/2020

a. *Purpose.* AMS Policy Section 3.2.2.3 outlines requirements for source selection. This section contains information about processes and techniques for conducting a competitive complex source selection. The Contracting Officer (CO) uses business judgment to tailor source selection based on factors such as complexity, dollar value, urgency, and resources available.

b. *Procurement Integrity.* The Procurement Integrity Act applies to personnel involved in source selection. This Act and other similar statutes and regulations impose stringent requirements for safeguarding source selection and contractor proposal information, and other integrity issues. There are civil and criminal penalties for violating these requirements. All personnel involved in the source selection process must maintain the integrity of the procurement, and must understand the prohibitions and certification requirements of the Act and similar statutes and regulations. Any questions or other issues regarding procurement integrity are directed to the legal counsel assigned to the source selection. (See AMS Guidance T3.1.8)

c. *Bias or Conflict of Interest.* Personnel involved in the source selection must not have any bias or conflict of interest that would affect the source selection. Financial interests in offerors or employment discussions with offerors are examples of conflicts of interests that preclude an employee from participating in a source selection.

2. Source Selection Team Roles and Responsibilities Revised 9/2021

The responsibilities described below are guidelines to help ensure successful source evaluation and selection. The source selection team managing the procurement may be comprised of the Source Selection Official, Source Evaluations Team, Contracting Officer, Product or Service Team Lead or Director of the Requiring Service Organization, nongovernmental evaluators and advisors, and support personnel. The composition of the source selection team will vary based on the size and complexity of the procurement.

a. *Source Selection Official.* The Product or Service team lead or Director (or equivalent position) of the requiring organization is the source selection official (SSO) for a procurement under an investment program subject to the Joint Resources Council (JRC) process (unless the JRC otherwise designates an SSO). For procurements not subject to the JRC investment-decision process, the CO is the SSO. The SSO's responsibilities include the following:

- (1) Assure team competence, cohesiveness, and effectiveness;
- (2) Approve evaluation plans and assure the evaluation conforms to the plan and to the stated evaluation criteria; and
- (3) Make down-select decisions and assume full authority to select the source for award.
- (4) Ensure the selection process is conducted properly and according to applicable policies and laws;
- (5) Establish the Source Evaluation Team (SET) and ensures the team has the skills, expertise, and experience to perform the evaluation;
- (6) Ensure actual or apparent conflicts of interest are avoided; Ensures premature or unauthorized disclosure of source selection information is avoided;
- (7) Concur with the CO's decision to release the SIR (if the SSO is other than the CO); and
- (8) Make the final source selection decision for an award, and ensures the rationale is documented before contract award.

b. *Source Evaluation Team (SET)*. Source evaluation is a multi-disciplined, team effort. As appropriate, the team includes representatives from functional areas such as contracting, program/technical, legal, logistics, and user organizations. The size and composition of the SET varies, depending on the nature of requirement. Whether the team is large or small, it is structured to ensure teamwork, unity of purpose, and appropriate communication among the team members throughout the process. A key to selecting personnel is identifying experience, education, and business and technical skills required for the evaluation. Required skills and experience are defined with enough flexibility to allow for the substitution of training for experience. The source evaluation team properly and efficiently performs source evaluation, and supports the source selection decision and related activities. Their responsibilities include the following:

- (1) Draft all SIRs;
- (2) Formulate the source evaluation plan (See Source Evaluation Plan Templates for Tradeoff and Lowest Price Technically Acceptable in Procurement Templates).;

- (3) Review existing lessons learned reports that provide meaningful insight into the procurement;
- (4) Ensure an in-depth review and evaluation of each submitted screening document against FAA requirements and stated evaluation criteria;
- (5) Prepare the evaluation report (including recommendations, if applicable), using sound business judgment, to assist the SSO make down selection and/or award decisions;
- (6) Oversee all procedural and administrative aspects of the procurement;
- (7) Select advisors to assist the team in its evaluation, if required;
- (8) Prepare documentation for the SSO's decision rationale, if requested by the SSO; and
- (9) Participate in all debriefings;

c. *Contracting Officer*. The CO's responsibilities include the following:

- (1) Serve as the SSO for procurements not subject to the JRC investment-decision process;
- (2) Ensure, when applicable, conflict of interest documentation is obtained from all source selection team members; with legal counsel, determine if any conflicts or apparent conflicts of interests exist; and if so, resolve them;
- (3) Ensure source selection team members are briefed on sensitivities of the source selection process to include but not limited to the following:
 - the prohibition against unauthorized disclosure of information (including their responsibility to safeguard proposals and any documentation related to the source selection team proceedings);
 - requirements concerning conflicts of interest; and
 - ensure source selection team members provide nondisclosure of information statements
- (4) Coordinate communications with industry and conduct all debriefings;

- (5) Control all written documentation issued to industry;
- (6) Lead screening, selection, and debriefing phases of source selection;
- (7) Issue letters, public announcements, SIRs, SIR amendments, and other procurement documents; and
- (8) Ensure the contract is signed by a contractor's representative with the authority to bind the contractor; with legal counsel, ensure all contractual documents comply with applicable laws, regulations, and policies.

d. *Product or Service Team Lead or Director of the Requiring Organization.* The product or service team lead or Director's (or equivalent position) responsibilities include the following:

- (1) Serve as SSO if the procurement is subject to the JRC investment-decision process (unless otherwise designated by the JRC);
- (2) Assure FAA's program needs are acquired through the appropriate source selection process;
- (3) Assure SIRs include adequate definition of requirements; and
- (4) Assure qualified technical evaluators, if required, assist the source evaluation team in the evaluation.

e. *Advisors.* The source evaluation team may appoint advisors to provide specialized expertise and guidance not otherwise available on the team.

f. *Nongovernmental Evaluators and Advisors.* The source evaluation team may use nongovernmental personnel as evaluators or advisors. Nongovernment personnel must comply with FAA's conflict of interest and nondisclosure of information policies. The SIR must include notice of any nongovernmental participation.

g. *Support Personnel.* Once the primary evaluation team is identified, additional support personnel may be desired or required. Examples of such personnel include administrative support, librarian/document-control personnel, and information technology support.

3. Security of Source Selection Information Added 9/2020

a. *Required Certificates.* The SSO and each SET member (including support personnel and

advisors) must sign nondisclosure of information and conflict of interest certificates. (See AMS T3.1.6.A.2 Requirement for an Agreement Regarding Non-Disclosure of Information).

b. *Administrative Considerations.* Each procurement varies, but administrative needs may include private facilities for evaluators and discussions with offerors, securable storage space for source selection materials, and other items such as computers, special software, phones, copiers, etc.

c. *Handling Source Selection Information.*

(1) SET members must handle proposal and evaluation material in a manner consistent with “For Official Use Only” or, as appropriate, a higher security classification. The SET establishes sufficient safeguards to protect the material whether it is in their possession or it is being disseminated, reproduced, transmitted, or stored. Additionally, procedures are established for proper disposal of the material when it is no longer required. (See AMS Procurement Guidance T3.13.1.A.7, Records Retention, and FAA Order 1350.15C Records Organization, Transfer and Destruction Standards).

(2) The Procurement Integrity Act precludes individuals from knowingly disclosing source selection information and contractor bid or proposal information before award of a contract to which the information relates. The SSO may, however, authorize release of source selection information after the SIR is issued but before contract award to other authorized Government personnel who have signed a non-disclosure statement, provided the release would not jeopardize the integrity or successful completion of the procurement.

d. *Security Responsibilities.* All SET members are responsible for the security of source selection information. In complex source selections, it may be beneficial to designate members of the SET to oversee and perform security control functions. Security procedures may also be needed for the physical facilities where source selection occurs, such as a sign in and out log, identification to access the area, visitor (e.g. maintenance/service personnel) control, or key or card control access. A security briefing for the SET may be used to emphasize that each member understands the following:

- Each member is responsible for security of the evaluation and proposal materials and other source selection and proprietary information related to the procurement;
- Each member is knowledgeable of, and will adhere to, governing security procedures and regulations;
- Each member does not discuss, communicate, or otherwise deal with matters related to the source selection with any individual not assigned by the SSO, and then only within appropriately secure areas; and

- Each member shall challenge any apparent unauthorized person within the physical location of the evaluation.

4. Source Evaluation Plan Revised 9/2021

The source evaluation plan outlines the people, schedule, process, criteria and other information relevant to evaluating offeror responses to a SIR, and the basis for selecting an offeror for award. It is approved by the SSO, Evaluation Team Lead, CO, and Legal before receiving responses to a SIR requesting screening or qualification information. The source evaluation plan is source selection sensitive information, so it must not be disclosed to anyone not authorized by the SSO to receive the information. The size and detail of the evaluation plan is based on the complexity of the procurement, but at a minimum it includes the following:

- Name of the SSO and SET members;
- Evaluation factors, relative importance of factors, and standards for rating offerors against the factors; and
- Basis for selection and award

5. Best Value Selection Methodology Revised 9/2021

The FAA may obtain best value by using any one or a combination of source selection approaches. In different types of acquisitions, the relative importance of cost or price may vary. Depending on the circumstances, it may be in the FAA's best interest to utilize a tradeoff process or it may be in the FAA's best interest to utilize the lowest-priced, technically acceptable (LPTA) process. Both methodologies are examples of best value and each is described below.

(1) *Tradeoff Process*. The tradeoff process is appropriate when the requirement is less definitive, more development is required, there is greater performance risk, or technical or past performance considerations play a dominant role in source selection. Under this method, both cost/price and non-cost/price factors are assessed based on the evaluation criteria, and the SSO selects the offeror who proposes a combination of factors representing the best value to FAA. The SSO considers non-cost strengths and weaknesses, risks, and cost/price for each offeror and applies business judgment to select the offeror representing the best value.

(2) *LPTA Process*. LPTA is the appropriate source selection process to apply when the product or service to be acquired has well-defined requirements, minimal risk of unsuccessful contract

performance, or when price plays a dominant role in source selection and there is no value, need or interest to pay for higher performance. In other words, it is appropriate when the best value to the FAA would not realize any increased value from a proposal exceeding minimum technical requirements.

6. Screening Information Request (SIR) Added 9/2020

a. *Purpose.* The FAA obtains information and offers from vendors through a SIR. The SIR includes information necessary for offerors to understand what FAA is buying, what information to provide, and how responses will be evaluated. The success of a procurement is directly linked to the quality of the SIR. A well-written SIR includes the following:

- Facilitates a fair competition;
- Limits criteria to differentiators that add value; Clearly details information required from vendors; Clearly identifies evaluation and award criteria; and
- Conveys a clear understanding of FAA's requirements.

b. *The SIR Process.* For a given procurement, FAA may make a selection decision after one SIR, or may have a series of SIRs (with a screening decision after each one) to arrive at the selection decision. This process depends on the types of products, services, or real property to be acquired and the specific source selection approach. Generally, when multiple SIRs are contemplated, the initial SIR requests general information, and subsequent SIRs requests successively more specific information. Initial SIRs need not state firm requirements, thus allowing FAA to convey its needs to offerors in the form of desired features, or other appropriate means. Firm requirements ultimately are established in all contracts.

c. *SIR Contents.* Each SIR contains the following information:

- Paperwork Reduction Act number on the cover page;
- A statement identifying the purpose of the SIR (request for information, request for offer/solicitation for offer, establishment of a QVL or screening);
- A definition or statement of need or requirements;
- A request for specific information (with specific page and time limitations, if applicable);
- A closing date stating when submittals must be received in order to be considered or evaluated;
- Evaluation criteria (and relative importance, if applicable);
- A statement informing offerors how communications with them will be

- conducted during the screening; and
- An evaluation/procurement schedule (including revisions, as required).

d. *Categories of SIRs.*

(1) *Qualification Information.* Qualification information, used to qualify vendors and establish qualified vendor lists (QVLs), are requested when a resultant QVL will be used for multiple FAA procurements. Qualification information screens those vendors meeting FAA's stated minimum capabilities / requirements to provide a particular product or service. Once qualification information is requested, received, and evaluated according to the evaluation plan, a QVL is established for the given product/service and vendors meeting FAA's qualification requirements are listed on the QVL. (See AMS Procurement Guidance T3.2.2.3.B.8 for more information on QVLs.)

(2) *Screening Information.* Screening information allows FAA to determine which offeror(s) are most likely to receive the award, and ultimately which offeror(s) will provide FAA with the best value. The screening information requested in the SIR should focus on information that directly relates to the key differentiators for the procurement.

(3) *Request/Solicitation for Offer.* A request/solicitation for offer is a request for an offeror to formally commit to provide the products, services, or real property required by FAA under stated terms and conditions. The response to the request/solicitation for offer is a binding offer, which is intended to become a binding contract if signed by the CO. The request/solicitation for offer may take the form of a SIR, a proposed contract, or a purchase order.

e. *Changes in SIR Requirements.* If FAA's requirements change after release of a SIR, then all offerors competing at that stage are advised of the change(s) and allowed to update their submittals accordingly. The SSO may waive a requirement at any time after release of a SIR, without notifying other offerors, if the SIR states offeror specific waiver requests will be considered, and the waiver does not affect a significant requirement that changes the essential character or conditions of the procurement.

f. *Common Problems.*

(1) *Inconsistency among the SIR and related documents.* Having the SIR and related documents to be aligned is critical. This is particularly important for the evaluation plan and the SIR to be consistent.

(2) *Inconsistency within the SIR.* Avoiding inconsistencies between the description

of FAA's requirements, instructions on how to prepare a proposal, and information related to the evaluation factors is important. These inconsistencies may be caused by different groups of people developing the different SIR sections without proper coordination. Such inconsistencies can result in less advantageous offers, necessitate changes/amendments to the SIR, cause delays, lead to offerors losing confidence in the process, or result in litigation.

(3) *Requesting Too Much Information from Vendors.* The instructions for preparing and submitting proposals focus on requesting only information necessary for the evaluation. The SIR requirements, each evaluation factor and subfactor, and the SIR preparation instructions are linked. Request only the essential information needed to evaluate SIRs against the evaluation factors and subfactors and do not ask for information that will not be evaluated. Instructions that require voluminous information can cause potential offerors to forego responding in favor of a less costly business opportunity. Excessively large proposals may increase the time and costs associated with the evaluation. Proposal page limitations are encouraged, but they need to be clearly defined and tailored to the needs of the acquisition. Focus exclusively on differentiators; failure to do so compromises the ability to identify the best offeror.

(4) *Unnecessary Use of Design Requirements.* The description of FAA's requirements in the SIR can have a significant effect on a source selection using a tradeoff process. Use of detailed design requirements or overly prescriptive statements of work severely limits the offerors' flexibility to propose their best solutions. Functional or performance-based requirements provide flexibility and are used to the extent practicable. While it may be more difficult to develop evaluation criteria and conduct the evaluation process using this approach, the benefits warrant it. These benefits include increased competition, access to the best commercial technology, better technical solutions, and fewer situations for protests.

g. *Ways to Improve the SIR.* A multi-disciplined team develops the SIR. The members are stakeholders in the procurement and continuously coordinate with each other to ensure consistency of the SIR with other documents such as the evaluation plan. Open communications with vendors is used to improve the SIR and to also promote understanding of FAA's requirements. This can be accomplished through various forms of communication, such as releasing draft statements of work or SIRs, advance procurement planning briefings for vendors, one-on-one meetings, or conferences with potential offerors.

7. Communications with Offerors Added 9/2020

a. Communications with potential offerors takes place throughout the source selection

process. During the screening, selection, and debriefing phases of source selection, communications are coordinated through the CO. All SIRs clearly inform offerors of how communications will be handled during the initial screening phase. The purpose of communications is to ensure mutual understanding between FAA and offerors about all aspects of the procurement, including the offerors' submittals/proposals. Information disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal(s). To ensure that offerors fully understand the intent of the SIR and FAA's needs, FAA may hold a pre-submittal conference and/or one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required, at the discretion of the SET.

b. Communications with one offeror do not necessitate communications with other offerors, because communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the CO ensures such communications do not give any offeror an unfair competitive advantage. During these and future communications, as applicable, FAA encourages offerors to provide suggestions about all aspects of the procurement. Communications may necessitate changes in FAA's requirements or SIR. Where communications do not result in any changes in FAA's requirements, FAA is not required to request or accept offeror revisions. The use of technical transfusion is always prohibited. Auctioning techniques are prohibited, except in the use of "commercial competition techniques."

8. Evaluation Factors Added 9/2020

a. Evaluation Factors and Subfactors.

(1) Selecting the appropriate evaluation factors and subfactors is key to the source selection process. The factors and subfactors give offerors an insight into significant considerations FAA will use to select the best value offer. Structure the evaluation factors and subfactors and their relative importance to clearly reflect the needs of the acquisition. Evaluation factors and subfactors from the evaluation plan must be in Section M (or equivalent) of the SIR.

(2) Factors and subfactors are definable and measurable in readily understood terms. They also represent the key areas of importance and emphasis to be considered in the source selection decision. Factors and subfactors should be limited to the essential elements to distinguish among the information/offers; i.e., will be true differentiators.

(3) Common evaluation factors are technical, cost/price, past performance, and

small business participation. Other evaluation factors may be appropriate, and one or more levels of subfactors may be needed.

(4) Steps involved in formulating evaluation factors and subfactors include the following:

- Conduct market research as a starting point for developing criteria;
- Brainstorm critical factors and subfactors;
- Identify key differentiators;
- Define the differentiators as evaluation factors and subfactors;
- Determine and define the evaluation factors and subfactors;
- Relative order of importance; and
- Assess feedback during SIR(s)

(5) *Evaluation Weights*. Assign relative importance to each evaluation factor and subfactor. Tailor the relative importance to specific requirements. Use priority statements to express the relative importance of the evaluation factors and subfactors. Priority statements relate one evaluation factor (or subfactor) to each of the other evaluation factors (or subfactors). For example:

“Technical is the most important factor and is more important than all of the remaining factors combined. Technical is significantly more important than past Performance. The past performance factor is more important than the cost factor and small business participation factor combined. The cost factor is more important than the small business participation factor.”

b. *Numerical and Adjectival Ratings*. When using the tradeoff process, the evaluators assess the non-cost portion(s) of the offer and associated performance and proposal risks using numerical or adjectival ratings. The success of an evaluation is not dependent upon the type(s) of ratings used, but rather on the consistency with which the evaluators use them. For this reason, adjectival ratings must include definitions for each rating so that the evaluators have a common understanding of how to apply them.

c. *Result of Proposal Evaluation*. At the end of an evaluation, each factor and sub-factor are evaluated, the merits and risks of a proposal are documented and adjectival ratings are assigned.

9. Evaluation Revised 4/2021

a. *Conduct Training*. Before receipt of proposals, each evaluator becomes familiar with all pertinent documents, e.g., SIR, evaluation plan, and rating scales, etc.. The SET conducts training

that includes an overview of these documents and the source selection process, with instructions on properly documenting each offeror's strengths, weaknesses, and risks. Training also includes ethics requirements and the protection of source selection information. This training is especially crucial when evaluators have little or no source selection experience.

b. *Documenting the Evaluation.* The SET performs an in-depth, systematic evaluation of offerors' proposals against evaluation factors and subfactors in the SIR(s). All evaluations must be documented. While the specific evaluation processes and tasks vary, the basic objective is to provide information about each offeror's strengths and weaknesses so the SSO can make an informed and reasoned decision. An orderly method for identifying, recording, and tracking strengths and weaknesses is imperative. Evaluation findings being supported with narrative statements is critical. Ratings alone are not conclusive information on which to make a source selection decision. All determinations relating to changes in requirements after release of the SIR must be documented in the evaluation report.

c. *Assignment and Use of Offeror Code Names.* Once proposals are received, the SET considers establishing a code name for each of the offerors. This helps protect the identities of offerors submitting proposals, the proprietary information in their proposals, and the contents of the evaluation reports and source selection documentation. The code names are assigned by the SET and then communicated to all evaluation personnel prior to the start of proposal evaluation. All SET members, evaluation team members, and support personnel involved in the evaluation and source selection must then use any assigned code names rather than the actual offeror names in all discussions and in all written documentation and communication (including the SSO Briefing). The SSO would not know the actual offeror names until after contract award. Additional guidance related to the assignment of code names is as follows:

- (1) Code names are based on a series of like items (e.g., states such as Missouri, Arkansas, and Nebraska for an acquisition with three offerors);
- (2) Care is taken to avoid choosing a series of names where one may be perceived as more valuable than another (e.g., if using precious metals, gold may be perceived as more valuable than bronze, or if using colors, red may be perceived more negatively than green);
- (3) If there are more than three or four offerors, alphabetic characters are used for ease of reference (e.g., Offeror A, Offeror B etc.); and
- (4) Code names would not be assigned in the following situations:
 - ☐ Only one proposal received; or
 - ☐ Where the names of all offerors competing are publicly known in accordance with

AMS clause 3.2.2.3-72 "Announcing Competing Offerors" (July, 2004).

- For real property acquisitions

Note: Regardless of whether code names are used, SET members, evaluation team members, and support personnel are responsible at all times for the proper treatment of source selection sensitive information from the evaluations and/or proposals.

d. *Past Performance Evaluations.* The past performance evaluators assess the performance risk associated with each proposal. The final assessment describes the degree of confidence in the offeror's likelihood of successful contract performance based on that offeror's demonstrated record of performance under similar contracts. (See AMS Procurement Guidance T3.2.2.3.B.2 for guidance on evaluating past performance.) For real property acquisitions, past performance will be considered as part of vendor responsibility determination. (See AMS Procurement Guidance T3.2.2.7)

e. *Cost/Price Evaluations.* For competitive fixed-priced or time and material contracts, the evaluation could be as simple as performing price analysis to determine reasonableness. Price realism may also be used for price proposal analysis on competitive fixed-priced or time and material contracts. For competitive cost-reimbursement contracts, the offerors' estimated costs are analyzed for both cost realism and reasonableness. The cost realism analysis enables evaluators to determine each offeror's most probable cost of performance. This precludes an award decision based on an overly optimistic cost estimate. Even when cost realism analysis is performed to evaluate individual cost elements of a contractor's proposal, some form of price analysis is needed to ensure that the proposed price is reasonable. (See AMS Procurement Guidance T3.2.3 for guidance on cost and price evaluation methods.)

10. Selection and Award Revised 4/2022

a. *Decisions.* After the evaluators complete their evaluation, the results of the evaluation are presented to the SSO. The SSO may do the following:

- Make a selection decision (see below);
- Make a screening decision by screening those offerors determined to be most likely to receive award, thus continuing the screening phase;
- Amend and re-open to initial offerors; or Cancel
- the procurement.

b. *Presenting the Evaluation to the SSO.* The SET prepares documentation of the evaluation to present to the SSO. The SSO uses this documentation as an aid when making a decision based on business judgment about which proposal represents the best value. At the request of the SSO, the SET may present the evaluation results through one or more briefings.

c. *Source Selection Decision.* The SSO must document his/her rationale for selecting the successful offeror. The source selection decision document explains how the successful proposal compared to other offeror's proposals based on the evaluation factors and subfactors in the SIR, and discusses the judgment used in making any tradeoffs. If the SSO disagrees with a finding of the SET, the SSO's rationale is part of the decision document. When the SSO determines, in a best value tradeoff source selection, that the best value proposal is other than the lowest-priced proposal, the decision document justifies paying a price premium based on the superiority of the successful proposal's non-cost rating. The justification clearly states the benefits or advantages FAA receives for the added price and why it is in FAA's best interest. This justification is required even when the SIR indicates non-cost factors are more important than cost/price. The SSO should consult with legal counsel to review the source selection decision document to assure that the decision clearly articulates the business judgment of the SSO.

d. *Awarding the Contract.* After the SSO signs the source selection decision document, the CO executes and distributes the contract, subject to completing other requirements before award such as Congressional notification, if applicable.

11. Debriefing of Offerors Added 9/2020 Revised 1/2023

a. *Overview.* The CO notifies all offerors who participated in the competitive process that they may request a single debriefing within three working days from receipt of award notification. Because each offeror puts considerable resources into preparing and submitting a proposal, fairness dictates a prompt debriefing and an explanation of why a proposal was unsuccessful.

b. *Purposes of a Debriefing.* A debriefing accomplishes the following:

- ☐ Explains the rationale for the offeror's exclusion from the competition or non-selection for award;
- ☐ Instills confidence in the offeror that it was treated fairly;
- ☐ Assures the offeror that appropriately qualified personnel evaluated the proposal according to the SIR and applicable policies and laws;
- ☐ Identifies strengths and weaknesses in the offeror's proposal so the offeror can prepare better proposals in future FAA procurements;
- ☐ Gives the offeror an opportunity to provide feedback about the SIR process, communications, and the source selection; and
- ☐ Reduces misunderstandings and reduces the risk of protests.

A debriefing is not any of the following:

- ☐ Page-by-page analysis of the offeror's proposal;
- ☐ Point-by-point comparison of the proposals of the debriefed offeror and other offerors; and

☐ Debate or defense of FAA's award decision or evaluation results.

The debriefing must not reveal any information prohibited from disclosure or exempt from release under the Freedom of Information Act.

If there are indicators a protest is likely, the CO must inform FAA's legal counsel. The CO must not deny a debriefing because a protest is threatened or has already been filed.

c. Information Provided. In a post-award debriefing, the CO discloses the following:

- (1) The evaluation rating; ; strengths and weaknesses; and deficiencies of the debriefed offeror's proposal;
- (2) The debriefed offeror's total evaluated price/cost;
- (3) Awardee's total evaluated price/cost; and
- (4) A general summary of the rationale for the award decision.

d. Debriefing Methods

- (1) The CO debriefs one offeror at a time. Debriefings of offerors may be done orally, in writing or by any other method acceptable to the CO.
- (2) If the CO elects to conduct a debriefing in a method other than in writing, the CO will select the medium or location of the debriefing. The debriefing may be face-to-face, by telephone, conference or other electronic means, and must conform to the following procedures:

~~€~~ (1) *Notification of Debriefing.* The CO informs the offeror of the scheduled debriefing date by electronic means with return receipt to acknowledge receipt. If the offeror requests a later debriefing date, the CO requires the offeror to acknowledge in writing that it was offered an earlier date, but requested a later date instead. This procedure protects FAA's interests if the offeror subsequently files a protest.

~~d. (2) *Debriefing Methods and Location.* The CO debriefs one unsuccessful offeror at a time. The CO selects the method and location of the debriefing. Although face-to-face debriefings are frequently used, a debriefing may be by telephone or other electronic means acceptable to the offeror and FAA. It may be burdensome for an offeror to attend in person and the needs of the offeror are given due consideration. The CO may provide an advance copy of the debriefing to the offeror and allow the offeror to provide written questions for FAA to review before the debriefing.~~

e. *Attendees.* The CO selects FAA attendees, and chairs and controls the debriefing. The CO asks an offeror to identify all individuals by name and position who will attend the debriefing. Normally, the CO does not restrict the number of personnel the debriefed offeror may bring unless there are space limitations. Ensuring appropriate FAA personnel attend the debriefing to be meaningful is important. The CO may rely on SET members (e.g. technical experts, pricing/cost analyst) to address specialized areas of the offerors' proposals. Legal counsel participates in preparation and review of the debriefing materials. If the offeror's legal counsel will attend the debriefing, FAA legal also attends. ~~If there are indicators a protest is likely, inform FAA's legal counsel. The CO must not deny a debriefing because a protest is threatened or has already been filed.~~

f. ~~(3)~~ *Preparing for a Debriefing.* The extent of preparation varies with the complexity of the source selection. Sometimes, preparing debriefing charts is sufficient. Other times, a written script and dry run rehearsals may be beneficial. Because debriefings are time sensitive, preparation may begin before proposal evaluation is complete. SET members may assist in preparing debriefing materials. The CO briefs all FAA personnel who will attend the debriefing on their roles during the debriefing.

~~g.a. (4) *Handling Questions.* The CO may provide an advance copy of the debriefing to the offeror and allow the offeror to provide written questions for FAA to review before the debriefing.~~ *Information Provided.* In a post-award debriefing, the CO discloses the following:

- ~~• The evaluation rating; significant strengths and weaknesses; strengths and weaknesses; and deficiencies of the debriefed offeror's proposal;~~
- ~~• The debriefed offeror's total evaluated price/cost and the awardee's total evaluated price/cost; and~~
- ~~• A general summary of the rationale for the award decision.~~

~~h. *Handling Questions.*~~ Ideally, the CO gets all questions in writing. As a general rule, FAA personnel do not answer questions "on the fly." The CO and other FAA personnel caucus to formulate a response before providing an answer. At the end of the debriefing, the CO advises the offeror that the debriefing is officially concluded. At the discretion of the CO, questions submitted by the offeror after the date on which the debriefing was conducted may be answered. In such cases, the CO must advise the offeror that the information is not considered part of the official debriefing (thereby not affecting the protest time period).

12. Oral Presentations Added 9/2020

a. *Introduction.* Oral presentations (sometimes referred to as oral proposals) provide offerors an opportunity to orally present information they would normally provide in writing. Oral presentations may be beneficial in a variety of procurements, and they are most useful when requirements are clear, complete, and stated in performance or functional terms. Oral presentations are ideal for gathering information about how qualified the offeror is to perform the work, how well the offeror understands the work, and how the offeror will approach the work. Oral presentations may be conducted in person or via video teleconference. A videotaped presentation does not constitute an oral presentation because it is not a real-time exchange of information.

b. *Scope of the Oral Presentation.* Before deciding if oral presentations are appropriate, the SET must select the evaluation factors. Then the SET decides whether the information needed to evaluate these factors can be better presented orally, in writing, or through a combination of both. Oral presentations can convey information in diverse areas such as responses to sample tasks, understanding the requirements, experience, and relevancy of past performance. Offerors should be required to submit briefing materials in advance of the presentations. This allows FAA attendees to review the materials and prepare any questions. Oral statements cannot be incorporated into the contract by reference, so any information to be made part of the contract needs to be submitted in writing. At a minimum, the offeror must submit certifications, representations, and a signed offer (including any exceptions to SIR terms and conditions) in writing. The offeror must submit any other factual data, such as cost or pricing data or subcontract commitments, as part of a written proposal, too.

c. *SIR Information.* If oral presentations are appropriate, the SIR must notify offerors that FAA will use oral presentations to evaluate and select an offeror for award. The proposal preparation instructions must contain explicit instructions and guidance regarding the extent and nature of the process to be used. The instructions discourage elaborate presentations because they may detract from the information being presented. At a minimum, include the following information in the SIR:

- ☐ The type of information the offeror must address during the oral presentations and how it relates to the evaluation criteria;
- ☐ The required format and content of the presentation charts and any supporting documentation;
- ☐ Any restrictions on the number of charts and/or the number of bullets per chart and how FAA will handle material that does not comply with these restrictions; The
- ☐ required submission date for the presentation charts and/or materials;
- ☐ The approximate timeframe when the oral presentations will be conducted and how FAA will determine the order of the offerors' presentations;
- ☐ Whether any rescheduling will be permitted if an offeror requests a change after the schedule has been established;
- ☐ The total amount of time each offeror will have to conduct their oral presentation;
- ☐ Who must make the presentation and a requirement that the offeror provide a list of

- names and position titles of the presenters;
- ☐ Whether the presentation will be video or audio taped;
- ☐ The location of the presentation site and a description of the site and resources available to the offeror;
- ☐ Any rules and/or prohibitions regarding equipment and media;
- ☐ How FAA will treat documents or information referenced in the presentation material but never presented orally;
- ☐ Any limitations on FAA-offeror interactions during and after the presentation
- ☐ Whether the presentation will constitute discussions;
- ☐ Whether FAA will use the information in the oral presentation solely for source selection purposes or whether such information will become part of the contract (which will require a subsequent written submission of that information); and
- ☐ Whether or not the offeror includes any cost (or price) data in the presentation.

d. *Timing and Sequencing.* Because preparing and presenting an oral presentation involves time and expense, offerors not likely to be candidates for award do not have to conduct oral presentations. This can be an important consideration with small businesses. When this is a concern, consider down selections to establish the likely candidates for award before oral presentations. The SIR clearly articulates the methods for down selection. The CO may draw lots to determine the sequence of the offerors' presentations. The time between the first and the last presentation is as short as possible to minimize any advantage to the offerors that present later.

e. *Time Limits.* Establish a total time limit for each offeror's presentation. It is not advisable to limit the time for individual topics or sections within the presentation; this detail is the presenter's responsibility. If planning a question and answer (Q&A) session, it is excluded from the allotted time and there is a separate time limit for Q&A. The amount of time allotted is determined using business judgment based upon the complexity of the procurement, experience, and lessons learned.

f. *Facility.* The presentations are conducted at a Government-controlled facility. This helps guard against surprises and ensures a more level playing field. Nothing precludes conducting an oral presentation at an offeror's facility. This may be more efficient if site visits or other demonstrations are part of the source selection. If using a Government-controlled facility, it may be made available for inspection and, if warranted, a practice session. Allowing offerors to get acquainted with the facility will help ensure that it does not detract from the presentation content.

g. *Recording the Presentations.* Having an exact record of the presentation could prove useful both during the evaluation process and in the event of a protest or litigation. The oral presentations can be recorded using a variety of media, e.g., videotapes, audio tapes, written transcripts, and/or a copy of the offeror's briefing slides or presentation notes. The SET is responsible for determining the method and level of detail of the record. If using videotaping, allow for the natural behavior of

the presenters. If slides or view graphs are used, the camera views both the lectern and screen at the same time. Place the microphones so that all communications can be recorded clearly and at adequate volume. Every effort is made to avoid letting the recording become the focus of the presentation. The recording, which is considered source selection information, will become part of the official record. Provide a copy to the offeror and seal and securely store the master copy of the recording to ensure there are no allegations of tampering in the event of a protest or court action.

h. *FAA Attendance*. The CO chairs every presentation. All FAA personnel involved in evaluating the presentations attend every presentation.

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

j. *Reviewing the Ground Rules*. Prior to each presentation, the CO reviews the ground rules with the attendees. This includes discussing any restrictions on FAA-offeror information exchanges, information disclosure rules, documentation requirements, and housekeeping items. These ground rules are included in the SIR. If the evaluation includes a quiz, the CO discusses the related ground rules. For example, whether the offeror may caucus or contact outside sources by phone before answering. The ground rules must avoid too much control because it could inhibit the presentation. The CO controls all exchanges during the presentation if discussions will not be conducted.

k. *Evaluation of Presentations*. Evaluations should be performed immediately after each presentation. Using evaluation forms will help the evaluators collect their thoughts and impressions. Evaluators must document the rationale for their evaluation conclusions.

B. Other Source Selection Considerations Added 9/2020

1 Public Announcement and Announcement of Competing Offerors Revised 7/2021

All procurements over \$150,000 must be publicly announced on the Internet or through other means. If the Internet is used, as a minimum the announcement should be placed on the Contract Opportunities page on SAM.gov. This requirement does not apply to real property acquisitions, emergency actions, purchases from an established Qualified Vendors List (QVL) or Federal Supply Schedule (FSS), exercise of options, modifications, or changes. For actions under \$150,000, a public announcement is optional.

For products, services, and construction procurements, publicizing the names of offerors competing for FAA contracts can be a method of encouraging small businesses to seek subcontracting opportunities with potential FAA contractors. The Contracting Officer (CO) may publicly announce names and addresses of offerors responding to a screening information request (SIR), provided the SIR includes a notice to the offerors and no offeror objects to the release of this information. The CO may make the public announcement after initial offers are received and/or *after* making a down select decision.

2 Past Performance Revised 9/2021

- a. General. Past performance can be one indicator of a prospective contractor's future performance. To help ensure that the best performing contractors are providing products, services, construction, and real property to the FAA, past performance should be evaluated during source selection. If past performance is not evaluated, reasoning must be documented.
- b. Recommendations for Using Past Performance in a Screening Information Request (SIR).
 - (1) General Considerations. Factors chosen for evaluation should be reasonable, logical, coherent, and directly related to requirements in the statement of work (SOW). The key to successful use of past performance in the screening process is a clear relationship between the SOW, instructions to offerors, and evaluation criteria. Past performance information that is not important to the current acquisition should not be included.
 - (2) Responsibility Determination. When the CO or procurement team considers it appropriate, the SIR states past performance will be used to evaluate the responsibility of the contractor. A contractor with a record of unsatisfactory past performance should be screened out of the selection process.
 - (3) Past Performance as a Separate Non-Cost/Price Factor. Including past performance as a stand-alone evaluation factor is better than integrating it with other non-cost/price evaluation factors. The source and type of past performance information to be included in the evaluation and the relative importance of past performance compared to price or cost and any other evaluation factors is at the broad discretion of the procurement team (CO, legal counsel, program official and other supporting staff).
 - (4) Non-Relevant Contract Experience/New Contractors. The SIR must state whether new contractors or contractors with non-relevant contract experience will be considered, or rated negatively.
 - (5) Size, Scope, Complexity, and Time-frame. The SIR requests the offerors for references

for ongoing projects and/or contracts completed within a specified period of time (three to five years is reasonable but can be for a shorter period if appropriate) for contracts that are similar in size, scope, and complexity to the SOW. Each of these terms (size, scope, and complexity) should be SOW specific and defined in the SIR. Gather past performance history from sources other than those provided by the offeror. Such sources include the Contractor Performance Assessment Reporting System (CPARS) database, PRISM database along with other agency contracting personnel, and listings of contract awards posted on the Contract Opportunities page in SAM.gov.

(6) Sub-factors. The procurement team must pay attention to what differentiates a "good" performer from a "poor" performer. Past performance sub-factors are shaped by those differentiators, be limited in number, and are tailored to the key performance criteria in the SOW.

(7) Relative Importance. The SIR may state whether all sub-factors are relatively equal, or whether certain sub-factors are more important than others.

(8) Major Subcontractors. If applicable, if major subcontractors are likely to perform critical aspects of the contract, the procurement team evaluates past performance of these subcontractors to determine the overall likelihood of success of the prime contractor. The SIR states how such information will be evaluated.

(9) Affiliates, Divisions, etc. The past performance of the affiliates, divisions, etc. that are actually performing the work is considered. The procurement team must consider the degree of control that a parent organization will exert over the affiliate, division, etc. in determining whether both the parent organization and affiliate, division, etc. past performance is evaluated.

(10) Number of References. Ask for at least two points of contact (program/technical and contracts) for each past performance reference to assure that all aspects of the offeror's performance can be evaluated.

(11) Use of Other Sources. The instruction to offerors includes a statement that the Government may use past performance information obtained from sources other than those identified by the offeror, and that the information obtained may be used for both the responsibility determination and the best value decision. For each non-Federal reference, the SIR includes an authorization to release information.

(12) Inclusion of Past Performance Questionnaire (PPQ). The PPQ does not need to be included as an attachment in the SIR. If the PPQ is included in the SIR, note the past performance questions are not limited to those on the questionnaire.

(13) Sample SIR Provisions. Each SIR must contain instructions and evaluation information that best reflects the individual acquisition.

c. Evaluating Past Performance.

(1) Relation to SIR. Instances of performance, both good and poor, are noted and related to SIR requirements. If problems were identified on a prior contract, the role the sponsor may have played in that result is taken into account. Evaluations consider the number and severity of problems, the demonstrated effectiveness of corrective actions taken (not just planned or promised), and the overall work record.

(2) Current Versus Older Performance. The age of the performance being evaluated may be weighted so that performance on older contracts receives less weight than performance on more recent contracts.

(3) Method of Scoring. The final past performance rating may be reflected by a color, a number, adjectival, or a combination of these methods, depending upon what system is being used overall to indicate the relative ranking of the offerors. A past performance rating is not a precise mechanical or scientific process and must include sound business judgment. Therefore, the documentation of the final rating includes a logical description of the underlying reasons for the conclusions reached.

(4) Disclosure of Negative Information. If the procurement team receives negative information that would have a significant effect on the likelihood of award to an offeror, then the procurement team discloses the information and provides the offeror an opportunity to respond. This is true even if the SIR states that award may be made on initial offers. The SIR includes the appropriate provisions notifying the offerors that FAA retains this option.

(5) Evaluating Disputed/Negative Information. When the procurement team receives negative information, or information that is disputed, they should carefully consider the offeror's response and determine what weight to apply, based on the facts obtained from the questionnaire, interview, or other sources. The file must be documented to explain why the procurement team assigned a particular rating. This is especially important in situations involving unresolved disputes.

d. Obtaining Information on an Offeror's Past Performance.

(1) Reference Checks. The most commonly used method of obtaining past performance is to conduct reference checks from a variety of sources, including previous FAA program and contracting personnel, other Federal agencies, state and

local governments, and commercial contractors.

(2) Other Sources. Dun & Bradstreet can obtain information on past performance on specific contractors for the FAA (Dun & Bradstreet charges for this information). In lieu of FAA paying for the report, the SIR may require offerors to provide a copy of a recent past performance report prepared by Dun & Bradstreet. Quality certifications and awards can also serve as a useful source of past performance information.

(3) Timetable. The process of collecting past performance information begins as soon as the proposal evaluation begins. It may be best to establish a team devoted entirely to this task during the screening, especially if FAA anticipates receiving a large number of proposals. Researchers must locate and question sources of information, either in person, by telephone or in writing. If the information shows a history of poor performance, the procurement team can eliminate the proposal from the competition as non-responsible.

(4) Questionnaire or Survey Form. The first step in obtaining information from sources is to develop a questionnaire, or survey form, that reflects the evaluation rating system that will be used to assess the offerors strengths and weaknesses for the contract being considered. Questions are worded so that interviewees understand precisely what they are being asked to describe. To maintain accurate records and facilitate verification, the questionnaire (survey) record form include: Interviewer's name, agency/company name, reference's name (to be held in confidence), full mailing address and telephone number, date the questionnaire is completed, and description of the contract effort discussed.

(5) Information Collection. Once the questionnaire is prepared, the procurement team should contact references. There are various ways to collect the information: Face-to-face interviews, mailing the questionnaires, telephone interviews, electronic mail (ensuring security measures are taken), or some combination of these.

(6) Number of References. The SIR requires the offeror provide at least two references (one from the program office/one from contracts) for each of its proposed past performance examples. Additional references could be identified during interviews in order to survey a large enough sample to identify patterns in performance.

(7) Setting Up Interviews. Being well organized and efficient is important when conducting the interview so as not to waste the interviewee's time. It is helpful to call the reference to make an appointment to conduct an interview, rather than telephoning the references unannounced, thereby catching them unprepared or with little time to respond. If possible, the questionnaire is mailed or faxed to the reference in advance of the appointment. Interviewers take copious notes on the questionnaire to ensure that all information is captured. Tape recording is a good means for capturing all of the conversation; however, tape recording the conversation may cause the interviewee

discomfort and reduce the amount of information provided. If tape recording is used during the interview, ensure the interviewee is aware of and agrees to the use of recording devices.

(8) Conducting Interviews. Evaluators look for patterns of either favorable or unfavorable overall performance, rather than focusing on individual successes or failures. It is important to look for actions that demonstrate high performance and not just unfavorable performance. This will help to get away from the old responsibility determination mode of just looking at performance problems. There appears to be a tendency for references to give an upward bias to ratings. The interviewer should ask enough questions to discriminate between "good" and "excellent." Evaluators request copies of any existing documentation in support of excellent or negative findings (i.e., correspondence, modifications, determinations, etc.). Investigating negative findings in-depth prior to presenting them to offerors, in discussions if held, will alleviate unnecessary delays. Prior to concluding the interview, the evaluator asks the reference for a summary opinion, e.g., how would the interviewee rate the contractor's overall performance and would the interviewee like to do business with the contractor again?

(9) Concluding Telephone and Face-to-Face Interviews. Immediately following a telephone or face-to-face interview, the interviewer prepares a narrative summary of the conversation (this can be the questionnaire as filled in by the interviewer) and send it to the reference for verification, preferably by certified mail return-receipt requested, fax, or electronic mail. The narrative states explicitly that if the reference does not object to its content within the time specified, it would be accepted as correct. If the reference indicates that the narrative is incorrect, then a corrected narrative is sent for verification. If a reference will not agree to the record and satisfactory corrections cannot be agreed upon, the record cannot be relied upon and must not be included in the offeror's rating. Another source may provide the same information, however.

(10) Mailing Questionnaires. If mailing questionnaires is the chosen method for collecting past performance information, mail the questionnaires to the references, provide a time-frame for return of responses, and wait for the responses. If mailed questionnaires are not received in a timely manner, follow-up telephone interviews are suggested (following guidance above if telephone interview occurs).

3 Cancelling a Screening Information Request Added 9/2020

The CO, with the concurrence of the procurement team, may cancel a SIR at any time during the solicitation process. The notification of cancellation may be made through the same mechanism as the initial or subsequent SIRs. The CO must document cancellation for the contract file.

4 Section 508 of Rehabilitation Act Revised 9/2021

a. Requirements for Accessibility.

Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) requires that persons with disabilities that are either Federal employees or members of the public seeking information or services from a Federal department are to have access to and use of information and data comparable to the access and use of information and data by Federal employees or members of the public who do not have disabilities. Section 508 applies to contract awards, task orders, delivery orders, orders under Government-wide Schedules and Interagency Agreements for electronic and information technology (EIT), as defined below. The procurement team (CO, program official, legal counsel, and other supporting staff) will insert Section 508 requirements into SIRs that include development, procurement, maintenance, or use of electronic and information technology unless an exception applies (see Exceptions to Section 508 below).

b. Definition.

Electronic and information technology (EIT) means any equipment or interconnected system or subsystem of equipment used in automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For purposes of the preceding sentence, equipment is used by the FAA:

- (1) If the equipment is used directly by FAA; or
- (2) Is used by a contractor under a contract with FAA that:
 - (a) Requires use of such equipment; or
 - (b) Requires use, to a significant extent, of such equipment in performance of a service or furnishing of a product.

c. EIT Products. EIT includes, but is not limited to the following:

- (1) Computers and other office equipment;
- (2) Software and firmware;
- (3) Services (including support Services);
- (4) Telecommunication products;
- (5) Information kiosks;

(6) Office equipment such as copiers and fax machines; and

(7) Websites.

d. *Exceptions to Section 508.*

(1) Section 508 does not apply to EIT if the following applies:

(a) Acquired by a contractor incidental to a FAA contract;

(b) For a national security system;

(c) Located in space frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment;

(d) That would impose an undue burden on FAA (see paragraph f. below); or

(e) That would impose a fundamental alteration in the nature of an EIT product or its components.

(2) EIT is not available

(a) When procuring commercial items, FAA must comply with those EIT standards that can met with supplies or services that are available in the commercial marketplace in time to meet FAA's delivery requirements.

(b) When EIT is not available, the contract file must be documented as outlined below.

(3) Documentation supporting a Section 508 exception must be maintained in the contract file. The FAA Section 508 Procurement Checklist found below in Appendix 1. "Forms" can aid in regulatory compliance. Required documentation includes the following if applicable:

(a) Applicable technical provisions of the Access Board's standards;

(b) Market research performed to locate items that meet the applicable technical provisions;

- (c) The specific provisions that cannot be met;
- (d) Undue burden documentation (see paragraph f. Approval of Undue Burden below); and
- (e) Other applicable documentation.

(4) If an exception applies preventing FAA from meeting all of the applicable technical provisions, FAA may acquire EIT that meets some of those provisions.

e. Applicability.

- (1) All EIT procured on or after June 21, 2001 must comply with Section 508 standards.
- (2) The FAA does not have to retrofit EIT procured before June 21, 2001.

f. Approval of Undue Burden.

When applying the requirements of Section 508 (see paragraph a. "Requirements for Accessibility" above) would impose an undue burden, FAA must provide individuals with disabilities covered by Section 508 the information and data by an alternative means of access that allows the individual to use the information and data. Undue burden is defined as a significant difficulty or expense to the FAA.

- (1) Documentation of an undue burden must include the following:
 - (a) A thorough and fully supported explanation as to why and to what extent compliance with each provision of “36 CFR Part 1194 – Electronic and Information Technology Accessibility Standards” would create an undue burden for the EIT being procured; and
 - (b) Dollar value, market research performed, and alternative means of access that will be provided for individuals with disabilities to use the information or data. Alternative means of access include (but are not limited to):
 - (i) Voice, fax, or relay service;
 - (ii) Qualified sign language interpreters;
 - (iii) Teletypewriters (TTY);

- (iv) Internet posting;
- (v) Captioning;
- (vi) Text-to-speech synthesis;
- (vii) Readers;
- (viii) Personal Assistants; or
- (ix) Audio description.

(2) Final approval authority of an undue burden determination resides with the FAA Administrator. The Secretary of the Department of Transportation (DOT) formed the Undue Burden Advisory Board (UBAB), which will advise FAA on undue burden matters. The process for undue burden determinations is:

- (a) Review by DOT Chief Information Officer;
- (b) Review by DOT General Counsel;
- (c) Review by UBAB and their submission of a recommendation to the FAA Administrator in the form of an "Undue Burden Report"; and
- (d) Consideration of the report by the FAA Administrator or delegate. The resulting decision is final.

g. Sources of Further Information.

- (1) U.S. Architectural and Transportation Barriers Compliance Board (U.S. Access Board)
- (2) Government-wide Section 508 website
- (3) FAA Section 508 website (FAA only)

5 Spare Parts Added 9/2020

a. *Shipping Spare Parts.* For all shipments of spare parts, the contractor must include a packing list that includes at least the name, part number, Commercial and Government Entity (CAGE) Code, quantity, unit price, and national stock number (if available). Contracts that require shipment of

spare parts include Clause 3.2.2.3-73 to establish this contractual requirement.

b. Spare Parts for Nationally Furnished Project Materiel.

(1) *Requirements.* The contracting officer includes coverage for spare parts in the screening information request and subsequent contract that facilitates availability, accessibility and tracking of spare parts.

(2) *SIR Provision.* For contracts that will require the purchase and delivery of spare parts, the contracting officer establishes a discrete contract line item number for initial site and depot-level spare parts list contract line item number (CLIN) and corresponding delivery date. The CO also includes the SIR provision 3.2.2.3-74, "Submission of Initial Site and Depot-level Spare Parts List" as part of the instruction to vendors on the preparation of their SIR submissions to assure that the parts list will be furnished as part of the SIR submission.

(3) *Contract Requirements.* The contracting officer includes a separately priced CLIN for the site and depot-level spare parts list and corresponding delivery due date of this contract deliverable. The list contains each item's name, part number, Commercial and Government Entity (CAGE) Code, unit price, national stock number (if available) and the quantity.

6 Supplier Process Capability Evaluation and Appraisal Added 9/2020

a. *General.* This guidance is designed to assist the Source Selection Official (SSO) in considering process capability of potential suppliers during proposal evaluations, mitigating process-related risk of the supplier during contract/agreement performance, and for fostering process improvement of the supplier throughout the lifecycle.

b. *Scope/Applicability.* Supplier Process Capability Evaluation and Appraisal are intended for use in new acquisitions and agreements, but may also be incorporated into existing contracts or agreements.

c. Expected Benefits.

(1) *Acquirer.* The FAA can expect reduced risk in supplier selection and in meeting program objectives by motivating suppliers to improve their processes without forcing compliance to specific practices. Other benefits would include enhanced quality, predictability, performance and cost effectiveness of products and services acquired.

(2) *Supplier.* Suppliers can expect reduced risk in meeting contract requirements by

identifying and addressing process deficiencies that might negatively impact project success. Other benefits would include improved performance by identifying and addressing process deficiencies in critical process areas and potential for earning additional award fee where such incentives are part of the contract.

d. *Pre-award.* In the early phase of planning a source selection, the SSO determines whether process capability will be considered as a risk factor for source selection. The following criteria are considered when making this decision:

- (1) The performance of specific processes is considered critical to accomplishment of the mission;
- (2) The product or service being acquired is considered crucial to the FAA;
- (3) A major component of the product or service to be provided is considered to be unprecedented;
- (4) The total estimated value of a contract for research, engineering, and development (R,E&D) is equal to or greater than \$70 million, or a contract for acquisition is equal to or greater than \$300 million;
- (5) There is lack of information on offeror's past performance or process capability data, or the past performance or process capability of the offeror is weak; and
- (6) The product or service is especially complex.

If process capability will be used as an evaluation factor, or as an adjustment to risk at either the area or factor level, the SIR must include request for information on current status and commitment to process improvement, including evidence indicating process capability. The SIR must also identify particular aspects of the suppliers' performance capabilities that are considered critical to success of the contract, such as architecture and design, safety, security, human factors, integration, risk management, or quality assurance.

Process capability appraisals can be used after award to validate and confirm the successful offeror's proposal and/or to identify risks associated with process deficiencies to be addressed during contract performance. In order for a post-award appraisal to occur, the SIR must indicate that a post-award appraisal will be performed on the successful offeror's processes that are identified as critical or potentially risky.

e. *Post-award.* Post-award appraisals may be conducted on existing contracts with well-established project(s), or on new contracts using target projects selected from the supplier's sponsoring organization.

f. *Contract/Agreement Requirements.* Considerations in developing contract/agreement

requirements include use of trade-off analysis to establish the level of surveillance of strong or weak areas. For example, if a supplier is strong in an area, it is inefficient to check on that area in the same way that would be applied in an area found to be weak. Additional Award fees may also be used as an incentive. Contract/Agreement performance requirements include completion of initiatives to remove critical deficiencies identified. Completion may be a factor in award fees. Depending on the decision of the SSO, contract requirements may include the following:

- (1) Risk mitigation plans to remove deficiencies noted during pre-award;
- (2) Performing scoped post-award and follow-up appraisal(s);
- (3) Risk mitigation plans to remove deficiencies noted in post-award appraisal;
- (4) Government “surveillance” for specific areas (weaknesses) to be addressed;
- (5) An adequate reporting or insight mechanism to facilitate monitoring the risk mitigation plan;
- (6) Consideration for creating additional process strengths; and
- (7) Improvement in performing process improvement activities.

Risk mitigation planning describes in detail the schedule and actions that will be taken to remove deficiencies noted during the evaluation and selection process and those uncovered in the appraisal process, if a post award appraisal is performed.

7 Tiered Evaluation Revised 1/2021

a. General.

- (1) Tiered evaluation of offers is a process by which FAA promotes small business participation while providing FAA a means to continue the procurement if small business participation is insufficient.
- (2) The Contracting Officer (CO) may use tiered evaluation of offers to promote competition in each tier of small business concerns while still allowing other than small business to participate without issuing another SIR.
- (3) The CO must consider the tiers of small business concerns prior to evaluating offers from other than small business concerns.

b. Utilizing Tiered Evaluations.

(1) The CO must specify in the SIR that a tiered evaluation of offers will be used in source selection, and offers from other than small business concerns will only be considered after the determination that an insufficient number of offers from responsible small business concerns were received.

(2) The CO will specify the tiered order of precedence for evaluating offers in the SIR, and determine the applicable tiers based upon market research of the availability of small business concerns. An example of a tiered order of precedence is (descending in order) as follows:

(a) Socially and economically disadvantaged business (SEDB) expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) program;

(b) Service-disabled veteran owned small business (SDVOSB);

(c) Women-Owned Small Business (WOSB);

(d) Historically Underutilized Business Zone (HUBZone) small business;

(e) Small business (SB); and

(f) Other than small business.

(3) Once offers are received, the CO will evaluate a single tier of offers according to the order of precedence specified in the SIR. If no award can be made at the first tier, the evaluation will proceed to the next lower tier until award can be made. If no award can be made at the first tier, offerors from the first tier continue on in the evaluation and are evaluated against offerors from each subsequent tier.

8 Qualified Vendors List Revised 9/2021

A Qualified Vendors List (QVL) is a list of service or product providers who have had their products or services examined, tested or evaluated and who have satisfied all applicable qualification requirements. QVLs are intended as a mechanism to establish a pool of qualified vendors, any of which FAA would be satisfied with the products delivered or services performed. Pre-screening vendors allows only those most qualified contractors to perform a particular service or provide a particular product during a specific period. QVLs are most appropriate when the contracting office

can reasonably anticipate recurring or repetitive requirements for the same or similar supplies or services. For detailed guidelines on establishing a qualified vendors list, the procurement team should refer to Appendix 2 Guide for Establishing a Qualified Vendors List (QVL).

9 Two-phase Source Selection Revised 9/2021

(a) *General.* A Contracting Officer (CO) may utilize a two-phase process to solicit offers and select a source for award. The contracting officer can choose to use this optional method of solicitation when deemed beneficial to the FAA in meeting its needs.

(b) *Phase One.*

(1) The CO must make a public announcement in accordance with AMS T3.2.2.3.B.1, except that the notice must include the following information:

- a) Notification that the procurement will be conducted using the specific procedures identified under this Section.
- b) A general notice of the scope or purpose of the procurement that provides sufficient information for sources to make informed business decisions regarding whether to participate in the procurement.
- c) A description of the basis on which potential sources are to be selected to submit offers in the second phase. (For real property acquisitions, the CO may use a market survey as a means to identify sources that would submit offers in the second phase.)
- d) A description of the information that is to be required to be submitted if the request for information is made separate from the notice.
- e) Any other information that the CO deems is appropriate.

(2) *Information Submitted by Offerors.* Each offeror must submit basic information such as the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the approach, and past performance data, together with any additional information requested by the CO.

(3) *Selection for participating in second phase.* The CO must select the offerors based on the Phase One criteria that are eligible to participate in the second phase of the process. The CO must limit the number of the selected offerors to the number of sources that the CO determines is appropriate and in the best interests of the FAA.

(c) *Phase Two.*

(1) The contracting officer must conduct the second phase of the source selection consistent with T3.2.3.3.A.

(2) Only sources selected in the first phase will be eligible to participate in the second phase.

10 Cost or Price Exception for Multiple Award Contracts Added 1/2023

(a) The CO must follow procedures for “Approval of Multiple Award Procurement Programs” located in AMS T3.2.1A18. The CO may choose not to include cost or price as an evaluation factor for award when the SIR:

(1) Has an estimated value above \$250,000;

(2) Will result in multiple-award contracts that are for the same or similar services;

(3) States that the FAA intends to make an award to all qualifying offerors; and

(4) States that price or cost will be considered as an evaluation factor for each order placed under the contract.

(b) For purposes of this section, “qualifying offeror” means an offeror that is determined to be a responsible source, submits a technically acceptable proposal that conforms to the requirements of the solicitation, and the contracting officer has no reason to believe would be likely to offer other than fair and reasonable pricing.

(c) For all non-competitive orders, T3.2.2.4 “Single Source” procedures must be followed.

(d) The CO must obtain written approval from the appropriate AAQ Division Manager to use the exception in (a).

C. Clauses Revised 9/2020

[view contract clauses](#)

D. Procurement Forms Revised 9/2021

Document Name

Award / Contract SF-26
Contract Award Notification DOT-4220.41
Solicitation / Contract SF-1447
Solicitation, Offer, and Award SF-33
Solicitation, Offer, and Award (Construction, Alteration, & Repair) SF-1442
Statement and Acknowledgment SF-1413

E. Procurement Samples Added 9/2021

Document Name
Extension of Offer Acceptance Period
Notice of Intent to Contract With Single Source
Late Offer Notification
Sample Lowest Price Technically Acceptable Source Evaluation Plan
SIR Amendment Announcement
SIR Cancellation Announcement
SIR Issuance Announcement
Award Decision Document - LPTA (Janitorial Services)
Award Decision Document - Tradeoff (Professional Services)
Award Letter - Services
Award Letter - Supply
Source Selection Decision Document

F. Procurement Templates Added 9/2021

Document Name
Source Evaluation Plan – Tradeoff
Source Evaluation Plan – Lowest Price Technically Acceptable
Award Letter – Construction
Pre-construction Conference Notice
Unsuccessful Offeror Notice

G. Procurement Tools and Resources Added 9/2021

Document Name
Debriefing Agenda Overview

H. Appendix Revised 9/2021

1 Section 508 Checklist Added 9/2020

Standards	
Check the Access Board's standards that apply to the EIT purchase:	
	1194.21 Software Applications and Operating Systems
	1194.22 Web-based Information or applications
	1194.23 Telecommunication Products
	1194.24 Video and Multimedia Products
	1194.25 Self-Contained Products
	1194.26 Desktop and Portable Computers
	1194.31 Functional Performance Criteria
	1194.41 Information, Documentation and Support

	Request vendor Section 508 compliance template (e.g. vendor's website or other website location)
Exceptions	
	EIT acquired by a contractor incidental to a FAA contract
	EIT for a national security system
	EIT located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment
	EIT that would impose an undue burden on the agency
	EIT that would impose a fundamental alteration in the nature of an EIT product or its components
Research	
After market research, the product is considered:	
	Compliant
	Partially compliant
	Noncompliant
	EIT is not available

2 Guide to Establishing a Qualified Vendors List (QVL) Added 9/2020

1 Introduction

A Qualified Vendors List (QVL) is a list of service or product providers who have had their products or services examined, tested or evaluated and who have satisfied all applicable qualification requirements. QVLs are intended as a mechanism to establish a pool of qualified vendors, any of which FAA would be satisfied with the products delivered or services performed. Pre-screening vendors allows only those most qualified contractors to perform a particular service or provide a particular product during a specific period.

2 Purpose

QVLs are most appropriate when the contracting office can reasonably anticipate recurring or repetitive requirements for the same or similar supplies or services. When planning a QVL, consider the scope of work to be performed, e.g., would it apply to only one region or center, or would requirements from several technical offices be combined. The procurement team should determine the extent of any testing, capability demonstrations, samples, etc. that may involve an expense. If testing, demonstrations, etc. are necessary, the SIR should be explicit as to whom

would bear the cost. The procurement team must secure the necessary funds to accomplish these activities if FAA is to bear the costs.

3 Public Announcement

If the total amount of potential procurements under the QVL are anticipated to exceed \$150,000, the CO must make a public announcement. In addition, all potential procurements of products available from Federal Prison Industries that are anticipated to exceed \$10,000 must follow the public announcement provisions in AMS 3.2.1.3.12. If it is anticipated that a planned QVL will not exceed \$150,000 over its anticipated life and public announcement is not otherwise required, wide dissemination of the intention to establish the QVL would improve the chances of obtaining additional quality vendors.

4 Screening and Evaluation

- a. Prepare screening and evaluation procedures according to AMS Policy Section 3.
- b. The CO, in conjunction with the procurement team, should formulate appropriate evaluation criteria for screening and qualifying vendors. The procurement team should carefully craft evaluation criteria to focus on key discriminators. Evaluation criteria should be tailored to the particular requirement. The procurement team should develop an evaluation plan describing how vendors will be evaluated and against what criteria.
- c. The screening information request (SIR) indicates the following:
 - (1) A QVL is being established;
 - (2) Types of products or services anticipated to be solicited and awarded;
 - (3) Criteria vendors must meet to qualify for the QVL;
 - (4) Information prospective vendors must submit (including the submission due date);
 - (5) Duration of the QVL;
 - (6) A brief explanation of the award process for procurements once the QVL has been established, including any method for eliminating firms from the QVL for repeatedly failing to respond to SIRs;
 - (7) Method for selecting vendors to compete for a specific requirement once the QVL is established;

(8) Method for updating the QVL, including any method for requiring vendors to re-qualify for the QVL;

(9) Method for canceling the QVL; and

(10) Geographical area limitations, if appropriate.

5 Evaluating Prospective Vendors

- a. The CO should prepare an evaluation plan. Evaluators must follow the plan and criteria, and provide a thorough evaluation of the qualified vendors expressing an interest.
- b. The number of vendors on a QVL should be appropriate for the types of requirements being purchased.

6 Notifying Vendors Excluded from a QVL

- a. Notify vendors who were unsuccessful in qualifying for a QVL as soon as the decision is made on their individual submission, but no later than the issuance of the QVL. A debriefing should be provided, if requested, in accordance with AMS Policy Section 3.
- b. A public announcement is recommended upon establishing a QVL.

7 Competing Requirements Among Vendors on QVL

- a. Vendors are to be informed in the initial SIR establishing the QVL of the method of selection for competing for planned procurements under the QVL. The CO has discretion to tailor the method of QVL vendor competition to the planned requirements or to the size and nature of the QVL. Once the CO establishes a method of competing requirements, it must be used for all procurements under that particular QVL.
- b. There must be adequate competition for procurements under a QVL. The incumbent contractor should always be permitted to compete for any follow-on requirement solicited under the QVL, unless otherwise precluded from competing under follow-on competition by a specific Organizational Conflict of Interest provision or documented poor past performance.

8 Updating a QVL

- a. The CO should update QVLs on a periodic basis to allow new vendors an opportunity to qualify. There is no prescribed time when a QVL should be updated because every QVL will be different. Factors such as volume of procurements, size of the industry for the products or services, time and effort involved in establishing a new QVL will influence how often a QVL is

updated.

b. At the stated time for updating a QVL, request a written confirmation of each vendor's desire to remain on the QVL. Any vendor not responding to the request for confirmation may be deleted as an indication of lack of interest. Vendors may request to withdraw at any time by submitting a written request to the CO.

c. If at any time, a vendor on an established QVL has performance difficulties, changes ownership, or otherwise becomes less than highly qualified, the CO may request that vendor re-qualify by submitting qualification information again. Notify the vendor of the reasons it is being required to re-qualify.

9 Cancelling a QVL

There may be situations when a QVL becomes underutilized. In these cases, the CO should consider canceling the QVL, when it is in the best interest of the Government. When canceling a QVL, the CO should notify all vendors in writing and provide a brief explanation of the reasons and whether there are any plans to replace or combine the QVL requirements with other requirements.

10 Availability of Information

Names of firms on an established QVL should be provided to the public upon request. Potential subcontractors may wish to pursue opportunities which may exist for future projects. Also, the CO should consider sharing the information with other FAA offices. General information such as the nature of the QVL, vendor names, duration of the QVL, and a point of contact for further information could be distributed or posted on the Internet.

11 QVL for Products

Products must meet specification requirements. Simply because a product or service appears on a QVL does not constitute endorsement of the product, manufacturer, or other source by FAA. The listing of a product or source does not release the supplier from compliance with the specification. However, it must not be stated or implied that a particular product or source is the only product or source of that type qualified, or that FAA in any way recommends or endorses the products or the sources listed. Reexamining a qualified product or manufacturer is necessary when: the manufacturer has modified its product, or changed the material or the processing sufficiently so that the validity of a previous qualification is questionable; the requirements in the specification have been amended or revised sufficiently to affect the character of the product; or it is otherwise necessary to determine that the quality of the product is maintained in conformance with the specification. Vendors who furnish evidence that their products have successfully passed qualification are eligible for award even though not yet included on the QVL.