

***NATIONAL WEATHER SERVICE INSTRUCTION 1-1101  
JANUARY 13, 2005***

***Administration and Management  
Acquisition Management, NWSPD 1-11***

***ACQUISITION MANAGEMENT INSTRUCTION***

**NOTICE:** This publication is available at: <http://www.nws.noaa.gov/directives/>.

**OPR:** OPS11 (D. Bosco)  
**Type of Issuance:** Routine

**Certified by:** OPS1 (M. Paese)

**SUMMARY OF REVISIONS:** This Instruction supersedes Interim Acquisition Management Instruction 1-1101 dated April 30, 2004. The interim instruction has been revised to implement requirements of NOAA Administrative Order 208-1, NOAA Acquisition Handbook.

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December 30, 2004  
Date

**Acquisition Management Instruction**

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1. **Introduction.** The National Oceanographic and Atmospheric Administration (NOAA) National Weather Service (NWS) Policy Directive 1-11 establishes the NWS Acquisition Management System. This instruction supplements NOAA Administrative Order 208-1, NOAA Acquisition Handbook for specific NWS staff roles and responsibilities and provides acquisition processes and procedures governing the role of the NWS staff in planning, developing, soliciting, awarding, and administering acquisitions to achieve the NWS mission in compliance with Federal [the Federal Acquisition Regulations (FAR) System], Department of Commerce (DOC), and NOAA regulations.

Acquisition and timely delivery of technologies and services complying with regulations and policies are essential to the planning and execution of NWS programs. NWS acquisitions need to demonstrate taxpayers' dollars are spent wisely and acquisitions adhere to all laws and regulations. NWS acquisitions will be accomplished by planning, promotion of competition, complete and accurate review of proposals, well thought out negotiations, well-structured contracts, and on-going and effective contract administration. These principles are fundamental to ensuring sound contract decisions are made and contracts are successfully performed.

2. Acquisition Team. An Acquisition Team consists of all acquisition participants including representatives of the technical, administrative, legal, procurement, and user communities, and after award, the Contractors who provide the products and services. The role of each member of the Acquisition Team is to work within the team and acquisition regulations, apply sound business judgment to ensure the best value product or service is obtained.

- a. Contracting Officer (CO) has the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. Contract specialists, purchasing agents, and purchasing technicians may prepare the documents for the CO's approval and signature.
- b. Requirement Officer (RO) has the authority to represent a requirement or need subsequent to the mission of the NWS. The RO may represent the needs of the Offices of the Assistant Administer, Office of Services, NWS Regions or Centers, Office of Operational Systems, Office of Science and Technology or other Government agency through Memorandum of Agreement, Memorandum of Understanding, or Interagency Agreement.
- c. Program technical representative (PTR) has the responsibility for developing a requirement or need into a performance based work statement, specification, or other document, analysis, evaluation or report required by a CO to plan, solicit, award, or administer a contract.
- d. The Certifying Official has the delegated authority to sign procurement documents to commit NWS funds for use by the CO.
- e. A Government commercial purchase card holder has been trained and authorized to purchase supplies and services for official Government purposes only; adhering to the requirements of Federal, Department, and operating unit procurement rules and Commerce Acquisition Manual (CAM) 1313.301.
- f. A Government commercial purchase card approving official has been trained and authorized to approve purchases of supplies and services made by the Government commercial purchase card holder adhering to the requirements of Federal, Departmental, and operating unit procurement rules and CAM 1313.301. The purchase card approving official is responsible for oversight and monitoring of designated cardholders' compliance with regulations and procedures.

- g. Contracting Officer Representative (COR), formally designated Contracting Officer Technical Representative, has been trained, assigned, and made responsible for oversight and technical direction of a contract. The COR furnishes technical direction, monitors contract performance, and maintains an arm's-length relationship with the Contractor. CORs carry out their role by performing contract duties assigned to them by the CO in a written COR designation memorandum for a specific contract. For the purposes of this instruction, the PTR becomes COR at contract award.
- h. The Source Selection Official (SSO) has the delegated authority to select the successful offeror for contract award. The CO is designated SSO, unless the agency head delegates another individual for a particular requirement dependant upon size, dollar value, or complexity. For acquisitions in excess of \$10 million, the SSO is the Deputy Under Secretary (DUS) unless a specific delegation of SSO authority is requested from and approved by the DUS.
- i. Chief Information Officer (CIO) serves as the RO and Certifying Official for information technology (IT) acquisitions below the level of the Information Technology Review Board.
- j. Contractor is any authorized representative or employee of a business concern or individual who enters into a contract with a CO to provide supplies or services.
- k. Integrated Project Team (IPT) is established for any single acquisition or a single program involving multiple acquisitions exceeding \$10 million inclusive of all options and/or whenever a Concept of Operations approach is used. The IPT is formed in the procurement planning stage of an acquisition. The Program Coordinator is the individual assigned from the program office; responsible for making programmatic decisions regarding the acquisition(s); and keeping NOAA management informed of progress, developments, and problems throughout the life cycle of the acquisition. Members of the IPT will include representatives of all appropriate expertise including, at a minimum, the CO, Contract Specialist, PTR, COR, representation from the Office of General Council, Small and Disadvantaged Business specialist (SADBUS), and any other individuals deemed necessary. Each IPT shall have a charter that identifies their purpose, composition, roles, responsibilities and authorities, scope and deliverables.

3. Acquisition Planning. Acquisition Planning is an integrated process beginning with a requirement and early communication of the requirement to the contracting office coupled with establishment of the Acquisition Team. Acquisition team members including the CO must be involved during acquisition planning.

3.1 Purpose. The purpose of acquisition planning is to integrate the efforts of all personnel responsible for significant aspects of the acquisition and ensure NOAA meets its needs in the most effective, economical, and timely manner. Effective planning requires communication and

close coordination in the initial stages of the process among the various members of the Acquisition Team to develop an overall strategy to manage the acquisition.

3.2 Planning. Planning consists of submitting an Acquisition and Grants Office (AGO) Advance Acquisition Plan (AAP), developing a Milestone Plan or Acquisition Plan (AP), conducting Market Research, and submitting a properly prepared and approved Procurement Request (CD-435). RO/PTR should enter into discussions with the contracting office at the conception stage of the process to allow the PTR to plan effectively to accomplish an acquisition during a specified timeframe by identifying and resolving potential issues and delays in the acquisition process.

3.2.1 Advance Acquisition Planning (AAP) Instruction. NWS must submitted all planned acquisitions and contract actions to the AGO two quarters before the start of the fiscal year with lead times based on the average contract award lead times listed in table 1. NWS must individually identify each of their planned acquisition or contract action with an estimated cost over \$100,000 and \$100,000 and less, if the acquisition is expected to result in a new contract award or modification to exercise an option to an existing NOAA contract. Administrative Processing Time starts when the procurement action is received in the acquisition office with the Procurement Request items listed below complete and ready for the contracting office to prepare and release the solicitation for proposals.

Table 1. Average Acquisition Lead Time

Dollar Value of Procurement Action	Administrative Processing Time
\$0.00 - \$24,999.99	30 calendar days
\$25,000 - \$99,999.99	75 calendar days
Any order against an existing contract (General Service Administration Schedule, Government-Wide Acquisition Contract, Indefinite Delivery Indefinite Quantity contract)	60 calendar days
\$100,000.00 - \$499,999.99	150 calendar days
\$500,000.00 - \$4,999,999.99	210 calendar days
\$5,000,000.00 - \$9,999,999.99	240 calendar days
\$10,000,000.00 and up	360 calendar days

3.2.2 Acquisition Planning Process. Acquisition planning process allows identification of issues, unknowns, and creates a forum for solutions. Important aspects of acquisition planning process include:

- a. Market research (research to promote and provide for acquisition of commercial items or, to the extent commercial items suitable to meet the agency's needs are not available, nondevelopmental items, to the maximum extent practicable) and to obtain competition to the maximum extent practicable;

- b. The work statement/statement of objectives/specifications and appropriate evaluation criteria;
- c. Scheduling;
- d. Team responsibilities;
- e. Special project clearances and approvals, i.e., programmatic and physical security clearances; IT clearances, contract review boards, and sole source;
- f. Buy-green requirements;
- g. Accessibility and safety compliance;
- h. Human resources;
- i. Environmental Impact and National Environmental Protection Act (NEPA); and
- j. Radio frequency allocation and authorization.

During acquisition planning meetings with the contracting staff, RO/PTR requests preparation of a milestone plan to formalize the planning process and track progress toward a timely award. RO/PTR is provided the opportunity to review and concur with the milestone dates. Throughout the acquisition process, RO/PTR should meet regularly with the contract specialist to discuss and update the milestone chart as appropriate.

3.2.3 Market Research. Market research means collecting and analyzing information about capabilities within the marketplace to satisfy agency needs. Market research is required for all requirements exceeding \$100,000; or less than \$100,000 if adequate information is not available and the circumstances justify the cost. Market research is accomplished ensuring legitimate needs are identified and trade-offs evaluated to acquire items meeting those needs.

The extent of market research varies depending on factors such as urgency, estimated dollar value, complexity and past experience. Market research enables NOAA to determine:

- a. Whether the need can be met by:
  - (1) Items of a type customarily available in the commercial marketplace.
  - (2) Items of a type customarily available in the commercial marketplace with modifications.
  - (3) Items used exclusively for governmental purposes.
- b. Customary practices regarding customizing, modifying, or tailoring of items to meet user needs and associated costs.

- c. Customary practices, including warranty, buyer financing, or discounts during commercial sales of the products.
- d. The requirements of any laws and regulations unique to the item.
- e. The availability of items containing recovered materials or are energy efficient.
- f. The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.
- g. Size and status of potential sources to assist in determining whether the requirement can be met by small businesses.

Techniques for conducting market research may include any or all of the following:

- a. Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.
- b. Reviewing the results of recent market research undertaken to meet similar or identical requirements.
- c. Publishing formal requests for information (RFI) in appropriate technical or scientific journals or business publications.
- d. Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources.
- e. Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line.
- f. Conducting interchange meetings or holding pre-solicitation conferences to involve potential offerors early in the acquisition process.

If market research establishes a type of item or service customarily available in the commercial marketplace may meet NOAA's need, the solicitation must be prepared following FAR Part 12, *Acquisition of Commercial Items*. Be aware, market research is a continuing requirement. The commercial marketplace changes every 6 months, market research is still required.

3.2.4 Milestone Plan. A CO and RO/PTR will develop a Milestone Plan for each acquisition listed in the Advance Acquisition Plan or as part of an Acquisition Plan. A Milestone Plan is the document used by acquisition team members to negotiate a schedule of significant submission and approval dates. A typical Milestone Plan is presented in figure 1.



Milestone Plan				
AAP No. _____		Amount (Life/Current FY) _____		
Description _____				
Goal _____		Type of Money _____		
	Milestone	Planned Date	Revised Date	Actual Date
1	PR Released in AMD	_____	_____	_____
2	Clearances/Reviews Completed	_____	_____	_____
3	Synopsis	_____	_____	_____
4	RFP/IFB Released	_____	_____	_____
5	Bids/Proposals Due	_____	_____	_____
6	Technical Evaluation Complete	_____	_____	_____
7	Business Evaluation Complete	_____	_____	_____
8	Competitive Range Determination	_____	_____	_____
9	Negotiations/Discussions	_____	_____	_____
10	Revised/Final Proposal Revisions	_____	_____	_____
11	Source Selection	_____	_____	_____
12	Pre-Award Clearances	_____	_____	_____
13	Award Documentation Complete	_____	_____	_____
14	Pre-Award Review Complete	_____	_____	_____
15	Award Date	_____	_____	_____
<input type="checkbox"/> This acquisition is being processed on a “best efforts” basis to meet either an <input type="checkbox"/> accelerated award schedule or <input type="checkbox"/> to assure award by the end of the fiscal year.				
_____		_____		_____
Project Officer/Date		Contracting Officer/Date		Approving Official/Date

Figure 1 Typical Milestone Plan

3.2.5 Procurement Request. The subsequent Procurement Request, submitted to the appropriate contracting office on a CD-435 should include:

- a. AAP Number (for all over \$100,000 and for \$100,000 and less, if the acquisition is expected to result in a new contract award or modification to exercise an option to an existing NOAA contract;
- b. Budgetary and Management approvals (with a funded account number);
- c. Any necessary clearances/justifications; (Justification for Other than Full and Open Competition, Section 508, IT clearance, or others); and
- d. All supporting documentation for the specific requirement (Statement of Objective, Specifications, evaluation criteria, reference material, description of any Government furnished property, facilities requirements, potential sources, or others)

3.2.6 Acquisition Planning Documents. The IT and non-IT acquisition planning documents and required approvals are listed in table 2.

Table 2. Acquisition Plans and Approval

Acquisition Plans and Approval			
Above	Below	Information Technology	Non-Information Technology
\$0	\$25,000	Acquisition Planning and CD-435	Acquisition Planning and CD-435
\$25,000	\$500,000	Office of the Chief Information Officer IT Procurement Plan Approval (OCIO PPA), Acquisition Planning and CD-435	Acquisition Planning and CD-435
\$500,000	\$1,000,000	Business Case, Acquisition Planning, NOAA Contract Review Board (CRB), and CD-435	Acquisition Planning, NOAA CRB, and CD-435
\$1,000,000	\$5,000,000	OMB Circular A-11, Form 300 & Attachment A, NOAA CRB, and CD-435	Acquisition Planning, NOAA CRB, and CD-435
\$5,000,000	\$10,000,000	OMB Circular A-11, Form 300 & Attachment A, Acquisition Planning, Acquisition Plan (AP), NOAA CRB, NOAA IT Review Board and CD-435	Acquisition Planning, AP, NOAA CRB, and CD-435
\$10,000,000		OMB Circular A-11, Form 300 & Attachment A, Acquisition Planning, AP, NOAA CRB, NOAA IT Review Board, DOC CRB, DOC IT Review Board and CD-435	Acquisition Planning, AP, NOAA CRB, DOC CRB, and CD-435

4. Describing NWS Needs. The PTR prepares acquisition planning documents and solicitation documents to:

- a. Identify needs in terms of performance requirements; specify required capabilities, objectives, measures of success, realization of restrictions, and rewards and penalties.
- b. Ensure, to the maximum extent practical, needs are developed promoting full and open competition.
- c. All applicable significant conditions affecting the requirement are stated.

- d. Set forth any established cost goals and the rationale supporting them such as life cycle, design to cost, or application of should cost.
- e. Establish delivery or performance period requirements.
- f. Identify trade-offs, if any.
- g. Identify risks and describe efforts planned to reduce risk.
- h. Prepare Acquisition Plan sections following FAR Part 7.1, *Acquisition Plans*; including sources, acquisition considerations, source selection procedures, government furnished property, test and evaluation objectives, logistic considerations, and management information requirements.

4.1 Performance-Based Contracting. Performance-based contracting means structuring all aspects of an acquisition around the purpose of the work to be performed. Contract requirements are set forth, in clear, specific, and objective terms with measurable outcomes as opposed to either the manner by which the work is to be performed or broad and imprecise descriptions of work. Performance-based service acquisition benefits include:

- a. Increased likelihood of meeting mission needs,
- b. Focus on intended results, not process,
- c. Better value and enhanced performance,
- d. Less performance risk,
- e. No detailed specification or process description needed,
- f. Contractor flexibility in proposing solution,
- g. Better competition; not just contracts, but solutions,
- h. Contractor buy-in and shared interests,
- i. Shared incentives permit innovation and cost effectiveness,
- j. Surveillance, less frequent, more meaningful,
- k. Results documented for Government Performance and Results Act reporting, as by-product of acquisition, and
- l. Variety of solutions from which to choose.

Use performance-based contracting methods to the maximum extent practicable when acquiring services. In determining whether to use the performance based method for acquiring goods or service, take into consideration dollar value, complexity, and type of requirement before making a decision as to whether a performance based statement of objectives methods can be used.

Performance-based contracting methods ensure required performance quality levels are achieved and total payment is related to the degree services are performed or outcomes achieved meet contract standards. Performance-based contracts or task orders will define requirements in clear, concise language identifying specific work to be accomplished. Performance-based contracts or task orders should be individually tailored to consider the period of performance, deliverable items, and the desired degree of performance flexibility. Performance-based work statements listed in the Statement of Objectives (SOO) should, to the maximum extent practicable:

- a. Describe the work in terms of "what" is to be the required output rather than either "how" the work is to be accomplished or the number of hours to be provided.
- b. Describe the requirements in terms of results required rather than the methods of performance.
- c. Enable assessment of work performance against measurable performance standards.
- d. Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost effective methods of performing work.
- e. Avoid combining requirements into a single acquisition too broad for the agency or a prospective Contractor to manage effectively.
- f. Use measurable performance standards in terms of quality, timeliness, quantity, and quality assurance plans.
- g. Specify performance incentives/disincentives and procedures for reductions of fee or for reductions to the price of a fixed-price contract when services are not performed or do not meet contract requirements.

Additional guidance on writing performance based work statements can be found at: <http://www.arnet.gov/Library/OFPP/BestPractices/pbsc/home.html>. The site provides performance based work statements to:

- a. Establish an integrated solutions project team.
- b. Describe the problem to be solved.
- c. Examine private-sector and public-sector solutions.

- d. Develop a SOO and Performance Work Statements (PWS).
- e. Describe how to measure and manage performance.
- f. Select the Contractor.
- g. Manage performance.

4.2 Items Particular to One Manufacturer. NOAA requirements should not be written to require a particular brand name, product, or feature of a product peculiar to one manufacturer precluding consideration of a product manufactured by another company, unless the particular brand name, product, or feature is essential to NOAA's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the need.

4.3 Purchase Descriptions for Service Contracts. Purchase descriptions for service contracts cannot assign inherently governmental functions to a Contractor (e. g., determining program priorities for budget requests; voting on any source selection board; accepting or rejecting Contractor products or services; or determination of contract costs as reasonable, allocable, and allowable.) A complete list of inherently governmental functions can be found in FAR 7.5.

5. Required Sources of Supplies and Services. Agencies are required to satisfy requirements for supplies and services from or through the sources and publications listed below in descending order of priority:

- a. Supplies - Agency inventories; Excess from other agencies; Federal Prison Industries, Inc.; Products available from the Committee for Purchase From People Who Are Blind or Severely Disabled; Wholesale supply sources, such as stock programs of the GSA, the Defense Logistics Agency, the Department of Veterans Affairs, and military inventory control points; Mandatory Federal Supply Schedules (FSS); Optional use Federal Supply Schedules; and commercial sources including educational and nonprofit institutions.
- b. Services - Services available from the Committee for Purchase From People Who Are Blind or Severely Disabled; Mandatory Federal Supply Schedules; Optional use Federal Supply Schedules; and Federal Prison Industries, Inc.; or commercial sources including educational and nonprofit institutions.

Supplies and services offered by the sources other than those listed above may be used in cases of unusual and compelling urgency as set forth in the FAR. The case of unusual and compelling urgency must be documented to and approved by a CO.

The acquisition team for these purchases consists of the PTR, Certifying Official, and both the contract specialist and CO when the requirement is being administered by the contracting office. In the case of a Government purchase card holder, the acquisition team consists of the PTR,

Certifying Official, Government commercial purchase card holder or CO, and Government commercial purchase card approving official.

The PTR reviews and makes a positive effort to obtain excess supplies and equipment before initiating a contract action. Federal Prison Industries, also referred to as UNICOR, Committee for Purchase From People Who Are Blind or Severely Disabled, and GSA provide agencies with a simplified process for obtaining commonly used commercial supplies and services at prices associated with volume buying. When orders are placed against a GSA FSS contract, the orders are considered using full and open competition. Ordering offices need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business programs. Orders placed with a schedule source are not exempt from the development of an acquisition plan by the PTR if the dollar value requires one. Regardless of the source, information technology acquisitions must also comply with capital planning and investment control requirements.

5.1 Ordering Procedures. Ordering procedures for non-mandatory schedules require:

- a. Orders below the micro-purchase threshold <\$2500 may be placed with any Contractor on the FSS. If award was made to other than the low schedule price, an explanation for the award decision must be documented to support the purchase with identification of the non price factors considered. All schedule holders accept the Government commercial purchase card. The NWS purchaser must be authorized and trained pursuant to Commerce Acquisition Manual Purchase Card training requirements (CAMPC). The Government commercial purchase card approving official is required to retain the official records following the guidelines set forth in the Commerce Purchase Card procedures set forth in the CAM <http://www.casc.noaa.gov/bankcard/bankcard.html>. The purchase card holder maintains a copy of the record for their files.
- b. Orders for supplies exceeding the micro-purchase threshold but not exceeding the maximum order limitation contained in the FSS require review of catalogs or price lists of at least three schedule Contractors and selection of the best value. The PTR recommends in writing to the contract specialist and CO factors (other than price) to take into consideration:
  - (1) Special features required for effective program performance.
  - (2) Past performance.
  - (3) Probable life compared to a comparable item.
  - (4) Maintenance availability.
  - (5) Environmental and energy efficiency considerations.
  - (6) Warranty.

## (7) Trade-in considerations.

If the award is made to other than the low schedule price, an explanation for the basis for the award decision must be written to support the purchase with identification of the other schedules reviewed. All schedule holders accept the Government commercial purchase card. The contracting office or a NWS card holder authorized and trained pursuant to CAMPC to the appropriate level may make the purchase. If a NWS card holder makes the purchase the Government commercial purchase card approving official is required to retain the official records. The purchase card holder maintains a copy of the record. Any requirement, exceeding the schedule maximum order limitation, must be referred to a CO to seek additional discounts.

- c. Orders for services requiring a SOO or a statement of work (SOW) is referred to a contracting office and sent out to at least three schedule holders requesting a request for quotation (RFQ). The PTR must prepare a clear, concise performance based description of the requirements set forth with measurable outcomes for the RFQ. The PTR also recommends in writing to the contract specialist and CO factors other than price taking into consideration past performance, special features required for effective program performance, probable life compared to a comparable item, maintenance availability, environmental and energy efficiency considerations, warranty, and trade-in considerations. If competitive quotations were received and a technical evaluation of non price factors was included in the award decision process, the technical evaluation by all technical representatives must be documented following the criteria set forth in the RFQ to support the award.

6. Simplified Acquisition Procedures. Simplified acquisition procedures must be used for supplies and services, including development and commercial items to the maximum extent practicable for all acquisitions with an anticipated value below \$100,000. Simplified acquisition procedures may not be used if requirements can be satisfied from or through the sources and publications listed as the Government's Required Sources of Supplies and Services contained in part 8 of the FAR (i.e., Federal Prison Industries, or Products Available from the Committee for Purchase from People who are Blind or Severely Disabled, etc). There is also special authority available to acquire commercial items exceeding \$100,000 and below \$5,000,000 (inclusive of all options) using simplified acquisition procedures. Simplified acquisition procedures reduce administrative costs, improve opportunities for small, as well as small disadvantaged, and women-owned small business concerns to obtain a fair proportion of NOAA contracts, promote efficiency and economy in contracting and avoid unnecessary burdens for agencies and Contractors. Each simplified acquisition having an anticipated dollar value exceeding \$2,500, below \$100,000 is reserved exclusively for small business concerns, and is set aside by the CO or Government commercial purchase card holder, as appropriate.

- a. Micro-purchases are acquisitions with a value below \$2,500. Micro-purchases may be awarded without soliciting competitive quotations if the price is

considered fair and reasonable. If competitive quotations were solicited and award was made to other than the low quoter, an explanation for the award decision must be documented to support the purchase with identification of the solicited concerns. To the extent practicable, micro-purchases are set aside for small businesses and must be distributed equitably among qualified suppliers. The preferred method to acquire and pay for micro-purchases is the Government commercial purchase card provided the NWS purchaser is authorized and trained pursuant to CAMPC training requirements.

Acquisition team for micro-purchases consists of the PTR, the Certifying Official, Government commercial purchase card holder, and Government commercial purchase card approving official. Often for micro-purchases, the PTR, Certifying Official, and Government commercial purchase card holder are the same person. The Government commercial purchase card approving official is required to retain the official records following the guidelines set forth in the Commerce Purchase Card procedures set forth in the CAM. The purchase card holder maintains a copy of the record for their files. In cases where the successful business concern does not accept the Government commercial purchase card, the acquisition must be referred to a contracting office and a CD-435 prepared. "The successful offeror does not accept the Government purchase card" is annotated on the form.

- b. For each acquisition with an anticipated dollar value exceeding \$2,500 and below \$10,000, the authorized Government purchase card holder with the required CAMPC training or CO promotes competition by obtaining the supplies or services from the business concern whose quote is the most advantageous to NOAA. All purchases at this level are, by law, set aside for small businesses. If two or more qualified small businesses cannot be identified the purchase card file must be documented with the efforts made to identify qualified small businesses and the results of the market survey. Maximum practicable competition can ordinarily be obtained by soliciting quotations from at least three sources. Whenever practicable, request quotations from sources not included in the previous solicitation. If competitive quotations are solicited and award made to other than the low offeror, a written explanation for the basis for the award decision must be documented for the purchase card file to support the purchase with identification of the solicited business concerns. The preferred method to make and pay for these purchases is the Government commercial purchase card.

Acquisition team for these purchases consists of the PTR, the Certifying Official, Government commercial purchase card holder or CO, and Government commercial purchase card approving official. The PTR, Certifying Official, and Government commercial purchase card holder may be the same person. The purchase card approving official is required to retain official purchase card records following the procedures set forth in the Commerce Purchase Card procedures manual. The purchase card holder also maintains a copy of the records. Should the successful business concern not accept the Government



commercial purchase card, the acquisition must be referred to a contracting office. The statement, "The successful offeror does not accept the Government purchase card" should be annotated on the CD-435 form. All documentation supporting the transaction, including the determination a small business cannot be identified and/or the suggested successful offeror does not accept the Government purchase card, should accompany the CD-435. Without supporting documentation, the assigned Contract Specialist will have to replicate the actions already taken by the PTR. If award to other than a small business is proposed, the Contract Specialist will be required to have the proposed award reviewed and approved by the cognizant NOAA SADBUS and the documentation to support such award will be critical to securing approval.

- c. Each acquisition with an anticipated dollar value exceeding \$10,000 and below \$25,000 must be referred to a contracting office; unless the NWS purchaser is trained pursuant to CAMPC requirements and possesses purchase card authority up to \$25,000.

Acquisition team for these purchases consists of the PTR, Certifying Official, and both the contract specialist and CO when the requirement is being awarded and administered by the contracting office. In the case of a Government commercial purchase card holder, acquisition team consists of the PTR, Certifying Official, Government commercial purchase card holder or CO, and Government commercial purchase card approving official.

The PTR must prepare a clear, concise description of the supplies or services not unnecessarily restrictive of competition allowing a prospective offeror to make an informed business judgment as to whether a copy of the solicitation will be requested and a proposal made. The description includes, where appropriate, the manufacturer's model, salient characteristics or specification, quantity with options, delivery and destination information, and whether an offeror's product or service must meet a qualification requirement in order to be eligible for award. The preferred method for acquiring goods and services is a performance based requirement; structuring all aspects of the acquisition around the purpose of the work to be performed with the contract requirements set forth in clear, specific and objective terms with measurable outcomes as opposed to broad and imprecise descriptions of work or the manner work is to be performed.

The PTR also recommends in writing to the CO factors other than price included in the basis for award, e.g., quality, maintenance availability, warranty conditions, and past performance. In these instances, award is made on a best value basis. Best value is the expected outcome of an acquisition providing the greatest overall benefit in response to NOAA's requirement.

A CO or trained and authorized purchase card holder disseminates information on the proposed contract action by displaying a notice of the solicitation or a copy of the solicitation in a public place, or by disseminating the information by

appropriate electronic means. The information must be posted not later than the date the solicitation is issued, and must remain posted for at least ten days or until after quotations have been opened. If competitive proposals were received and a technical evaluation of non price factors was included in the award decision process, the technical evaluation must be documented to support the award. The Government commercial purchase card is the preferred method to make and pay for these purchases.

- d. Each acquisition having an anticipated dollar value exceeding \$25,000 and below \$100,000 or special authority for simplified acquisitions of commercial items exceeding the simplified acquisition threshold but not exceeding \$5,000,000 must be referred to a contracting office.

Acquisition team for these purchases consists of the PTR, the Certifying Official, and the contract specialist and CO.

The PTR must prepare a clear, concise description of the supplies or services not unnecessarily restrictive of competition allowing a prospective offeror to make an informed business judgment as to whether a copy of the solicitation will be requested and a proposal made. The description includes where appropriate the manufacturer's model, salient characteristics or specification, quantity with options, delivery and destination information, and whether an offeror's product or service must meet a qualification requirement in order to be eligible for award. The preferred method for acquiring goods and services is to describe the requirement as performance based with the contract requirements set forth in clear, specific and objective terms with measurable outcomes.

The PTR also recommends in writing to the contract specialist and CO if factors other than price such as quality, maintenance availability, warranty conditions, and past performance are included in the basis for award.

A CO disseminates the information by creating a synopsis of the proposed contract action at the Government point of entry by way of the Internet at <http://www.fbo.gov>. If competitive proposals are received and a technical evaluation of non price factors was included in the award decision process, the technical evaluation by all technical representatives must be documented following the criteria set forth in the solicitation to support the award.

7. Acquisition of Commercial Items. The Government encourages the acquisition of commercial items, components, and services by establishing acquisition policies resembling those of the commercial marketplace. The Federal Government's preference is to acquire goods and services commercially, if appropriate.

Commercial items are defined as any item customarily used by the general public or business concerns for other than governmental purposes, or has been sold, leased, or licensed to the general public or a commercial item containing a modification of a type customarily available in the commercial marketplace not significantly altering the non-governmental function or essential

physical characteristics of an item or component, or change the purpose of a process. The definition includes any item evolved through advances in technology or performance and is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation. Installation services, maintenance services, repair services, training services, support services, and other services customarily combined and sold in combination with commercial items to the general public are commercial items. The definition and authority for acquisition of commercial services has been expanded to include services awarded by performance-based contracting methods to an entity providing similar services to the general public under terms and conditions similar to those in the contract or task order. The contract may not exceed \$25 million and should include a quality assurance surveillance plan, performance incentives, where appropriate, and specify firm-fixed price for specific tasks to be performed or outcomes to be achieved. Commercial items do not include services sold based on established catalog hourly rates without an established catalog or market price for a specific service performed. Only fixed-price or fixed-price with economic price adjustments can be used for acquisition of commercial items, other contract types are prohibited. Government solicitation requires prime Contractors and subcontractors at all tiers to incorporate, to the maximum extent practicable, commercial items or non-developmental items as components of items supplied.

A modular contracting approach may be recommended by the CO when acquiring IT systems. The modular approach is defined as a combination of IT elements functioning together to produce the capabilities required. Modular contracting allows a requirement to be divided into several smaller increments. The characteristics of an increment may vary depending upon the type of IT being acquired and the nature of the system being developed. The elements may include hardware, software, other equipment, or any combination thereof, but excludes construction or other improvements to real property to support IT.

Acquisition team for a stand alone or part of a modular contracting planned commercial acquisition consists of the PTR, Certifying Official, and contract specialist and CO.

The PTR plays an integral role in the planning, supply or service description, development of evaluation criteria, and evaluation of proposals for award. The PTR initiates the acquisition process with a description of NOAA's needs stated in terms sufficient to allow conduct of market research.

The PTR can conduct market research in open forums (Internet, catalogs), but prior to personally contacting any business concern during market research, a CO must be contacted to oversee interchange meetings or private conferences with potential offerors early in the acquisition process. Market research is then conducted to determine if commercial or non-developmental items are available to meet the program needs or could be modified to meet the program needs. If market research indicates commercial or non-developmental items might not be available to satisfy the program needs, the PTR will re-evaluate and determine whether the program needs can be restated to permit commercial or non-developmental items to satisfy the program needs.

The PTR must document the results of market research during preparation of the description of the supplies or services appropriate to the size and complexity of the acquisition. The results

will include a clear, concise description of the supplies or services to meet the program needs including options using customary industry practices regarding customizing, modifying or tailoring of items to meet user needs, the terms and conditions unique to the program need, delivery and destination information, and warranty customary to the industry. The results will also be evaluated to assess whether technical information necessary to evaluate offers exist in the product literature generally available in the industry or can be obtained from existing product literature requested from offerors in lieu of unique or detailed technical proposals. The technical criteria need not be more detailed than how well the proposed item or service meets NOAA requirement instead of technical subfactors. The PTR will not request more than minimum information necessary for evaluation from potential sources and acquire only technical data rights customarily provided to the public with the commercial item or process sought.

The PTR must also recommend, in writing, to the contract specialist and CO factors other than price and past performance included in the basis for award (best value decision).

Commercial computer software or commercial computer software documentation must be acquired under licenses customarily provided to the public to the extent such licenses satisfy NOAA's needs and are consistent with regulations. Offerors and Contractors must not be required to furnish technical information related to commercial computer software, commercial computer software documentation not customarily provided to the public; or otherwise provide, NOAA the rights to use, modify, reproduce, release, perform, display, or disclose commercial computer software or commercial computer documentation except as mutually agreed upon by the parties and provided for as an addendum in the contract.

Contracts for commercial items rely on Contractors' quality assurance system as a substitute for Government inspection and testing before acceptance unless customary market practices for the item includes in-process inspection. In-process inspection by NOAA must be conducted in a manner consistent with commercial practice with alternative Government inspection and acceptance procedures reserved for more complex commercial items.

If market research indicated other commercial practices are more appropriate for the acquisition of a particular item, these practices are considered for incorporation into the solicitation and contract if the CO determines them appropriate in concluding a business arrangement satisfactory to both parties.

A CO disseminates the information by creating a synopsis of the proposed contract action at the Government point of entry by way of the Internet at <http://www.fbo.gov>, or by appropriate electronic means. The PTRs evaluates offers following the instructions of the CO and the criteria contained in the solicitation. The technical criteria need not be more detailed than how well the proposed item or service meets NOAA requirement instead of technical subfactors and includes examination of product literature, product samples (if requested), technical features and warranty provisions.

If competitive proposals were received and a technical evaluation of non price factors was included in the award decision process, the technical evaluation by all technical representatives must be documented including a discussion of any trade-offs considered to support the award.

Commercial items must be inspected and accepted following customary market practices for the item including in-process inspection.

8. Sealed Bidding.

8.1 Invitation for Bid. Sealed bidding also referred to as Invitation for Bid (IFB) is a method of contracting employing competitive bids, public opening of bids, and awards. The CO may recommend to the PTR a sealed bid contract type. Sealed bidding does not allow for negotiations after receipt of bids and prior to award. Therefore, it is critical the PTR provide clear, concise, and accurate requirement information to the CO and meet to discuss whether IFB procedures are appropriate for the requirement. Sealed bidding is limited to either a firm-fixed-price or fixed-price with economic price adjustment contract.

8.2 Acquisition Team. Acquisition team consists of the PTR, Certifying Official, contract specialist, and CO.

The PTR can conduct market research in open forums (Internet, catalogs), but prior to personally contacting any business concern during market research, a CO must be contacted to oversee interchange meetings or private conferences with potential offerors early in the acquisition process. Market research is then conducted to collect and analyze information about capabilities within the marketplace to satisfy the agency needs. IFBs are only considered the recommended method if there is a reasonable assurance competition exists.

The PTR must provide the CO a clear, accurate, and complete description in writing of the requirements of NOAA. The description will not include unnecessary restrictive requirements or specifications, limiting the number of bidders. Further, the PTR provides the CO:

- a. Brief description of the supplies or services; e.g., item number, national stock number/part number if applicable, title or name identifying the supplies or services, and required quantities and options.
- b. Requirement description or specifications - description or specifications needed to permit full and open competition.
- c. Packaging, packing, preservation, and marking requirements.
- d. Inspection, acceptance, quality assurance, reliability requirements and delivery or performance (specify the requirements for time, place, and method of delivery or performance).
- e. Any documents, exhibits, and other attachments.
- f. Identify any price related factors other than the bid price to be considered in evaluating bids and awarding the contract. Examples may include foreseeable costs or delays to NOAA resulting from such factors as differences in inspection,

locations of supplies and transportation; if items are being acquired based on FOB origin basis, transportation costs to the point of destination must be considered.

- g. Provide any proposed technical evaluation factors or qualification (e.g., U.L. listing).
- h. Recommend descriptive literature to evaluate the technical acceptability of an offered product.
- i. Recommend bid samples if characteristics of the product cannot be described adequately in NOAA's description or specification.

8.3 Documents and Approvals. IFB acquisitions require the same documents and approvals for other types of contracts contingent on the dollar value found in 10, *Documents and Approvals Requirements*.

8.4 Amendments to IFB. The PTR must notify the CO immediately if it becomes necessary to change the description of specification, quantity, packaging, preservation, marking, or delivery. Further, the program representative must not hold discussions with any potential offeror. The CO issues amendments to the IFB to ensure any information given to a prospective bidder is promptly furnished to all other prospective bidders as an amendment to the IFB.

8.5 Opening of Bids and Evaluation. Bids are opened in a public forum at the date and time specified within the IFB. Bids must be evaluated without discussions. After receipt of bids, descriptive literature or bid samples are only to be used to determine the responsiveness of the bid and are not to be used to determine a bidder's ability to produce the required items. Once obtained, bid samples may only be examined for a required characteristic(s) listed in the IFB. A bid is rejected as non responsive by the CO if the sample fails to conform to each of the characteristics listed in the IFB. The PTR examines and documents in writing, each sample against the characteristics listed in the IFB as requested by the CO. If a bid sample is rejected, a clear explanation by the PTR for the rejection against the characteristics must be documented in writing to the CO.

Bid samples furnished but not required by the IFB are not considered as qualifying the bid and are disregarded. However, the bid sample is not disregarded if it is clear from the bid or accompanying papers, the bidder's intention was to qualify the bid.

8.6 Cancellation of Bids. Every effort will be made to anticipate changes before the bid closing date and opening of an IFB. This permits bidders to change their bids and prevent unnecessary exposure of bid price. Generally, an IFB not cancelled and resolicited due solely to a need for increased quantity. In this instance, award is made on the initial evaluation and a new IFB is prepared and bids solicited for the additional quantity. Cancellation of bids after opening but before an award must be documented in writing specifying the basis for the cancellation. Basis for cancellation can include revision of specifications, the supplies or services are no longer required, or inadequate or ambiguous specifications were cited in the IFB. Only the CO, with approval of their HCO, can cancel an IFB. After bids have been publicly opened, award

must be made to the responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the requirement.

8.7 Award. An award is made to the responsible bidder whose bid, conforming to the IFB, is the most advantageous to NOAA, considering only price and the price-related factors included in the IFB.

9. Contracting by Negotiation. Any contract awarded using other than sealed bidding procedures is a negotiated contract. Policies and procedures described in section 9 apply to negotiated full and open and noncompetitive acquisitions. Competitive acquisitions procedures are intended to minimize the complexity of the solicitation, evaluation, and source selection decision, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to selection of the proposal representing the best value to NOAA. Sole source acquisitions procedures are intended to remove unnecessary information and requirements from the request for proposal (RFP) including evaluation criteria and voluminous proposal preparation instructions. Early coordination with the contracting office during the acquisition planning process will help to ensure the acquisition process will flow smoother and more efficiently by having had questions or issues resolved prior to submittal of the CD-435 for processing.

9.1 Acquisition Team. An Acquisition Team consists of all acquisition participants including representatives of the technical, administrative, legal, procurement, and user communities and after award, the Contractors who provide the products and services. The acquisition team includes users or groups of users, PRT, CO, RO, Certifying Official, CIO, SSO and after award the Contractor. Some acquisitions include the Assistant Administrator; Director, Acquisition and Grants Office; NWS, NOAA, and DOC CIO; and DOC Procurement Executive.

9.2 Full and Open Competition. Best value in negotiated acquisitions can be obtained by using one or a combination of full and open source selection approaches. In acquisitions where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.

9.2.1 Information Prior to Solicitation and Receipt of Proposals. The PTR with the CO should promote early exchanges of information about future acquisitions. Early exchanges between the PTR, CO, and other requirement individuals involved in the acquisition can identify and resolve concerns regarding the acquisition strategy early on. Early formation of the core acquisition team fosters a proactive versus reactive situation. Early exchange of information helps to improve understanding of NOAA's requirements and industries capabilities to meet the requirement while increasing the efficiency in proposal preparation, evaluation, negotiation, and contract award. The CO and PRT must agree on particular steps to release and obtain information at the earliest possible time in the process to reduce delays and meet the solicitation schedule. Techniques for early exchanges of information with industry include: industry or small business conferences; public hearings; market research, one-on-one CO sponsored meetings with potential offerors; pre-solicitation notices; industry review of draft statements of

objectives, SOW, and RFPs; pre-solicitation or pre-proposal conferences; and site visits. The CO can issue a FEDBIZOPS synopsis to publicize NOAA's requirement to solicit information from industry.

Request for Information (RFI) may be used when NOAA does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. The CO and PTR may disclose information about agency mission needs and future requirements at any time.

9.2.2 Acquisition Strategy. The CO with the PTR works together to design an acquisition strategy suitable for the specific circumstances of the acquisition. Considerations include:

- a. Tradeoff Process - A tradeoff process is considered when NOAA may award to other than the lowest priced offeror or other than the highest technically rated offeror. The PTR, in conjunction with the CO, must develop evaluation factors other than price and their relative importance for the solicitation. The solicitation is to clearly state if evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price. This process permits tradeoffs among cost or price and non-cost factors and allows NOAA to accept other than the lowest priced proposal. The rationale for tradeoffs and benefits of accepting a higher priced proposal must be documented by both the PTR and CO. The CO conducts the tradeoff analysis with technical input by the PTR.
- b. Lowest Price Technically Acceptable - The lowest price technically acceptable source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price. Different from the sealed bidding process, negotiated process allows for negotiations and discussions, if necessary. When using the lowest price technically acceptable process, the PTR along with the CO develops evaluation factors and significant subfactors to establish the requirements of acceptability. The solicitation must specify the award is to be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.
- c. Oral Presentations - The CO in conjunction with the PTR determines whether the use of oral presentations is beneficial. Oral presentations can substitute for portions of a proposal and are effective in streamlining the selection process. Oral presentations may be held at any time in the acquisition process. The advantage of oral presentations is the opportunity for dialogue among the parties. Types of information for oral presentations include items such as offerors' capability, past performance, work plans or approaches, staffing resources, transition plans, or sample tasks. The PTR along with the CO considers items such as NOAA's ability to adequately evaluate the information and how the evaluation is completed, the need to incorporate the information from the orals into the



resultant contract, the impact on the efficiency of the acquisition, and the impact (including cost) on small businesses.

The PTR along with the CO describes the information to be presented orally and the associated evaluation factors, the qualifications or types of personnel required to provide the oral presentation, any time limits and/or prohibitions on the use of written material to supplement the oral presentation, the scope and content of exchanges permitted between the offerors and NOAA. The CO maintains a record of the oral presentation. The method and level of detail of the record (e.g., videotaping, written record, Government notes, etc.) are the discretion of the SSO. If the PTR or the CO believes the information from the oral presentation needs to be included as material terms or conditions in the contract, the information required must be put in writing.

9.2.3 Pre-solicitation Notice. The CO may publish a pre-solicitation notice providing a general description of the scope or purpose of the acquisition, draft solicitation specifications, work statements seeking comment, and invite potential offerors to submit information allowing NOAA to advise offerors about their potential to be viable competitors. This process is defined as an advisory multi-step process, may be intended to obtain industry input and comment on draft SOOs, seek to identify potential sources, determine whether a specific desired product or services is commercial or not, or used as a voluntary down select process. The PTR develops the information sought and can limit the information to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance, and limited pricing information). The notice issued by the CO must contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition. The PTR and evaluation team must provide the CO documentation for all responses following the criteria stated in the notice. The CO advises each respondent in writing either they are invited to participate in the resultant acquisition or, based on the information submitted; the respondent is unlikely to be a viable competitor. The CO advises respondents considered not to be viable competitors of the general basis for the opinion. The decision as to whether an offeror proceeds or not is up to the offerors (voluntary down select).

- a. Evaluation Factors and Significant Subfactors - The award decision is based on evaluation factors and significant subfactors tailored to the acquisition. Evaluation factors and significant subfactors must represent the key areas of importance and emphasis to be considered in the source selection decision and support meaningful comparison and discrimination between and among competing proposals. Price or cost to NOAA must be evaluated in every source selection and is accomplished by the CO with input from individuals of the acquisition team including the PTR, cost and price analysis, or other members of the evaluation team. The quality of the product or service must be addressed in every source selection through consideration of one or more non-cost evaluation factors such as past performance, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience. The evaluation factors and significant subfactors are set forth in the solicitation and all evaluations must conform to the criteria set forth. Evaluation

criteria should not be unduly restrictive and should be able to be tied easily to the requirement. Personnel experience evaluation criteria should not be stated ‘must have 5 years experience as a Project Manager.’ To the extent possible, the desired specific types of experience should be detailed in lieu of number of years. Use of this type of criteria (e.g., number of years of experience) is arbitrary unless tied to a specific licensing or certification requirement. Any evaluation criteria citing specific number of years must include a factual explanation justifying its use and the reasonableness of the proposed criteria. The number of years experience demonstrated by an offeror can be used as a discriminating factor if used as part of the evaluation criteria demonstrating capability or experience for more years will rank higher than offers with limited capability or experience (e.g., an individual with 5 years developing and operating within a budget is certainly more qualified than an individual having 1 year’s experience.) Any specific requirements the PTR deems necessary for evaluating past performance is to be supplied to the CO and, if necessary, the CO includes in the solicitation.

- b. Basis for Award - The solicitation must also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are significantly more important than cost or price; approximately equal to cost or price; or significantly less important than cost or price. This information is the CO’s responsibility working with the PTR.

9.2.4 Request for Proposals (RFP). RFPs are used in negotiated acquisition to communicate NOAA’s requirements to prospective Contractors and to solicit proposals.

- a. Preparation of RFP - In preparing an RFP, the PTR provides the CO NOAA’s requirement, and any special terms and conditions. The PTR indicates whether offerors are allowed to propose alternative terms and conditions, including the contract line item number (CLIN) structure; and if alternative CLINs are allowed. The evaluation approach assesses the impact of the terms and conditions on the requirement. The PTR indicates information required to be included in the offeror’s proposal and factors and significant subfactors used to evaluate the proposal and their relative order of importance.
- b. Other Information - Information (as stated in section 10, *Documents and Approval Requirements*) the PTR provides the CO, includes:
  - (1) Supplies and services including quantities.
  - (2) Description/specification/SOW or performance based work statement of objective with measurement plan.
  - (3) Any special packing and marking.
  - (4) Inspection and acceptance criteria.

- (5) Special delivery or performance requirements to include period of performance.
- (6) Any special terms and conditions.
- (7) Any special instruction conditions and/or notices to be provided to potential offerors as well as recommended evaluation factors for award.

The PTR consults with the CO throughout the process. The PTR includes in the package any documents, exhibits and other attachments to improve the overall package. If appropriate, the PTR provides the CO with administrative, management, technical, or past performance information special instructions for response to the RFP. A well thought out structuring of information requested helps streamline the evaluation process and accelerates the time to award.

- c. RFP Issue - The CO issues and releases the RFP. After release, the CO is the focal point of any exchange with potential offerors. Should the PTR disclose information to one or more potential offerors, the information must be made available to the public as soon as practicable in order to avoid creating an unfair competitive advantage. Information provided to a potential offeror in response to a request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy. When conducting a pre-proposal conference, the CO must ensure all materials distributed at the conference are made available to all potential offerors, upon request.
- d. Amendments to RFP - When, either before or after receipt of proposals, NOAA changes its requirements or terms and conditions, the CO must amend the solicitation. The PTR provides the CO with the information necessary to issue the amendment, and the description of the change being made. Should a proposal of interest involve a departure from the stated requirement, the CO can amend the RFP as long as it can be done without revealing to the other offerors information entitled to protection.
- e. Receipt of Proposals - All proposals must be safeguarded from unauthorized disclosure throughout the process. The receipt of proposals is the CO responsibility. Proposals are subject to the FAR requirement for late proposals.

9.2.5 Source Selection. Agency heads are responsible for source selection. The CO is designated SSO, unless the agency head appoints another individual for a particular requirement. The source selection authority establishes the evaluation team tailored to the particular acquisition. The team may include contracting, legal, logistics, technical, and other expertise to ensure a comprehensive evaluation of offers; approve the source selection strategy or acquisition plan, if applicable, before solicitation release; ensure consistency among the solicitation requirements, notices to offerors, proposal preparation instructions, evaluation factors and subfactors, solicitation provisions or contract clauses, and data requirements; ensure proposals are evaluated based solely on the factors and

subfactors contained in the solicitation; consider the recommendations of advisory boards or panels (if any); and select the source or sources whose proposal is the best value to NOAA. The CO serves as the focal point for inquiries from actual or prospective offerors; after receipt of proposals, controls exchanges with offerors and awards the contract(s).

9.2.6 Proposal Evaluation. Proposal evaluation is an assessment of the proposal and the offeror's ability to perform the prospective contract successfully.

- a. Technical - The PTR and the evaluation team evaluate proposals and assess relative qualities solely on the factors and subfactors specified in the solicitation. They may be conducted using any rating method or combination of methods, including color or adjectival ratings, numerical weights, and ordinal rankings. The CO provides the PTR and the evaluation team instructions for evaluation. The evaluation team needs to document relative strengths, deficiencies, significant weaknesses, and risks supporting each individual proposal evaluation.
- b. Cost or Price Evaluation - Normally, competition establishes price reasonableness. The CO is responsible to document the cost/price evaluation but it is done in conjunction with other members of the acquisition team, including individuals such as; the PTR, evaluation team members, or a cost and price analysts. Cost and/or price information may be provided to members of the technical evaluation team after completion of their technical evaluation.
- c. Price Analysis - When contracting on a firm-fixed-price or fixed-price with economic price adjustment basis, comparison of the proposed prices usually satisfies the requirement to perform a price analysis. This is the role of the CO.
- d. Cost Analysis - In limited situations, a cost analysis may be appropriate to establish reasonableness of the otherwise successful offeror's price. When contracting on a cost-reimbursement basis, evaluations must include a cost realism analysis to determine what NOAA realistically expects to pay for the proposed effort, the offeror's understanding of the work, and the offeror's ability to perform the contract. This analysis is the responsibility of the CO but the PTR, members of the evaluation team, and/or a cost/price analysis may be asked to assist the CO.
- e. Past Performance - Past performance evaluation is one indicator of an offeror's ability to perform the contract successfully. The CO designates who and how past performance is evaluated. Evaluators must remember past performance information is not limited to the information submitted in response to the RFP. If an evaluator or another Government employee is aware of an offeror's previous contract performance for similar services, the information should be provided to the CO. Past performance evaluation takes into account information regarding predecessor companies, key personnel who have relevant experience, or subcontractors who are to perform major or critical aspects of the requirement

when such information is relevant to the acquisition. The evaluation should also take into consideration past performance of offerors in complying with subcontracting goals for small disadvantaged business concerns, monetary targets for small disadvantaged businesses participation, if required.

- f. Tradeoffs - If the award decision is based on a trade off process, the CO is required to document an assessment of each offeror's ability to accomplish the technical requirements and a summary, matrix or quantitative ranking, along with appropriate narrative, of each technical proposal using the evaluation. Although a CO responsibility, the PTR and other members of the team are involved in this process.
- g. Use of Support Contractor Personnel in Proposal Evaluation - There are limitations on the use of support Contractors for proposal evaluation. If the PTR believes this support is required, the CO should be notified at the earliest possible time in the process in order to be able to comply with regulations as they relate to the use of outside consultants as part of the evaluation team.

9.2.7 Exchange with Offerors after Receipt of Proposals. The CO must conduct all exchanges with offerors after receipt of proposals.

- a. Clarification and Award without Discussions - Clarifications are limited exchanges, between the CO and offerors, when award without discussions is contemplated. If included, offerors may be given the opportunity to clarify certain aspects of proposals (e.g., the relevance of offerors' past performance information and adverse past performance information the offerors have not previously had an opportunity to respond) or to resolve minor or clerical errors. Clarifications may be conducted to enhance NOAA's understanding of proposals; allow reasonable interpretation of the proposal; or facilitate NOAA's evaluation process. Such communications must not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal. Such communications may be considered in rating proposals for the purpose of establishing the competitive range.
- b. Competitive Range - If award cannot be made without discussions, the CO must develop a competitive range. The PTR may provide recommendations to the CO on the offerors to be either included or eliminated from the competitive range. However, the final decision is the responsibility of the CO. Based on the ratings of each proposal against all evaluation criteria, the CO must establish a competitive range comprised of all of the most highly rated proposals, unless the range is further reduced for purposes of efficiency. After evaluating proposals following the criteria set forth in the RFP, the CO determines if the number of most highly rated proposals exceeds the number of proposals a competition can efficiently be conducted. Provided the solicitation notified offerors the competitive range can be limited for purposes of efficiency, the CO may limit the number of proposals in the competitive range to the greatest number permitting an

efficient competition among the most highly rated proposals. The PTR should provide input to the CO in the developmental stages of the RFP using market research or individual understanding of the market place to assist in determining the number and degree of competitive proposals received.

- c. Exchanges with Offerors after Establishment of the Competitive Range - Negotiations are exchanges, in either a competitive or sole source environment, between NOAA and offerors, undertaken with the intent of allowing the offerors to revise its proposal. These negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract. When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. Discussions are tailored to each offeror's proposal, and must be conducted by the CO with each offeror within the competitive range. The CO with the PRT and other members of the acquisition team conducts the discussions. The primary objective of discussions is to maximize NOAA's ability to obtain best value, based on the requirement and the evaluation factors set forth in the solicitation. At a minimum, the CO must indicate to, or discuss with, each offeror still being considered for award, deficiencies, significant weaknesses, and adverse past performance information the offeror has not yet had an opportunity to respond. The CO may discuss other aspects of the offeror's proposal, in the opinion of the CO, could be altered or explained to enhance materially the proposal's potential for award. The CO is not required to discuss every area where the proposal could be improved. The scope and extent of discussions are at the option of the CO.
- d. Limits on Exchanges - NOAA personnel involved in the acquisition must not engage in conduct:
  - (1) Favoring one offeror over another.
  - (2) Revealing an offeror's technical solution including unique technology, innovative and unique uses of commercial items, or any information compromising an offeror's intellectual property to another offeror.
  - (3) Revealing an offeror's price without the offeror's permission.

However, the CO may inform an offeror their price is considered too high or too low, and may reveal the results of the analysis supporting NOAA's conclusion. NOAA personnel must not reveal the names of individuals providing reference information about an offeror's past performance; or knowingly furnish source selection information in violation of procurement integrity.

- e. Proposal Revisions - At the conclusion of discussions, each offeror still in the competitive range must be given an opportunity to submit a final proposal

revision. The CO is required to establish a common cut-off date for receipt of final proposal revisions.

9.2.8 Source Selection Decision. Source selection is based on a comparative assessment of proposals against all source selection criteria in the solicitation. While the source selection authority decision may use reports and analyses prepared by others, the source selection decision must represent their independent judgment. The source selection decision must be documented, and the documentation must include the rationale for any business judgments and tradeoffs made or relied on by the selection official, including benefits associated with additional costs. Although the rationale for the selection decision must be documented, the documentation need not quantify the tradeoffs leading to the decision. The PTR must provide input and documentation to the SSO.

- a. **Contract Pricing - Supplies and services must be acquired at a fair and reasonable price.** For the purposes of this instruction, price means cost plus any fee or profit applicable to the contract type. Determinations of price reasonableness are the responsibility of the CO with input from the PTR. The CO may request personnel having specialized knowledge, skills, experience, or capability in engineering, science, or management perform a technical analysis of the proposed types and quantities of materials, labor, processes, special tooling, facilities, the reasonableness of scrap and spoilage, and other associated factors set forth in the proposal(s) in order to determine the need for and reasonableness of the proposed resources, assuming reasonable economy and efficiency.
- b. **Pricing - In establishing the reasonableness of the offered prices, the CO must not obtain more information than is necessary.** To the extent cost or pricing data is not required; the CO uses the following in order of preference in determining the type of information required: no additional information from the offeror, if the price is based on adequate price competition; information other than cost or pricing data; information related to prices (e.g., established catalog or market prices or previous contract prices), relying first on information available within NOAA and second, on information obtained from sources other than the offeror; and, if necessary, on information obtained from the offeror. Price analysis is the process of examining and evaluating a proposed price without evaluating the separate cost elements and proposed profit. The price analysis is the responsibility of the CO with input from the technical experience of the PTR.
- c. **Cost or Pricing Data - The CO should use every means available to ascertain whether a fair and reasonable price can be determined before requesting cost or pricing data.** Cost analysis is the review and evaluation of the separate cost elements, and profit in an offeror's or Contractor's proposal. The cost analysis is the responsibility of the CO with input from the technical experience of the PTR. The CO must not require unnecessarily the submission of cost or pricing data. The data leads to increased proposal preparation costs, generally extends acquisition lead time, and consumes additional Contractor and NOAA resources.

The CO may request cost and pricing data if there is insufficient information provided by the PTR to determine price reasonableness.

- d. **Cost Realism Analysis** - Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's proposed cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed; reflects a clear understanding of the requirements; and are consistent with the unique methods of performance and materials described in the offeror's technical proposal. This analysis is required in cost-reimbursement contracts to establish the probable cost of performance for each offeror. Although the responsibility of the CO; the PTR or members of the evaluation team provide input. The probable cost may differ from the proposed cost and should reflect NOAA's best estimate of the cost of any contract most likely to result from the offeror's proposal. The probable cost must be used for purposes of evaluation to determine the best value. The probable cost is determined by adjusting each offeror's proposed cost, and fee when appropriate, to reflect additions or reductions in cost elements to realistic levels based on the results of the cost realism analysis. Cost realism analyses may also be used on competitive fixed-price incentive contracts or, in exceptional cases, on other competitive fixed-price-type contracts when new requirements may not be fully understood by competing offerors, there are quality concerns, or past experience indicates Contractors' proposed costs have resulted in quality or service shortfalls.

9.3 **Sole Source Acquisition**. Sole source acquisition means a contract for the purchase of supplies or services entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. All sole source requirements must be documented. For a requirement less than \$25,000, the documentation should be kept brief and can be submitted on a CD-492, Justification for Other Than Full and Open Competition (JOFOC) for approval. NOAA policy dictates all Sole Source requirements in excess of \$25,000 must be reviewed and approved by the Assistant Administrator and CO, Head of Contracting Office (HCO), or Head of Contracting Activity (HCA). The Acquisition Team for Sole Source requirements consist of PRT, CO, RO, Certifying Official, CIO if an IT requirement, SSO and after award, the Contractor.

Many of the steps described in section 9.2, *Full and Open Competition*, are applicable to sole source acquisitions. The unique steps of the process start with the preparation of a CD-435 along with the development of the specification/SOW/performance based work statement with measurements. The package should include any proposal instructions necessary for the proposed Contractor. In addition, include any special terms and conditions, any information necessary for the Contractor to submit a proposal, quantities needed, any special packing or markings required, inspection and acceptance criteria, special delivery or performance requirements to include period of performance. A well thought out procurement package helps streamline the process and accelerates the award. Contracting on a sole source basis must not be justified on the basis of lack of advance planning by the NWS or concerns related to the amount of funds available (e.g., expiring funds). Further, when not providing for full and open competition, the CO must solicit offers from as many potential sources as is practicable under the circumstances.



9.3.1 Synopsis. All solicitations on a sole source basis over \$25,000 must be synopsisized. The CO is required to advertise the intent in the FBO. This synopsis allows potential offerors to challenge the basis of the sole source, and if appropriate, results in full and open competition. The PTR must provide a written narrative to assist the CO in the preparation of the FBO. This narrative includes characteristics of the requirement unique to the capabilities for one specific product or service. The narrative allows potential offerors to understand the basis for the sole source and to submit their capabilities in response to the FBO for NOAA's consideration of opening the requirement for competition. The PTR is required to evaluate any responses received and provide a written narrative assessing whether the response meets the requirement. The PTR is cautioned; because a requirement was acquired in the past on a sole source basis, does not mean the current market environment continues to support the sole source.

In acquiring goods, any description using a brand name description or other description to specify a particular brand name, product, or feature of a product peculiar to one manufacturer does not provide full and open competition, no matter how many sources can provide the named product. The JOFOC for a requirement of this type should indicate use of such descriptions is essential to NOAA's requirement, thereby precluding consideration of a product manufactured by another companies.

9.3.2 Sole Source RFP. The CO prepares and issues the RFP after clearing the synopsis. A proposal is received and the PTR is required to evaluate the proposal and provide a written determination to the CO providing areas to be clarified or negotiated against the requirement. Further, when negotiating on a sole source basis, the determination of price reasonableness is more complicated since there are no other bidders to assess the competitiveness of the price. The PTR is required to assist the CO by providing a written narrative determining a fair and reasonable price.

9.4 Unsolicited Proposals. Unsolicited proposals allow unique and innovative ideas or approaches developed outside the Government to be made available to Government agencies for use in accomplishment of their missions. Unsolicited proposals are offered with the intent NOAA will enter into a contract with the offeror for research and development or other efforts supporting NOAA's mission, and often represent a substantial investment of time and effort by the offeror. The PTR and team should understand advertising material, commercial item offers, or contributions, or routine correspondence on technical issues, are not unsolicited proposals.

- a. Determination of Validity of an Unsolicited Proposal - To be considered an unsolicited proposal the submission must be innovative and unique; be independently originated and developed by the offeror; be prepared without Government supervision, endorsement, direction, or direct Government involvement; include sufficient detail to permit a determination if Government support could be worthwhile and the proposed work could benefit the agency's research and development or other mission responsibilities; and not be an advance proposal for a known agency requirement able to be acquired by competitive methods. Unsolicited proposals in response to a publicized general statement of agency needs are considered to be independently originated. Agencies must

evaluate unsolicited proposals for energy-savings performance contracts following the procedures in the Code of Federal Regulations. The PTR must inform the CO of any unsolicited proposals received. The CO provides the PTR with instructions as to the validity of the unsolicited proposal, as well as the requisite paperwork required from the PTR. Further, if a Contractor seeks guidance on the submission of an unsolicited proposal, the PTR should refer the request to the CO.

- b. Criteria for Acceptance and Negotiation of an Unsolicited Proposal - A favorable comprehensive evaluation of an unsolicited proposal does not, in itself, justify awarding a contract without providing full and open competition. The CO may commence negotiations on a sole source basis only when: an unsolicited proposal has received a favorable comprehensive written evaluation by the PTR; a justification and approval has been submitted by the PTR and approved by the CO or approval official at the requisite dollar value; the agency technical office sponsoring the contract furnishes the necessary funds; and, the CO has complied with the synopsis requirements.
- c. Prohibitions - NOAA personnel must not use any data, concept, idea, or other part of an unsolicited proposal as the basis, or part of the basis, for a solicitation or in negotiations with any other firm unless the offeror is notified of and agrees to the intended use. The disclosure of such information concerning trade secrets, processes, operations, style of work, apparatus, and other matters, except as authorized by law, may result in criminal penalties under 18 U.S.C. 1905. All NOAA personnel must exercise extreme care to ensure information in the proposal is not disclosed to an individual without authorized access to the information.

10. Documents and Approval Requirements. Documents and approval requirements for all types of acquisitions are listed by total contract value. These tables provide the formal program/technical documents and approvals required for the acquisition process. These tables do not include the analyses, recommendations, and evaluations required by previous paragraphs, known as informal written documents. Constant communication between NWS staff and the Contracting Office ensures NWS obtains products and services in a timely manner at a reasonable cost. Table 3, 4, and 5 are to be used for Simplified Acquisition Procedures for Commercial Items, Sealed Bidding, and Contracting by Negotiation, as appropriate. Table 6 and 7 are to be used for Acquisition for Commercial and non-Commercial Items under Sealed Bidding and Contracting by Negotiation Procedures, as appropriate.

Table 3. Total Contract Value Between \$100,000 and \$500,000

Total Contract Value Between \$100,000 and \$500,000			
	Action or Document from Program Technical Representative	Draft and Final, Recommendation, or Approval	Approval Level
NWS Non-IT Requirements	User Feedback, Budget Initiative or Unfunded Requirement		RO
	Market Research – Informal		PTR
	Advance Acquisition Plan Item		RO/PTR
	Acquisition Planning	Draft/Final	RO/CO
	Milestone Plan	Draft/Final	CO/RO
	Statement of Objectives/Description/SOW/Specification	Draft/Final	RO/PTR
	CD-435	Approval	Office Director (OD)/Regional Director (RD)
	Independent Government Cost Estimate (IGCE)	Final	RO
	Evaluation Factors	Final	CO
	Special Proposal Instructions	Final	CO
	Reporting Requirement	Final	RO
	Period of Performance including Options, if any	Final	RO
	Reference Material	Final	PTR
	Sole Source/CD-492	Approval	AA/CO
	and NOAA CRB if >\$250,000	Approval	AA/HCA
	List of Government Furnished Property	Final	PTR
	Solicitation Mailing List	Draft	PTR
	Security Requirements/IT Security Requirements	Draft	PTR/CIO
	RFP and Recommendation for Type of Contract	Final	CO
	SEC 570 - Small Business Set Aside Review	Final	CO/SADBUS
Source Selection Official if not CO	Final	AA	
Additional NWS IT Requirements	CD-435 OCIO PPA block	Approval	OCIO

Table 4. Total Contract Value Between \$500,000 and \$1,000,000

Total Contract Value Between \$500,000 and \$1,000,000			
	Action or Document from Program Technical Representative	Draft and Final, Recommendation, or Approval	Approval Level
NWS Non-IT Requirements	User Feedback, Budget Initiative or Unfunded Requirement		RO
	Market Research – Informal		PTR
	Advance Acquisition Plan Item		RO/PTR
	Acquisition Planning	Draft/Final	RO/CO
	Milestone Plan	Draft/Final	CO/RO
	Statement of Objectives/Description/SOW/Specification	Draft/Final	RO/PTR
	Market Research - Formal, RFI, Pre-solicitation Notice	Final	CO
	CD-435	Approval	OD/RD
	IGCE	Final	RO
	Evaluation Factors	Final	CO
	Special Proposal Instructions	Final	CO
	Reporting Requirement	Final	RO
	Period of Performance/including Options, if any	Final	RO
	Reference Material	Final	PTR
			AA/Senior Bureau Procurement Officer (SBPO)
	Sole Source/CD-492 if applicable	Approval	
	RFP and NOAA CRB	Approval	HCO/HCA
	List of Government Furnished Property	Final	PTR
	Solicitation Mailing List	Draft	PTR
	Security Requirements/IT Security Requirements	Draft	PTR/CIO
RFP and Recommendation for Type of Contract	Final	CO	
SEC 570 - Small Business Set Aside Review	Draft	CO/SADBUS	
Source Selection Official if not CO	Final	AA	
Additional NWS IT Requirements	Business Case	Final	RO/CIO
	CD-435 OCIO PPA block	Approval	OCIO

Table 5. Total Contract Value Between \$1,000,000 and \$5,000,000

Total Contract Value Between \$1,000,000 and \$5,000,000			
	Action or Document from Program Technical Representative	Draft and Final, Recommendation, or Approval	Approval Level
NWS Non-IT Requirements	User Feedback, Budget Initiative or Unfunded Requirement		RO
	Market Research – Informal		PTR
	Advance Acquisition Plan Item		RO/PTR
	Acquisition Planning	Draft/Final	RO/CO
	Milestone Plan	Draft/Final	CO/RO
	Statement of Objectives/Description/SOW/Specification	Draft/Final	RO/PTR
	Market Research - Formal, RFI, Pre-solicitation Notice	Final	CO
	CD-435	Approval	AA
	IGCE	Final	RO
	Evaluation Factors	Final	CO
	Special Proposal Instructions	Final	CO
	Reporting Requirement	Final	RO
	Period of Performance including Options, if any	Final	RO
	Reference Material	Final	PTR
	Sole Source/CD-492 if applicable	Approval	AA/SBPO
	RFP and NOAA CRB	Approval	HCA
	List of Government Furnished Property	Final	PTR
	Solicitation Mailing List	Draft	PTR
	Security Requirements/IT Security Requirements	Draft	PTR/CIO
	Recommendation for Type of Contract	Final	CO
SEC 570 - Small Business Set Aside Review	Draft	CO/SADBUS	
Source Selection Official if not CO	Final	AA	
Additional NWS IT Requirements	OMB Exhibit 300 and Attachment A	Final	RO/CIO
	CD-435 OCIO PPA block	Approval	OCIO

Table 6. Total Contract Value Between \$5,000,000 and \$10,000,000

Total Contract Value Between \$5,000,000 and \$10,000,000			
	Action or Document from Program Technical Representative	Draft and Final, Recommendation, or Approval	Approval Level
NWS Non-IT Requirements	User Feedback, Budget Initiative or Unfunded Requirement		RO
	Market Research - Informal		PTR
	Advance Acquisition Plan Item		RO/PTR
	Acquisition Planning	Draft/Final	RO/CO
	Milestone Plan	Draft and Final	CO/RO
	Acquisition Plan	Draft	RO/CO
	Acquisition Plan	Approval	HCA
	Statement of Objectives/ Description/SOW/Specification	Draft and Final	RO
	Market Research - Formal, RFI, Pre-solicitation Notice	Final	CO
	CD-435	Approval	AA
	IGCE	Final	RO
	Evaluation Factors	Draft	CO
	Special Proposal Instructions	Draft	CO
	Reporting Requirement	Final	RO
	Period of Performance including Options, if any	Final	RO
	Reference Material	Final	PTR
	Sole Source/CD-492	Approval	AA/SBPO
	List of Government Furnished Property	Final	PTR
	Solicitation Mailing List	Draft	PTR
	Security Requirements/ IT Security Requirements	Draft	PTR/CIO
	Recommendation for Type of Contract	Draft	CO
	SEC 570 - Small Business Set Aside Review	Draft	CO/
	Source Selection Official if not CO	Final	AA
	Source Selection Plan	Approval	SSO
RFP and NOAA CRB	Approval	HCA	
Additional NWS IT Requirements	OMB Exhibit 300 and Attachment A	Final	RO/CIO
	NOAA IT Review Board	Approval	NOAA CIO

Table 7. Total Contract Value Over \$10,000,000

Total Contract Value Over \$10,000,000			
	Action or Document from Program Technical Representative	Draft and Final, Recommendation, or Approval	Approval Level
NWS Non-IT Requirements	User Feedback, Budget Initiative or Unfunded Requirement		RO
	Advance Acquisition Plan Item		RO/PTR
	Acquisition Planning	Draft/Final	RO/CO
	Milestone Plan	Draft/Final	CO/RO
	Acquisition Plan	Draft	RO&CO/HCA
	Statement of Objectives/ Description/SOW/Specification	Draft and Final	RO
	Market Research Informal and Formal, RFI, Pre-solicitation Notice	Final	RO/CO CO
	CD-435	Approval	AA
	IGCE	Final	RO
	Evaluation Factors	Draft	CO
	Special Proposal Instructions	Draft	CO
	Reporting Requirement	Final	RO
	Period of Performance including Options, if any	Final	RO
	Reference Material	Final	PTR
	Sole Source/CD-492 < \$50,000,000	Approval	HCA
	List of Government Furnished Property	Final	PTR
	Solicitation Mailing List	Draft	PTR
	Security Requirements/IT Security Requirements	Draft	PTR/CIO
	Recommendation for Type of Contract	Draft	CO
	SEC 570 - Small Business Set Aside Review	Draft	CO/ SADBUS
	Delegation of Selection Authority, Source Selection Official	Final	DUS
	Acquisition Plan	Approval	DOC Procurement Executive
	Source Selection Plan	Approval	DUS
	NOAA CRB	Approval	HCA
RFP and DOC CRB	Approval	DOC Procurement Executive	
Additional NWS IT Requirements	OMB Exhibit 300 and Attachment A	Final	RO/CIO
	NOAA IT Review Board	Approval	NOAA CIO
	DOC IT Review Board	Approval	DOC CIO

## 11. Contract Administration.

11.1 Overview. Effective contract administration ensures maximum return for contract dollars. The CO and COR perform contract administration jointly. The COR plays a critical role. After the contract award, obligations of the Government and the Contractor are established by, and limited to, written stipulations in the contract. Although the legal responsibility for the contract remains with the CO; the COR is trusted with the duty to be aware and faithful to the contents and limits of their delegation of authority from the CO; competent in the practices of contract administration, and ensure supplies or services are received. The COR monitors technical performance and reports any potential or actual issues to the CO in writing. The COR should stay in close communication with the CO, relaying all information affecting contractual requirements.

11.2 Role. The role of the COR is to monitor the effort being performed under a contract with simple or complex time-consuming duties depending on the type of contract, Contractor performance, and the nature of the work. The COR must be familiar with all of the requirements of the contract including special terms and conditions. The COR's role with the Contractor is to ensure the Contractor is making satisfactory progress in performance of the contract. Other than the CO, the COR is the only Government employee who may direct the flow of technical matters between the Government and the Contractor and ensure contract deliverables are received timely and according to the terms and conditions set forth under the contract. The CO delegates the roles and responsibility of the COR.

11.3 Responsibilities. A contract is a legally enforceable agreement containing the rights and remedies of both parties. If the Contractor deviates from the terms of the contract, it is a matter between NOAA, represented by the CO, and the Contractor. A COR must keep the CO fully informed so legally effective solutions can be applied to issues as they develop. COR suggestions to the Contractor will be construed as instructions and lead to claims for additional compensation or to a release of the Contractor from their obligations under the contract. A COR can and must make technical decisions. A COR cannot take any contract administration actions not delegated to them by the CO.

The COR is charged with these responsibilities while administering the contract to:

- a. Maintain an arms -length relationship with the Contractor in the interest of procurement integrity as well as sound contract management.
- b. Keep the CO fully informed of any technical or contractual difficulties (performance, schedule, or cost) encountered during performance.
- c. Document in writing actions taken and decisions made as the COR, and maintain adequate records to sufficiently describe the performance of duties as COR during the life of the contract.
- d. Assure the CO the Contractor is performing the technical requirements of the contract following the contract terms, conditions, and specifications.



- e. Inform the Contractor of failures to comply with the technical requirements of the contract, and inform the CO of any failures to do so, particularly if the Contractor does not make corrections.
- f. Coordinate applicable IT and facility requirements with the operating unit security officer.
- g. Ensure Government furnished property, if applicable, is available when required, and reporting any accountable property to the appropriate personnel.
- h. Ensure all required items, documentation, data, and/or reports are submitted as required by the contract.
- i. Evaluate proposals for and participate in negotiation of changes, modifications and claims at the request of the CO.
- j. Review vouchers for cost-reimbursement type work. Recommend approval by the CO if the Contractor's costs are consistent with the Contractor's proposal or negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure.
- k. Review and approve invoices for fixed-price deliverables to ensure receipt of the goods and services.
- l. Process all invoices and vouchers in a timely manner following the Prompt Payment Act.
- m. Provide the CO with a copy of any correspondence sent to the Contractor.
- n. If the contract is for construction or services and the COR visits the site where work is being performed, check to see the Department of Labor and Equal Employment Opportunity posters and applicable wage determination rates are posted in full view of employees.
- o. Perform final inspection and acceptance of all work required under the contract, including review and approval of reports and assisting the CO with contract closeout activities as requested.
- p. Prepare required reports on Contractor performance.
- q. Prepare, obtain approvals, and submit CD-435s following the lead times specified for contract actions. This includes items such as CD-435s to exercise options under the contract.

At a minimum, the COR should maintain a file containing copies of the following:

- a. COR appointment memorandum and acknowledgment;
- b. Contract and contract modifications;
- c. All contract correspondence;
- d. Records of COR inspections;
- e. Records of conversations with the Contractor; and
- f. Invoices and/or vouchers.

CORs DO NOT have the authority to:

- a. Award, agree to, or sign any contract, delivery order or task order. Only the CO can make contractual agreements, commitments, or modifications.
- b. Make any commitments or otherwise obligate NOAA to make any changes to the contract.
- c. Grant deviations from or waive any of the terms and conditions of the contract.
- d. Impose or place a demand upon the Contractor to perform any task or permit any substitution not specifically provided for in the contract.
- e. Increase the dollar limit of the contract, or authorize work beyond the dollar limit of the contract, or authorize the expenditure of funds.
- f. Give direction to the Contractor or to the employees of the Contractor except as provided for in the contract.
- g. Change the period of performance.
- h. Authorize the purchase of equipment, except as required under the contract.
- i. Authorize the furnishing of Government property, except as required under the contract.
- j. Authorize subcontracting or the use of consultants.
- k. Approve shifts of funding between line items of the budget.

- l. Approve travel and relocation expenses over and above those provided for in the contract.

11.4 Inherently Governmental Activities. FAR outlines policies and procedures to ensure inherently governmental functions are not contracted for or performed by Contractors. The COR is responsible to identify and report Contractors performing inherently governmental functions to the CO on their assigned contracts. The following are examples of functions (not all inclusive) the COR should consider to be inherently governmental functions:

- a. In Federal procurement activities with respect to prime contracts-
  - (1) Determining what supplies or services are to be acquired by the Government (although an agency may give Contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);
  - (2) Participating as a voting member on any source selection boards;
  - (3) Approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;
  - (4) Awarding contracts for the Government;
  - (5) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of Contractor performance, and accepting or rejecting Contractor products or services);
  - (6) Terminating contracts;
  - (7) Determining whether contract costs are reasonable, allocable, and allowable; and
  - (8) Participating as a voting member on performance evaluation boards.
- b. Determination of what Government property is to be disposed of and on what terms (although an agency may give Contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency).
- c. Drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the General Accounting Office, or other Federal audit entity.
- d. Determination of agency policy, such as determining content and application of regulations.

- e. Determination of Federal program priorities for budget requests, budget policy, guidance, and strategy.
- f. Selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment.
- g. Approval of position descriptions and performance standards for Federal employees.
- h. Determination of Federal program priorities for budget requests.
- i. Approval of agency responses to Freedom of Information Act requests and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.
- j. Approval of Federal licensing actions and inspections.
- k. Direction and control of Federal employees.
- l. Interpretation and execution of the laws of the United States to significantly affect the life, liberty, or property of private persons.

The following are examples of functions (not all inclusive) generally not considered inherently governmental functions:

- a. Services involving or relating to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses.
- b. Services involving or relating to reorganization and planning activities.
- c. Services involving or relating to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy.
- d. Services involving or relating to the development of regulations.
- e. Services involving or relating to the evaluation of another Contractor's performance.
- f. Services in support of acquisition planning.
- g. Contractors providing assistance in contract management (such as where the Contractor might influence official evaluations of other Contractors).
- h. Contractors providing technical evaluation of contract proposals.

- i. Contractors providing assistance in the development of statements of work.
- j. Contractors working in any situation permitting them to gain access to confidential business information and/or any other sensitive information.
- k. Contractors providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses.
- l. Contractors participating in any situation where it might be assumed Contractor personnel are agency employees or representatives.
- m. Contractors participating as technical advisors to a source selection board or participating as voting or nonvoting members of a source evaluation board.
- n. Contractors serving as arbitrators or providing alternative methods of dispute resolution.
- o. Contractors constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.
- p. Contractors providing inspection services.
- q. Contractors providing legal advice and interpretations of regulations and statutes to Government officials.

11.5 Ratification of Unauthorized Commitments. A CO or Government commercial purchase card holder are the only persons authorized to obligate the Government. Acquisitions made by other than authorized personnel are contrary to departmental policy and considered matters of serious misconduct on the part of an employee making an unauthorized commitment. These actions may result in disciplinary action being taken against an employee who makes an unauthorized commitment. An unauthorized commitment also includes any commitment exceeding delegated acquisition and Government commercial purchase card authority. Unauthorized commitments may also violate laws or regulations. If unauthorized commitments involve any type of misconduct punishable as a criminal offense, the matter must be reported immediately to the Office of Inspector General with a request for a complete investigation. Examples of unauthorized commitments include:

- a. Receipt of a CD-435 in the contracting office after the product or service has been delivered or performed.
- b. Receipt of an invoice which:
  - (1) Cites an erroneous, expired, or non-existent contract or order number;
  - (2) Lacks a contract or order number;

- (3) Is for a product or service not covered by a current fiscal year contractual document, but the supply or service continued unabated (e.g., failure to renew maintenance, lease agreements, or subscriptions); or
- (4) Exceeds the cost or quantity authorized by the contract or order.
- c. Documentation (e.g., an acquisition number or invoice) showing the contracting or ordering officer exceeded their delegated authority.
- d. Evidence an unauthorized individual (e.g., an invoice with the individual's name, or a work order with their signature) committed or obligated the Government.

A review must be conducted to ascertain if an action may be ratified. Non-ratifiable commitments are goods or services not legal to acquire and, therefore, cannot be ratified. The individual responsible for the unauthorized commitment will submit a memorandum of all the facts concerning the unauthorized procurement action, including all pertinent records, and documents to the Head of the (Servicing) Contracting Office. The memorandum will include and be accompanied by a CD-435 with the appropriate approval signatures and funding:

- a. A statement regarding the nature of the unauthorized procurement action and the individuals involved, including all managers who knew of the action and allowed it to take place;
- b. A discussion of the program requirements and an explanation of how the unauthorized procurement action occurred, and why it was considered valid and necessary to meet program requirements;
- c. An explanation of the selection of the proposed Contractor, i.e., the "sole source justification," if any, of the initial selection, and names, addresses, telephone numbers, and quotes received from other sources considered;
- d. A statement of any approvals or clearances received for the unauthorized procurement action, including a listing of who told the Contractor to proceed and on what date the Contractor was so notified;
- e. A description of the work performed or products furnished, including the date work started;
- f. The estimated or agreed to purchase price, the estimated or agreed to completion date, and the date when they were agreed to (include how price or cost reasonableness was evaluated and who agreed to it);
- g. A copy of the most current invoice;

- h. A description of any attempts made to involve properly authorized procurement personnel before any commitment was made to the Contractor (include any factors which prevented such involvement); and
- i. A description of what has been done to prevent recurrence, including any disciplinary action taken;
- j. Any other pertinent information regarding the unauthorized procurement action or the ratification request.

11.6. Contractor Access to NOAA IT Systems. Whenever a contractual agreement including purchase/delivery/task orders, orders against blanket purchase, ordering agreements, or contract requires Contractor personnel to have access to Government computer systems including desktop, laptop, network, mainframe, firewall, router, telephone, and other miscellaneous utility systems regardless of platform, there are specific responsibilities of the COR and the Contractor which must be preformed prior to granting access.

The COR is responsible for determining Contractor personnel need to access Government computer systems. Access is made available by the COR requesting accounts and system access for Contractor employees assigned to their contracts from the appropriate system administrator. The COR is responsible to subsequently notify the appropriate system administrator when such access is no longer required by the Contractor or Contractor's employees. Access to IT systems will be deactivated within 24 hours once notified the individual no longer requires access to those systems. Deactivation must be requested whenever an account user or group of users are removed from the contract either voluntarily or involuntarily, transfers to another Contractor or another contract with the same vendor which does not require access, is suspended or terminated by the Contractor, goes on a long-term detail which diverts the user from requiring access under the contract, or otherwise no longer has a legitimate business need for system access.

11.7 Identification of Contractor Employees. More agencies use Contractors as partners in assisting agencies to achieve their mission. The COR must ensure the proper identification of Contractor employees is made in all correspondence, face-to-face contacts, meeting, and telephone calls.

Whenever a Contractor and its employees have access to NOAA's computer systems, the COR must identify such employees as Contractor employees to prevent inadvertent provision of confidential or business sensitive materials to those employees. Accordingly, all NOAA contractual agreements (contracts, purchase/delivery/task orders, orders against blanket purchase or ordering agreements will specify the identification requirements for electronic and written correspondence, discussion, and meeting participation.

11.8 Processing of Invoices and/or Vouchers. Voucher and/or invoicing processing are other important aspects of contract administration. Payment to the Contractor for the supplies and services delivered is the Government's obligation under the contract. The Government expects the Contractor to meet all contract requirements for quality, quantity, and timeliness. The

Contractor expects no less of the government in meeting its obligation to timely, accurate payment for supplies and services received.

Although recommendation for approval is obtained from the COR, authority to approve or disapprove payment of vouchers and invoices is the responsibility of the CO. Creating a working relationship for handling vouchers and invoices between the contracting office and the COR is key to the review and approval process and complying with the Prompt Payment Act.

Reviewing the first voucher and/or invoice in detail with the Contractor for format and level of detail makes the second and subsequent vouchers easier to review and process. CORs are in the best position to assess reasonableness of costs and expenditures on vouchers and invoices. CORs must remember payment to a Contractor implies work is progressing according to the contract. CORs must be assured the Government is paying for goods and services delivered in accordance with the contract terms and conditions.

The COR's recommended approval of a voucher or invoice implies to the best of the COR's knowledge, the nature, type, and quantity of effort or materials being expended are in general accord with the progress of work under the contract. The COR and/or contracting personnel should check the mathematical accuracy of the voucher to avoid overpayment to the Contractor.

When reviewing vouchers under cost reimbursement contracts, CORs should check the voucher date against the contract performance period to ensure costs are being billed for the proper timeframe, and compare the Contractor's billing rates against the contract rates to ensure indirect costs are being billed properly. These measures, along with monitoring the Contractor's performance, will help the COR determine if claimed costs are reasonable for the period of the voucher.

The COR should monitor the Contractor's expenditures under the contract by maintaining monthly reports or spreadsheets on costs incurred against the contract. A checklist or some other voucher review form including the major cost categories (labor, travel, supplies, other direct costs, subcontract costs) are useful tools for reviewing vouchers to determine the reasonableness of the Contractor's claimed costs. The checklist helps ensure all cost categories are reviewed before recommending approval of the voucher for payment to CO.

## 12. Training Requirements.

### 12.1 Purchase Card Holders.

- a. Micro-purchase (>\$2,500) Cardholders - Purchase cardholders and their approving officials with purchase card authority at or below the micro-purchase authority must take the training at:  
<http://www.fss.gsa.gov/webtraining/trainingdocs/smartpaytraining/index.cfm> The course contains an on-line quiz and a certificate of completion. The certificate is automatically generated upon successful completion of the on-line quiz. A copy of the certificate of completion must be provided to the HCO as part of the nomination package, as specified in the CAM 1313.301.



In addition, all purchase card holders and approving officials are responsible for reading and understanding the DOC Purchase Card Procedures outlined in CAM 1313.301. These procedures provide DOC specific requirements and limitations. Servicing HCOs may require additional training or provide specific guidelines and instructions.

- b. Purchase card holders with authority above \$2500 and less than \$25,000 - Purchase card holders and their approving official must complete the training identified above. In addition, both the purchase cardholder and their approving official must also complete a 40-hour Simplified Acquisition training course. The course must be completed prior to nomination for purchase authority above \$2,500 and proof of course completion must be provided to the servicing HCO with the nomination memorandum.

The purchase cardholder and approving official are required to take refresher training every 5 years. Refresher training must consist of at least 24 hours of classroom training.

## 12.2 COR Requirements.

- a. COR Certification - DOC COR Certification Program, set forth in CAM 1301.670, is the requirement for certification. The purpose of the COR certification program is to create a results oriented workforce, focused on partnering, performance, quality, and accountability ensuring entrusted resources are used and managed wisely throughout all phases of the acquisition life cycle. A COR appointment is required for every contract over the simplified acquisition threshold.
- b. COR Levels
  - (1) COR Level 1 - COR Level 1 is for contracts of low complexity and low contract management risk. Indicators for Level 1 are total estimated dollar values between \$100,000 and \$1,000,000 and fixed-price contract type or cost-type contracts with relatively uncomplicated performance monitoring features.
  - (2) COR Level 2 - COR Level 2 is for contracts of moderate-to-high complexity and contract management risk. Indicators for Level 2 are total estimated dollar values greater than \$1,000,000 and less than \$10,000,000, cost-type contracts, particularly award fee, incentive fee, or other complex contract performance controls to monitor and administer.
  - (3) COR Level 3 – COR Level 3 is for contracts of moderate to high complexity and contract management risk. Indicators are total estimated dollar values greater than \$10,000,000 or for major system contracts. For

major systems contracts, the COR will ensure clear lines of authority and responsibility are established with the Program Manager.

- c. COR Training Requirements - The minimum procurement knowledge and performance training is identified in table 9.

Table 9. COR Training Requirements

CONTRACT TYPE	PERFORMANCE BASED CONTRACTING	SIMPLIFIED ACQUISITIONS	CONTRACTING FOR CORs
LEVEL	Level 1 – AD	Level 1 – AD	Level 1 – R
	Level 2 – AD	Level 2 – AD	Level 2 – R
	Level 3 – AD	Level 3 – AD	Level 3 – R
R=Required AD=As Directed by Contracting Officer			
TRAINING HOURS	Minimum – 12	Minimum – 24	Level 1-12 hours Level 2-18 hours Level 3-24 hours
REQUIRED COURSE TOPICS			
	-Elements of a performance-based service contract -Developing performance work statements and quality assurance plans -How to evaluate performance -Roles and responsibilities of the acquisition team	-Overview of applicable laws & regulations to include socio-economic programs -Planning for individual acquisitions, including preparation & review of purchase requests, requirement documents, government cost estimates, funding, approval, & justifications -Using various simplified acquisition methods -Administering simplified acquisition including payment and closeout	-Understanding the role and responsibilities of the COR and the acquisition team -Procurement integrity, special COR ethical considerations -Overview of the acquisition process including acquisition planning and socio-economic programs -Writing statements of objectives/work -Competition requirements

Table 9. COR Training Requirements (con't)

CONTRACT TYPE	TASK ORDER/ IDIQ CONTRACTING	COR REFRESHER – (required every 3 years)	IT SECURITY IN ACQUISITION
LEVEL	Level 1 – AD	Level 1 – R	Level 1 – R
	Level 2 – AD	Level 2 – R	Level 2 – R
	Level 3 – AD	Level 3 – R	Level 3 – R
R=Required AD=As Directed by Contracting Officer			
TRAINING HOURS	Minimum – 12	Minimum – 6	Minimum – 1
REQUIRED COURSE TOPICS			
	Elements of task order contracts -Writing an effective statement of objectives/work for a task order contract -Determining pricing structures for task order contracts -How to conduct source selections -Competition requirements	Course topics may include any of the following topics: -Current acquisition reform initiatives or government-wide initiatives including best practices -Recent acquisition related developments; e.g. executive orders, regulations relating to CORs -Advanced acquisition training courses -Identify and develop appropriate performance metrics.	-Describe legal and practical reasons for considering IT security during the acquisition process -Identify specific security considerations in each phase of the acquisition life cycle -How to integrate IT security language into procurement documents -Ensuring Contractors comply with DOC and/or Bureau security standards and other industry security practices

In addition to the above, there is a COR requirement for Project Management knowledge and performance training. The training requirement is identified in table 10.

Table 10. COR Project Management Training Requirements

	Required Project Management Course	COR LEVEL 1	COR LEVEL 2	COR LEVEL 3
Project Management Training Course Topics	Scope Management	R	R	R
	Schedule Management	R	R	R
	Cost Management	R	R	R
	Quality Management	R	R	R
	Risk Management	R	R	R
	Procurement Project Management	R	R	R
Minimum Hours		12	18	24

In addition to the above training requirements, procurement integrity/ethics training is required and must be completed prior to COR appointment. Beginning in 1993, all Federal employees have been required to receive a one-hour block of initial ethics training within 90 days of beginning Federal employment. This initial ethics training satisfies the requirement for procurement integrity/ethics training. However, the DOC Office of General Counsel (OGC) provides required annual ethics training for federal employees required to complete financial disclosure forms. This OGC provided training also satisfies the requirement for procurement integrity/ethics training for the COR certification program. Additional ethics training can be found online from other federal agencies and through commercial vendors. The CAM Part 1301.670 provides a list of ethics training available on-line from other Federal agencies.

13. Improper Business Practices and Personal Conflicts of Interest. “Standards of Ethical Conduct for Employees of the Executive Branch” in the Code of Federal Regulations are the general principles applied to CORs and every Federal employee. These standards hold:

- a. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
- b. Employees will not hold financial interests conflicting with conscientious performance of duty.
- c. Employees will not engage in financial transactions using nonpublic Government information or allow improper use of such information to further private interest.
- d. An employee will not, except as permitted, solicit or accept any gift or other item of monetary value from any person, or entity seeking official action from, doing business with, or conducting activities regulated by the employee’s agency, or whose interests may be substantially affected by performance or nonperformance of the employee’s duties.
- e. Employees will put forth honest effort in the performance of their duties.
- f. Employees will not knowingly make unauthorized commitments or promise of any kind purporting to bind the Government.

- g. Employees will not use public office for private gain.
- h. Employees will act impartially and not give preferential treatment to any private organization or individual.
- i. Employees will protect and conserve Federal property and will not use it for other than authorized activities.
- j. Employees will not engage in outside employment or activities, including seeking or negotiating for employment conflicting with official Government duties and responsibilities.
- k. Employees will disclose waste, fraud, abuse, and corruption to appropriate authorities.
- l. Employees will satisfy in good faith their obligations as citizens, including all just financial obligations imposed by law.
- m. Employees will adhere to all laws and regulations providing equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age or handicap.
- n. Employees will endeavor to avoid any actions creating the appearance they are violating the law or the ethical standards set forth. Whether particular circumstances create the appearance these standards have been violated will be determined from the perspective of a reasonable person with knowledge of the relevant facts.

14. Small and Disadvantaged Business Utilization Specialist (SADBUS) Review of Requirements. Government policy provides the maximum practicable opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns consistent with efficient contract performance. The NOAA Small and Disadvantaged Business Utilization Specialist is responsible for administering this program for NOAA.

- a. Requirements between \$2,500 and \$100,000 - The SADBUS is not required to conduct a pre-solicitation review of these acquisitions. All requirements between \$2,500 and \$100,000 are reserved for small businesses (see FAR 19.502-2 for exceptions). If market research is unable to determine whether there are small business concerns capable of providing the supply or service, complete NOAA's Small Business Set-aside Review transmittal form (CD 570, Small Business Set-aside Review Form). Forward the form to the SADBUS through the CO, along with a copy of the CD-435 and supporting solicitation documentation including source list. The SADBUS will provide a decision on the set-aside based on the

information submitted. If agreement cannot be reached with the SADBUS, the CO will elevate the differences to the Director, AGO. If you need assistance determining who the SADBUS is for your office, consult CO for assistance.

- b. Requirements exceeding \$100,000 - Acquisitions over \$100,000 are to be set-aside for small businesses when there is a reasonable expectation of receiving offers from at least two responsible small businesses offering the products of small businesses and award can be made at fair market prices. The procedures to follow to determine whether a requirement should be set-aside are:
- (1) After consultation with the CO, the SADBUS will conduct a pre-solicitation review of the requirement to determine if the acquisition should be set aside for small business or awarded under the 8(a) program.
  - (2) The PTR should complete the Small Business set-aside review transmittal form (CD-570) and forward to the SADBUS through the CO, along with the CD-435 and supporting documentation. The SADBUS will check the records, complete, and sign the form and return within four (4) days with their recommendation as to whether the requirement should be reserved for small business.
  - (3) In the absence of the SADBUS, the Director, AGO and each Headquarters' HCO have approval authority to sign the small business review form. For region requirements, the Administrative Service Center, Heads of the Contracting Office have approval authority to sign the small business review form in the absence of the designated SADBUS.
  - (4) If the PTR or COR reject the SADBUS's recommendation for a set-aside, the SADBUS may appeal in writing to the HCA. The HCA must then respond in writing within seven (7) business days. The HCA's decision is final and cannot be appealed.
- c. Small Business Cascading Evaluating Preference Process - In an effort to promote small business participation while also providing the agency an efficient means to continue the acquisition process in the event sufficient small business participation is not realized, the Small Business Cascading Evaluating Preference Process may be used. The process in coordination with the Small Business Administration allows both small and large businesses to prepare proposals to the solicitation. However, large businesses receive notice, if the agency receives a sufficient number of eligible small business offers, large business proposals received will not be considered for award. Solicitation responses are separated into responses from small businesses and responses from large businesses. The solicitations from small business will be opened and evaluated first against the evaluation factors. Should two or more proposals from small businesses be rated acceptable or above during the evaluation, the solicitation will be set aside for small business. Should less than two proposals be received by small businesses or

less than two proposals from small businesses be rated acceptable or above during the evaluation, the solicitation will be declared full and open and the remaining proposals will be opened and evaluated against the evaluation factors.

This innovative approach eliminates the need to resolicit a requirement because of inadequate competition among small businesses. A CD-570 is required for this approach.

15. Freedom of Information Act (FOIA) Requests. FOIA provides individuals rights to access records in the possession of the Federal Government. The Government may withhold information pursuant to the nine exemptions and three exclusions contained in the Act. If a FOIA request is received directly from an individual requesting information, the request should be logged as received and immediately sent to the FOIA officer. If a request requires contract or other information from the COR, a CO will solicit the information. A COR should never respond to the requestor directly unless specific direction is received in writing.

## **APPENDIX 1 - References**

Federal Acquisition Regulations

<http://www.acqnet.gov/far/>

Commerce Acquisition Manual

<http://oamweb.osec.doc.gov/stage/app/cam.htm>

Commerce Acquisition Manual 1313.301 Commerce Purchase Procedures

<http://oamweb.osec.doc.gov/app/cam.htm>

Commerce Acquisition Manual 1301.670 Contracting Officers Representative  
Certification Program

[http://oamweb.osec.doc.gov/app/docs/COR\\_Certification\\_Program\\_3-31-04.pdf](http://oamweb.osec.doc.gov/app/docs/COR_Certification_Program_3-31-04.pdf)

Commerce Purchase Card Center

<http://www.casc.noaa.gov/bankcard/bankcard.html>

DOC Information Technology Management Handbook

<http://www.osec.doc.gov/cio/itmhweb/itmhweb1.html>

DOC IT Planning and Capital Investment

<http://www.osec.doc.gov/cio/oipr/ITPLANPAGE.HTM>

NOAA Administrative Order 208-1, NOAA Acquisition Handbook

<http://www.ofa.noaa.gov/%7Eamd/contracting.html>

The Seven Steps to Performance-Based Services Acquisition

<http://www.arnet.gov/Library/OFPP/BestPractices/pbsc/home.html>