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(Revised October 1, 2019)

208.404 Use of Federal Supply Schedules.

See DoD Class Deviation 2014-O0011 - Determination of Fair and Reasonable Prices When Using Federal Supply Schedule Contracts, dated March 13, 2014. Effective immediately, contracting officers shall comply with the following policy, in lieu of FAR 8.404(d), Pricing, when using Federal Supply Schedules. This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded.

(a)(i) If only one offer is received in response to an order exceeding the simplified acquisition threshold that is placed on a competitive basis, the procedures at 215.371 applies.

(ii) Departments and agencies shall comply with the review, approval, and reporting requirements established in accordance with subpart 217.7 when placing orders for supplies or services in amounts exceeding the simplified acquisition threshold.

(iii) When a schedule lists both foreign and domestic items that will meet the needs of the requiring activity, the ordering office must apply the procedures of part 225 and FAR part 25, Foreign Acquisition. When purchase of an item of foreign origin is specifically required, the requiring activity must furnish the ordering office sufficient information to permit the determinations required by part 225 and FAR part 25 to be made.

(iv) Use the provisions at 252.215-7007, Notice of Intent to Resolicit, and 252.215-7008, Only One Offer, as prescribed at 215.371-6 and 215.408(3), respectively.

208.405 Ordering procedures for Federal Supply Schedules.

(1) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301.

(2) See 215.101-2-70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed under Federal Supply Schedules.

(3) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

208.405-6 Limiting sources.
For an order or blanket purchase agreement (BPA) exceeding the simplified acquisition threshold that is a follow-on to an order or BPA for the same supply or service previously issued based on a limiting sources justification citing the authority at FAR 8.405-6(a)(1)(i)(B) or (C), follow the procedures at PGI 208.405-6.
208.406 Ordering activity responsibilities.

208.406-1 Order placement.
Follow the procedures at PGI 208.406-1 when ordering from schedules.
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See DoD Class Deviation 2018-O0016, Defense Commercial Solutions Opening Pilot Program, issued June 26, 2018. This class deviation allows the contracting officer to acquire innovative commercial items, technologies, or services using the competitive procedure outlined in the class deviation called a commercial solutions opening (CSO). Use of a CSO is authorized by section 879 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328). Under a CSO, DoD may competitively select proposals received in response to a general solicitation, similar to a broad agency announcement, based on a review of proposals by scientific, technological, or other subject matter experts. This class deviation remains in effect until September 30, 2022.

212.203 Procedures for solicitation, evaluation, and award.

(1) See 215.101-2-70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to the acquisition of commercial items.

(2) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

212.205 Offers.

(c) When using competitive procedures, if only one offer is received, the contracting officer shall follow the procedures at 215.371.

212.207 Contract type.

(b) In accordance with section 805 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), use of time-and-materials and labor-hour contracts for the acquisition of commercial items is authorized only for the following:

(i) Services acquired for support of a commercial item, as described in paragraph (5) of the definition of “commercial item” at FAR 2.101 (41 U.S.C. 103).

(ii) Emergency repair services.

(iii) Any other commercial services only to the extent that the head of the agency concerned approves a written determination by the contracting officer that—

(A) The services to be acquired are commercial services as defined in paragraph (6) of the definition of “commercial item” at FAR 2.101 (41 U.S.C. 103);

(B) If the services to be acquired are subject to FAR 15.403-1(c)(3)(ii), the offeror of the services has submitted sufficient information in accordance with that subsection;

(C) Such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and
(D) The use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

212.209 Determination of price reasonableness.

(a) Market research shall be used, where appropriate, to inform price reasonableness determinations.

(b) If the contracting officer determines that the information obtained through market research pursuant to paragraph (a) of this section, is insufficient to determine the reasonableness of price, the contracting officer shall consider information submitted by the offeror of recent purchase prices paid by the Government and commercial customers for the same or similar commercial items under comparable terms and conditions in establishing price reasonableness on a subsequent purchase if the contracting officer is satisfied that the prices previously paid remain a valid reference for comparison. In assessing whether the prices previously paid remain a valid reference for comparison, the contracting officer shall consider the totality of other relevant factors such as the time elapsed since the prior purchase and any differences in the quantities purchased (10 U.S.C. 2306a(b)).

(c) If the contracting officer determines that the offeror cannot provide sufficient information as described in paragraph (b) of this section to determine the reasonableness of price, the contracting officer should request the offeror to submit information on—

1. Prices paid for the same or similar items sold under different terms and conditions;
2. Prices paid for similar levels of work or effort on related products or services;
3. Prices paid for alternative solutions or approaches; and
4. Other relevant information that can serve as the basis for determining the reasonableness of price.

(d) Nothing in this section shall be construed to preclude the contracting officer from requiring the contractor to supply information that is sufficient to determine the reasonableness of price, regardless of whether or not the contractor was required to provide such information in connection with any earlier procurement. If the contracting officer determines that the pricing information submitted is not sufficient to determine the reasonableness of price, the contracting officer may request other relevant information regarding the basis for price or cost, including uncertified cost data such as labor costs, material costs, and other direct and indirect costs.

212.211 Technical data.
The DoD policy for acquiring technical data for commercial items is at 227.7102.

212.212 Computer software.

(1) Departments and agencies shall identify and evaluate, at all stages of the acquisition process (including concept refinement, concept decision, and technology development), opportunities for the use of commercial computer software and other non-

(2) See Subpart 208.74 when acquiring commercial software or software maintenance. See 227.7202 for policy on the acquisition of commercial computer software and commercial computer software documentation.

212.270 Major weapon systems as commercial items.  
The DoD policy for acquiring major weapon systems as commercial items is in Subpart 234.70.

212.271 Limitation on acquisition of right-hand drive passenger sedans.  
10 U.S.C. 2253(a)(2) limits the authority to purchase right-hand drive passenger sedans to a cost of not more than $40,000 per vehicle.

212.272 Preference for certain commercial products and services.

(a) As required by section 855 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92), for requirements relating to the acquisition of commercial information technology products and services, see 239.101.

(b)(1) As required by section 876 of the National Defense Authorization Act of Fiscal Year 2017 (Pub. L. 114-328), a contracting officer may not enter into a contract above the simplified acquisition threshold for facilities-related services, knowledge-based services (except engineering services), medical services, or transportation services that are not commercial services unless the appropriate official specified in paragraph (b)(2) of this section determines in writing that no commercial services are suitable to meet the agency’s needs as provided in section 10 U.S.C. 2377(c)(2).

(2) The following officials are authorized to make the determination specified in paragraph (b)(1) of this section:

(i) For contracts above $10 million, the head of the contracting activity, the combatant commander of the combatant command concerned, or the Under Secretary of Defense for Acquisition and Sustainment (as applicable).

(ii) For contracts in an amount above the simplified acquisition threshold and at or below $10 million, the contracting officer.
213.101 General.
Structure awards valued above the micro-purchase threshold (e.g., contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of invoices valued at or below the micro-purchase threshold.

213.104 Promoting competition.
For information on the various approaches that may be used to competitively fulfill DoD requirements, see PGI 213.104.

213.106-1 Soliciting competition.

(a) Considerations.

(2)(i) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301.

(ii) See 215.101-2-70 for limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to simplified acquisitions.

(iii) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

213.106-1-70 Soliciting competition – tiered evaluation of offers.
See limitations on the use of tiered evaluation of offers at 215.203-70.

213.106-2 Evaluation of quotations or offers.

(b)(i) For competitive solicitations for supplies using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5, the contracting officer shall—

(A) Consider data available in the statistical reporting module of the Supplier Performance Risk System (SPRS) regarding the supplier’s past performance history for the Federal supply class (FSC) and product or service code (PSC) of the supplies being purchased. Procedures for the use of SPRS in the evaluation of quotations or offers are provided in the SPRS User’s Manual available under the references section of the SPRS website at https://www.ppirssrng.csd.disa.mil;

(B) Ensure the basis for award includes an evaluation of each supplier’s past performance history in SPRS for the FSC and PSC of the supplies being purchased; and
(C) In the case of a supplier without a record of relevant past performance history in SPRS for the FSC or PSC of the supplies being purchased, the supplier may not be evaluated favorably or unfavorably for its past performance history.

213.106-2-70 Solicitation provision.
Use the provision at 252.213-7000, Notice to Prospective Suppliers on the Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations, in competitive solicitations for supplies when using FAR part 13 simplified acquisition procedures, including competitive solicitations using FAR part 12 procedures for the acquisition of commercial items and acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5.
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215.101 Best value continuum.

215.101-2 Lowest price technically acceptable source selection process.

215.101-2-70 Limitations and prohibitions.
The following limitations and prohibitions apply when considering the use of the lowest price technically acceptable source selection procedures.

(a) Limitations.

(1) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328) as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) (see 10 U.S.C. 2305 note), the lowest price technically acceptable source selection process shall only be used when—

(i) Minimum requirements can be described clearly and comprehensively and expressed in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;

(ii) No, or minimal, value will be realized from a proposal that exceeds the minimum technical or performance requirements;

(iii) The proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror’s proposal versus a competing proposal;

(iv) The source selection authority has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit;

(v) No, or minimal, additional innovation or future technological advantage will be realized by using a different source selection process;

(vi) Goods to be procured are predominantly expendable in nature, are nontechnical, or have a short life expectancy or short shelf life (See PGI 215.101-2-70(a)(1)(vi) for assistance with evaluating whether a requirement satisfies this limitation);

(vii) The contract file contains a determination that the lowest price reflects full life-cycle costs (as defined at FAR 7.101) of the product(s) or service(s) being acquired (see PGI 215.101-2-70(a)(1)(vii) for information on obtaining this determination); and

(viii) The contracting officer documents the contract file describing the circumstances justifying the use of the lowest price technically acceptable source selection process.
(2) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017, as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) (see 10 U.S.C. 2305 note), contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominately for the acquisition of—

(i) Information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, or other knowledge-based professional services;

(ii) Items designated by the requiring activity as personal protective equipment (except see paragraph (b)(1) of this section); or

(iii) Services designated by the requiring activity as knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.

(b) Prohibitions.

(1) In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2302 note), contracting officers shall not use the lowest price technically acceptable source selection process to procure items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209-7010 for the definition and identification of critical safety items.

(2) In accordance with section 832 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2442 note), contracting officers shall not use the lowest price technically acceptable source selection process to acquire engineering and manufacturing development for a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

(3) Contracting officers shall make award decisions based on best value factors and criteria, as determined by the resource sponsor (in accordance with agency procedures), for an auditing contract. The use of the lowest price technically acceptable source selection process is prohibited (10 U.S.C. 254b).

215.101-70 Best value when acquiring tents or other temporary structures.

(a) In accordance with section 368 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), when acquiring tents or other temporary structures for use by the Armed Forces, the contracting officer shall award contracts that provide the best value. Temporary structures covered by this paragraph are nonpermanent buildings, including tactical shelters, nonpermanent modular or pre-fabricated buildings, or portable or relocatable buildings, such as trailers or equipment configured for occupancy (see also 246.270-2). Determination of best value includes consideration of the total life-cycle costs of such tents or structures, including the costs associated with any equipment, fuel, or electricity needed to heat, cool, or light such tents or structures (see FAR 7.105(a)(3)(i) and PGI 207.105(a)(3)(i)).
(b) The requirements of this section apply to any agency or department that acquires tents or other temporary structures on behalf of DoD (see FAR 17.503(d)(2)).
216.501-2-70 General.

(a)(i) For items with a shelf-life of less than six months, consider the use of indefinite-delivery type contracts with orders to be placed either—

(A) Directly by the users; or

(B) By central purchasing offices with deliveries direct to users.

(ii) Whenever an indefinite-delivery contract is issued, the issuing office must furnish all ordering offices sufficient information for the ordering office to complete its contract reporting responsibilities under 204.670-2. This data must be furnished to the ordering activity in sufficient time for the activity to prepare its report for the action within three working days of the order.

(b) See 217.204(e)(i) for limitations on the period for task order or delivery order contracts awarded by DoD pursuant to 10 U.S.C. 2304a.

216.504 Indefinite-quantity contracts.

(c) Multiple award preference—

(1) Planning the acquisition.

(ii)(D)(1) The senior procurement executive has the authority to make the determination authorized in FAR 16.504(c)(1)(ii)(D)(1).

(i) In accordance with section 816 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), when making the determination at FAR 16.504(c)(1)(ii)(D)(1)(i), the senior procurement executive shall determine that the task or delivery orders expected under the contract are so integrally related that only a single source can “efficiently perform the work,” instead of “reasonably perform the work” as required by the FAR.

(2) The congressional notification requirement at FAR 16.504(c)(1)(ii)(D)(2) does not apply to DoD.

216.505 Ordering.

(a) General.

(6) Orders placed under indefinite-delivery contracts may be issued on DD Form 1155, Order for Supplies or Services.

(S-70) Departments and agencies shall comply with the review, approval, and reporting requirements established in accordance with subpart 217.7 when placing
orders under non-DoD contracts in amounts exceeding the simplified acquisition threshold.

(b) Orders under multiple-award contracts.

(1) Fair opportunity.

(A) See 215.101-2-70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed against multiple award indefinite delivery contracts.

(B) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

(2) Exceptions to the fair opportunity process. For an order exceeding the simplified acquisition threshold, that is a follow-on to an order previously issued for the same supply or service based on a justification for an exception to fair opportunity citing the authority at FAR 16.505(b)(2)(i)(B) or (C), follow the procedures at PGI 216.505(b)(2).

216.505-70 Orders under multiple award contracts. If only one offer is received in response to an order exceeding the simplified acquisition threshold that is placed on a competitive basis, the contracting officer shall follow the procedures at 215.371.

216.506 Solicitation provisions and contract clauses.

(a) Insert the clause at 252.216-7006, Ordering, in lieu of the clause at FAR 52.216-18, Ordering, in solicitations and contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.

(S-70) Use the provisions at 252.215-7007, Notice of Intent to Resolicit, and 252.215-7008, Only One Offer, as prescribed at 215.371-6 and 215.408(3), respectively.
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“Acceptable earned value management system” and “earned value management system” are defined in the clause at 252.234-7002, Earned Value Management System.

“Production of major defense acquisition program” means the production and deployment of a major system that is intended to achieve an operational capability that satisfies mission needs, or an activity otherwise defined as Milestone C under Department of Defense Instruction 5000.02 or related authorities.

“Significant deficiency” is defined in the clause at 252.234-7002, Earned Value Management System, and is synonymous with “noncompliance.”


234.004 Acquisition strategy.

(1) See 209.570 for policy applicable to acquisition strategies that consider the use of lead system integrators.

(2) Contract type.

(i) In accordance with section 818 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), for major defense acquisition programs at Milestone B—

(A) The Milestone Decision Authority shall select, with the advice of the contracting officer, the contract type for a development program at the time of Milestone B approval or, in the case of a space program, Key Decision Point B approval;

(B) The basis for the contract type selection shall be documented in the acquisition strategy. The documentation—

(1) Shall include an explanation of the level of program risk; and

(2) If program risk is determined to be high, shall outline the steps taken to reduce program risk and the reasons for proceeding with Milestone B approval despite the high level of program risk; and

(C) If a cost-reimbursement type contract is selected, the contract file shall include the Milestone Decision Authority’s written determination that—

(1) The program is so complex and technically challenging that it would not be practicable to reduce program risk to a level that would permit the use of a fixed-price type contract; and
(2) The complexity and technical challenge of the program is not the result of a failure to meet the requirements of 10 U.S.C. 2366a.

(ii) In accordance with section 811 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239), for contracts entered into on or after October 1, 2014, the contracting officer shall—

(A) Not use cost-reimbursement line items for the acquisition of production of major defense acquisition programs, unless USD(AT&L) submits to the congressional defense committees—

(1) A written certification that the particular cost-reimbursement line items are needed to provide a required capability in a timely and cost effective manner; and

(2) An explanation of the steps taken to ensure that cost-reimbursement line items are used only when to achieve the purposes of the exception; and

(B) Include a copy of such congressional certification in the contract file.

234.005 General requirements.

234.005-1 Competition.
A contract that is initially awarded from the competitive selection of a proposal resulting from a broad agency announcement may contain a contract line item or contract option for the provision of advanced component development, prototype, or initial production of technology developed under the contract or the delivery of initial or additional items if the item or a prototype thereof is created as the result of work performed under the contract only when it adheres to the following limitations:

(1) The contract line item or contract option shall be limited to the minimal amount of initial or additional prototype items that will allow for timely competitive solicitation and award of a follow-on development or production contract for those items.

(2) The term of the contract line item or contract option shall be for not more than 2 years.

(3) The dollar value of the work to be performed pursuant to the contract line item or contract option shall not exceed $100 million in fiscal year 2017 constant dollars. (10 U.S.C. 2302e)

234.005-2 Mission-oriented solicitation.
See 215.101-2-70(b)(2) for the prohibition on the use of the lowest price technically acceptable source selection process for engineering and manufacturing development of a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.
237.270 Acquisition of audit services.

(a) General policy.

(1) Do not contract for audit services unless—

   (i) The cognizant DoD audit organization determines that expertise required to perform the audit is not available within the DoD audit organization; or

   (ii) Temporary audit assistance is required to meet audit reporting requirements mandated by law or DoD regulation.

(2) See 215.101-2-70(b)(3) for the prohibition on the use of the lowest price technically acceptable source selection process when acquiring audit services.

(3) See PGI 237.270 for a list of DoD publications that govern the conduct of audits.

(b) Contract period. Except in unusual circumstances, award contracts for recurring audit services for a 1-year period with at least 2 option years.

(c) Approvals. Do not issue a solicitation for audit services unless the requiring activity provides evidence that the cognizant DoD audit organization has approved the statement of work. The requiring agency shall obtain the same evidence of approval for subsequent material changes to the statement of work.

(d) Solicitation provisions and contract clauses.

(1) Use the provision at 252.237-7000, Notice of Special Standards of Responsibility, in solicitations for audit services.

(2) Use the clause at 252.237-7001, Compliance with Audit Standards, in solicitations and contracts for audit services.